



## Rights & Democracy

International Centre for Human Rights  
and Democratic Development

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# Human Rights and Democratic Development in Pakistan

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### EXECUTIVE SUMMARY

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#### PART I

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##### CONCEPTUAL FRAMEWORK

*Human Rights and Democratic Development in Pakistan* provides historical analysis, draws conclusions and makes recommendations regarding Pakistan's progress towards the establishment of a democratic society, using a conceptual framework developed by the International Centre for Human Rights and Democratic Development. The framework is based on the assumption that the development of a culture of human rights, as well as their institutionalization is central to the construction of democracy. The study therefore systematically examines a series of rights (welfare, participation, security, minorities, gender, etc.), and assess the trends for and against democratic development. This structured analytical approach also makes it possible to compare and contrast Pakistan's progress in this regard with that of its neighbours and other countries.

#### PART II

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##### PROSPECTS FOR DEMOCRACY

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##### GROWTH OF INEQUALITY

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The study begins by tracing contemporary socio-political dynamics and phenomena back to their origins in undivided, colonial India. The perpetuation of a feudal and tribal social structure, with strong patriarchal and authoritarian trends continues to shape a society which is also challenged by extreme diversity of language, culture, class, caste and economic status. Power has consistently been highly centralised in the hands of a small bureaucratic, political and military elite, thus excluding historically disadvantaged groups, including landless peasants, and bonded labour. Special attention is given to the fact that, regardless of their class, women in Pakistan are disempowered, not only by the inequalities imposed by the perpetuation of a rigid, oligarchic social system, but also because of a prevailing patriarchal culture which denies them the right to independent existence and violates their basic human rights.

##### MILITARIZATION OF THE STATE

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Pakistan inherited a powerful and pervasive bureaucratic tradition from its colonial administrators. The military has played a crucial role in government, due to several factors such as the country's strategic geographical location and the potential for international border disputes and separatist movements inherent in the manner in which the sub-continent was partitioned in 1947. Military leaders have created their own international support networks and since 1958, in alliance with the established bureaucracy, they have controlled Pakistan's political and economic decision-making. An examination of the course of Pakistan's history from General Ayub Khan through decades of martial law and periods of party-based government demonstrates how the military interventions have repeatedly subverted and arrested the evolution of the democratic process. Despite the fact that there has been no direct intervention by the military by imposing martial law, it continues to dominate decision making in the critical areas of foreign policy and defence. In addition it has become a powerful economic force and, with a stranglehold on successive bankrupt civil governments, continues to drain the public exchequer.

## **NATIONAL IDEOLOGY VS NATIONAL INTEGRATION**

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Like other post-colonial South Asian governments, Pakistan's progress toward democracy has been repeatedly thwarted and stalled because successive administrations have perpetuated the centralization of authority and the marginalization of various categories of citizens. Rather than responding to the urgent need to develop and promote common national interests, the ruling elite focused on its own crisis of legitimacy. Military leaders and administrators substituted religious rhetoric for efforts to accommodate plural identities and their diverse needs.

## **ISLAM, THE STATE AND SOCIETY**

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The role of Islam (as defined by vested political interests) is examined from the early days of Muhammad Ali Jinnah and the Pakistan Movement, through the fifty years of the country's turbulent existence. Thanks to the concessions made by successive governments and Zia's deliberate promotion of their agenda, the orthodox religious groups, which have never enjoyed popular support in Pakistan, have been propelled into positions of high judicial and political influence. This has resulted in an unprecedented increase in sectarian violence and, through its sophisticated subversion of the religious sentiments of many Pakistanis, reinforce the State's rigid and dogmatic version of Islam as representative of the country's ideology.

## **THE POPULAR RESPONSE TO ISLAMIZATION**

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In the northern parts of the Indian sub-continent, Islam developed within the context of other, deeply entrenched belief systems and cultural practices and was strongly influenced by Sufism. As a result, while Pakistani culture is undeniably Islamic, it is distinct from those of other Muslim countries by virtue, firstly, of its less puritanical and orthodox nature, secondly, because of the diversity of religious beliefs and practices obtaining in different regions of the country, and finally, because it has failed to achieve an egalitarian society by dismantling the caste, clan and class affiliations which remain fundamental to Pakistani society.

For these reasons, "the great Islamic debate" created by politicians' attempts to re-define and exploit religion was never taken up at the popular level. The heavy-handed imposition of fundamentalist doctrine during Zia's regime, the resulting rise in violence and intolerance and the mushrooming of corruption at every level of society have further alienated many. Previously, those who argued against an Islamic state, most of whom were socialists, were reviled as heretics and/or traitors. The most recent exponents of secularism argue on the basis of promoting human rights and democratic values. Meanwhile, extremists continue to find willing converts among those who despair of a political solution to their socio-economic marginalization.

## **PART III**

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### **RULE OF LAW AND THE ADMINISTRATION OF JUSTICE**

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By abrogating each of four successive Constitutions, and by subjecting the country to decades of martial law and other forms of undemocratic rule, Pakistan's leaders created the national perception that law is an instrument of control rather than of relief, redress and security. The general public has come to resent the law as arbitrary and malicious, while the impunity with which members of the ruling elite flout it is an indication of the contempt in which they hold the law. While human rights groups have sensitized individual politicians who happen to be receptive to the concerns of their electorate, the democratic process is virtually non-existent in an increasingly confrontational Parliament and in law-making procedures which do not permit public or Parliamentary debate.

The judicial system established by the 1973 Constitution has been effectively weakened by the creation of a separate Federal Shariat Court mandated to strike down any law deemed repugnant to the injunctions of Islam. The decisions of the Shariat Court are binding upon the High Courts and cannot be over-ridden by Parliament. Moreover, Presidential powers compromise the independence of High Court judges and of the Supreme Court judges nominated to the Shariat Court. Furthermore, many individuals and groups, who recognize that its autonomy is essential to democratic development, have expressed strong concerns about the independence of the judiciary in general.

### **PARTICIPATION RIGHTS**

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Pakistan's military, bureaucratic and political leadership have centralized power while failing to respond to the needs of its extremely diverse population. This has led to a sense of marginalization and deprivation, sub-national and ethnic conflicts and separatist tendencies among various disenfranchised groups and regions. Even in regions close to the centre, the State has failed to protect and promote human rights uniformly. One of the only encouraging observations in this regard concerns the gradual acceptance, by some administrators, of the special role of non-governmental organizations (NGOs) which have persistently supported and promoted the values of civil society.

### **FREEDOM OF ASSOCIATION**

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Although the Constitution acknowledged it to be a fundamental right, freedom of association in Pakistan has never been universally guaranteed and group mobilization has never been strong. Restrictive rules against association and a history of severe repression aggravate this trend. Only two of Pakistan's many political parties are national in scope and political affiliations remain largely based upon patronage and family, clan and religion. The country appears to be heading towards a two-party system but this will be effective only if recent confrontational tendencies are abandoned and both parties undertake to behave in an accountable fashion when in power and responsibly when in opposition.

Welfare and charity-oriented NGOs have existed in Pakistan since its inception, some of which became channels for patronage, and others of which are genuine and effective. A second category of human-rights oriented NGOs developed and functioned in Pakistan throughout the darkest years of political and social repression. These organizations have performed the role of defending and promoting human rights and the values of civil society. Although recently there has been a modicum of official acceptance and acknowledgement of the work of these organizations, there is a danger that new registration requirements will restrict their autonomy.

## **FREEDOM OF OPINION, EXPRESSION AND INFORMATION**

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Since the re-instatement of party-based elections, the climate regarding freedom of expression in Pakistan has somewhat improved. However, the country's history of ubiquitous, arbitrary and brutal reprisals against those who have exercised this right remains institutionalized in many repressive laws and regulations, only some of which have been repealed. The Constitution of Pakistan does not acknowledge the right of freedom of information. Even for those who are not disabled by poverty and illiteracy, the means to become informed are denied by government control over channels of information and by the classification of matters of national importance as official secrets. The Pakistani press has organized effectively to protect the freedom it currently enjoys. While it has survived the vicious repression of both government and private interests, many sectors behave irresponsibly, including those which publish defamatory material, promote intolerance and incite sectarian violence.

## **THE ELECTORAL PROCESS**

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Throughout their history, the people of Pakistan have demonstrated their support for electoral politics and democratic representation, compelling even military governments to hold elections. Although it has been considerably amended by various ruling powers, the 1973 Constitution laid down a still workable legal framework for holding elections. A serious concern involves the participatory nature of elections which was badly damaged by the "tampering" of the Zia regime which restricted the right of non-Muslims to vote for general candidates and deprived non-Muslims from contesting general elections to the Provincial Assemblies. Democratic rights of representation were denied to the people living in the Federally Administered Tribal Areas till 1997.

An examination of the Election Commission, election procedures and other related legislation reveals the presence of many lacunae which compromise the democratic process. While discussion of the inefficiency, corruption and coercive practices involved in the conducting of previous elections indicates the need for much reform, the lack of public confidence in the administration of elections became apparent from the low percentage of polling in the February 1997 elections.

## **SECURITY RIGHTS**

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Throughout the history of Pakistan, the State has repeatedly violated and failed to protect the security rights of its citizens. Sectarian violence continues to spiral. Human rights groups note with growing concern that Ahmedis, Christians, Hindus and other officially designated "Minorities", including economically disadvantaged groups, are deprived of their participation rights, harassed, reviled and actively persecuted by the government, private interests and religious fanatics.

Special attention is given to an examination of the political and ethnic dynamics which gradually led to a state of virtual civil war in Sindh during the past decade. An analysis of the State response to this state of affairs reveals that successive governments have exploited the situation for their own agendas and/or responded to anarchy in kind, employing excessive force, violence and illegal methods to such an extent that many members of the public have come to view terrorism as a response to State brutality.

## **WOMEN**

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As is the case with minorities and other disadvantaged groups, the State not only fails to protect the human rights of women, it has neglected to promote attitudes which will permit them to enjoy these rights. Since the enforcement of Sharia laws, thousands of women have been unjustly involved with the criminal justice system and subjected to sexual assault, torture and illegal confinement.

## **CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT**

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The Constitution guarantees the rights to life and liberty. Not surprisingly, in the light of the foregoing discussion, it is concluded that the State has failed to protect these rights in both the spirit and the letter of the law. The death penalty is still in effect. Amputation, flogging and corporal punishment are incorporated into the enforcement of Sharia laws.

## PREVENTIVE AND ILLEGAL DETENTION

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Much-abused laws for "preventive detention" in the interests of maintaining public order, and other forms of illegal detention are routinely practised in Pakistan, by State authorities, tribal and feudal chieftains and private agencies.

## TORTURE, DEATH IN CUSTODY AND EXTRA-JUDICIAL KILLINGS

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The United Nations Special Rapporteur on Torture noted in 1996 that hideous torture practices are in widespread use all over Pakistan for the purpose of extracting confessions and humiliating those who are in disfavour with the authorities. Thousands of deaths in custody have been reported. State authorities resort to policies of terrorism, including thousands of extra-judicial killings to restore control at times of social crisis.

## SLAVERY, FORCED LABOUR, TRAFFIC IN HUMAN BEINGS

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Although slavery, forced labour and traffic in human beings are expressly prohibited by the Constitution, all of these practices continue. The Bonded Labour System (Abolition) Act was promulgated in 1990 and as a result some peasants have recently been freed from the private jails of feudal lords in Sindh, but slavery-like practices and child labour are widespread in both urban and rural Pakistan.

## CONCLUSIONS AND RECOMMENDATIONS

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This final section is divided into brief summaries of the status of democratic development, justice and the rule of law and the human rights issues of life, liberty and the security of the person. Each summary is followed by a numbered list of specific recommendations which focus on steps to be taken to develop or salvage various essential elements of a democratic society.

Democratic development in Pakistan will require greater decentralization, a better enabling environment for the strengthening of civil society, and institutional practices of accountability towards citizens. Key recommendations include a change in the parliamentary conduct of political parties, elimination of arbitrary or legislated restrictions on constitutional rights and fundamental freedoms, extension of the effective franchise to groups presently excluded in practice, policies to counter intolerance, and inclusion of women as full-fledged citizens.

Crucial weaknesses are identified in the Rule of Law and the administration of justice: lack of independence of the Judiciary, systemic discrimination, and impunity. Recommendations focus on the role of the legislative bodies in ensuring that their actions conform to principles of democratic institutionality, the role of the Judiciary in eliminating exceptional, anti-democratic procedures and ensuring uniform application of the law consistent with its spirit.

Security rights are systematically violated, both by State agencies and by extremist non-State actors. The recommendations target the role of the police, the need to develop sound policies for reducing ethnic tension, conformity with international standards, and the elimination of discrimination, in particular that exercised against women.

## ACRONYMS

**APMSO:** All Pakistan Mohajir Students Organisation

**APP:** Associated Press of Pakistan

**APWA:** All Pakistan Women Association

**CEDAW:** Convention on the Elimination of all Forms of Discrimination Against Women

**EBDO:** Elective Bodies Disqualification Order

**FATA:** Federally Administered Tribal Areas

**HRCP:** Human Rights Commission of Pakistan

**KUJ:** Karachi Union of Journalists

**MLO:** Martial Law Order 31

**MQM:** Mohajir Qaum Movement

## PART 1: THE CONCEPTUAL FRAMEWORK

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### PART I

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#### THE CONCEPTUAL FRAMEWORK

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The International Centre for Human Rights and Democratic Development endeavours to understand democracy in relation to the social, economic and political impact on citizens of conditions generated by a given system of governance. The Centre emphasizes both the design and functioning of institutions of governance, as well as the process of empowerment of marginalized sectors of society in the political and economic decision-making that affects them. The Centre believes that a democratic society is one within which all human rights are fully respected and space is created for "equality of condition, not simply of opportunity" (1). It is through this approach that the Centre has developed the linkages between democracy and human rights, underscoring the interdependency and indivisibility of political and civil rights on the one hand, and economic, social and cultural rights on the other.

In order to construct its analysis in regard to a specific country, the Centre has developed a conceptual and analytical framework for assessing the state of democratic development. This framework is applied through the lens of internationally recognized human rights criteria. This study on Pakistan is based on that framework. The framework itself, however, could be used in any country (2). In this first section of the study, the major elements of the framework are summarised.

The Centre's conviction that "civil society is the key element in determining whether or not an effectively democratic society exists", has placed civil society institutions at the centre of any examination of the quality of democracy and the state of human rights. Civil society is seen as "the sum of all non-family social institutions and associations in the country" which are autonomous, independent of the State and capable of significantly influencing public policy (3). In a democratic civil society, the important characteristics of civil associations would include, apart from autonomy and independence, prevalence of a culture of tolerance and dialogue, and an environment where there is a substantive equality of access to the State for all groups without discrimination based on gender, race, religion or ideology.

Civil society institutions would thus include religious organizations, NGOs, trade unions, citizens' groups, the media, political parties and other interest groups such as business organizations. The family is not an institution of civil society, but it is important in conditioning civil society through its role in learning and socialization, and as an environment favouring realization of the human person. It also invites scrutiny as an institution that promotes, denies or violates rights of certain of its members. (The fact that the family is not considered a part of the civil society does not deny its crucial significance as a "locus of the violation of the human rights of women and children" (4), nor should the fact be ignored that its structure and functions are largely determined by public policy. The standards of treatment and behaviour in the "private sphere" find expression in two major international Conventions (Convention on the Rights of the Child, and the Convention on the Elimination of all Forms of Discrimination Against Women), which represent an international consensus on these standards. While the role of civil society institutions is largely associated with the "public" sphere, a discussion of these cannot ignore the fact that the very concept of "civil society" designates a zone of interaction between the "public" and the "private" spheres. The "private" sphere is instrumental in generating the conditions which shape collective public action.

Ability of groups to influence public policy is measured by their capacity to help set the public agenda, and their ability to influence the process and outcome of public policy. Effectiveness of groups depends largely on the adequacy of their human and financial resources, their organizational capabilities and advocacy skills. This effectiveness is enhanced by the level of tolerance and interaction amongst diverse sectors of civil society, which facilitates setting common objectives for policy advocacy. Democratic organization within civil society is an ongoing process. Political autonomy of civil society with respect to the State requires continuous negotiation and redefinition. A culture of tolerance has to be kept alive in order to sustain vibrancy in dialogue within civil society, and to ensure and defend equality of access to the State.

The measure of a society's level of democratic development is reflected in the vitality of its civil society. Institutionalization of norms and practices in democratic governance allows for the creation of effective mechanisms for facilitating interactive relationships between the State and civil society. Under these conditions the citizen not only has access to the State but is also equipped with means of systematically monitoring State policy decisions and their implementation. Another element indicating the level of democracy is the power of the majority to secure their rights and legitimate interests against the vested interest of powerful elites. A necessary condition for a fully functioning democracy is the respect for the entire body of human rights, not only in their formal recognition and promotion by the State but in the effective exercise of these rights by civil society and citizens, collectively and individually.

The vitality of civil society enhances its capacity to manage the tensions of pluralism. Citizenship does not abolish class conflict or diversity. It nevertheless does imply some consensus on what constitutes the "common good" and how to reconcile it with pluralism. Such reconciliation is only possible where there is "agreement that 'public interest' does exist and that the parties have the right to participate in its elaboration and in the obligation of submission to society's laws" (5). It is the responsibility of the State to cultivate the notion of citizenship and its implications for citizen behaviour amongst the population.

Whether modernization and democratic institutionalization are mutually supportive is a major debate concerning processes of

transition to democracy. The framework developed by the Centre addresses this issue. Are the States in transition to democracy really evolving towards democracy along with their economic modernization? Another aspect of the debate is the question as to whether procedural democracy (6) is, on the one hand, sufficient to found claims of legitimacy by the State and, on the other, whether it promises justice and respect for human rights. "A State that is incapable of defending its legality maintains a system of democracy of low intensity citizenship ... A situation in which one can vote freely and be confident that the vote will be properly scrutinized, but where one cannot expect just treatment from the police or from the administration of justice, all of which calls seriously into question the liberal component of that democracy and which gravely restricts citizenship." (7)

Le Centre met en garde contre l'acceptation aveugle de la théorie selon laquelle le modèle néolibéral de l'économie de marché débouche automatiquement sur la démocratie. Au contraire, il appert de plus en plus que le néolibéralisme est incapable de défendre et de réaliser l'ensemble des droits humains. Étant donné qu'il envisage la démocratie en tant que modèle de société et non simplement modèle d'État, le Centre oeuvre à l'élaboration et à la promotion d'un modèle d'économie de marché qui favorise au maximum l'exercice des droits plutôt que de le minimiser.

The Centre cautions against the unquestioning acceptance of the argument that the neo-liberal model of a market economy automatically leads to democracy. On the contrary, it would increasingly appear that the neo-liberal state is incapable of defending and actualizing the full family of human rights. The Centre being committed to democracy as a model of society and not simply as a model of State, is committed to the development and promotion of a model of market economy which maximizes, rather than undermines, rights.

When democracy is conceptualized as encompassing both political and developmental democracy, its linkages with human rights become clearer. While recognizing the importance of representation and formal democratic processes, this vision of democracy highlights the role of civil society institutions in creating democratic space for popular participation stretching beyond political decision-making and into effective participation in the distribution of power and resources. The capacity to play this role can only be built where the democratic ideal includes equality of condition as well as of opportunity. It is in this context that freedom from want and hunger becomes as significant as freedom from torture. Responsibility of the State for alleviating conditions that obstruct the attainment of education and basic health care becomes as important as its responsibility for ensuring life, liberty and security of the person. The level of democratic development can, therefore, be assessed through the lens of human rights.

With this approach in mind the Centre identified key criteria for measuring democratic development. These criteria are grouped in four baskets of rights, namely, security, participation, welfare and non-discrimination (8). The criteria are drawn from the International Bill of Human Rights and the Convention on the Elimination of All Forms of Discrimination Against Women. Each of the chosen criteria is central to its contribution to the "dignity and worth of the human person". There is no claim that the choice of criteria is indisputable. Its purpose is to underscore the interdependency and indivisibility of all human rights. The criteria represent rights that make a life of dignity and worth possible, and the absence or abuse of any of them diminishes the prospects for the dignity of the human person.

### **The Application of the Democratic Development Framework in Pakistan**

The framework developed by the Centre has been used for the study of Pakistan's democratic development to measure the level of democracy, and to assess the potential of civil society institutions for advancing or eliminating emerging trends that heighten or reduce the prospects for democracy in Pakistan. Aspects of social and State structures have been examined in the light of the country's social and political history, its constitutional and legal framework, and the values reflected in the design and functioning of its institutions. The capacity of these structures to promote both democracy and human rights is the focus of the examination. The analysis of the State and civil society in the context of rights to participation and security, rule of law and the administration of justice, rights of collectivities (9), and the state of democratic institutions (10) is based on the link between democracy and human rights. Access to the State is measured by the extent to which the right of participation is effective, together with the exercise of the associated freedoms of information, opinion, expression and association. Some concrete cases (11) have been used to examine the organizational capacities of civil society and its ability to influence the process and outcome of public policy. The section on security rights, while examining the conduct of the State and its agencies, also examines the role of non-State actors in security of life, liberty and person. Political and social tensions which render certain categories of people more vulnerable than others are also discussed. This discussion indicates the level of marginalization of different groups in society and the extent to which the social, and political environment is conducive to their development.

While political and social conditions are indicators of the level of democracy achieved by a country, they do not portray the complete picture if State policies and the legal framework are not studied with respect to the realization of economic rights. The most basic illustration of the interdependence and indivisibility of human rights is the effect of political conditions on economic rights, or the impact of extreme material inequality on political stability and guarantees for civil and political rights. This aspect of democratic development can be assessed by the degree to which welfare rights are effective. These rights concern the basic human needs to food and shelter as well as to employment. The criteria for measuring this basket of rights are education, health care, labour rights and environment. In recent times, these rights have come under duress because of the lack of clarity in defining their legal status and sanctions for their enforcement and justiciability, on the one hand, and, on the other, because of the diminishing role of the State in social programmes. This has increased poverty amongst the already disempowered sections of society. It has also adversely affected

the capacity of the poor to organize in order to ensure recognition of their economic rights.

National and international political economy is now profoundly determined by globalization. Any study of Pakistan's democratic development would remain incomplete without an analysis of economic policies adopted in response to economic crises, worsened by the ever-increasing debt burden. Defence expenditure remains a major portion of the domestic budget. No foreign policy shifts or initiatives for negotiating regional peace are apparent as potential reductions in defence expenditure. Social sector spending is the first to suffer cuts in this scenario. Structural adjustment policies dictated by the international financial institutions (IFIs) have ignored the social cost of these cuts, as well as the consequential decline in people's welfare rights. The government's privatization policies (12), economic reform packages, and withdrawal of subsidies undermine poverty alleviation plans and measures. As a result, people feel shut out of policy-making, a process to which only the government and the IFIs are privy. Dissatisfaction with governmental policies is manifesting itself through labour unrest. Almost every action taken in pursuance of these policies is challenged in courts, where cases remain pending while hardships increase. In any case, it is doubtful whether the judicial system can respond adequately to this complex situation. Nor can it transcend the pressures faced by the State in order to offer any acceptable solutions. Social instability is becoming more and more visible in the form of declining law and order. The State has surrendered its autonomy to frame economic and social policies to the IFIs, and has thereby rendered itself incapable of responding to public demands. This is likely to add even more serious dimensions to the already existing crisis of governance, causing a further deterioration of the state of human rights and dimming the prospects for democracy in Pakistan.

This study, while mentioning some aspects of social, cultural and economic rights, does not fully discuss all the issues mentioned above. In this respect it remains unfinished. The subject warrants a thorough examination in the light of current events. The conclusions and recommendations presented here, while necessarily touching also on economic, social and cultural issues, concern primarily questions related to civil and political rights and the fundamental democratic imperative of the right to participation.

## NOTES

- 1) Roads to Democracy : Human Rights and Democratic Development in Thailand. International Centre for Human Rights and Democratic Development, Bangkok/Montreal, 1994. [Return](#)
- 2) See: Nancy Thede et al., The Democratic Development Exercise: A Discussion Paper. Terms of Reference and Analytical Framework. Montreal: International Centre for Human Rights and Democratic Development, Occasional Paper, July 1996. The document is available on the ICHRDD website (www.dd-rd.ca). [Return](#)
- 3) Ibid. [Return](#)
- 4) Ibid. [Return](#)
- 5) Ibid. [Return](#)
- 6) The author uses the term 'procedural democracy' for situations where periodical elections are employed as means of claiming legitimacy through representation, but the nature of the State and the system of governance lack essential elements of democracy. [Return](#)
- 7) G.O' Donnell (1993), as quoted in Ibid. [Return](#)
- 8) On the basis of previous applications of this analysis in Kenya, Tanzania, Thailand, and El Salvador, the Centre has substantially revised its framework. It now also includes baskets concerning collective rights, political institutions and the rule of law. [Return](#)
- 9) Such as minorities and women. [Return](#)
- 10) Such as the legislature, the judiciary and political parties. [Return](#)
- 11) Political parties, religious groups, trade unions, the press and other media, non-governmental development and human rights organizations. [Return](#)
- 12) Privatization of public sector concerns, including services and utilities like power, water and gas is one of the most critical concerns in relation to people's economic rights.

## PART 2: PAKISTAN: PROSPECTS FOR DEMOCRACY

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### PART II

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#### PAKISTAN: PROSPECTS FOR DEMOCRACY

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#### GROWTH OF INEQUALITY

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Although various political systems have assumed the title of "democracy", over the years some criteria have come to be recognized as intrinsic to any society before it can claim to be democratic. It pre-supposes the existence of a just political and economic system, which not only guarantees freedom but also subscribes to a set of social and political beliefs, attitudes and values which presume the equality of human beings, not only in law but at all levels of social belief and practice.

Linguistic and cultural diversity, economic disparity, divisions of class and caste, tribal and clan affiliations, and inherited differences of rank and privilege have profoundly conditioned Pakistani society and its responses to democracy and human rights. The most visible characteristic of this society is the dominance of a feudal and tribal social structure, with strong patriarchal and authoritarian trends. Social behaviour is shaped by these trends, which are manifested in a culture of control and monopoly over power and resources.

The pattern of colonial rule in undivided India had given rise to a ruling elite drawn from feudal and tribal groups and the industrial bourgeoisie. Access to the State for the vast rural majority took place through the patron, who was the feudal landlord or the tribal chief. Power and privilege were negotiated with the colonial rulers by these elites. Patron-client networks had grown stronger during the period of colonial rule.

The grip of a landed oligarchy in the Punjab and Sindh, and of tribal chiefs in Balochistan and NWFP, over the rural population continued to be a main cause of the growth of inequality in Pakistan. Control of political decision-making remained directly or indirectly in the hands of those who had a stake in maintaining the status quo. Economic policies also accommodated those interests. A series of military regimes co-opted the same stake-holders to perpetuate the tradition of control over power and resources to the exclusion of the 'common man'. A more equitable redistribution of assets never became a part of any political or economic plan, and remained a rhetorical slogan of successive regimes. The social structure, therefore, persists without serious challenges from either state policies or social movements.

In Sindh, the feudal structure is stronger than in the Punjab, and at the same time the tribal system of NWFP is slightly less hierarchical than the *Sardari Nizam* (13) of Balochistan. In Sindh and Punjab, particularly in Southern Punjab, power emanates from control over resources, i.e., land and its products. In tribal society, strong ties of clan and kinship impose the necessity to submit to the control of the tribal elite.

Though diverse in many respects, the different social structures have perplexing similarities in subscribing to beliefs and practices that have created disadvantaged sectors. The benign aspect of paternalism is often missing from social practices, which act to maintain the status quo. The weaker elements of these social groups, therefore, remain powerless and unable to effect change. The disparity in status amongst members of these social groups has perpetuated forms of exploitation that have assumed the cloak of tradition. The culture of subservience is best illustrated by the power relation between the feudal landowner and the peasant. It is important to underline that the subjugation of women is common to all social strata regardless of structural and cultural diversity.

Failure to implement effective land reform has resulted in the continuing prevalence of large land holdings. The first attempt at land reform in Pakistan was in 1959, the second in 1972, and the third in 1977. These attempts failed to bring about any significant reduction in the size of land holdings, and caused no loss of social or political power to the landlords. The major factor responsible for the failure of the land reforms was the ceiling on ownership: the limit to the size of holdings was fixed on an individual, rather than a family, basis. This allowed most of the feudal landlords to circumvent the reforms by effecting fictitious or merely formal transfers of land. Many used other lacunas in the scheme to retain land without declaring any land in excess of the ceiling. The failure of land reforms to achieve the objective of equitable distribution of land is evident in the following observations:

- "landlords were left with large land holdings even after declaring land in excess of the fixed ceilings;
- in 1959, only 35% (1.9 million acres) of the land declared in excess of the ceiling could be taken over by the government. In 1972 this was even less: the total amount of land taken over was 0.1 million acres (14);
- a major portion of the land taken over by government after the attempts at reform was uncultivated and needed considerable improvement before it could be cultivated. The recipient farmer not having access to credit or support services could, therefore draw neither economic nor social benefit from his new holdings."

With the "green revolution" in late 1960s, successive governments saw no need for land reform, as the argument that small farms had a higher yield than large farms could no longer be used to spur action by the government. The prospect for another attempt at



more genuine land reform was finally eliminated by a decision of the Federal Shariat Court in 1989 declaring the Land Reforms Ordinance of 1972 to be un-Islamic thereby establishing the principle that the whole concept of land reform is un-Islamic (15).

While the incomes of the rural elite increased, the rural poor saw only an increase in poverty leading to massive landlessness (16). This not only strengthened feudal fiefdoms, but also swelled the number of people subject to their control. The feudal system operates by controlling all aspects of the subject's life. The landlord sees it as a right to command the labour of the peasant. If any terms are offered, these are extremely exploitative. Often peasants are subjected to forced and bonded labour (17). Social rights of the peasants are also subject to the will of the feudal. Education has been discouraged by the feudal class, which always felt that education would empower the peasantry sufficiently to challenge feudal control. Exploitation has often taken more serious forms of abuse and violence. Rape of women, illegal confinement of families to prevent their mobility, child labour, and cruel and inhuman punishment for defiance of authority are common occurrences under the feudal system in rural Pakistan.

Women from the peasant class suffer both as members of their social class as well as from denial of rights and status on the basis of gender. While women from the feudal class enjoy freedom from poverty, their status and rights are as vulnerable to feudal practices as those of peasant women. In some respects, the freedom of tribal women and those belonging to feudal families is more restricted than that of peasant women. Deprivation of most of their social rights, including education and health care, results not from poverty but from the strict rules of seclusion imposed on them. No opportunities for economic independence are available. Although entitled to inheritance under the law, patriarchal trends have largely denied this right to women of the landed aristocracy. In order to prevent division of land-holding, only male heirs are allowed a share in landed property. Where title to land is transferred to women, either as a concession to the law, or to avoid land reform schemes, it is only formal and women have no control over the land. More often than not, they are not even aware that they hold this title. Patriarchal attitudes and value systems have denied women autonomy in all decision-making. The right of choice in marriage is totally denied. Women are bartered into marriage to forge family alliances to strengthen the power base, or to protect interests in land-holdings.

Regardless of class or urban/rural differences, women are subject to cultural practices that are repressive and discriminatory. Many of these practices reflect the status of women in society. They are perceived as having no independent existence or dignity. They are the repositories of family honour, and violation of their honour and dignity is not seen as injury to the women themselves but to the family honour. A common form of humiliation, often meted out to the defiant subject by the landlord, is publicly stripping women of the offender's family. On the other hand, any exercise of freedom of choice in marriage by women, whether in a feudal or tribal setting or in an urban environment, is also seen as blemishing the honour of the family, and results in extreme forms of violence exercised against women.

Urbanization is rapid and large-scale (18). This has, however, not changed the images of power in Pakistani society. Feudalism in Pakistan is not merely associated with a social system. It has become a way of thinking, and permeates attitudes and values even where feudalism is not practised, as in the urban areas. The elite in this social milieu as well monopolizes power and resources to the exclusion of the majority. Here, too, people's access to the State is mediated by the elite. The common citizen is dependent on a patron to find employment, to receive protection of life and property from the police, or even to receive medical treatment in public sector health facilities.

## MILITARIZATION OF THE STATE

Bureaucratic and military institutions rose to a position of dominance very early in the life of Pakistan as an independent state. The nature and extent of military intervention, and the control of the bureaucracy over administrative structures determined the character of the state, and continue to influence the country's political, economic, and social development.

Why the bureaucracy gained such a dominant role in decision-making was largely determined by the nature of governance adopted by the new state, and the absence of an organized political party at the helm, with stronger support from the provinces. Pakistan had adopted the "vice-regal" form of government, with the Governor General being the depository of power (19). Lack of organizational machinery in the newly created country with a myriad of problems and meagre resources, had necessitated more and more dependence on bureaucratic structures for administrative control of a very centralized state. Relations between the centre and the provinces were not clearly outlined in the legal framework under which the country was to be governed in the period before a constitution was framed and adopted (20). Tensions between the centre and the provinces had arisen soon after Independence, and simmerings of discontent were beginning to emerge (21). At this time the Muslim League took the decision to separate the party from the government. As a consequence, government policies were no longer dictated by popular demand or informed by the advice of the political party. The party organization further suffered in this process. The more popular support it lost, and as confrontation developed with the provinces (22), the central government came to rely more and more on the bureaucracy to impose centralized control. Gradually, the upper echelons of the bureaucracy usurped decision-making power from the political authority (23) and then set about, together with the military, to first derail and then dismantle the political process in the country.

Initiation of hostilities with India and emergence of the Kashmir issue is a significant factor in giving the military a dominant status, as well as allowing it to engineer an institutional imbalance which has endured to this day. Pakistan's commitment to the Kashmir issue made refurbishing of the army a priority at whatever cost to the exchequer. Regardless of the practicability of a military solution in Kashmir, the dispute became a reason for the military to become the main recipient of the state's financial resources. With India

finding an excuse for increasing its defense potential, the military establishment in Pakistan began to press the political leadership for more and more defense expansion, which continues to this day. In order to raise money for this expansion, the military establishment in Pakistan created its own international links, and manipulated these international connections to gain greater role for itself in political and economic decision-making. It finally monopolized that role by intervening directly in 1958, as challenges were beginning to emerge from political groups who were mobilizing the discontentment with the policies of the bureaucracy-military dominated state, just before the national elections to be held under the 1956 Constitution.

Since then the military has effectively controlled the direction of state policies and determined the course of its politics. Ayub Khan ruled through Martial Law, and then imposed his Constitution in 1962. His period saw the strengthening of the alliance of the bureaucracy and the military and the rise in power of the civil and military bureaucracy. After Ayub Khan, the authority of the civil bureaucracy was seriously impaired first by Yahya Khan (24), and then by Zulfikar Ali Bhutto. The power of the military remained intact, despite its massive defeat in the 1971 (25) war. Failure of the military operation in East Pakistan (26), and the changing image of the army could have seen a new era of institutional balance in what remained of Pakistan. It was, however, not to be. Challenges to Bhutto's government at the domestic front compelled him to use the military in Balochistan against Baloch nationalists. He could ill afford any disaffection in the military by attempting any massive changes or re-organization in the army. He did try to tame the military establishment by removing some of the military leadership at the top, and thought he had secured himself against any interference in civilian rule by the military by appointing Zia-ul-Haque as the Chief of Army staff, superseding several senior generals.

Bhutto was proved wrong when Zia seized power through a coup d'etat (27), arrested Bhutto, who was subsequently tried, sentenced to death for murder, and hanged in April 1979. The opposition parties united in an alliance (28) against Bhutto had leveled charges of election fraud against the government, in 1977 and had launched a movement to force Bhutto to step down. Once again the military intervened just as the political crisis was ebbing and talks between the government and the political parties had started. This time the military had disturbed a political order, by removing an elected government, lead by a leader whose personal popularity, though diminished, was by no means lost. It was not a situation similar to 1958, when the military take over had occurred amidst political chaos, economic crisis, and an atmosphere of general discontent with government policies. In 1958 it was not an elected government for whom any portion of the population felt an affinity. There was, therefore, no potential for popular outrage against the move by the military. It was also the first military intervention and the people had not yet experienced the hollowness of the argument that martial law brought stability as opposed to a continuously volatile political environment in which progress was not possible.

The situation was different in 1977. The people had had a taste of representation, and Bhutto still commanded significant popular support, especially from his home province of Sindh. The prestige of the army had also suffered a blow after the 1971 debacle. It was no more universally perceived as the savior, stepping in to protect the people from exploitation by unscrupulous politicians, which was the message repeatedly conveyed to the public by the military establishment. The military regime, therefore, needed not only a stronger argument for legitimacy of the intervention, but also a conscious decision to use the state apparatus to quell any voice of dissent. This Zia did, ruthlessly and without any compunctions (29).

While Zia was generally successful in controlling or neutralizing opposing forces for a period of time, it cannot be said that his survival in power for eleven years was the result of a skillful management of internal conditions. External interests and exigencies of regional politics had a significant hand in keeping Zia in power. Soviet invasion of Afghanistan had increased Pakistan's strategic importance in the region. Zia and the western powers, particularly the USA, used this for mutual benefit. While Pakistan's territory was used for training of the Mujahideen (30) to fight the Soviet army in Afghanistan, and as a route for the supply of weapons to the Mujahideen forces, Zia bargained for increased military aid. Agreements to give Pakistan development aid were also readily made. A status quo in Pakistan's power structure was essential for the successful implementation of the agenda of the cold war. Zia's human rights record, or the effects on Pakistan's democratic development were conveniently ignored till the conclusion of the Afghan war. It is significant that it was at this time that moves were made for finding other strategies to give legitimacy to the regime. Internal conditions had become critical and the diversionary tactics were not proving effective any more. Zia began by holding a referendum in 1984. The people were required to answer the question whether they wanted an Islamic government in the country. If the answer was yes, Zia would presume that it is a mandate for him to remain in power for a further five years. This blatant and bare-faced attempt to fool the people was unmatched in the history of Pakistan. It is not surprising that it failed miserably and served only to expose the regime and to reduce its credibility even further. Although non-party elections were held in 1985, and a parliament put in place, martial law was not lifted till 1986, and that, too after constitutional amendments were forced by Zia to create a covert power base for the army, through the office of the President.

Since 1988 party-based elections have been held. However, the constitutional amendments made to enhance the powers of the President to control the life of the National Assembly allowed the dissolution of four successive Assemblies by the President. Attempts have been made for procuring a constitutional sanction for the military to share political power. While such attempts have not succeeded, other proposals have been made to give the military a greater role in decision-making on critical issue (31). The extent to which the military establishment and the intelligence agencies at its command have played a role in destabilizing civil governments, is a subject of discussion, but can not be properly investigated owing to the shroud of secrecy that surround the working of these agencies (32).

The responses of the judiciary to interruptions in the political process have not only given legal sanction to military interventions,

but have been largely responsible for making a space for the acceptability of these interventions. Superior courts invoked the doctrine of necessity to give legal sanction to military interventions in their judgments (33), with the exception of the coup d'etat lead by General Yahya Khan. However, this judgment (34), though commendable for its rejection of any claims of legitimacy for unconstitutional seizure of power by the military, was delivered long after the usurper had himself been deposed. The effects of this judgment were short-lived, as the Supreme Court subsequently disregarded the many principles of this judgment, and not only gave legitimacy to Zia's regime, but also gave him the power to amend the Constitution (35).

While repeated military interventions have stunted the development of democracy in Pakistan, these have affected national integration by sharpening ethnic and provincial disparity in the sharing of power. The army is mainly composed of Punjabis, followed by Pakhtoons. According to one estimate 60-65 percent of army officers and over 70 percent of the high command are Punjabis, and 30-33 percent of the officers are Pakhtun. The Baluch constitute about 2-3 percent, and the Sindhis a mere 1 percent of the army's total strength, with virtually no presence in its higher ranks. The sense of deprivation amongst the ethnic groups not represented in the military become even more acute in periods when the army has come into power. The sustained ability of the military to control and manipulate civil governments, and to dictate state policy, have alienated a large portion of the population from the state. This alienation has been more pronounced amongst the Baluch and the Sindhis. The Punjabi dominated military identifies itself with the nation state, and rejects all claims to ethnic nationalism and sees the arguments for its recognition in the polity as anti-state. Military domination is perceived as domination of the Punjabis, and is deeply resented. The imbalance in the ethnic composition of the military, therefore, has played a role in sustaining and sharpening ethnic divisions in the state.

In the recent past the military has shown more restraint, and has avoided any direct or overt interference in political affairs (36). It is, however, apparent that the military establishment retains considerable influence in decision-making on matters of foreign policy, especially on Afghanistan and relations with India. Nevertheless, while serious concerns still linger over the relationship between the political authority and the military establishment, tensions are less visible than in the years following the 1988 elections till the last elections in February 1997. The Constitutional amendment taking away the power of the President to dissolve the National Assembly and dismiss the government may have resulted in improving the situation and giving more confidence and security of tenure to the political government.

While the overt political role of the military has declined, its economic activities have expanded. It owns large industrial, commercial and financial concerns. At the same time the role of the military in civil affairs has increased because of the induction in key civil positions of military personnel both retired and in active service. Every election held after the restoration of civilian rule in 1988 has been conducted with a significant military presence. The armed forces had a major role in conducting the 1998 census. Use of the military for enforcing law and order continues, particularly in Sindh. The Punjab government has resorted to assigning investigations into corrupt practices in sectors such as education and health to the army, and all major road development works have been contracted to the military.

The burden of defense on the exchequer has not reduced. The weight of defense expenditure is felt more acutely in the current economic crisis. The meager resources for development have shrunk even further under the structural adjustment and debt alleviation plans. The social sector spending has been most adversely affected. Yet no serious consideration to reduce defense expenditure has been given. Although the budget for defense is a part of the finance bill presented for passage by the parliament, the house cannot debate on this portion of the bill. Whenever criticism of spending on defense at the cost of development has surfaced, the government is quick to justify the spending by statements highlighting threat of aggression by India. There are, therefore, indications that while the military may not be playing an active part in politics, its significance has in no way abated, and still retains the power to extract assurances from the political government, at any time that its interests are threatened.

### **National Ideology vs National Integration**

An underlying common theme for the nation states in the South Asian region is the experience of colonial rule which gave rise to people's movements for independence, thereby also creating the first space for democratic rights. However, the independent governments that followed based their authority on centralized control, which resulted in authoritarianism and the weakening of democracy. Their insistence on homogeneity within the nation-state in the name of national solidarity further eroded democratic rights and restricted the exercise of the promised freedoms. Clearly, most countries in the region have experienced only limited democracy. But democracy also would require a radical change in attitudes and outlook in order for democratic values to take root. Democracy must manifest itself through a strong institutional structure that promotes the political, social and economic development of all sections of the society. To the extent that the system disallows the full participation of any group or category of persons, or denies those freedoms which promote participation, it is not democratic.

The sub-continent had a long history of social movements (37). Political parties were formed and played a role in negotiating independence. What was, however, missing was a mobilization of citizens joining together as equal members of a "people" or "nation". The extreme diversity of interests within Indian society made such mobilization very difficult. Even the struggle for freedom from colonial rule eventually bifurcated because of the "Muslim interest" which led to the Pakistan movement, initiated in the Hindu-majority areas of India. This "interest" was based on the two-nation theory - a claim that India's geographically dispersed Muslims were a separate and identifiable community entitled to determine its own political future. The emotional bond to this movement amongst the population of the territories that ultimately comprised Pakistan (Muslim-majority areas of India) was,

however, only superficial.

The creation of a separate Pakistani State had a different impact on its subjects depending on their geographical location and political involvement in the Pakistan movement. People inhabiting the border areas of the newly defined boundaries between India and Pakistan witnessed the influx and exodus of population and the accompanying turmoil and destruction and therefore directly experienced the effects of partition and independence. The refugees experienced enormous trauma, and were struggling to cope with a crisis. However, for people who already lived in what became Pakistan there was, by and large, little change. Peasants of Sindh and Balochistan, for instance, were little touched by the emergence of Pakista (38). Participatory demands were not strong because popular mobilization was not sufficiently wide spread. There was no immediate stimulus in the social or political environment to forge bonds of commonality.

The State itself ultimately proved unable to develop institutions that could accommodate the pluralistic character of the population it had inherited and at the same time create a basis of common interest despite linguistic, ethnic and cultural diversity. Governance based on a centralized state structure was uncondusive to national integration. Regional disparities in political and economic power grew. Political leadership drawn from a narrow social base was ill-adapted to grapple with the fundamental dilemmas of national integration. The elite understood the assertion of sub-nationalism as a problem of law and order, and thus used coercion to quell it. This response only intensified the problem. Without opportunities for redress within existing institutions, deprived sectors of the population use ethnic, regional and linguistic identities to mobilize militancy and exert political pressur (39). While this militancy has had other effects on Pakistan's polity, it has triggered no change to the elitist administrative and political system which effectively denies large sections of society any participation in the decisions that affect their economic and social existence.

Authoritarian regimes and weak democracies have relied on slogans and rhetoric to impose ideologies based on religion, nationalism or a particular economic or political system. Catering to ideologies has often had a negative impact on democratic development, and dissent to the proclaimed ideology is not tolerated. The discourse on rights has also suffered, as the validity of a rights claim is judged on the basis of its conformity to the national ideolog (40). At the same time, conflict with a given ideology is often used as a justification for denial of basic human rights and fundamental freedoms. Freedom of thought, expression and religion, and freedom from discrimination, suffer frequent violation.

Given this double crisis - a crisis of identity for the population and a crisis of legitimacy for the State - the ruling elite attempted to enforce adherence to an ideology of nationalism and religion. The "ideology of Pakistan" is unclear and ambiguous, yet it has given rise to laws that punish dissidence to this ideology. The belief that Pakistan was founded in the name of Islam and was meant to be an Islamic State is only one level of this ideology. Other interpretations of history and events invite punishment under the law. The "ideology of Pakistan" is used as an instrument of power. Islam as the only legitimate collective identity, the two-nation theory of Muslim nationhood, respect for the Army, have all figured as part of this ideology, and are thus deemed beyond challenge. Intolerance has been promoted in the name of the "ideology of Pakistan". Views that do not conform to the different beliefs of this ideology are dubbed as treacherous and treasonous. Religious minorities are automatically suspect as their allegiance to Islam can never be trusted.

## ISLAM, THE STATE AND SOCIETY

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As an entity, Pakistan did not emerge from a common vision shared by Muslims from all over India. The people of the new Muslim State had different ideas of why Pakistan existed, and what it meant. Ayesha Jalal has summed up the contradiction in the perception and reality of Pakistan:

*"the better remembered slogans of the movement that had brought about its (Pakistan's) creation were shrouded in religious terms. But, contrary to established wisdom about Pakistan, the role of Islam in the processes leading up to the partition of India was to amplify and dignify what remained from first to last a political struggle launched by the Muslim League under the secular leadership of Muhammad Ali Jinnah" (41).*

She argues that the 'two-nation theory' was "essentially a strategy aimed at deriving maximum mileage out of Muslims being a separate political category". To what extent was religion a basis for the demand for Pakistan? Was Muslim identity rather a political category, or was the creation of Pakistan the result of a religious movement for an Islamic State emerging from the religious fervour of the Muslims of India? What role has Islam played in national integration in a country where 90% of the population is of the same religion? These questions are essential for unraveling the relationship of Islam with the Pakistani people and the State. A study of Pakistan's origins, the processes of its social and political evolution, and its present economic, social and political realities leaves no choice but to agree with Jalal's summation in answer to the first question.

*"Two major facts substantiate this argument. First, all of the fundamentalist Islamic groups in India, including the Jamaat-i-Islami, had bitterly opposed the creation of a separate State. Jinnah, who had come to be known as Quaid-e-Azam (great leader) by partisans of Pakistan, was dubbed Kafir-e-Azam (the greatest heretic) by these religious groups; Pakistan which means land of the pure (pure in faith), was called Kafiristan (land of the heretics). Their opposition was firmly based on the idea that the separate State*

*of Pakistan was not sufficiently imbued with tenets of religion, and revolved around the political and economic benefits for Indian Muslims. The main objection fielded by Jamaat-i-Islami was the conflict between the two-nation theory and Islamic concepts. Claims by the League that Indian Muslims were a distinct nation and entitled to a separate State were rejected as being contradictory to pan-Islamism. According to pan-Islamism, Muslims of the world were one nation, and Islam did not allow separation or fragmentation of this nation into territorially defined nation-states" (42).*

The second fact is the secular message implicit in the inaugural speech of Jinnah in the Constituent Assembly as Pakistan's Governor General. Jinnah's vision of the future social and political order in Pakistan was indicated in these words :

*"You are free to go to your temples, you are free to go to your mosques or to any other place of worship in this State of Pakistan You may belong to any religion or caste or creed - that has nothing to do with the business of the State ... We are starting in the days when there is no discrimination, no distinction between one community and another, we are all citizens and equal citizens of one State ... Now I think you should keep that in front as our ideal, and you will find that in course of time Hindus will cease to be Hindus and Muslims will cease to be Muslims - not in the religious sense, because that is the personal faith of each individual but in the political sense as citizens of the State".*

This much-quoted portion of Jinnah's speech did provide a secular basis for the relationship of the State to the citizen. Yet, only six months later, he was to strongly advise the Sindh Bar Association to shun provincialism and prepare themselves to *"sacrifice and die in order to make Pakistan [a] truly great Islamic State"* (43). This is, on the one hand, a classic illustration of the obscurity and ambiguity in which Pakistan's polity was now shrouded, and reflects the infirm basis for legitimacy of the State. On the other, it reflected the insecurities of the leadership which now had to confront vital issues of allocation of power and resources. These issues were a source of tension between the centre and the provinces. Disputes with India and problems of security of life and property were resulting from the disturbances and massive dislocations due to Partition. The emergence of linguistic and ethnic differences spurred by policies of the central government delivered further blows to the chances of national integration. While the Punjabis, who dominated power structures such as the bureaucracy and the army, emphasized "Muslim" identity, the Bengalis, Balochs, Sindhis and Pathans, however, redefined their identity the moment Pakistan was established and demanded more substantial shares for themselves in power and resources. The autocratic power of the central government was identified by them as Punjabi domination. Nationalist sentiments became stronger as a reaction to policies like the adoption of Urdu as the national language. The Bengalis were particularly aggrieved by this as they were in numerical majority and had no affinity to Urdu. Furthermore, Bengali was a major language in India and they felt that the imposition of Urdu was a deliberate attempt to diminish their political significance in Pakistan.

At this point, Islam offered a moral escape from too many awkward realities. Policies of the central government were accentuating discrepancies between the provinces in terms of political power and economic resources, on the one hand, and narrowing the space for expression of social and cultural rights, particularly for the Bengalis and the Sindhis on the other. Genuine concern for regional interests in national polity was dubbed as negative provincialism by the central government. It lashed out at any resistance to or criticism of its policies as disruptive and in collusion with India. This was only the beginning of the culture of intolerance in Pakistan.

While the government and State institutions were delivering solemn messages of religious unity, and insisting on Islam as a unifying force, the social elite joined the chorus about Islam's influence in mitigating all social divides. It was attracted to the emphasis in Islam on the right to private property, and its broadly defined concept of social justice. The former they used to protect and increase their wealth, and the latter as rhetoric to divert attention of the deprived from the accumulation of wealth and power for themselves.

Proclaiming Islam as the ideology of the State served the purpose of giving the appearance of unity to an otherwise disparate people. Above all it allowed the State to establish dominance within a society with highly localized and fragmented structures of authority. It lent legitimacy to a State which had no substantial roots in the society, and which based its authority on a very centralized administrative structure, rather than on the common interest to co-exist. The Muslim League government used Islam as a ploy to divert attention from pressing socio-economic issues. This provided space for a handful of religious ideologues to impose their dominance and enter the power structure riding on the shoulders of Islam.

Religious groups who had opposed the creation of Pakistan had lost credibility and were now anxious to establish themselves as loyal citizens of the State and to build a base of support amongst the urban lower middle class. The slogan of Islam and Islamic ideology, used by the Muslim League, provided them with a foot-hold and they too exploited it to their advantage by raising the question of an Islamic State. They pointed to the life-style of the ruling elite and attacked the leaders for flouting the teachings of Islam. The attack was partly justified, as the leadership of the Muslim League was secular in outlook and Islamic only in the rhetoric it used for public consumption. The way that the leadership chose to deal with these attacks was to counter-attack the religious groups as being obscurantist and orthodox. It took up the slogan of 'progressive Islam' as opposed to the conformist views of the orthodoxy.

The more extreme the religious orthodoxy grew in its views, the more the State pandered to this extremism. Discussions were initiated to induct 'Islamic Ideology' into educational content, and to present history in school books from an Islamic point of view. Islam became the reference point from which the State began to define social policy. The ruling clique and the Islamic religious groups

(44) now had a common reference point. But their versions of Islam were not the same. Others, including self-styled scholars of Islam, joined this cacophony, presenting Islam as suited their own interests. Massive confusion reigned about what was Islam and how it was to be introduced into the State.

It would be inaccurate to infer that in the early days after the creation of Pakistan the role of Islam was the central debate related to the construction of the State or that it engaged the attention of all those who were negotiating their position in the State. Provincial autonomy, equitable sharing of political power and allocation of resources remained major issues. They also constituted a cause for mistrust and disaffection towards the State as represented by the central government. In this crisis of consensus, Islam in fact became yet another issue on which there was no agreement.

In 1949, the Muslim League government introduced the Objectives Resolution (45) in the Constituent Assembly. The Resolution affirmed the sovereignty of Almighty Allah over the entire universe. This sovereignty is to be exercised by the people of Pakistan, through their chosen representatives, but within the limits prescribed by Him as a sacred trust. Fundamental rights of equality and opportunity before law, freedom of thought, expression, belief, faith worship and association would be guaranteed, but 'subject to law and public morality'. Observance of the principles of democracy, freedom, equality, tolerance and social justice 'as enunciated by Islam', was promised, as were adequate provisions for minorities to freely profess and practise their religion and to safeguard their 'legitimate' interests. At the same time, the State would have the duty to 'enable' the Muslims to 'order their lives in the individual and collective spheres in accordance with the teachings and requirements of Islam as set out in the Holy Quran and Sunnah' .

The Resolution was broadly worded and thus open to varied interpretations. It was seen by the Hindu members as a significant departure from Jinnah's inaugural speech, and they thus boycotted the session of the Assembly at which it was passed unanimously by the Muslim members. Liaquat Ali Khan, the Prime Minister and mover of the Resolution, was himself uncertain about its implications (46). It was used by the religious orthodoxy to its best advantage. In the orthodox view, everything - ranging from social behaviour and practices to government policies - came within the range of what had to conform to 'Islamic principles'. The nature of democracy, freedom, tolerance, equality and social justice under Islam was subject to orthodox interpretation. Failure of the government to adopt policies and measures for remodeling Pakistani society along Islamic lines was criticized as its failure to realize the vision of the Resolution, and this was used to attack government legitimacy.

The orthodoxy became more and more vociferous in its claim that the social and political norms of statehood lay in Islam. The government could hardly deny this claim after having declared a national consensus (in the shape of the Resolution) on the need to base Pakistani society on Islamic principles. The ruling elite, especially the civil and military bureaucracy, was however not yet disposed to adopt religious extremism or to give legitimacy to the orthodoxy.

Religious groups did not enjoy popular support for their views on Islam, and had a very narrow political base. Lack of popular support for their views was clearly demonstrated in the 1951 provincial elections, which were based on adult franchise and were the first expression of the people's will after Partition. In the Punjab, one fundamentalist party, the Jamaat-i-Islami, had put up fifty-three candidates, of whom all but one were defeated. The other fundamentalist parties fared no better. Their unpopularity among women is indicated by the conclusion of the Jamaat Majlis-e-Shoora (47), which met in April, 1951 to review the election results. The Shoora noted that the vote exercised by women was more baneful for them than the male votes. They were, therefore, unable to inspire a mass movement for the induction of their demands in the scheme of the constitution under preparation. Views of liberal personalities in influential positions can be gauged from the report of a Commission set up in 1955 to review family laws and to bring them into conformity with social realities. The report was presented in 1956, and appraised the social development of Muslims in the following terms:

*"One major cause of this universal backwardness (of Muslims) is the unwillingness of the Muslim peoples to appreciate the significance of the changing realities and the influx of new and undreamt-of factors. The attitude of the employer to the employee, of the landlord to the tenant, of capital to labour and of man to woman, has changed and is changing beyond recognition. These changes require a modern approach, new rules of conduct, and fresh legislation in almost all spheres of life and a radical remodeling of the legal and judicial system. No nation can stand aside as an idle or wondering onlooker while the world progresses rapidly. No nation, big or small, can now stand in indifferent isolation. At the present time, one has either to steer one's boat with skill and firmness towards a definite goal, or as an alternative merely to drift and be engulfed by a rapidly growing stream" (48).*

Problems of ideology, the role of religion in State structures, conflicting ideas of citizenship, equality and representation had created a situation in which consensus was difficult to achieve. The government of the Muslim League began to weaken because of internal friction after the death of the Quaid (49), and a crisis of leadership grew. Combined, these factors delayed the making of the Constitution. Pakistan's first Constitution was enforced on 23 March, 1956, nearly nine years after independence. The Objectives Resolution formed the Preamble to the Constitution. While Islam was not declared as the State religion, it was stipulated that no laws repugnant to the Quran and Sunnah would be enacted, and the existing laws would be brought into conformity with such injunctions. The President was empowered to set up an organization for Islamic research and instruction in advanced studies "to assist in reconstruction of Muslim society on a truly Islamic basis". This was mere lip-service paid to Islam, as no steps for implementation of

these provisions were taken during the two years that the Constitution remained in force.

Enforcement of the Constitution did not resolve the controversies surrounding the structure of the State. One of the more contentious issues was that of joint electorates. This was an issue on which there was religious as well as provincial polarization. The religious parties and the major political forces in West Pakistan supported separate electorates (50). Majority opinion in East Pakistan vehemently supported joint electorates (51). The political leadership of West Pakistan as well as the Islamic parties dubbed anyone supporting joint electorates as a traitor, and accused the Hindu minority in East Pakistan of engineering this support in order to exploit divisions amongst Muslims. They also opposed it as negating the two-nation theory. Hussain Shaheed Suharwardy's (52) comments on this objection illustrate the difference of views on the two-nation theory between the two wings of the country. During a speech in the National Assembly he defended joint electorates, stating:

*"The two-nation theory was advanced by the Muslims as a justification for the partition of India and the creation of a State made up of geographically contiguous units where the Muslims were numerically in a majority. Once that State was created the two-nation theory lost its force even for the Muslims ... Today we do not want to develop fissiparous tendencies within the country but create one nation. I, therefore, advocate a joint electorate because this will help ... in destroying the seeds of suspicion, distrust, and hatred between the citizens professing different religions" (53).*

The Constitution was abrogated in 1958 by President Iskander Mirza. Acting in concert with General Mohammed Ayub Khan, he imposed martial law in the country. This further exacerbated the crisis of integration. A confused, incompetent government, grappling for a basis to claim legitimacy, had now given way to a repressive State authority with its own formula for democracy imposed from the top. Since the civil-military bureaucracy traditionally kept the religious parties at bay, before martial law the attitude of the authorities towards the main religious parties remained distant. But now the military government was not able to diminish the significance that religious parties had gained. Two factors were mainly responsible for this.

First, the military government continued in the style of the previous ruling clique to use "modern" Islam to repress voices of dissent from East Pakistan, Sindh and Balochistan. Ayub Khan explained his Islamic philosophy in a speech in May, 1959:

*"When the link between life and religion is snapped, life goes on in one direction or another but religion is reduced to a lifeless object incapable of resilience or progression, and it is confined in the precincts of mosques, and mausoleums. Islam seems to have suffered that fate. While mankind has made great advances in science and philosophy, religion has remained static for centuries...The miracle of Islam was that it destroyed idolatry, and the tragedy of Muslims has been that they rendered religion into the form of an idol."*

This modernistic approach towards Islam may have shown a resistance to religious extremism, but the State still continued to use the Islamic idiom for policy pronouncements. This allowed the Islamic religious groups to retain the foothold they had been conceded by the Muslim League. Ayub Khan's rule was bitterly attacked by the Jamaat-i-Islami as un-Islamic and, with more justification, as undemocratic. Ayub also gave them martyrs by using repressive measures for the persecution of some of the most vocal religious groups. At the same time he co-opted the more pliable religious groups by giving them State patronage to denigrate the opposition of the former groups. Ayub enforced a new Constitution in June 1962. At the time of enforcement, the definition of "State" did not include the word "Islamic" and, though an Advisory Council on Islamic Ideology and an Islamic Research Institute were established by Ayub, these institutions were headed by his co-opted *ulema* (54) who supported the reforms brought in by him.

The second factor was the imposition of restrictions on political parties and their activity. The Ayub era was marked by political repression, denial of fundamental freedoms and a tremendous increase in the power of the civil and military bureaucracy. Until a later amendment, the Constitution did not guarantee fundamental rights, but only expressed them as Principles of Policy and Law-Making, which were not justiciable. Political parties were initially banned, and later allowed only limited activity, and the political process remained under strain and was subjected to control. Political forces remained weak and fragmented. Fundamentalist groups, on the other hand, organized themselves under the protection of religious institutions and carried out political and ideological propaganda in this guise. Freedom of speech and assembly was so strictly curtailed that the only expression of political discontent that could be voiced came from the mosques as a part of religious propaganda. These, therefore, became the locus of dissent, and political questions were even more thoroughly mixed with religion during this period.

The later years of Ayub's rule were marked in West Pakistan by the rise of the Pakistan People's Party, led by Zulfikar Ali Bhutto. In East Pakistan, discontentment due to economic and political deprivation had turned into bitterness. This took the form of Bengali nationalism and resentment of Punjabi dominance in the State. A movement against Ayub's rule was launched in both wings of the country and, faced with mounting unrest, Ayub stepped down in March 1969, handing over power to the Army Commander, General Agha Muhammad Yahya Khan.

Although the protest movement had received the full support and active participation of the religious parties, it was primarily a movement against political repression. This was clearly demonstrated by the choice people made in the 1970 elections held under

martial law. These elections are generally conceded to have been free and fair, and are recognized as such, nationally and internationally. Two political parties emerged: the Pakistan People's Party (PPP) in the West and the Awami League in the East. Both these parties had contested the elections on a platform of political and economic issues. All the religious parties together won only 5.75% of the seats in the National Assembly, the Jamaat securing a mere 1%.

Bhutto had contested the elections on the slogan of "Islamic Socialism". The PPP manifesto proclaimed that Islam was its faith, socialism its economy and democracy its polity. The *ulema* had opposed this vigorously; many of them issued *fatwas* (religious edicts) condemning socialism as *kufir* (heresy) and ruling that anyone who advocated, supported or voted for it, put himself outside the pale of Islam. Despite all this, Bhutto and his PPP scored an impressive victory in West Pakistan, securing over 56% of the seats. This was the only election in which traditional and fundamentalist programmes for an Islamic state were pitted directly against a proposal for Islamic Socialism put forward by a party that the *ulema* had almost unanimously condemned as anti-Islamic.

Despite its absolute majority (51% of the seats in the national Parliament), the Awami League was not allowed to form a government. The Punjabi-dominated military and bureaucratic establishment could not countenance losing its grip on the power it had monopolized for so long. An army operation was launched in East Pakistan against the popular movement. The uncompromising attitude of the West Pakistani army and politicians transmuted this opposition from nationalist to secessionist. Rigidity in the attitude of the Western Wing has been attributed by many political historians to Bhutto's influence and manipulations. His interest definitely lay in gaining power in the wing where he enjoyed a clear majority, rather than in heading a large opposition group in the Parliament. Be that as it may, the fact remains that the military debacle in the ensuing Indo-Pakistani war was followed by the creation of Bangladesh and Bhutto's take-over in the Western wing in December, 1971.

Politically, Bhutto in power proved much less democratic and liberal than he had sounded during his campaign in the 1970 elections. Although the new Constitution, enforced in 1973, was adopted with the consensus of all the prominent political forces, national cohesion could still not be achieved. A significant provision of this Constitution was the declaration of Islam as the State religion. Neither the 1956 nor the 1962 Constitutions had made this declaration. The majority of the political forces in NWFP and Balochistan were alienated because of Bhutto's centralized approach towards governance. In Sindh, ethnic discontent of the Urdu-speaking population was beginning to emerge as a political force. Bhutto's policies had a distinct bias in favour of the development of rural Sindh and the motivation of ethnic Sindhis to enter the civil bureaucracy. Bhutto was a Sindhi himself, and knew that the rural Sindhi population had always felt alienated from the power structures, having virtually no representation in the military or the bureaucracy. Compared to the Urdu-speaking population of urban Sindh, rural people were much more marginalized. The Urdu-speaking population experienced a decline in privileges under Bhutto, which was perceived as ethnic discrimination. There were rumblings of discontent even in the Punjab, which had thus far been dominant in the power structure.

A part of the general pattern of authoritarian behaviour - continued under Bhutto - was harassment and humiliation of political opponents and journalists, and extensive use of torture against political prisoners. Economically, the social reforms made little difference to the peasant and the landless farmer, and to their subjugation by the big landlords. Bhutto had begun to use Islamic rhetoric in the face of his failure to effect integration of the different ethnic and provincial interests. He was looking as well for stronger ties with the Arab States as a part of his plans for expanding Pakistan's economy with the help of their oil wealth. At this point some of the Islamic parties began to emphasize egalitarianism and social justice as elements of Islam, while remaining hostile to the 'alien' doctrine of socialism. The basis of Bhutto's popularity being his economic reform and promise of social transformation, the Islamic parties now wished to use the slogans of Islamic social justice, rather than religious dogma, to discredit Bhutto.

Bhutto showed himself sensitive to pressure from the *ulema* as early as 1974, when he agreed to declare the Ahmedis a non-Muslim minority and to reword the oath of office for the President and Prime Ministers so as to require explicit belief in the finality of Muhammad's (peace be upon him) prophethood. It is curious why Bhutto felt threatened by the religious groups. The reason could be his distrust of the Army, and the destabilizing effect of religious frenzy, which could be exploited by the military in the face of his declining popularity. Confronted with mass opposition and violence in 1977, he believed he could save his regime by making concessions to the *ulema*. He announced that Sharia law would be enforced within six months, declared an immediate and total ban on drinking, gambling and nightclubs, and made Friday the weekly holiday in place of Sunday (55). These measures were of no avail. Although the Islamic parties played a prominent part in the agitation that led to his downfall in 1977, there is little evidence to suggest that the growing unpopularity of Bhutto's regime had anything to do with religion as such. On the 5th of July, Zia-ul-Haq, the Army Chief of Staff, assumed power, just as Bhutto was reaching an agreement with other political forces. Another period of martial law thus began.

Zia-ul-Haq's address to the nation on the day he took power set the tone of his policy. He praised the spirit of Islam that had inspired the opposition movement, and concluded: "*It proves that Pakistan, which was created in the name of Islam, will continue to survive only if it sticks to Islam. That is why I consider the introduction of an Islamic system as an essential prerequisite for the country*". Zia used Islamic ideology to legitimate State power in the hands of the military. It was during his eleven years of military rule that the relationship between religion and the militarized State became the major obstacle to democracy in Pakistan.

In the Pakistan National Alliance movement against Bhutto in April 1977, the fundamentalist parties had been a small but vital component, and the mosques were widely and effectively used by the PNA. Though numerically small, and with no mass support on their own, the fundamentalist groups were able to gain an edge over their allies, both using them and being used in their joint effort to



overthrow the government. Obviously, the Bhutto government had felt some need to pacify the religious element, or to gain some measure of support from the Muslim world, as evidenced by the last minute effort to take Islamisation measures. This proved ineffective in saving the regime, but seemed to give weight to the notion that fundamentalism was powerful enough to shake the government, and this was a further step in leading Pakistan down the path of theocracy. The martial law regime which finally overthrew the Bhutto government not only continued the process, but also began to treat Islamisation as its own special preserve. Using religion as its mandate for continuing in power, it allowed the religious parties collaborating with it an influence hitherto inconceivable. The country was increasingly ruled under laws that were the result of the collaboration between a military regime and a conservative fundamentalist element with little popular backing.

Zia may have lacked popular support, but his policies of militarization and Islamization had a profound effect on State institutions and their responses to democracy and human rights. While militarization undermined an already weak civil society, Islamic fundamentalism diminished the space for tolerance and dialogue. Military courts handed out harsh sentences to journalists, political activists, trade unionists and others who challenged the moral and legal legitimacy of the military government. Militant resistance grew in Sindh and, sporadically, in Balochistan, and was suppressed by military force. At the same time, punishments were imposed under Islamic laws, instilling fear in the population and gagging dissent.

Women and religious minorities became the main victims of Zia's Islamization. Discrimination was given legal sanction through laws reducing women and the non-Muslim population to second-class citizens (56). Blasphemy laws were used for religious persecution of non-Muslims and the minority sects. Although Zia had to go beyond symbolic measures in imposing Islam, he could not infringe upon the interests of the powerful. His Islamization was, therefore, selective and affected the weaker sections of society. The economic interests of industrialists, feudal landlords, the business and trading communities were not disturbed. Government patronage was generously bestowed upon the religious parties and their institutions. During this period, these groups began to infiltrate not only civil institutions of the State, but also the army. This deeply affected support for democracy and human rights within State institutions. The media was generally used for indoctrination. So also was education policy. The emphasis placed on Islam, as interpreted by the State-sponsored orthodoxy, not only created insecurity for the non-Muslims, it generated sectarian tensions and violence of a degree previously unknown in Pakistan. With religion now a basis for power, different sects and schools of thought began vying for a share of that power. The distinction between modern Islam- previously adopted by the State - and the dogmatic Islam of the religious parties was rooted out. A dogmatic and fundamentalist version of Islam was adopted by the State.

## THE POPULAR RESPONSE TO ISLAMIZATION

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Although overwhelmingly Muslim, Pakistani society is entrenched in the cultures which preceded the advent of Islam in the sub-continent. While Islam has modified the social patterns of the various regional cultures, none were wholly absorbed by it (57). In the part of the sub-continent which is now Pakistan, the type of Islam that took root challenged the orthodox puritanical school of Islam (58). It was influenced by Sufism (59), and retained the attachment to local traditions and symbols, often of Hindu origin, in Punjab, Sindh and Bengal. It is also true that Islam, despite its egalitarian tenets, never obliterated the divisions of class, caste, tribal and clan affiliations in Pakistan. In Balochistan and NWFP, where there was only a minimal Hindu presence, Islam had to acclimatize itself to tribal customs. This diversity of cultures and traditions of the Muslim population in Pakistan is paralleled by profound economic, linguistic, and social differences. These differences, added to the variations in religious practices between urban and rural areas, means that forging feelings of national solidarity on the basis of religion cannot be a sound proposition. It therefore appears that, while the ideological debate has raged within the limited circle of State authorities, the dominant classes, and the religious orthodoxy, the vast majority of the population has not felt this debate to be relevant to its socio-economic needs.

This is evident from the lack of popular support for the religious parties. From the first general elections in the Punjab after Independence in 1951, through to the most recent national elections in 1997, the orthodox religious parties have never fared well. Their support is limited to a small section of the urban middle class of traders, small businessmen, and some professional and students' groups in the Punjab, and sections of the Urdu-speaking population in Sindh, mainly concentrated in Karachi. In NWFP and Balochistan, where some religious groups have fared slightly better in elections, it has been on the basis of a populist version of Islam, emphasizing its egalitarian creed. That the Pakistani public has twice elected a woman as Prime Minister, despite the clamorous opposition of religious groups to a woman heading an Islamic State, is further evidence of their lack of influence over the electorate.

Zia struck an alliance with the Punjab-based orthodox and fundamentalist religious parties, mainly the Jamat-e-Islami. During the eleven years of martial law, they received immense patronage from the military government. It was during this period that they entered key institutions. They have used their influence in the structure of State authority to command conformity with their views from a disaffected population. Their organizational abilities have far exceeded their ability to attract support. They have been successful in obtaining vast amounts of funds from external and internal sources either in the name of anti-communism, or as proponents of militant Islamic sectarianism. Their supporters, though limited in number, are very militant and are capable of engineering street agitation and violence, which the administration has always found daunting. Their reaction to their failure to obtain power through democratic processes is to attack democracy as unsuited to Islamic values and precepts of governance. Recently, even the electoral process has been rejected by them and some of the extremist groups, including the Jamaat-i-Islami, boycotted the elections held on 3 February, 1997.

Rise in the influence of fundamentalist groups in the institutions of State authority, growth of militant sectarian factions, intolerance of dissent from traditionalist and orthodox views on Islam, educational institutions and universities captive in the hands of militant and armed groups of students affiliated to the fundamentalist religious parties, and above all, a body of discriminatory and repressive legislation - all these are part of the legacy Zia bestowed on civilian rule, restored by him in 1986. It was not the support of the Islamic groups that enabled Zia's regime to survive for eleven years. Use of State coercion and unflagging support of the military establishment were the main factors. Zia also co-opted landed and business classes whom he used in the new political arrangements after 1986 to give the regime a civilian face.

With Zia's death in 1988, the first party-based elections were held in the process of 'restoration' of democracy. The orthodox religious parties received insignificant support in the general elections. They were, however, inducted into the upper house of Parliament, the Senate, through indirect elections on seats reserved for ulema through an amendment to the Constitution made by Zia (60). Other constitutional amendments reduced the power of the representative assemblies, and increased the power of the President, giving him the authority to dissolve the assemblies at his discretion. The main political parties since the 1988 elections have been the Pakistan Muslim League and the Pakistan People's Party. The former was built under Zia's patronage and was initially influenced by both the militaristic and Islamic jargon used by him. The latter was the main victim of Zia's political repression, and drew support on the basis of expectations of socio-economic reforms. Neither was able to effectively deal with the disruptive influence of religious parties on the political process. Both showed a vulnerability to the pressure of radical demands of these groups.

Civilian rule was restored under arrangements that ensured the primacy of the military in strategic areas of authority. The inherent weaknesses of such a political process allowed for little contribution by the political parties towards stabilizing democracy. On the other hand, corruption and their inability to resolve political tensions and economic crises have resulted in political governments losing credibility. This has given the religious groups grounds for denigrating democracy more vociferously. The political parties are constituted from a narrow social base and dominated by feudals and industrialists. They tend to use religious idiom to conceal their own deficiencies in governance. Though the debate over 'religious ideology' is much less intense, the only response of the political parties to the orthodoxy is to attempt to counter their pressure with arguments for modernistic views of Islam.

The debate, therefore, seems to have come full circle - but with a significant change. A third dimension to this debate has been added in the form of support for a secular civil order. So far, all arguments on the nature of the State, its institutions, and the status of rights have taken place within the Islamic framework, be it liberal and progressive Islam, or the more rigid and dogmatic version put forward by the extremists. While the secular element has never been totally absent from politics in Pakistan, open discussions on a secular Pakistan were always attacked as treacherous, a threat to the 'ideology of Pakistan' and putting 'Islam in danger'. Early support for secularism sprang from the adherents to socialism. Now the basis for the secular argument is the promotion of human rights and democracy, neither of which, it is argued, can thrive in the milieu of religion. Though by no means a popular position yet, its proponents have grown in number. The position is being adopted by people from different disciplines, and the space for public expression of this position has opened. Expectedly, the strongest attack against this proposition comes from the religious groups, the military establishment and its proponents.

While the debate rages on, the urgent issues of national integration and governance remain unresolved. The immediate, crucial concerns of the vast majority with respect to poverty, social injustice and economic inequities, remain unattended. The fiftieth anniversary of the country is being celebrated by a despondent population fast losing the hope of State institutions ever responding to basic needs, or administering justice independent of social and political bias. It is in this environment of frustration and despondency that the religious extremists find the ideal opportunity for exploiting issues to their advantage and arousing religious passions among the more vulnerable sections of society, especially the youth.

## NOTES

- 13) The term used for the tribal system in Balochistan. [Return](#)
- 14) Akmal Hussain, Pakistan: Land Reforms Reconsidered, in Pakistan Society and Politics, Edited by Pandav Nayak, South Asian Studies Series, 1984. [Return](#)
- 15) Judgment reported at PLD FSC 80. Judgment of the Shariat Appellate Bench of the Supreme Court confirming the decision of the FSC is reported as 1989 SCMR 2021. [Return](#)
- 16) Akmal Hussain, Changes in the Agrarian Structure of Pakistan. D. Phil Thesis, Sussex, 1980. [Return](#)
- 17) See Human Rights Commission of Pakistan, State of Human Rights Reports, 1992 to 1995. [Return](#)
- 18) 1981 census figures show the rural population as 71.7% of the total. The estimated figures for 1996 show this as 67.6% of the population. Economic Survey of Pakistan 1995-96: Government of Pakistan, Finance Division Publication. [Return](#)
- 19) The office and powers of the Governor General were provided for by the Government of India Act as adapted by the Indian Independence Act of 1947, which served in place of a constitution till the Constituent Assembly could frame and adopt a new constitution for Pakistan. [Return](#)

- 20) Ibid. [Return](#)
- 21) Jinnah's summary dismissal of the Congress government in NWFP is just one example of the non-democratic beginnings of the state. [Return](#)
- 22) By 1950, economic policies had provoked labour trouble in Karachi, Punjab and Bengal and agrarian unrest had flared up in NWFP. [Return](#)
- 23) A senior bureaucrat Malik Ghulam Muhammad took over the office of Governor General in 1951. He was succeeded upon his retirement by Iskander Mirza, another senior bureaucrat, who became the country's first President under the 1956 Constitution. It was Iskander Mirza who proclaimed the first Martial Law in Pakistan on 7 October, 1958 and abrogated the Constitution. Ironically he became the first casualty of Martial Law when General Muhammad Ayub Khan removed him from office by a successful coup d'etat, and installed himself as the President and the Chief Martial Law Administrator. [Return](#)
- 24) The General who deposed Ayub Khan in 1969 after another coup d'etat. [Return](#)
- 25) After the elections in 1970, Awami League, an East Pakistan based party, who had won an over all majority, was not allowed to form a government by Yahya Khan. The leader of the party, Mujibur Rahman was arrested and jailed in West Pakistan. This triggered off massive agitation in the Eastern wing of the country. The Army sought to quell this by military force. India's intervention in the conflict resulted in war between the two countries in December 1971. The Pakistan Army surrendered to the Indian forces on 17 December, 1971. Ninety thousand were taken as prisoners of war, and were able to return after three years of intense negotiations with India. [Return](#)
- 26) Now Bangladesh. [Return](#)
- 27) Zia proclaimed martial law on 5 July 1977. [Return](#)
- 28) The Pakistan National Alliance (PNA) comprising nine parties from the opposition, including the Jamaat-I-Islami. [Return](#)
- 29) See pages 22 - 24 for discussion of Zia's period in government, 1977 - 1988. [Return](#)
- 30) The Afghan freedom fighters. [Return](#)
- 31) A Council for Defense and National Security was proposed to be set up by the Care Taker Government in January 1997. The Council would be a high level decision-making body which would include in its composition the President, Prime Minister and the Chief of Army Staff. This idea was rejected by the public. The Sharif government did not implement the proposal. [Return](#)
- 32) Military intelligence services are commonly referred to as the "sensitive agencies". [Return](#)
- 33) Challenge to the 1958 proclamation of martial law was answered by the supreme court in the case of The State v. Dosso and another, PLD 1958 Supreme Court 533. [Return](#)
- 34) Miss Asma Jilani v. The Government of the Punjab and another, PLD 1972 Supreme Court 139. [Return](#)
- 35) Begum Nusrat Bhutto v. The Chief of Army Staff and Federation of Pakistan, PLD 1977 Supreme Court 657. [Return](#)
- 36) For instance refusal of the Chief of Army Staff to be persuaded by the President to take any action during a recent crisis between the government and the former Chief Justice of the Supreme Court. [Return](#)
- 37) For example the movements for reform of society and religion went as far back as the time of Buddha. Some other pioneers of such movements are Nanak (founder of the Sikh religion), Kabir (poet and reformist), and the sufis. Some examples of the 19th and 20th century movements are those led by Gandhi for social reform, and Sir Syed Ahmed Khan for the modern education of Indian Muslims, the movement of Indian women for suffrage. See Hugh Tinker: South Asia: A Short History. Pall Mall Press, London (1966). Also see Alavi, Hamza and Harris, John, Sociology of Developing Societies: South Asia Monthly Review Press, New York. Chapter by Kathleen Gough, "Peasant Resistance and Revolt in South India" for the peasant movements in Bengal and Hyderabad. [Return](#)
- 38) Wilcox: Pakistan the Long View, Edited by Lawrence Ziring, Ralph Braibanti and W. Howard Wriggins. Duke University Press, 1977. [Return](#)
- 39) Mushahid Hussein, Akmal Hussain : Pakistan, Problems of Governance, Vanguard Books Pvt. Ltd., 1993. [Return](#)
- 40) The plea for change in the Constitution to affect the system of separate electorates, and the rejection of the demand by religious minorities to restore joint electorates are examples. [Return](#)
- 41) Jalal, Ayesha, The State of Martial Rule: The Origins of Pakistan's Political Economy of Defence. Vanguard Books Pvt Ltd., 1991. [Return](#)

- 42) For a more detailed discussion of the "two-nation theory" and Islam, see article contributed by Asghar Ali Engineer, "Islam and Polity: Contradictions in the Statebuilding of Pakistan" in Pakistan: Society and Politics, Edited by Pandav Nayak. South Asian Publishers Pvt Ltd., New Delhi, India, 1984. [Return](#)
- 43) On this Jalal comments " One can either conclude that the definition of an 'Islamic State' in the Quaid-e-Azam's personal lexicon was wholly unique or that the travails of office as Pakistan's first Governor-General had weakened his resolve never to take the path of least resistance on matters to do with religion." Jalal, The State of Martial Rule. [Return](#)
- 44) The Jamaat-i-Islami, Jamiat Ulema-I-Pakistan, Jamiat Ulema-I-Islam, remnants of the Majlis-e-Ahrar. [Return](#)
- 45) This Resolution served as the preamble for the Constitution eventually adopted in 1956 and for successive Constitutions, until it became an operative part of the 1973 Constitution through the Eighth Amendment in 1986. [Return](#)
- 46) A. Jalal, The State of Martial Rule. [Return](#)
- 47) The decision-making council. [Return](#)
- 48) Report of the Commission on Marriage and Family Laws, Gazette of Pakistan, June 1956. [Return](#)
- 49) Muhammad Ali Jinnah. [Return](#)
- 50) A system in which the citizens are divided on religious lines. Muslims are defined as the Majority and the others as the non-Muslim minorities. While Muslims are eligible to vote and contest the general elections, the "minorities" can only put up candidates from their own communities for separate seats in the Parliament and can only exercise the right of vote to elect members from their own communities. [Return](#)
- 51) As opposed to separate electorates, where all citizens have the same right to vote and contest elections regardless of any distinction on the basis of religion. [Return](#)
- 52) Pakistan's Bengali Prime Minister from East Pakistan, September 1956-October, 1957. [Return](#)
- 53) Mustafa Chowdhury, Pakistan - Its Politics and Bureaucracy, Associated Publishing House, New Delhi, 1988. [Return](#)
- 54) Religious scholars [Return](#)
- 55) Sunday was restored as the weekly holiday instead of Friday by the Sharif government in 1997. [Return](#)
- 56) These include the Islamic penal laws collectively known as the Haddoo laws, which discriminate against women and non-Muslims with respect to the admissibility of their oral testimony, and the age of full criminal responsibility in the case of women. [Return](#)
- 57) A. Jalal, The State of Martial Rule, The Origins of Pakistan's Political Economy of Defence, Vanguard Books Pvt Ltd, 1991. [Return](#)
- 58) Alavi, Hamza. Pakistan and Islam: Ethnicity and Ideology, paper published in State and Ideology in the Middle East and Pakistan, edited by Halliday and Alavi, Monthly Review Press, Hong Kong, 1988. [Return](#)
- 59) A movement started by Islamic mystics, who emphasized peace, brotherhood and tolerance, as opposed to orthodoxy and religious dogmatism. See: Tinker, Hugh. South Asia: A Short History, Pall Mall Press Ltd., London, 1966. [Return](#)
- 60) Article 59 (d) of the Constitution, added by the Presidential Order No. 14 of 1985, later adopted by the Constitution (Eighth Amendment) Act, 1985. [Return](#)

### PART 3: RULE OF LAW AND THE ADMINISTRATION OF JUSTICE

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#### PART III

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#### 1. RULE OF LAW AND THE ADMINISTRATION OF JUSTICE

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Long years of military rule, and its repeated sanction by superior courts, affected not only Pakistan's political environment, but also the constitutional framework for legislation and the enforcement of laws. Denial of democratic rights, laws permitting the violation of fundamental freedoms, and autocratic imposition of State authority was given a veneer of legality by the mere act of legislation. The general perception of law being just and equitable and, therefore, the rule of law being a strong protection against the denial of rights changed. Law is now seen more as an instrument of control than that of relief and redress. This perception is shared by both civil society and State institutions. While for the former, the perception is manifest in resentment against the law and the structure of

authority it creates, in the latter the total lack of respect for law is evident in the behaviour and conduct of law enforcement organs of the State, and the impunity with which the State itself contravenes the law.

### Constitutional Framework for Democratic Development and Human Rights

Between 1956 and 1973, four Constitutions were framed (61). Each of these Constitutions was either abrogated or suspended after a military *coup-d'état* (62). While the 1956 Constitution provided for justiciable fundamental rights, the Constitution promulgated by the President in 1962 made no such provisions. The latter was a constitutional document enforced through a Presidential Order. It was neither debated nor framed by a constituent body. Fundamental rights were later added to the Constitution through an amendment made by the Parliament, elected subsequent to the enforcement of the Constitution. The 1973 Constitution, though not a perfect document, can claim a legitimate source of creation, the Parliament elected in 1970 being the Constituent Assembly for framing the Constitution (63). Fundamental rights were made an operative part of the Constitution, the Judiciary was empowered to issue writs and was promised full separation from the Executive (64). Justiciability extended to legislation which was *ultra vires* of the Constitution, including legislation by Parliament abridging any of the fundamental rights conferred by the Constitution (65).

Deviations from the constitutional framework hampered the development of law in accordance with the principles enshrined therein. Not only was the body of law allowed to deviate from the direction set by the Constitution, the Constitution itself was amended in a manner that has created ambiguity in its basic principles. Tampering with the letter and spirit of the Constitution began soon after its enforcement (66). Using the emergency provisions in the Constitution (67), fundamental rights were suspended, and remained suspended throughout the period of civil government between 1973 to 1977. The civilian government was overthrown by a military coup on 5 July 1977. The legitimacy of this change was challenged by the wife of the deposed Prime Minister (68). The Court upheld the legitimacy of the military government on the grounds of necessity. It went one step further, and gave the Chief Martial Law Administrator power to amend the Constitution. This power was used most liberally to adulterate the Constitution before it was finally restored in 1985 (69). Amendments made as a consequence of the power granted by the Supreme Court to the Chief Martial Law Administrator, added to the existing ambiguities in the Constitution. The legislature inducted as a result of the non-party election held under martial law in 1985, made additional amendments, significantly changing the scheme of the Constitution, and creating further ambiguities (70). Even after eight years of restored civilian rule in Pakistan, and the induction of three legislative assemblies in this period, these amendments have raised serious issues in law-making, administration of justice, and the maintaining of a healthy balance and relationship between the different organs of the State.

### LAW MAKING

While Pakistan claims it has returned to democracy and the government enjoys legitimacy through the electoral process, democratic process is not apparent either in law-making or other procedures of the Parliament. Lack of healthy competition between the government and the opposition has created an atmosphere of confrontation, undermining the role of Parliament as a representative body. Since 1988, the Pakistan People's Party and the Pakistan Muslim League have come into power in turn. Neither has recognized the legitimacy of the other to govern, nor the essential role of the parliamentary opposition. The ruling party will do everything it can to remain in power, while the opposition can do all it can to remove the elected government from power. Each of these parties have either actively sought intervention by the President and the military authorities to oust the other from power, or have welcomed such interventions without any concern for the future for a stable parliamentary democracy in Pakistan. Between 1988 and 1997 (nine years), four elections were held, and none of the elected governments or the National Assemblies completed its five-year term. This not only created political instability, it also seriously affected the performance of Parliament as a legislative body. The process of law-making has slowed to the point of causing serious concern for the survival of democracy in Pakistan. Law-making has become a contentious process, and the government rules by ordinance rather than by laws emerging from a healthy legislative process in Parliament. This situation has continued during the tenure in power of both the present government and the present opposition (71). The role of Parliament has been severely criticized by the press and has drawn censure from different sectors of society. The protest, however, falls far short of mass public reaction. Parliament seems impervious to the criticism and no significant improvement is visible. The situation is expected to worsen as tensions heighten (72), la situation va sans doute se détériorer.

Concern for a fair legislative process in Pakistan has mounted as extraordinary methods of legislation are increasingly resorted to. Study of the legislative process since 1992 shows that rule by Ordinance (73) has become the norm, rather the promulgation of ordinances being used in exceptional circumstances and only when the Parliament is not in session. In the year 1992, nine new Acts were enacted by Parliament compared to twenty-two Ordinances promulgated by the President. The number of Ordinances promulgated in 1995 had increased to 127 (74). The power granted in the Constitution for extraordinary legislation was misused to legislate without the active participation of the opposition in Parliament. Often Ordinances are promulgated immediately before the session of the National Assembly or the Senate. Ordinances are not expeditiously adopted by the legislature. Instead they are repeatedly re-issued (75).

Where Parliament has adopted laws, these have lacked free and fair discussion. Not only are laws adopted without an active discussion in Parliament, no public debate is possible before legislation, as there is no publicizing of proposed legislation. It is only rarely that the public enjoys the privilege of expressing views regarding a proposed law before it is a *fait accompli*. On the other hand, many legislative measures important to the public remain neglected, mainly because of contentiousness between the government and

the opposition (76). It is true that, individually, the government and the opposition have each committed themselves to many measures - but they never reach the floor of the House. It is also true that government and opposition have been accessible to representatives of different groups and associations to hear grievances and recommendations for legislation (77). While this contact may have served to inform and sensitize individual members of the political parties, the effect on the policies of political parties has been very limited. Human rights groups seem to have had some success, however, in drawing attention to constitutional and legislative measures needed to improve the promotion, protection and implementation of human rights (78).

## THE JUDICIAL SYSTEM

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Under the original 1973 Constitution (79), the judicial system consisted of the Supreme Court at the apex, with High Courts in the provinces having appellate as well as constitutional jurisdiction. The High Courts also administer the subordinate courts within their jurisdiction. Using the powers granted by the Supreme Court (80), the military government amended the Constitution in 1980 and established a Federal Shariat Court with the jurisdiction to review existing legislation and to decide whether or not a law or a provision of any law is repugnant to the injunctions of Islam (81). The Federal Shariat Court also has criminal appellate jurisdiction over the decisions of trial courts in cases falling under Islamic penal laws promulgated in 1979, as part of the Islamisation process of the military government of Zia-ul-Haq (82).

The Constitution confers original jurisdiction on the Supreme Court in any dispute between two or more governments, in which the Court can pronounce declaratory judgments (83). The Court has original jurisdiction over cases involving rights recognized and guaranteed by the Constitution only if it considers that a matter of public importance is involved (84). This is a jurisdiction concurrent to that of the High Courts to issue writs for the enforcement of fundamental rights (85). The Supreme Court has used this jurisdiction in recent years to promote public interest litigation, and has decided some important human rights issues (86). However, the same jurisdiction has also been used to deliver some controversial judgments, including one that placed a ban on organizing student unions in universities. A separate registry has been established in the Supreme Court to accept petitions for the enforcement of fundamental rights.

The High Courts have the power of judicial review of executive action and may issue writs which are prohibitory or directory or make declaratory orders to ensure conformity of the executive with the Constitution and the (87). Powers of the High Courts to protect the right to liberty are expressly provided for in the Constitution as well as in the Criminal Procedure Code (88). This is in addition to the powers of the High Court to enforce all the fundamental rights guaranteed in the Constitution and its inherent powers of issuing any order in the interest of law (89) and due process. These rights can be enforced against the State as well as against private parties. High Courts have the power to take suo moto action for the enforcement of fundamental rights, even where no petition has been brought before them.

Original jurisdiction for trial of most civil and criminal cases lies with the subordinate courts. The High Courts have original jurisdiction in Constitutional and some civil matters, where the pecuniary limits of the matter under dispute exceed the jurisdiction of the subordinate courts. All cases - civil and criminal - are tried by a single presiding judge. There is no jury system. The law, however, provides for an appeal against all judgments.

Administrative tribunals are provided for trial of labour cases, services matters and those related to banks. Decisions of these tribunals are subject to appeal. The law prescribes qualifications of judges, procedures for trial, and the right to appeal. While the justification for such tribunals is generally accepted, strong objections have been expressed with respect to the use of special courts for the trial of special offences. The establishment of the Special Courts for the Suppression of Terrorist Activity and the Speedy Trial Courts established by successive governments, were strongly criticized. Some of these special tribunals have been abolished (90), while new ones have been created under the Anti-Terrorism Act. The major concern in both cases were the inadequate provisions for ensuring fair trial and due process.

## INDEPENDENCE OF THE JUDICIARY

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Judicial independence and separation of the judiciary from the executive has been a long-standing demand in Pakistan. The Constitution guaranteed that within three years of coming into force, the judiciary should be separated progressively from the executive. This period was increased to five, and then to fourteen, years by later amendments to the Constitution (91). Under the original provision, steps should have been taken to complete the process of separation by 14 August 1976. Even after the latest amendment, the judiciary remained under the administrative control of the executive and subject to pressures that undermined its independence despite the constitutional guarantee. The members of the Pakistan Bar Council filed proceedings in the Sindh High Court seeking directions from the court for the executive to implement the constitutional mandate. The case went to the Supreme Court and directions were issued to the government by that body to give effect to the constitutional provision and to enforce a law passed in 1972 (92), for separation of the judiciary from the executive by 23 March 1994 (93). It was not until 1996 that steps were initiated for the separation of the judiciary from the executive in compliance with the Supreme Court decision. The process is still not complete and is at different stages of progress in the four provinces. The process has by no means been well managed. The efficiency and competence of the subordinate judiciary have been of serious concern during the process of transition. Most of the judges deputed as judicial magistrates to assume jurisdiction over criminal cases previously tried by executive magistrates have limited knowledge of and

experience in criminal law and require extensive additional training.

Establishment of the Federal Shariat Court has created a parallel judicial system, which has exclusive jurisdiction over matters previously dealt with in the existing judicial system.

*"The reason for the creation of a separate Shariat Court structure may well have been born of a genuine desire to implement the Islamisation of laws in Pakistan, but the practical effect of its establishment, jurisdiction and structure has been to weaken the jurisdiction of the Superior Courts, create insecurity amongst superior judiciary and make unnecessary inroads in the judicial system which could have dealt with the Shariat jurisdiction in its existing structure" (94).*

This comment contained in the report of the International Commission of Jurists (1987) reflects the situation prevalent even today. The Federal Shariat Court continues to strike down laws as being repugnant to Islam. Its decisions are binding on High Courts (95), and courts under their jurisdiction. Thus, the jurisdiction of the High Courts for interpretation of laws according to the Constitution has been affected. The Federal Shariat Court has also declared that Parliament cannot override its decisions (96), thus placing itself above the reach of elected legislators.

If the Federal Shariat Court decides that any law or provision of a law is repugnant to the injunctions of Islam, it specifies a date on which its decision is to take effect. On the stipulated date, the affected law ceases to apply (97). The responsibility for taking steps to amend the law to make it conform to the injunctions of Islam belongs to the President or the Governor on federal and provincial matters, respectively (98). It is important to note that neither the President nor Governor of a province has any role in the enactment of laws by Parliament (99). Appeals on decisions of the Federal Shariat Court proceed to a special bench of the Supreme Court (100), composed of three Muslim judges of the Supreme Court and two *ulema* (101) appointed by the President.

Presidential powers completely undermine the independence of the judges of the High Courts and Supreme Court appointed to the Federal Shariat Court. The Federal Shariat Court has eight judges, including the Chief Justice. Only Muslims are qualified to be appointed. The Chief Justice has to be a person who is, has been, or is qualified to be a judge of the Supreme Court; or who is or has been a permanent judge of a High Court. Four of the judges must be persons who are, or have been, or are qualified to be judges of the High Court. Three of the judges are to be appointed from amongst *ulema* who are well versed in Islamic law. The President has sole authority to appoint judges to the Federal Shariat Court, including the power to determine the qualifications necessary for the *ulema* members of the bench. The term of office of a judge is three years, but may be modified by the President at will. The President also enjoys unfettered powers to assign judges of this court to any other office or require them to perform any functions he deems fit (102). Judges of the High Courts who are appointed to the Federal Shariat Court can be so appointed for a period of two years without their consent (103). Any judge who does not accept appointment to the Court is considered to have retired from office (104). This power has been used frequently and liberally to control the judiciary and to punish the more independent judges (105). Judges from the High Courts and the Supreme Court tend to be reluctant to be appointed to the Shariat Court.

While Islamic penal laws apply to non-Muslims and the jurisdiction of the Federal Shariat Court extends over matters affecting the population in general, including the non-Muslim population, only Muslim lawyers are eligible to appear before the Court, in addition to juriconsults appointed to a panel maintained by the Court. This provision is one of many factors which has deepened a sense of alienation in the non-Muslim community. Resentment on the part of non-Muslim litigants and lawyers is even more pronounced when a non-Muslim party to a proceeding before the Court is denied the right to counsel of their choice.

The concern over judicial independence is, however, not limited to the Federal Shariat Court. Procedure for the appointment of judges to superior courts is provided for in the Constitution. This has recently become a contentious issue between the judiciary and the government. The Supreme Court delivered a landmark judgment providing guidelines for appointment of judges, and defining the role of the judiciary in the decision on appointments by the President. It was held, *inter alia*, that such appointments must follow after effective consultation with the Chief Justice of Pakistan, or the Chief Justice of the Province for which the appointment is proposed. While this judgment is widely acclaimed as an assertion of judicial independence, strong reservations regarding the effective independence of the judiciary remain, and tensions between the executive and the judiciary did not abate with this judgement. Another major concern is the susceptibility of the judiciary to interest group pressures. Women's organizations, for example, consider that social and cultural biases in judicial decisions have adversely affected women's fundamental rights.

It is, nevertheless, true that judicial independence has come to be recognized as essential for democratic development and stability. A Supreme Court decision in 1996 is a step forward in establishing clearer rules for the appointment, transfer and promotion of judges in a manner that ensures their independence (106). Some aspects of the judgment have, however, been criticized for exceeding the boundaries of judicial independence and creating the potential for judicial dictatorship by making inroads into the legitimate functions of Parliament.

## NOTES

61) This includes the Interim Constitution of 1972, adopted by the National Assembly, which was also the Constituent Assembly for

the framing of the 1973 Constitution. The Legal Framework Order promulgated by the military government in 1969, under which elections were held in 1970, is in addition to these four constitutional instruments. See Appendix I: "The Constitutions of Pakistan". [Return](#)

**62)** While the 1956 and the 1962 Constitutions were totally abrogated, portions of the 1973 Constitution were placed in "abeyance" by the military government that overthrew the civilian government of Zulfikar Ali Bhutto in July 1977. [Return](#)

**63)** The Parliament did not start functioning until after the martial law imposed in 1969 was lifted in 1972. On a writ petition challenging the imposition of Martial law in 1969, the Supreme Court held martial law to be illegal and the Chief Martial Law Administrator, a usurper. This decision, however, came after the "usurper" had already been deposed. Nevertheless, this decision did expedite the transition to civilian rule. Reference: PLD 1972 SC 139. [Return](#)

**64)** Article 175 of the Constitution. [Return](#)

**65)** Article 8 of the Constitution. [Return](#)

**66)** Between 1973 and 1977 there were seven amendments to the Constitution. These included amendments curtailing the power of judicial review and creating a minority status for a particular religious group, thereby putting them outside the pale of Islam. [Return](#)

**67)** Article 233 of the Constitution. [Return](#)

**68)** Begum Nusrat Bhutto vs The Chief of Army Staff and Federation of Pakistan, PLD 1977 Supreme Court 657. [Return](#)

**69)** The Constitution was restored in March 1985 vide the Presidential Order No. 14 of 1985. However, Martial Law imposed on 5 July, 1977, was lifted on 1 January, 1986. [Return](#)

**70)** The Constitution (Eighth Amendment) Act, 1985. [Return](#)

**71)** A comparison of the reports of the Human Rights Commission of Pakistan on the State of Human Rights for 1992 (when the present opposition was in power) and 1995 reveals that the situation continues to be more or less the same. These reports specify the number of laws and the number of Ordinances passed during the year for which the report has been prepared. [Return](#)

**72)** The new government that came into power after the elections in February 1997, enjoys a clear majority, and does not feel constrained in its capacity to pass legislation. It has, however, misused this majority by ignoring the opposition in the process of law-making. Flash legislation is resorted to, without allowing debate even when adopting important constitutional amendments. Draconian laws like the Anti-Terrorism Act, which denies due process and gives unfettered powers to the police, were passed without public debate. [Return](#)

**73)** Article 89 of the Constitution confers the power on the President to enforce law through the promulgation of an Ordinance, except when the National Assembly is in session and if satisfied that circumstances exist which render it necessary to take immediate action. Validity of an Ordinance is four months from its promulgation, and, if not placed before the Parliament for enactment, it stands repealed after that period. [Return](#)

**74)** State of Human Rights reports of the Human Rights Commission of Pakistan, 1992 to 1995. [Return](#)

**75)** Qisas and Diyat Ordinance, amending the Pakistan Penal Code with respect to punishment for offences against the human body, was initially promulgated in 1990 and was re-issued every four months for five years. It became a regular Act in 1997. [Return](#)

**76)** Constitutional amendment for the restoration of special seats for women in the National Assembly has been a long-standing demand by women. Owing to a lack of consensus between the two major parties in the Assembly, no steps have been taken in this regard. [Return](#)

**77)** The Human Rights Commission of Pakistan, Women's Action Forum, Pakistan Federal Union of Journalists, traders organizations and the Chamber of Commerce have reported formal and informal meetings with groups from the two major parties who have been contacted and have been available for meetings on legislative proposals and recommendations from these groups. The Aurat Foundation, a women's development NGO, has started a legislative watch programmes. In connection with this activity the organization claims to have established regular contact with political parties with representatives in the Parliament. AGHS Legal Aid Cell has held special sessions for preparing drafts for the more popular legislative demands in the area of human rights with sectoral emphasis, e.g.: on women, children, minorities. [Return](#)

**78)** Legislation regarding bonded labour and employment of children is an example of such contact. The last PPP government made proposals on the amendments to electoral laws following a series of meetings organized by different groups including the HRCP, where parliamentarians were invited to participate. [Return](#)

**79)** The Constitution was drastically changed during the martial law period between 1977 and 1986. Chapter 3-A was added to the Constitution in 1980 to establish the Federal Shariat Court. [Return](#)



- 80)** Begum Nusrat Bhutto v. The Chief of Army Staff and Federation of Pakistan: PLD 1977 Supreme Court 657. [Return](#)
- 81)** Chapter 3-A titled "Federal Shariat Court" was added to the Constitution vide Constitution (Amendment) Order, 1980, (Presidential Order No.1 of 1980). [Return](#)
- 82)** Five laws were promulgated in 1979 as Islamic laws dealing with four offences for which punishment is specifically provided in the Holy Quran. These laws are popularly known as the "haddoo laws". "Haddoo" is the plural for "hadd", punishments of the Quran. These laws deal with the punishment for extra-marital sexual relationships, theft and robbery, drinking of liquor, drug use and trafficking and slander. [Return](#)
- 83)** Article 184 of the Constitution. [Return](#)
- 84)** Article 184 of the Constitution. [Return](#)
- 85)** Article 199 of the Constitution. [Return](#)
- 86)** Including environmental issues. [Return](#)
- 87)** Article 199(a) of the Constitution. [Return](#)
- 88)** Article 199(b) of the Constitution and section 491 of the Criminal Procedure Code. [Return](#)
- 89)** Section 561-A of the Criminal Procedure Code. [Return](#)
- 90)** Special Courts for Speedy Trial (Repeal) Ordinance, 1994. [Return](#)
- 91)** Amended earlier by the Constitution (5th Amendment) Act, 1976, and then by Presidential Order 14 of 1985. [Return](#)
- 92)** Law Reforms Ordinance (XII of 1972). [Return](#)
- 93)** Government of Sindh and others vs. Sharaf Faridi and others PLD 1994 SC 105. [Return](#)
- 94)** Report by International Commission of Jurists, 1987 : "Pakistan: Human Rights After Martial Law". [Return](#)
- 95)** Article 203G of the Constitution. [Return](#)
- 96)** Muhammad Ismail Qureshi and others v. Federal Government of Pakistan, PLD 1992 FSC 445. [Return](#)
- 97)** Article 203C(3)(b) of the Constitution. [Return](#)
- 98)** Article 203(C)(3)(a) of the Constitution. [Return](#)
- 99)** Except for the requirement of the assent of the President before a Bill passed by the two Houses can become an Act at the Federal level, and the assent of the Governor for enactment at the Provincial level. [Return](#)
- 100)** The Shariat Appellate Bench of the Supreme Court. [Return](#)
- 101)** Islamic religious scholars. Singular form is Alim. [Return](#)
- 102)** Article 203C(4B) of the Constitution. [Return](#)
- 103)** Article 203C(4) of the Constitution. [Return](#)
- 104)** Article 203C(5). [Return](#)
- 105)** One instance is that of a Chief Justice of the Federal Shariat Court who was removed by President Zia from office after he had displeased the General and his orthodox religious allies by finding the punishment of stoning prescribed by the Islamic law of adultery and enforced by Zia, as not a punishment prescribed by the Holy Quran. Services of the Chief Justice were placed at the disposal of the Ministry of Law. [Return](#)
- 106)** Al-Jehad Trust case, reported in Pakistan Legal Decisions, 1996, Supreme Court. [Return](#)

### PART 3: PARTICIPATION RIGHTS

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### PART III

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### 2. PARTICIPATION RIGHTS

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Participation rights are a prerequisite for sustainable democracy. Pakistan's prospects for democracy in the existing environment will be examined in this section of the study, through indicators relevant to the right to participate. How institutions operate in the exercise of rights that allow and promote participation is discussed together with the legal and policy framework for a series of relevant rights.

Issues of national identity (107) and citizenship are central to Pakistan's potential for democratic development. Successive periods of military rule, authoritarian civilian regimes and an absence of commitment to democratic governance have marginalized large sections of society. Procedural arrangements for representation have made little difference to the exclusion of citizens from decision-making. Powerful social and political interest groups are able to check the development of civil society institutions crucial for national integration and for enhancing the perception of a common interest. Division of the citizenry into minority and majority has resulted in a deepening crisis of participation (108). Ethnic, regional, linguistic and religious group controversies have heightened tensions thus posing a distinct challenge to the concept of Pakistani nationhood (109). Pakistan's political, military and bureaucratic elites have nonetheless persisted in centralizing power at the national level and in treating the nation-state as a focal point of identity. Their policies and behaviour have refused to recognize or come to grips with the tensions emerging from the assertion of identity by regional or ethnic groups.

## DECENTRALIZATION

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Pakistan's four provinces demonstrate considerable political, ethnic and cultural diversity. At the same time the asymmetry of the geographic, demographic and economic composition of the provinces has caused political and economic disparity, resulting in unequal access to opportunities and resources. A sense of deprivation has led to political tensions, sub-national and ethnic conflicts, and antipathy to centralized political and economic power. On the one hand, constitutional arrangements for political autonomy of the federating units are weak and inadequate and, on the other, State authority has been aggressively imposed to curtail expressions of autonomy. Such expressions have often verged upon separatist tendencies.

Arrangements made under the formula of Independence with parts of Balochistan and the North West Frontier Province, which did not form part of British India, have created dissimilarities from other parts of Pakistan in their political and legal administration. Parts of NWFP are designated as Federally Administered Tribal Areas which are governed by the federal government through a political agent. Writ of the Pakistani courts does not extend to these areas, and laws of the country are generally not applicable to them. Differences arising from special arrangements have led to lack of uniformity in the application of fundamental rights and laws and in universality of franchise. Special laws are in force in both Balochistan and the Tribal Areas of NWFP. The special laws include laws creating extra-judicial tribunals with jurisdiction to try criminal offences and civil disputes. Tribal elites maintain substantial control in both the public and private domains. Even where constitutional and legislative measures are applicable, norms of human rights and democracy are resisted as a threat to traditional systems and tribal culture.

The State has, by and large, failed in its responsibility to enforce fundamental rights and freedoms uniformly. While governments have responded to challenges to State authority by tribal elites, either using force or political and economic manipulation, the fate of the population has generally been subject to their control (110). This has been a significant factor in uneven development, gaps in the degree of social awareness and social and political mobilization. The last PPP government introduced development projects in Balochistan, mainly in the area of education. It is claimed by some that these initiatives aim to produce a bourgeoisie in the province that will be a challenge to the Sardari (Baloch tribal chiefs) system. To what extent it will be possible to achieve structural reform of the social and political institutions in Balochistan, more consonant with rights and democratic development, is yet uncertain.

Despite limited opportunities for developing democratic practices, a demand for grassroots democracy does exist (111). Public debates on governance have emphasized the need for devolution of power and the importance of building local government institutions in order for people to exercise real participation in decision-making. However, political tensions and power politics have prevented any sustained experience of local government. Local bodies too have been preyed upon by political rivalries and polarization. In Sindh and Punjab, where a local government system was instituted, ethnic and political polarization resulted in its untimely arrest. Above all, the culture of centralization has prevented any real devolution of power. Local bodies are unable to perform the functions assigned to them under the law because financial resources are not available. They have very little scope for revenue collection and are, therefore, dependent on allocation of resources from the provincial governments. Citizen participation remains limited to a mechanical exercise of franchise, without any effective participation in governance. As long as decision-making is not decentralized, prospects for community influence over policy-making, priorities for resource allocation and over the process and direction of development remain slim.

## ORGANIZATIONAL PROCESSES

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Though weakened and fragmented, political parties have survived frequent and prolonged interruptions in the political process. Social and political alliances have traditionally been based on family, clan, tribe or religious sect (112). Pakistan has had enormous difficulties in developing and sustaining organizations beyond these levels. Soon after Independence, politics in Pakistan came under the sway of the civil and military bureaucracy and stayed there for nearly two decades. Political parties and factional groups existed, but politics remained in low key during much of this period.

The process of organizational transformation has been slow. Industrialization, urbanization and increased levels of literacy have resulted in an increase in politicization. A visible shift in the pattern of political association was seen in the composition of and support for the Pakistan People's Party in 1970. In the former East Wing of the country, the situation was different, and a more heterogeneous mixture of membership existed. General Zia-ul-Haq's policy of depoliticization of the population, coupled with support for non-party systems, resulted in dominance of two interest groups in politics, the feudal and the industrialist classes. The latter has now become as entrenched in the power structures as the former have always been. This factor has had significant effect on politics and representative democracy in Pakistan.

Weaknesses in the organization and internal management of political parties is a factor responsible for disarray in Pakistani politics. Religious parties, like the Jamaat-i-Islami, have shown better organizational skills and ability to enforce internal discipline. Whether the Jamaat is a mainstream political party or a religious party in politics is subject to debate. Most political parties depend on the leadership of one individual and a second line of leadership is often missing, resulting in autocratic tendencies in the leadership. Loss of the principal leader has often led to power struggles within political parties ending in factionalism. Lack of democratic practices within parties has restricted sensitivity to democratic norms. Only a few of the parties have established an authentic system for elections to party office. The rank and file has little say in party policies and does not enjoy a structured, sustained and effective form of participation.

Very few political parties are national in scope. Presently only the Pakistan People's Party and the Pakistan Muslim League have a national presence. Some of the religious political groups, organized as political parties and participating in elections, have pockets of influence in different parts of the country. Many of the political parties have only regional or ethnic constituencies. Some of these regional and ethnic parties, however, have strong spheres of interest and are capable of challenging the two major parties in their particular constituencies and regions.

Lack of organizational capacity and stable performance of political parties is also largely due to the political environment. Control and regulation of almost all forms of group activity in Pakistan has been a constant feature. Political parties have also been victim to government intervention and harassment. Only in the past eight years have political parties been allowed a greater degree of freedom to operate (113). However, parties have been responsible for a great deal of their own weaknesses. Integrity of political parties has been compromised by practices that the larger parties have adopted for increasing their own strength in Parliament or reducing that of their opponents. One such injurious practice is that of buying or coercing defections from opposing parties. This practice has been increasingly adopted by both government and the opposition parties and is commonly referred to as "horse-trading" (114).

Pakistan has experienced seven national elections since 1970. The only election which was organized on a non-party basis during this period was in 1985. Political parties have contested all the others on a party basis. Excepting the elections held in 1970, none of the others were judged free and fair by all parties to the contest. Objections to electoral processes have been numerous and varied. Contesting parties and candidates have, by and large, failed to prepare themselves against electoral malpractices, or to contribute towards a more healthy environment for elections. Political parties have rarely engaged in political awareness programmes or voter education. None of the parties has ever conducted a campaign for voter registration, but all are suspected of tampering with voters' lists. Party candidates themselves have often engaged in electoral malpractices. Inter-party rivalries are especially heightened during elections and poll violence has been a common occurrence. Intimidation of voters and polling staff are not unknown.

Democratic development is supported by initiatives of non-governmental organizations (NGOs). The quality of democracy in Pakistan will depend a great deal on their contribution. Despite serious impediments, lack of State encouragement and long-standing neglect, NGOs have persisted in their efforts to strengthen civil society. NGOs can be divided into two categories: those with a development-oriented approach and those with a rights approach (115). The latter have been seen as a challenge by the establishment, and their relationship to governments and the State has been strained. More recently, however, this strain has eased to some extent. Groups not seen as hostile by governments have by and large worked within an approved framework. However, while avenues of government and NGO collaboration in some sectors have opened, tensions still undermine the potential for an open relationship based on mutual trust. Much needs to be done to create an enabling environment for NGOs (116) to perform their role in repairing the fractures of civil society.

## NOTES

- 107)** Ethnic groups in Pakistan are usually identified on the basis of province of birth, e.g., the Punjabis and the Sindhis. This is, however, not the case with many of the ethnic groups who, within a province, claim a distinct ethnic or sub-national identity. The Mohajirs in Sind, the Pathans in NWFP, the Balochs, the Brohis and the Makranis in Baluchistan. [Return](#)
- 108)** All non-Muslim communities are categorized as minorities. [Return](#)
- 109)** Pakistan was created on the basis that there are two nations in the Indian sub-continent, the Hindus and the Muslims, each having the right to exist as an independent nation-state. [Return](#)
- 110)** Successive governments have had conflicts with tribal chiefs, mostly over the natural resources located on tribal property, but under the control of the Federal Government, e.g deposits of natural gas in Sui, a part of the Bugti land. [Return](#)

**111)** Article 32 of the Constitution affirms the promotion of local government institutions as a principle of State policy. Special representation to peasants, workers and women in such institutions is promised. [Return](#)

**112)** Kochnak, Interest Groups and Development. [Return](#)

**113)** It may, however, be noted that the Political Parties Act, 1962 was amended in 1988 to place a restriction on the operation of political parties "formed with the object of propagating any opinion, or acting in any manner prejudicial to the Islamic Ideology, or the sovereignty or integrity of Pakistan, or morality, or the maintenance of public order". Political positions taken by parties and individuals are frequently attacked as being opposed to "Islamic ideology" and political parties have been victimized on this basis. What constitutes a deviation from Islamic ideology is by and large dependent on individual notions and beliefs. [Return](#)

**114)** In the judgment in the case of the dissolution of the National Assembly by the President in 1993, the factor of "horse trading" has been extensively discussed. It was held to be one of the grounds justifying the dissolution of the Assembly. [Return](#)

**115)** Refer to section on Non-Governmental Organizations for explanation of the difference between the two approaches. [Return](#)

**116)** See section on Non-Governmental Organizations. [Return](#)

## PART 3: FREEDOM OF ASSOCIATION

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### PART III

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#### III. FREEDOM OF ASSOCIATION

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The Constitution of Pakistan recognizes freedom of association as a fundamental right, guaranteed by the State and enforceable through judicial intervention (**117**). This freedom is, however, subject to reasonable restrictions imposed by law in the interests of "sovereignty or integrity of Pakistan, public order or morality". Restrictions on these grounds have often been used to curtail freedom of association.

Group mobilization in Pakistan has always been weak. While military governments openly restricted group organization and strictly controlled their operation, civilian governments have also used issues of ideology, integrity and security to control group activity and all forms of associational life (**118**). This pattern of control and regulation began almost immediately after Independence, but was substantially expanded under martial law. Civilian governments acted in a similar way, doing little to promote the freedom of association. Political parties, trade unions, business and professional associations, the press, religious bodies, universities and cultural associations have all been targets of government manipulation from time to time. Freedom of association of certain sectors is limited by law. The Constitution bars those in the service of Pakistan from forming or joining a political party (**119**). Members of the armed forces, civil servants, television and radio corporations and "essential services" are barred from forming unions. A Supreme Court judgment banned the creation of student unions in universities. This ban is still in force. Legislative control and regulation of associations has been reinforced by a hostile public policy and use of coercion through a variety of security acts and criminal statutes (**120**). This has seriously impaired the ability of civil society to influence government behaviour, demand accountability or stimulate change.

Other factors have also weakened potential mechanisms for structuring participation. Narrow vested interests, political polarization, divisive tendencies of religious movements have prevented the development of a common interest in civil action. The problem goes beyond distrust between government and non-governmental organizations. In an environment of insecurity, suspicion of motives is rife and there is no incentive to associate. Civil society has limited experience of collective action. Few gains have resulted from such action in the past (**121**). Consequently, tradition of organized group activity at the non-government level did not take strong roots in Pakistan.

#### Trade Unions

Pakistan was carved out of an area of the Indian sub-continent with a low pace of industrialization. Post-Partition Pakistan, therefore, had little in the way of an urban working class. There was almost no significant trade union activity. Government labour policy, while giving attention to welfare of labourers, did not facilitate the development of trade unions. Although trade unions were allowed to organize and function, they were not seen as a part of the industrialization process. In fact, government reacted to trade union activity as a potential disruption of the production process (**122**). Trade unions were allowed as long as they remained apolitical and non-disruptive.

With the expansion of industrial activity, the work force began to organize. Pakistan business interests remained aggressively hostile toward trade union activity. Attempts of unions to organize workers were resisted and blocked by various means, including victimization of labour leaders. Government reacted to the growing tendency of workers to organize by issuing laws to prevent strikes and disruption of production. No comprehensive labour legislation was formulated to secure the rights of workers or to define the parameters of the labour-management relationship. Without laws supporting legitimate action by workers and with no legal

recognition as a legitimate associational interest, trade unions were unable to develop as an effective force in Pakistan.

Pakistan became a member of the International Labor Organization (ILO) in October 1947 and, to date, has ratified more than thirty ILO Conventions. However, proper recognition to trade union activity was given in 1961, by an amendment to the Trade Union Act of 1926. Recognition, however, was a double-edged sword. It required registration and entailed a great deal of government regulation. Unions were exposed to manipulation and harassment by government officials. Government patronage was also used as a means of control. Without an effective legal framework for labour practices, relations between management and labour remained strained and conflict between the two gained intensity.

The Industrial Relations Ordinance promulgated in 1969 is perhaps the first comprehensive legislation recognizing the freedom of workers and employers to establish and join associations (123). Collective bargaining and the right to strike were introduced (124). It created labour courts and the National Industrial Relations Commission. The Industrial Relations Ordinance has brought an improvement in the legal status of workers, and has made an effort at reducing exploitation of labour. The law, however, seems more motivated towards maintaining industrial peace than the promotion of the freedom of association. This is also reflected in the performance of the labour judiciary. Labour courts have, by and large, dealt with the relation of labour and management as prescribed by the law and have seldom referred to the larger issue of the freedom of association.

Restrictive rules regarding association exist. The State exercises unfair control through registration procedures which can be exercised to adversely affect the lobbying capacity of trade unions. The requirement for registration with government authorities is in itself restrictive and conflicts with the freedom of association. Registration of a union can be cancelled by labour courts on complaint by the registrar (125). Labour courts also have the power to direct the registrar to hold elections in a trade union under his supervision in certain circumstances. The law can be seen as prohibitory legislation as it disallows the organization of unions in certain services and occupations. This prohibition has been upheld by the superior judiciary as a reasonable restriction, having a direct nexus to public order and not contrary to the freedom of association embodied in the Constitution (126). In addition, a recent revision of the definition of "workman", has converted 35% of workers into supervisors, thus denying them the right to join a trade union.

While the number of trade unions has increased substantially, and large federations exist both at the national and provincial levels, a coherent trade union movement has failed to emerge. Like other civil society institutions, prolonged periods of restriction of fundamental rights have stunted the growth of trade unionism. It is not that union activity has not taken place. Trade unions have successfully negotiated workers' rights through strikes and collective bargaining. They have been active partners in the sporadic movements for democracy and have managed to survive through periods of extreme political repression. However, their political significance has been limited due to various factors.

Pakistan has a predominantly agrarian economy and a large rural population. Organized labour is present only in the formal industrial sector. Trade unions are, therefore, limited to the urban sector and have no relevance to the vast rural population. Increasing informalization of the urban labour force has further reduced the influence of trade unions. It is presently estimated that not more than 15% of the labour force is unionized (127). Exemption of export processing zones and special industrial zones (128) from the application of labour laws and principles of collective bargaining, also contributes to a low percentage of unionized labour. Government policies of interference in union politics, co-optation of leaders, setting up of rival unions to break the strength of more autonomous unions, and use of undue influence in union elections have weakened and factionalized trade unions. Rapid privatization of public sector industries has caused large-scale retrenchment, further weakening the numerical strength of unions.

Political and special interest groups have used and misused trade unions to bolster their own actions (129). External influences have been one of the reasons why trade unions were unable to initiate and sustain a strong labour movement. Most action remains limited to a particular sector, and the protesting union becomes vulnerable to repressive action. Trade union action against privatization of public sector industries and services is an example of this limitation. Although it is a question of macro-economic policies affecting workers on the whole, consolidated action is not visible. Unions have organized protests as different industries and services are touched, but have failed to deal with the issue in a comprehensive manner. No uniformly applicable package has been negotiated with the government to secure a just and fair deal for the workers.

The policy of marginalizing trade unions is evident from their absence in economic decision-making. Privatization, measures leading to a change in the pattern of labour demand, and recent trade reforms have caused widespread unemployment. Conditions are likely to further deteriorate as a result of the impact of structural adjustment. Yet trade unions were neither involved in the making of these decisions, nor is there any effort to involve them in planning emergency measures to support the affected sectors through the adjustment process. Even where space exists for participation of civil society institutions in representative structures, trade unions have not been included. Five members from each of the provinces are elected to the Senate to represent technocrats and different social sectors. Trade unions have never been represented in the Senate under this provision of the Constitution (130).

Trade unions, nevertheless, do retain the potential for effective engagement with the State in their own interest and in the interests of civil society. They have a comparatively high level of awareness and politicization. They are organized and have a great ability to mobilize. This potential for mobilization is their major strength: it is also seen by governments as a major threat. Trade unions need to mobilize beyond protest. Their capacity to use and influence institutions needs to be enhanced. So far, unions have had a role only in improving access to labour courts. They have no organized and planned procedure for regular contact with Parliament. Technical

advice and training in situation analysis and devising strategies are weak points that must be developed. This would be an important step towards building their capacity to put forward alternative policies in their areas of concern.

Focus on the rights of women workers is feeble. It is true that only a very small portion of the female labour force is unionized. However, trade unions have made no serious effort to attract the female labour force by addressing the myriad problems that this section of the labour force experiences. In some individual cases certain unions have helped women to litigate in the labour courts. However, there have been very few instances where issues collectively pertaining to women workers have been of major concern to unions. Neither have internal policies of unions been conducive to women's participation. Women have no opportunity to exercise leadership in trade unions. This is partly due to the tradition of segregation and social restrictions on women's mobility. Nonetheless, trade unions have rarely raised these issues. Women workers will not have any incentive to join trade unions unless they have the confidence that doing so will improve their condition and strengthen their position in the workforce (131).

## POLITICAL PARTIES

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At the time of Independence in 1947 (132), the leading political party in Pakistan was the Muslim League, which had been instrumental in starting the movement for partition of India. It also claimed sole representation of Indian Muslims for negotiating the formula of Partition. It therefore monopolized political space in the early years after independence. Parties indigenous to the territories that comprised Pakistan were few and operated in the shadow of the League (133). In the period between 1949 and 1958 several challenges to the League monopoly arose on the political scene (134). Another factor new to Pakistani politics in this period was the appearance of religious groups in politics.

While superficially Pakistan seemed to have moved to a multi-party system by the mid-1950s, in reality most parties were rather coalitions of personalities. They had no organized links with major social groups, and group interests were represented through elite incorporation. The parties in government while vigorously suppressing activities of their opponents, themselves demonstrated grave organizational and political weaknesses. Control, coercion and harassment were consistently used for dealing with politicians and political groups. The Public and Representative Office Disqualification Act of 1949 (PRODA) was the first legislative restriction placed on the freedom to engage in politics. This tradition continued with subsequent regimes and governments. It is not surprising that the period was fraught with increasing instability and there was a rapid decline in the average life-span of a government. From 1947 to 1958, Pakistan saw eight cabinets and seven Prime Minister (135). Fragmentation of parties weakened the political process and made space for the military and bureaucracy to intrude into the domain of politics and governance.

All political parties were abolished with the military coup of 1958 (136). The Elective Bodies Disqualification Order of 1959 (EBDO) was issued to eliminate and punish political leaders. After the introduction of the 1962 Constitution (137) by the military dictator turned President, Ayub Khan, political parties were allowed to reorganize, subject to government supervision and regulation. Under the system of governance imposed by Ayub Khan, there was little scope for the development of the political process, or for the expansion of the political base of any party. While political parties did exist, politics remained low-key, with no serious challenges to the system (138).

The end of the Ayub era saw a spurt of agitational politics, leading to another period of martial law that ended in 1971 with the successful war of independence by East Pakistan and the emergence of Bangladesh. A positive contribution of this military government was the holding of the 1970 elections, promising not only a return to civilian rule, but also a more equitable sharing of power between the East and West Wings of the country (139). Pakistan lost a valuable opportunity for recreating democratic governance when the Punjabi-dominated western province refused to recognize the right of the majority party from the eastern province to form a government. Sheikh Mujibur Rahman, leader of the Awami League, was tried for treason and sentenced to death. The West Pakistan elite, including Zulfikar Ali Bhutto, encouraged and supported military action in East Pakistan thus losing forever any moral basis for claims to democratic ideals.

Bhutto formed the Pakistan People's Party prior the 1971 crisis. The party's first experience of electoral politics came in 1970, very soon after its foundation. Many factors contributed to the massive success of this party in the Western Wing. The PPP attracted a wider range of social groups than any party before it with its programme for economic and social change. The party proposed a progressive programme after a long period of oppressive rule, when basic freedoms had been strictly curtailed. At the same time, there was an acute sense of frustration and disillusionment amongst the population, owing to its exclusion from the benefits of a period loudly proclaimed by the rulers, as a "Golden Age" of economic development. People's support for democracy and reform was perceptible in the overwhelming support to the PPP in the early 1970s. It is generally agreed that Bhutto gave the common man a sense of dignity, worth and self-esteem and that this was largely responsible for his popularity amongst the down-trodden and the poorest sections of society. Bhutto in power, however, was no less autocratic than the military dictators who preceded him. His misuse of the instruments of democracy to perpetuate authoritarianism impaired the cause of democracy in Pakistan (140).

The Bhutto government was overthrown by a military coup in 1977, and Pakistan entered its third extended period of government by martial law (141). The regime headed by General Zia-ul-Haque was infinitely more brutal and efficient in imposing control and oppression than any that had come before. Fundamental rights and freedoms were the first victims of this regime. The next eleven years witnessed serious human rights violations at the hands of the military regime or its agents. Human rights were not only violated, but de-recognized and de-legitimized as a deliberate policy.

Zia initially justified his deviation from the civilian order as a temporary measure. There was no immediate ban on political activity or political parties and elections were promised to be held in ninety days (142). These ninety days stretched to eleven years. Zia promulgated the Martial Law Order 31 in June 1978, setting up Disqualification Tribunals to inquire into charges of misconduct against those who had contested in the 1977 elections. This was an instrument of coercion and harassment. MLO 31 was applied for mass detention, selective restriction on political activity, and disqualification procedures. All forms of political activity were effectively controlled, and dissent was dealt with by application of harsh punishment under laws specially devised for this purpose. In a deliberate process of depoliticization, political parties and politicians were discredited, democracy and democratic norms were questioned and portrayed as unsuitable to the Muslim character of the State and to the cultural traditions of Pakistan. This policy was reflected in the establishment of an appointed Majlis-e-Shoora, an advisory council - Zia's substitute for Parliament. The attempt to entrench a non-party system is evident in the 1985 elections, held as a phase of the transition to civilian rule. These elections were held on a non-party basis. All major political parties, including the PPP, boycotted the elections.

The survival of political parties, despite the adverse environment, is indicative of their potentially key role in Pakistan. It would, however, be difficult to claim that the political system remained unscathed, or that the prospects for a sustained political process gained strength from the tenacity of political parties.

One of the most significant effects of this process has been the reduced capacity of political parties to survive on their own. Even the larger political parties have had to operate as part of alliances both in and out of the electoral context. Their positions and programmes have frequently been compromised as commitment gives way to the imperative of maintaining alliances. The problem is even more acute when such alliances and coalitions form the government. When political parties in power fail to implement the programmes on the basis of which they have been elected, they lose their representative character, thereby undermining the democratic process itself.

This tendency has hurt the regional parties even more. In the interest of competing with the larger national parties, they are forced into short-term alliances, either with each other or with a national party whose priorities differ from regional concerns. Often this has been detrimental to the autonomy and independence of regional parties. The positive outcome of such alliances could potentially be the incorporation of regional concerns into national priorities, but this would only be possible should regional parties have the strength to exert some influence over policy. Regional parties are in a position where they have either to submit to these alliances or to assume a confrontational stand, without having the capacity to negotiate their interests from a position of power. Where alliances have been formed within the region, it has resulted in a lack of diversity in programmes and positions. This diminishes options and choices for the potential supporters, and interest in regional politics declines. At the same time their relative isolation limits their participation in national politics.

The smaller provinces suffer more in this process. The Punjab has always been the dominant province, with greater influence in the power structures than any of the other provinces. It has been the base for both political parties and power politics. Punjabi interests have, therefore, dictated priorities in political discourse. This dominance has always been resented by the other provinces which are thus denied their due share of power and resources, but also because of the low priority given to their pressing political and economic concerns. Regional parties have reflected this resentment in their relationship to power and to the nationally-based parties. A process of national reconciliation at the initiative of political groups from diverse backgrounds, representing a multiplicity of interests is sorely lacking.

Another characteristic of political parties that limits the positive impact of the multi-party system on participatory democracy is the hegemony of specific class and economic interests owing to the composition of the leadership of political parties. The enlargement of the social and economic base of political association witnessed at the end of the 1960s was extremely short-lived. Bhutto's PPP reflected this trend for the first time. Its subsequent alliances with elites drawing power from clan and tribal groupings or the feudal structure did not prove conducive to this expansion. It was, however, Zia's localization of politics that entirely reversed the trend and the basis for political groupings reverted to clan, caste, tribe, class affiliations or religious sect.

Again in 1993, the only two national-level parties contesting the elections were the Pakistan People's Party and the Pakistan Muslim League. If the two parties are compared in relation to the composition and the interests represented and the programmes presented, there is little difference between them. Yet the two have undergone very different experiences.

The Pakistan People's Party had a popular start and won its first electoral contest with an overwhelming majority in 1970. It became the ruling party, but then it was not only ousted from government, the founder of the party was put to death. For eleven years the party suffered the most extreme kind of repression and victimization. It was constantly engaged in the movement for the restoration of democracy during the long years of martial law. The Pakistan Muslim League (143) is a party with an old name but a totally different orientation from the original Muslim League. The present leadership of the party consists of protégés of the Zia government. They have not emerged from a political process. They have been part of the ruling class for most of their political life. Their experience of being in the opposition has been short and entirely under civilian rule, where they can claim the right to treatment in accordance with democratic norms. Nevertheless, despite this background, PML(N) has legitimized its existence as a political party and has created an electoral base for itself at the national level.

What emerges, therefore, from an examination of the present state of political parties is that although there is a multiplicity of parties, it would not be appropriate to say that this constitutes a multi-party system. Pakistan has been evolving towards a two-party

system, at least since the 1993 general elections. The other parties are either sectoral or regional and affect the balance of power between the two main parties only at the provincial level, by entering into a coalition with one or the other (144). Public opinion is generally polarized around support for the two main parties. They have dominated the opposition and the government since 1988. In neither capacity has their performance been satisfactory. Yet a third option has not emerged, despite popular dissatisfaction. Perhaps the political process is too young and needs to mature before space can be created for other groups to assert their presence on the political scene. However, prospects for strengthening the two-party system are strong. The political process will benefit from this prospect only if the performance of the two parties improves, and they are able to provide both an accountable government and a responsible opposition.

The religious parties have only a restricted electoral constituency and limited popular support. The more recent trends indicate that instead of forming alliances with other political groups, they are forming alliances amongst themselves (145). While some of the religious parties have tried to expand their popular base by raising issues of economic rights, they are still perceived as Islamic religious groups with a fundamentalist orientation, and have not attracted mass public support. They, nevertheless, have gained significant support in the bureaucracy, and in institutions such as the military and the judiciary. Their ability to influence policy through the power structures was built during the Zia regime as a deliberate attempt to maintain the influence of certain lobbies despite a return to civilian rule. In the 1993 elections, religious parties contested individually, and in alliances. The results of this contest reflect their lack of support, especially in the Punjab and Sindh. In NWFP and Balochistan the religious groups have, comparatively, more popular support.

## NON-GOVERNMENTAL ORGANIZATIONS

It is important to examine the contributions and potential of NGOs in the context of the social, political and economic environment in which they function. In the period between the late 1970s and the present, Pakistan has witnessed a mushrooming of organizations with a variety of objectives and for the benefit of different sectors of society. This indicates that there have been few problems for the exercise of the freedom of association during this period. It may, however, be noted that this corresponds to the period (146) during which some associations suffered restrictions on their functioning (147), and experienced different forms of discouragement. It is, therefore, necessary to understand differences in associational interests that determine the response of the State towards them.

Most non-political, private, voluntary organizations formed in the early years after Independence were welfare oriented and worked closely with, and often under the patronage of, the government (148). NGOs were traditionally associated with charity and welfare, either for general benefit or for certain ethnic or religious groups. Until the early 1980s there was no history of such organizations performing a role which challenged the existing social or political systems (149). This was a function associated with political parties and was part of their struggle. While many of the NGOs formed in this period were apolitical and continued to perform a welfare function, other groups organized for the attainment of fundamental freedoms and against the oppression of rules of martial law. Many of the rights-oriented NGOs today emerged from these groups. Restrictions on political parties, weaknesses in their organization, and their consequent ineffectiveness, are some of the factors responsible for the creation of such groups. The major factor, however, appears to be the failure of political parties to deal with issues of rights, especially where social or political sensitivities of powerful groups were likely to be strained. For a long time during and after martial law, these groups remained under pressure and were attacked both by government agencies as well as those whose interests and power positions were promoted during martial law and who drew benefit from the existing political and social values and structures. Women's groups are the most notable amongst organizations that emerged during this process (150).

The availability of abundant development funds during this period also acted as an incentive for the formation of development organizations. This was a period during which Pakistan's strategic position gave it global importance because of the conflict in Afghanistan. Large amounts were made available by international agencies and foreign donors for both relief work connected with the Afghan war and development work within Pakistan. At the same time, the government of Zia-ul-Haq was also expounding its commitment to welfare. Funds were allotted for development of infrastructure to be disbursed through favourites of the government who encouraged the growth of NGOs to absorb the special funds. It is, however, true that genuine and effective development organizations also emerged in this period and, together with some which already existed, made valuable contributions to development (151).

The approach towards development varies: some organizations focus their work on the development of services, training of service providers, improvement of infrastructure (especially in the fields of education and health) and generally believe that provision of adequate services is a priority in development needs. There are others who, while acknowledging these needs, believe that development strategies need to integrate social and political development without which sustainable human development is not possible. It is the latter category that is defined as "rights-oriented" (152). It is also this difference in approach that has determined their relationship to the State and government. Despite tense relations with governments in the past and lack of any facility from the State machinery, some of these organizations have been able to make remarkable contributions in creating a better environment for rights.

While some NGOs function with financial support from government, most receive grants from multilateral agencies and foreign donors (153). It is true that many NGOs did function without any grants-in-aid initially. However, these organizations achieved considerable improvement in their performance and systems with the resources made available through financial grants. Some



criticism has recently emerged with respect to the accountability of NGOs receiving foreign funding. During the last PPP government, a bill sponsored by Federal Minister for Social Welfare and Special Education was prepared. This bill provided for a degree of control over NGOs that could curtail their independence. Most of the major NGOs objected to the provisions of the bill. These organizations accepted the principle of accountability and transparency. However, they were not willing to concede the government powers of interference in the functioning of NGOs. These objections were countered by the Minister and his supporters by criticizing the work of NGOs, and making general and vague allegations of financial mismanagement and misuse of funds against them. A small section of the press also joined in this criticism. Regardless of whether the criticism was justified or not, the performance of NGOs receiving such aid has been appreciable and their contributions have been acknowledged by government and critics. NGOs are beginning to strengthen themselves through national and international networks whom they draw upon for support and improvement of skills. Pakistani NGOs are beginning to emerge from isolation and are becoming more active on the international scene. This has been a great help in increasing their effectiveness in advocacy and is lending more maturity to the conceptual framework of their activity.

There are no formal restrictions on the creation of NGOs. Registration laws do exist (154) and most of the NGOs are registered under one law or another. However, there is no restriction on the operation of NGOs which prefer not to be registered. A major reason for registration is a requirement by donors. Regulations are by and large innocuous, and do not place restrictions that are offensive or unreasonable. The cumbersome procedures for registration do become a problem to some. NGOs do function effectively without registration and no apparent difficulties or facilities depend on registration.

Relations between government and NGOs are likely to be adversely affected by the proposal of the last PPP government to legislate a new registration law for NGOs, if the same proposal is supported by the present government. The bill is still awaiting approval of the Cabinet. The most serious objection to the draft bill is the restriction on the operations of NGOs that do not register. The bill also contains provisions that would undermine the independence and autonomy of NGOs. The government is likely to gain a measure of control over the NGOs in financial and procedural matters that could be used, if the government so chose, for forcing NGOs into conformity or discouraging criticism of government policies. While representatives of the government have denied the allegation, it is generally perceived that the government is beginning to see the strength of NGOs and public support for them as a threat. On the one hand there is a realization that NGOs are crucial for development, on the other there is a desire to control activity and the impact of this activity. How far NGOs will be able to defend their autonomy without making compromises on critical issues depends largely on their capacity to organize and mobilize in solidarity. Many NGOs are active in fields where government cooperation is indispensable for their work. These are the ones most vulnerable to government pressure and the ones most likely to dissociate themselves from any collective NGO action resisting government policy

## NOTES

**117)** Article 17 of the Constitution of the Islamic Republic of Pakistan:

"Freedom of Association.-

(1) Every citizen shall have the right to form associations or unions, subject to any reasonable restrictions imposed by law in the interest of sovereignty or integrity of Pakistan, public order or morality.

(2) Every citizen not being in the service of Pakistan, shall have the right to form or be a member of a political party, subject to any reasonable restrictions imposed by law in the interest of the sovereignty or integrity of Pakistan and such law shall provide that where the Federal Government declares that any political party has been formed or is operating in a manner prejudicial to the sovereignty or integrity of Pakistan, the Federal Government shall, within fifteen days of such declaration, refer the matter to the Supreme Court whose decision on such reference shall be final.

(3) Every political party shall account for the source of its funds in accordance with law." [Return](#)

**118)** It is interesting to note that amendments were made in the original Article 17 by the elected government of Zulfikar Ali Bhutto, restricting the freedom of association and allowing more government control over political parties. [Return](#)

**119)** Article 17 (2) of the Constitution. [Return](#)

**120)** Official Secrets Act, Maintenance of Public Order Ordinance. [Return](#)

**121)** For example the mobilization against oppression or misrule by different governments was based on the expectation that it would bring about more democratic governance. People's disappointment and disillusionment in this respect, in the opinion of the author, is one of the factors that has made mass mobilization on these issues progressively difficult. [Return](#)

**122)** Kochnak, Interest Groups and Development. [Return](#)

- 123)** Section 3 of the Industrial Relations Ordinance, 1969. [Return](#)
- 124)** Sections 22 and 32 of the Industrial Relations Ordinance, 1969. [Return](#)
- 125)** Section 10 of the Industrial Relations Ordinance, 1969. [Return](#)
- 126)** Malik Aman, etc., vs Federation of Pakistan, 1993 SCMR 1837. [Return](#)
- 127)** Human Rights Commission of Pakistan: State of Human Rights in Pakistan, 1993, page 34. [Return](#)
- 128)** The proposal for setting up 12 special trading zones in the four provinces is still pending full implementation. [Return](#)
- 129)** Political parties, for example the PPP, have solicited support of trade unions for political mobilization, but when in power have made no contribution towards strengthening the unions. [Return](#)
- 130)** Article 59(1)(d) of the Constitution. [Return](#)
- 131)** Some groups have recently organized for rights of women workers, but their activity is still marginal and links with mainstream trade unions, though claimed, are neither strong nor clear. [Return](#)
- 132)** Pakistan gained independence from British rule simultaneously with the partition of India in August 1947. [Return](#)
- 133)** The movement for Pakistan was initiated and took roots in areas where the Muslims were in a minority. The areas comprising Pakistan were those where the Muslims were in majority. Political groups active in these areas, e.g. the Unionists in the Punjab, are referred to here as the indigenous parties. [Return](#)
- 134)** Notable amongst whom were the Republican Party, the Awami League and the United Front, an alliance of regional parties from the east wing of the country, based on Bengali regional and ethnic demands. [Return](#)
- 135)** It took Pakistan nine years to formulate and enforce the first Constitution in 1956. Civil rule prevailed in Pakistan for eleven years after Independence. However, the delay in constituting the State weakened the political process, resulting in power struggles. This severely undermined the progress of democracy. [Return](#)
- 136)** Pakistan has experienced three military coup-d'état, in 1958, in 1969 and in 1977. [Return](#)
- 137)** The 1962 Constitution was promulgated by the military dictator General Muhammad Ayub Khan. Article 173 of the 1962 Constitution prohibited any person from contesting elections as a member of a political party unless permitted by act of Central Legislature. Provision for political parties was made later on in the Political Parties Act of 1962. [Return](#)
- 138)** The only voices of dissent during this period that have left a lasting mark came from politicians and parties primarily based in East Pakistan, the Jamaat-i-Islami (a fundamentalist religious party, having influence mainly in urban Punjab) and political parties having their spheres of influence in the smaller provinces (e.g. the National Awami Party, based in the NWFP). Different forms of punishment were used against these parties. Maulana Abul A'ala Maudoodi, the leader of Jama'at-e-Islami was tried for treason and narrowly escaped a sentence of death. [Return](#)
- 139)** In the 1970 elections Pakistan People's Party won an overwhelming majority in the western wing and the Awami scored an even better success in the eastern wing. East Pakistan, being larger in terms of population, had more seats in the national Parliament. The Awami League was, therefore, the majority party entitled to form the government. [Return](#)
- 140)** Bhutto used the Parliament for enacting legislation seriously restricting democratic rights and fundamental freedoms. Declaration of the Ahmedis as a non-Muslim minority, and an amendment of the Constitution to restrict the independence of the judiciary were actions taken by the Parliament at Bhutto's bidding. [Return](#)
- 141)** The imposition of martial law was preceded by large-scale demonstrations against Bhutto for rigging the election in 1977. [Return](#)
- 142)** A large portion of the Constitution was placed in abeyance, including fundamental rights and Article 17 on the freedom of association. However, The Political Parties Act, 1962, remained in force. [Return](#)
- 143)** The Pakistan Muslim League has many factions. The faction headed by the present Prime Minister is known as the Pakistan Muslim League (Nawaz Group), with the acronym PML (N). [Return](#)
- 144)** Since the writing of this report, elections were held in February, 1997. The PML(N) was elected with massive support. The PPP now is a weak opposition, having drastically failed to gain any significant electoral successes in any of the provinces except Sindh. The regional parties have a stronger role in the Federal Parliament now than they have ever had before. [Return](#)
- 145)** The Jamaat-i-Islami, for instance, opted out of the Islami Jamhoori Ittehad with the PML and other parties, under whose

banner it participated in the 1990 elections. The Jamaat boycotted the 1997 elections after its dismal performance in the 1993 general elections. Some of the other religious groups have formed non-electoral alliances, such as the Islami Yakjehti Council. [Return](#)

**146)** For the purpose of this section on NGOs, the period under study is the late 1970s to the present. This period was chosen because most of the organizations interviewed were formed during this period. [Return](#)

**147)** For instance, political parties and trade unions. [Return](#)

**148)** The All Pakistan Women's Association (APWA), one of the largest and oldest national NGOs, was perhaps the first welfare organization. It functioned under government patronage. Wives of district administrative officers have always been the patrons of district branches. [Return](#)

**149)** The role of religious organizations and their relation to religious political groups is discussed later in the report. [Return](#)

**150)** The Women's Action Forum and the Human Rights Commission of Pakistan are examples in this category. [Return](#)

**151)** The Agha Khan Rural Support Programme can be cited as an example [Return](#)

**152)** The approach of NGOs is used as the basis for defining the difference between the two kinds of NGOs referred to in this section. It is not meant as a measure of their performance. [Return](#)

**153)** NGOs are the only forms of association which are under no formal restriction on receiving foreign funds. [Return](#)

**154)** Voluntary Social Welfare Agencies Registration and Control Ordinance, 1961; Societies Registration Act, 1860; Cooperative Societies Act, 1925; Companies Ordinance, 1984 and The Trust Act, 1882. [Return](#)

### PART 3: FREEDOM OF OPINION, EXPRESSION AND INFORMATION & THE ELECTORAL PROCESS

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#### PART III

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#### IV. FREEDOM OF OPINION, EXPRESSION AND INFORMATION

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##### V. THE ELECTORAL PROCESS

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While the environment for exercise of the freedom of expression has considerably improved, serious constraints persist, making this improvement only relative. Freedom of expression affects participation rights in a critical way. Laws pertaining to national security, preventive detention, sedition, defamation and contempt of court have historically been used and misused to severely restrict speech, opinion and access to information. Some of the restrictive laws or the more stringent provisions of these laws have recently been repealed (**155**). However, other restrictions have emerged that impose official and unofficial restraints on the exercise of the freedom of expression (**156**). Intimidation by violence or threat of violence both by government and private agencies still operate to silence dissent. An environment of intolerance is intensified by laws which promote religious and other forms of bigotry (**157**).

Official control over channels of information is more absolute where non-government agencies have very limited access to information and little capacity to gather and disseminate it. The lack of information is illustrated in the crisis of planning both at the government and non-governmental levels. Information crucial to planning is unreliable. Pakistan had its last published census in 1981. All figures presently used for planning are projections of the 1981 figures and are not, therefore, a sound basis for planning. No systematic arrangements exist for collection and compilation of information. Where information is available, government departments show resistance to sharing it with NGOs. Often, a methodology for dissemination is missing, thereby making access difficult.

People have generally been denied the right to know. Decisions affecting the lives of people are taken without their knowledge or participation. Information critical to decisions on foreign policy, positions on international conflicts, and Pakistan's role in such conflicts, are usually classified as official secrets. The tendency to conceal and to neglect to inform the public is evident in laws and public policy alike.

The Constitution of Pakistan guarantees the freedom of expression through Article 19, subject to reasonable restrictions "imposed by law in the interest of the glory of Islam or the integrity, security or defence of Pakistan..., friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, commission of or incitement to an offence" (**158**). The Constitution does not recognize the freedom of information as a right. Whether the courts would recognize the right as inherent in, and a part of, the freedom of expression, is yet to be tested. The State has exercised the power to restrict freedom of expression and access to information through laws in both civil and criminal jurisdictions. Restrictions apply generally, and special provisions are made for regulating the exercise of this freedom by associations (**159**) and channels of mass communication.

The Pakistan Penal Code contains provisions that curtail the freedom to express any opinion which may be construed as prejudicial to "the safety or ideology (**160**) of Pakistan, or to endanger the sovereignty of Pakistan" (**161**). It is these provisions which have time and

again been used to harass political opponents. More recently non-State actors have used the provision to enforce conformity with their own views about the ideology of Pakistan. The militancy of these groups exerts pressure on the government, and the responsibility of the State to protect citizens against militant action is consequently often shirked by government (162). Sedition as defined in the Pakistan Penal Code amounts to any expression causing contempt or disaffection towards the Central and Provincial Governments established by law (163). This provision, too, opens the door to harassment by the government, in response to even normal criticism of the many aspects of governance. Laws (164) and constitutional provisions pertaining to contempt of court (165) have also been used to restrict freedom of expression and opinion. The exemption originally provided to fair comment made in good faith and in the public interest was eliminated by an amendment to the Constitution by the military regime in 1985 (166). Judicial accountability has become a real problem due to these contempt provisions; they also hamper freedom of the press to report independently on court proceedings (167). A recent judgment of the Lahore High Court upholding the freedom of the press to report on court proceedings is encouraging in this respect (168).

## THE PRESS AND OTHER MEDIA

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Both private and government controlled media exist. While legal restrictions have affected freedom of the media, official policies imposed by the Ministry of Information have also been an impediment to free expression. The electronic media is almost completely under government control. The government maintains a National Press Trust, which till recently owned major publications both in English and in Urdu. The major wire service is also under government control (169). All official channels of communication conform strictly to political and social views which are suitable and acceptable to the government. When governments change, the resulting changes in programmes and policies of these channels are visible overnight.

Strict codes are prescribed for dealing with political and social issues. All those who are in any way connected to the broadcast media have to conform with these codes. Women announcers and artists have to observe a prescribed dress code which was introduced under military rule. Dancing by women and coverage of women's sports events is banned on the official television channels. Some relaxation is visible more recently, specially in coverage of women's rights issues (170).

The private media enjoys relative freedom. The notorious Press and Publications Ordinance of 1963 was repealed in 1988. However, restrictions on the press and other publications still remain. The Registration of Printing Presses and Newspapers Ordinance was re-promulgated in 1995 (171) and remained in force till mid-1997. Restrictions contained in the Ordinance encompass publishing of material amounting to normal criticism of government or expression of views which could, when the authorities so wished, be construed as attracting the mischief of the law. It thus affords the government a tool for selective harassment. Restrictions are imposed on the printing of certain parliamentary and judicial proceedings (172). Action against alleged contraventions is taken before the presumed offenders can avail themselves of the opportunity of being heard in any forum (173).

While no notable action was taken under this Ordinance in 1995, other laws continued to be used to ban publications and to take penal action against printers, publishers and editors (174). All print media require a licence for publication, issued by the Ministry of Information. Licences are frequently cancelled by the government under the pretext of minor procedural irregularities (175). Publications are banned on grounds of religious objections (176), perceived threats to national integrity and sovereignty and for non-conformity with the ideology of Pakistan (177). The latter is especially problematic in the case of views expressed in support of secular social, political and legal systems. In 1995, the government reacted to press reports of corruption against politicians belonging to the party in power (the Pakistan People's Party) by preparing a bill to make more stringent laws regarding defamation. This bill was withheld temporarily, after negotiations with the press, on condition that the association of newspaper owners should formulate a code of ethics for themselves under which they would be accountable to their own community for irresponsible reporting and press comments. So far no such code has been devised. With the end of the PPP government, the pressure for such a code abated.

Freedom of the press has come under threat also by action of non-State parties, seeking vengeance against press reports or comments contrary to their beliefs or their political interests. Editors and reporters have been killed, beaten, and harassed by such groups in numerous incidents. Local officials also harass journalists and newspapers on behalf of the government. The Human Rights Commission reports twenty-four incidents of this nature in 1995 involving private groups, and seventeen incidents in which local officials were responsible (178). Associations of journalists have frequently complained of such incidents and strong protest action has been taken by them.

The press enjoys considerable freedom of association and has organized itself into groups which have played an important role in protecting the freedom of the press (179). However, while freedom of the press is generally supported, a feeling of dissatisfaction with the press is also prevalent. The press has not always acted with responsibility, and sections of the press are viewed as promoting "yellow journalism". Religious and sectarian biases are visible in reporting and editorial comments in some publications: some have gone far enough to print material that can be called hate propaganda. Representative bodies of the press have seldom taken notice of complaints against such deviations from professional conduct. In this sense, internal accountability is weak within the community. A major problem in this is the ideological divide between newspapers. This division is particularly visible between the English and the Urdu press. Some degree of responsibility and accountability enforced within the community would create confidence in the press, and strengthen its role in civil society.

## V. The Electoral Process

The support for electoral politics and rule by public representation in Pakistan is evidenced in the resilience of the political process, which has survived repeated interventions by the military. All three military governments were forced to hold elections even under martial law. It is, however, the system of elections, the nature of electoral politics, and the quality of representation that is essentially of concern in the context of participatory democracy. The right of citizens to participate in government through genuine and periodic elections has been recognized by various international human rights instruments and treaties (180). The four elements constituting the core of this right are universal and equal suffrage; voting by secret ballot; elections at reasonable, periodic intervals; and non-discrimination amongst voters, candidates or parties. To what degree Pakistan has been able to achieve these norms both legally and in practice has to be evaluated on the basis of electoral experiences in which the legal framework has been applied.

A detailed account of Pakistan's electoral experiences in the past would not be necessary for the purposes of this report. It is, nevertheless, pertinent to mention that Pakistan has a tradition of elections (national, provincial and local) dating back to the early fifties. These elections were held under different legal and constitutional systems, with differing degrees of participation. Between 1947 and 1956, elections were held in the four provinces on the basis of adult franchise under the Government of India Act, 1935. Pakistan's first Constitution was enforced in 1956. It provided for direct elections, based on adult franchise. However, no elections were held under this Constitution as it was abrogated in 1958. The next Constitution was enforced by a Presidential proclamation in 1962. The system prescribed for elections allowed only limited participation. Elections were based on an indirect system through an electoral college of "basic democrats", who were elected on a non-party basis (181). The general elections of 1970 were held under a Legal Framework Order promulgated by the military regime in power. These elections are, nevertheless, seen as a landmark in Pakistan's political and electoral history. They are generally accepted as fair and free, with political parties having the freedom to participate and campaign.

The Constitution of Pakistan framed in 1973 finally laid down the framework for elections. Laws regulating electoral practices are part of this framework. The first elections held under it took place in 1977. These elections were not accepted by the alliance of parties in contest against the PPP. The military again intervened in July 1977, and Pakistan remained under martial law till 1986. It may be mentioned here that elections were held in 1985 under martial law. Though these were based on adult franchise, it was a non-party contest in contravention of the Constitution and was boycotted by all major political parties. Before restoring it, the military government made substantial amendments to the Constitution. Elections were held within the framework of an amended Constitution in 1988, 1990, 1993 and 1997.

### LEGITIMACY AND PARTICIPATION

While lacunae do exist in the legal framework for the elections, more serious issues relate to the participatory nature of elections. Efforts have been made to give legitimacy to the process through various rules, including the establishment of the Election Commission. The process, however, still lacks the ingredients that can ensure real participation of the people in representative democracy. The electoral process has developed enough to allow competitive elections. The environment is generally peaceful, though spurts of violence in more volatile constituencies cannot be ruled out. Some concern regarding access of all candidates to channels of mass communication persist. Most political parties and individual candidates have access to the press. However, the role of the electronic media has been unsatisfactory, because of total government control over it. The press and other communications infrastructure is largely candidate-oriented and has not played its role in initiating issue-based debates to better inform the electorate. Absence of issues relevant to governance, rights and economic well-being of the majority has affected real participation. Patronage practices largely determine the voting pattern. Freedom of choice is thus restricted, and expectations are linked to the patron, rather than the representative (182).

Popular confidence in the efficacy of the electoral process has been shaken in other ways as well. Amendments to the Constitution before the transition to civilian rule in 1985 seriously undermined the authority of Parliament. Through the Eighth Amendment in the Constitution, the President was given the power to dissolve the National Assembly "in his discretion" on, amongst other, the ground that in his opinion "a situation has arisen in which the Government of the Federation cannot be carried on in accordance with the provisions of the Constitution and an appeal to the electorate is necessary." This power has been used by the President to dissolve four Assemblies. Consequently, the process of elections at regular periods was disrupted. Pakistan has had three elections in the period prescribed for one normal term (183). This amendment to the Constitution remained a threat to the stability of Parliament and to regularity in the electoral process (184), until the part of this amendment granting the power to the President to dissolve the Assembly was repealed by a constitutional amendment by the Parliament in April 1997 (185).

The last government of the PPP had proposed electoral reforms in 1996. Changes were proposed to allow non-Muslims the right to vote for the Muslim seats in the general elections, and to have a second vote for elections to the reserved seats for minorities. The requirement for production of identity cards for voting was also to be eliminated. The reforms recommended included same-day polling for the National and the Provincial Assemblies. The government's proposals were strongly criticized by the opposition in the Parliament. The strongest objections were to the double vote for non-Muslims, and the removal of the condition for producing identity cards. Religious groups joined in the opposition to these proposals. Most of the reforms proposed, however, did receive support from human rights groups who saw them as strengthening the electoral system (186). Some encouraging changes were made by the

care-taker government before the elections in February 1997. Franchise was extended to the Federally Administered Tribal Areas, and polling for National and Provincial Assemblies was held on the same day. None of the other proposals are under consideration by the present government.

## CONSTITUTIONAL AND LEGAL FRAMEWORK

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The framework for holding and regulating elections is given by the Constitution and a body of legal provisions contained in enactments such as the

- The Representation of the People Act, 1976 (187);
- The Delimitation of Constituencies Act, 1974 (188);
- The Electoral Rolls Act, 1974 (189); and
- The Political Parties Act, 1962.

## THE RIGHT TO VOTE

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The Constitution provides franchise for all citizens above the age of twenty-one years whose names appear on the electoral rolls and who have not been declared by a competent court to be of unsound mind (190). The age of majority under the Majority Act is eighteen years. In this respect a sizeable portion of the adult population between the ages of eighteen to twenty-one are denied the right of vote. The Constitution, therefore, does not provide universal adult franchise. In addition, the right to vote in Pakistan is not equally available to all.

Through an amendment to the Constitution in 1975, additional seats were reserved in the National and Provincial Assemblies for non-Muslims. These seats were not filled by direct elections. The members were elected following the general elections, by an electoral college of members elected to the National or Provincial Assemblies. The non-Muslim population, however, retained the right to vote for candidates in general elections both at the national and the provincial level. In 1985, the right of non-Muslims to participate in general elections was revoked. The Constitution was substantially tampered with by the military regime of Zia-ul-Haq throughout the period from 1977 to 1986. Before restoring the Constitution in 1985, many of its provisions were amended by a Presidential Order to safeguard the interests of the ruling establishment. One of these amendments pertained to the seats reserved for non-Muslims: Article 51 of the Constitution was amended to designate all the seats contested in the general elections for the National Assembly as Muslim seats. Through a further amendment to the same Article, the non-Muslim population is allowed to vote for candidates to seats reserved for non-Muslims on the basis of separate electorates. Changes were made to Article 106 of the Constitution to provide for additional seats in the Provincial Assemblies to be filled by a direct vote of the non-Muslim population on the basis of separate electorates. While nowhere does the Constitution restrict the right of the non-Muslim population to vote for the Muslim seats in the National Assembly, this section of the population has been denied the right to vote in four successive general elections. The Constitution does not provide for the general elections for the provincial assemblies to be contested only by Muslim candidates. Yet non-Muslims have not been allowed to contest these seats. The Election Commission presumed the intent of the Constitution and made arrangements under the various laws for preparing electoral rolls, delimitation of constituencies and regulation of electoral procedures which denied the non-Muslim population the right to participate. The presumption was so widespread that these arrangements were not even challenged (191).

The issue of separate electorates for non-Muslims has been contentious for a long time (192). It has become even more so now. Sections of the non-Muslim population, together with human rights groups, have raised this as a crucial question for determining the civil and political status of non-Muslims in Pakistan. At the same time Islamic religious groups and some political parties, including the PML(N), have opposed the removal of the restriction on non-Muslims to vote for the general seats. An interpretation of the Constitution by the courts could clarify the situation and render removal of some of the restrictions easier.

Denial of the right to participate is not only based on religious differences. A section of the population, living in areas for which there exist special administrative and legal arrangements, suffered total disenfranchisement for fifty years. Territories comprising Pakistan include Federally Administered Tribal Areas (FATA). The Constitution does not provide for adult franchise or the same system of representation for these areas. Seats in the National Assembly are allocated to each Province, FATA and the Federal Capital on the basis of population. Clause (6) of Article 51 of the Constitution enables the President to make such arrangements as he may think fit for filling the seats allocated to FATA. In exercise of this power, The Preparation of Electoral Rolls (Federally Administered Tribal Areas) Order was promulgated in 1975. Franchise under this Order was restricted to Maliks, who are persons receiving government allowances for keeping peace in these areas. These are a carry-over from the colonial period. Maliks are now the ruling elite in the Tribal Areas and wield tremendous power over the general population. Members of the National Assembly were elected by this electoral college while the general population was totally excluded from the process of elections, both as voters and as candidates. This changed in 1997, as mentioned earlier in this section.

## THE RIGHT TO REPRESENT

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The Constitutional and legal framework permits contest for representative office either independently or as a member of a political

party. While the Political Parties Act of 1962 makes the provision for political parties to contest elections, other legislation, mentioned above, lays down the procedures for holding elections. The Constitution also prescribes the qualifications for holding representative office. Members of the National and Provincial Assemblies, apart from being citizens and voters, are required to be above twenty-five years of age. Members of the Senate have to be above the age of thirty. In addition to the age qualification, the Constitution provides a list of characteristics which qualify or disqualify a person from holding representative office (193). While the Constitution does not prescribe a condition that the office of Prime Minister be held by a Muslim (194), the oath of office itself prescribed by the Constitution contains a solemn affirmation that the taker of the oath is a Muslim (195). This creates an anomalous situation which has been overlooked, as none of the Prime Ministers taking oath so far have been non-Muslims.

## THE ELECTION COMMISSION

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The Constitution provides for the establishment of an Election Commission, headed by a Chief Election Commissioner (196). The Commission is mandated "to organize and conduct the election and to make such arrangements as are necessary to ensure that the election is conducted honestly, justly, fairly and in accordance with law, and that corrupt practices are guarded against" (197). Provisions have also been made to ensure a degree of independence of the Commission. The Chief Election Commissioner is to be appointed by the President "at his discretion" (198). A person can only be appointed as Commissioner if he is or has been a judge of the Supreme Court or a High Court, and is qualified to be appointed a judge of the Supreme Court. He cannot be removed from office except in the manner provided for the removal of a judge in the Constitution, i.e. through the Supreme Judicial Council (199). His tenure can be extended by the Parliament, but not abridged. The Parliament has been granted the power to legislate procedures for holding elections, but cannot legislate to either abridge or take away powers of the Commission or the Commissioner granted by the Constitution.

Specifically, the Commission is authorized to

- appoint separate Commissions for each province;
- prepare and annually revise the electoral rolls to the National and Provincial Assemblies;
- establish constituency boundaries;
- organize and conduct elections for the National and Provincial Assemblies, the Senate and the President;
- and appoint election tribunals that hear disputes regarding the outcome of the elections.

The Election Commission initiated some important reforms in the electoral process, most of them just before the 1993 elections. One of the important initiatives taken earlier was that elections be administered by returning and assistant returning officers appointed from the judiciary by the Election Commission. This was done to better guarantee that election officials would be neutral. The reforms are principally directed towards giving the Commission effective control over the electoral process.

Despite these arrangements, the impartiality and fairness of elections has always been in doubt. After the 1977 elections, allegations of rigging were made against the government and the independence of the Election Commission was seriously questioned. The independence of the Election Commission and the Chief Election Commissioner is comparable to the independence of the judiciary. Legal arrangements for this independence can only work if there is a genuine and honest intent of the government to make it so. Political appointments, pressures and lure of favours have frequently undermined the independence of such institutions. Where suspicions have arisen, they have never been clarified, casting doubt which has resulted in a general lack of public confidence in the electoral process.

## ELECTION PROCEDURES

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There are very few studies of elections in Pakistan. Most of those available are based on the 1993 elections (200). These studies have pointed out a number of factors responsible for the electoral process falling short of the expected level of impartiality, fairness and participation. Procedures with respect to which serious objections have been recorded are mentioned below.

## VOTER REGISTRATION

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A person eligible to vote is entitled to be enrolled in an electoral area if deemed to be a resident of that area. Electoral rolls were originally prepared in 1974 and 1975, and were subsequently amended in the light of claims, objections, and applications for corrections before each election. It is estimated that the rolls prepared for the 1993 elections included the names of 90% of those eligible to vote (201). Registration of voters has, however, remained a continuous concern with those who have studied the electoral process and practices. Deficiencies in the registration process and in the availability of rolls to the public for verification purposes, have also been admitted by the Election Commission (202).

Few, if any, political or non-governmental organizations conduct awareness programmes on voter registration. While the government has devised methods for the preparation of electoral rolls, these procedures are not broadly advertised. Measures encouraging registration or programmes generating interest in enrolment are non-existent. Complaints about the process of registration being cumbersome were numerous in the 1993 election (203). Most of those who remained unregistered were from the rural areas. Women,

both rural and urban, were more affected (204).

## DELIMITATION OF CONSTITUENCIES

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This process is governed by the Delimitation of Constituencies Act, 1974. Constituency boundaries are determined by population. The formula used to calculate the size in the 1993 elections for the National Assembly was one seat per 407,000 citizens, with an admissible fluctuation of 20%. The size of constituencies ranged from 320,000 to 490,000 (205). It may, however, be remembered that the last published census used in this process was in 1981. With a growth rate as high as it is in Pakistan, it can be presumed that the actual population covered by a constituency is much larger. While the non-Muslim population in these constituencies is not allowed to vote for a general seat, it is included in the calculation of the size of a constituency. The separate electorates system has resulted in no constituencies being created for the non-Muslim candidates. Consequently, candidates have to campaign for votes throughout the country, thus adversely affecting voter-candidate contact. This has created a dissimilarity in the process for representation. The system of separate electorates is one of the most serious concerns expressed regarding the electoral process in Pakistan.

## VOTER IDENTIFICATION

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One of the changes introduced in the Representation of the People Act, 1974, at the initiative of the Election Commission, was the requirement for a voter to produce his or her national identity card before a ballot can be issued. This has become one of the most controversial issues connected with voting procedures. It is widely held that this provision disenfranchised a significant number of people, especially women. While it is acknowledged that voter identification is a legitimate requirement, this is adequately provided for by the presence of polling agents of the candidates from the locality in which the polling station is situated and the voter resides. Many people, especially women and the rural population, do not possess identity cards. The procedure for issuing of these cards is cumbersome. Cards are issued by a registration authority under the control of the Ministry of Interior. The Election Commission has no direct control over the issuance of these cards. The Election Commission must ensure that all those eligible to vote are enabled to do so. Any mandatory requirements imposed on the voter over which the Commission has no control are unfair and not legitimate. It is true that the requirement was imposed to prevent fraud and bogus voting. If the provision for polling agents is not seen as an adequate protection in this regard, arrangements should be made which can be executed and implemented by the Commission itself (206).

## POLLING

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Concerns regarding the process of polling include poor management of the stations; lack of training and of confidence in the polling staff; defective ballot boxes; poll violence and insufficient security arrangements. Another serious problem is the distance to the polling stations. This makes voters dependent on candidates for transport, which influences the freedom of decision making of the voter.

Polling for National and Provincial Assemblies on separate days is another important issue. Results of elections for the National Assembly were known before polling for the Provincial Assemblies. As results in the first election affected the results of the second, this was not conducive to the fairness of the process. As mentioned earlier this was changed before the general elections in February, 1997. Another issue, even in the last elections in 1997, was the dependence on the military for maintaining the peace during polling (207).

## NOTES

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**155)** The Press and Publication Ordinance was repealed in 1988. [Return](#)

**156)** The Press and Publications Ordinance was replaced by the Registration of Printing Presses and Newspapers Ordinance, 1988. This Ordinance continued to be re-promulgated by the President every four months until early 1991. It was re-issued in 1995 and continued to be so issued until March 1997. [Return](#)

**157)** Section 295C of the Pakistan Penal Code on blasphemy is one such example. [Return](#)

**158)** Every citizen shall have the right to freedom of speech and expression, and there shall be freedom of the press, subject to any reasonable restrictions imposed by law in the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign states, public order, decency or morality, or in relation to contempt of court, commission of or incitement to an offense. Article 19, Constitution of Pakistan. [Return](#)

**159)** For example, restrictions contained in section 3 of the Political Parties Act, 1962. [Return](#)

**160)** Added to section 123A of the Penal Code by an amendment in 1992. [Return](#)

**161)** Section 123A of the Pakistan Penal Code. [Return](#)

**162)** Militant religious groups have frequently attacked offices of newspapers which either criticize their conduct or do not conform to the world-view of these groups. The MQM in Karachi has been responsible for similar acts against the press. [Return](#)

**163)** Section 124A of the Pakistan Penal Code. [Return](#)



- 164)** The Contempt of Court Act. [Return](#)
- 165)** Article 204 of the Constitution of Pakistan. [Return](#)
- 166)** Presidential Order 14 of 1985. [Return](#)
- 167)** Newspapers and journalists have frequently been issued notices for contempt by courts for reporting on proceedings or making comments on the conduct of proceedings in court. [Return](#)
- 168)** PLJ 1996 Lahore 897. [Return](#)
- 169)** Associated Press of Pakistan (APP). [Return](#)
- 170)** The position has recently been reversed. The government that came into power after the February 1997 elections has shown tendencies towards imposing restrictions on the broadcast media that do not endorse the optimism of this statement. Remarks by the Prime Minister in October 1997 avowing the imposition of moral codes for television programs and of directives to female broadcasters and performers to conform to strict dress codes, have raised serious concerns, especially as the implementation of this verbal policy has already taken effect. [Return](#)
- 171)** Ordinance No. LII of 1995. [Return](#)
- 172)** Section 22 of the Ordinance. [Return](#)
- 173)** Section 25 and Part VI of the Ordinance. [Return](#)
- 174)** Human Rights Commission of Pakistan: State of Human Rights in 1995, page 87. [Return](#)
- 175)** The Human Rights Commission of Pakistan reports that 65 such licences were revoked in one district alone in 1995. State of Human Rights in 1995, page 87. [Return](#)
- 176)** Most of these are publications by non-Muslim religious organizations. Ahmedi publications have been a particular target. Ahmedis are a religious group expelled from the pale of Islam and declared to be a non-Muslim minority through a constitutional amendment in 1974. They remain victims of official discrimination and have frequently been subjected, individually and collectively, to violence by Muslim religious groups. [Return](#)
- 177)** Section 99A of the Criminal Procedure Code. [Return](#)
- 178)** State of Human Rights in 1995. [Return](#)
- 179)** Prominent press associations include the Pakistan Federal Union of Journalists (PFUJ), its branches, such as Punjab Union of Journalists (PUJ), Karachi Union of Journalists (KUJ), editors' and owners' associations, CPNE and APNS, respectively. [Return](#)
- 180)** Universal Declaration of Human Rights, Article 21; International Covenant on Civil and Political Rights, Article 25; International Convention on the Elimination of all Forms of Racial Discrimination, Article 5; Convention on the Elimination of All Forms of Discrimination Against Women, Article 7; Convention on the Political Rights of Women, Articles I, II, III; Charter of the United Nations, Articles 73, 76. [Return](#)
- 181)** Basic Democracies Order, 1959. [Return](#)
- 182)** Most of the time the representative himself may be in a position of patronage. [Return](#)
- 183)** The National and Provincial Assemblies are elected for a period of five years. The first party-based elections after the end of martial law were held in 1988. The Assembly elected in the non-party elections during martial law, was also dissolved under same provision in 1988. The Assembly elected in 1988 was dissolved in 1990, which was again dissolved before completing its term in 1993. Thus in the normal term of the first Assembly three elections were held. See Appendix III: Governments of Pakistan. [Return](#)
- 184)** Constitution(Eighth) Amendment Act, 1986. [Return](#)
- 185)** Constitution (Thirteenth) Amendment Act, No. 1 of 1997, dated 4.4.1997. [Return](#)
- 186)** HRCP Electoral reforms proposals. [Return](#)
- 187)** Lays out the procedures for conducting elections. [Return](#)
- 188)** Sets forth how constituency boundary lines should be drawn. [Return](#)
- 189)** Sets forth the rules for determining voter eligibility. [Return](#)

**190)** Originally the Constitution prescribed the voting age as eighteen. This was amended by the military government before the restoration of the Constitution in 1985, vide the Presidential Order 14 of 1985 and later incorporated into the Constitution (Eighth) Amendment Act 1986. [Return](#)

**191)** It was only in the 1993 elections that a non-Muslim filed nomination papers to contest a general seat in the Punjab Provincial Assembly, and upon the rejection of his nomination, he challenged the decision of the Election Commission in court. The petition is still pending. [Return](#)

**192)** In the period preceding the framing of the 1956 Constitution, the issue of separate electorates was a major issue. Mohammed Waseem, *The 1993 Elections in Pakistan*, page 3, Vanguard Books (Pvt) Ltd. [Return](#)

**193)** Articles 62 and 63 of the Constitution. [Return](#)

**194)** Qualifications prescribed for President include that he be a Muslim: Article 41(2) of the Constitution. [Return](#)

**195)** Constitution of Pakistan, Third Schedule, Oaths of Office. [Return](#)

**196)** Part VII, Chapter I, Constitution of Pakistan. [Return](#)

**197)** Article 218(3) Constitution of Pakistan. [Return](#)

**198)** "at his discretion" added to Article 213(1) by Presidential Order 14 of 1985, at the time of restoration of the Constitution by the military government. [Return](#)

**199)** For procedure to remove a judge from office see Article 209, Constitution of Pakistan, 1973. [Return](#)

**200)** Mohammed Waseem, *The 1993 Elections in Pakistan*. Vanguard Publications, 1994. [Return](#)

**201)** National Democratic Institute for International Affairs, Washington. International Delegation Report, Pakistan Elections: Foundation for Democracy. [Return](#)

**202)** Ibid. [Return](#)

**203)** Human Rights Commission of Pakistan, *State of Human Rights in Pakistan 1993*, Appendix IV. [Return](#)

**204)** Low registration of women voters was expressed as a concern by nearly all the independent teams monitoring the 1993 elections, including the Human Rights Commission of Pakistan. [Return](#)

**205)** National Democratic Institute For International Affairs, Washington, International Delegation Report, Pakistan Election: Foundation for Democracy, 1993. [Return](#)

**206)** Legal action challenging the Election Commission's decision to require use of ID cards was filed. The Lahore High Court issued an order preventing the Commission from implementing its decision. In appeal the Supreme Court suspended the Lahore High Court decision. [Return](#)

**207)** All the monitors' reports have commented on this issue and recommended overcoming this dependency. [Return](#)

## PART 3: SECURITY RIGHTS

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### PART III

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#### VI. SECURITY RIGHTS

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The rights to life, liberty, and security of person have remained vulnerable to violation in Pakistan, at the hands of both the State and non-State parties. While constitutional guarantees do exist for fundamental rights (208), the State has not honoured these guarantees. It has either violated these rights through its own actions, or has failed to provide protection against violence committed by non-State parties. The threat to security rights has risen sharply since the 1980s. An acceleration in the rate of crime as well as in sectarian and ethnic strife have contributed to this rise. While the influx of arms during the Afghan war has resulted in the former (209), failure of successive governments to resolve political tensions, as well as attempts at manipulating factional antagonism, have intensified the latter (210).

Not only internal factors, but also external interests in factional and sectarian politics, pose a threat to Pakistan's internal security. The State has not only failed to reduce the incidence of violence, but has itself pursued policies that have undermined internal security. The failure to check the growth of militant Islamic factions during the Afghan war has considerably exacerbated the problem. In this period Pakistan allowed itself to become the "front-line" State and encouraged the influx of militants into Pakistan, playing a leading

role in their training for jihad (holy war). Many of these militants (211) turned into mercenaries, and joined the local religious extremists in committing acts of violence on Pakistani territory, at the behest of domestic sectarian groups or serving the interests of patron States such as Iran, Saudi Arabia, Iraq, or Libya. Many such groups remain actively involved in the internal armed conflict in Afghanistan. Pakistani security forces and intelligence agencies are believed to have encouraged, used and shielded these elements from time to time.

## SECTARIAN AND COMMUNAL VIOLENCE

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It is generally agreed that the Islamic policies of the military government in the 1980s contributed to a major decline in religious tolerance. Sectarian divisions have become more pronounced since the legitimacy to rule became firmly linked to Islam, not in response to popular demand, but through the machinations of General Zia. Religious contentions have also become more emphatically political, and rival sects have become contenders for more and more power in a bid to influence State policies and to intervene in governance. External support for sectarian factions has added to their capacity for violence.

Pakistan's Muslim population is divided into two major sects, the Sunnis and the Shias. The Sunnis are further divided into numerous sub-sects. While violent confrontation is not unknown amongst the Sunni sub-sects, the major conflict is between the Sunni and Shia militant groups (212). They receive support from politico-religious parties inside the country, and use mosques and religious seminaries for indoctrination and inculcating mutual hatred. Sectarian violence is most common in the Punjab. However, brutal killings for sectarian motives have occurred in all provinces (213). Militant groups commit random acts of violence, targeting worshippers in mosques of rival denominations, killing indiscriminately (214). Targetted killings of known members of rival groups is common for both the major sects. It is estimated that Shia-Sunni conflict claimed 350 lives and resulted in serious injuries to 450 people in 1996 (215).

Governments have tended to be intimidated by the militancy of these groups and their potential for arousing religious frenzy. The State has, therefore, failed to take timely punitive or redressive measures against the commission of sectarian violence. Attempts have been made at legislating to curtail violent sectarian tendencies, but none has succeeded to date (216). No consistent policy to manage sectarian divisions and to increase religious tolerance is visible as a government initiative. Peace moves have been made by the religious parties themselves. However, the more militant groups have resisted these initiatives and have disassociated themselves from them, sometimes after initially joining (217). Governments have set up peace committees from time to time, but they have failed to achieve results in the face of fierce conflict between the factions. The present government in response to another outbreak of sectarian violence in 1997, enforced an Anti-Terrorism Act. But this enactment not only attracted strong criticism from human rights groups, it was also censured by the Supreme Court and had to be amended. Policies and economic and social initiatives to provide alternative avenues to the youth who are vulnerable to these influences are lacking. How far legislative measures can succeed in the absence of any steps to deal with the larger issue of the politicization of religion, and with external interests supporting religious factionalism in Pakistan, remains to be seen.

## THE MINORITIES

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The various non-Muslim groups in Pakistan are officially recognized as "minorities" by the Constitution (218). This institutionalization of divisions on religious lines has adversely affected the participation rights of these sections of the population (219), and has made their security rights more vulnerable to abuse. Legislation and State policy has encouraged religious intolerance by accommodating religious extremism that has led to an aggressive hegemony of the majority religious group (220).

A constitutional Amendment in 1975 declared the Ahmedis (who claim to be a denomination of Islam) a non-Muslim minority in response to pressures from a religious lobby objecting to tenets of the Ahmedi belief. This particular group has been at risk for decades, and has suffered persecution and violent attacks on life and property on many occasions, beginning with the anti-Ahmedi riots in 1953 (221). A law promulgated under the military government of Zia-ul-Haq prohibited the Ahmedis from freely professing and practising their religion. It barred them from using any nomenclature associated with Islam and from following Muslim forms of worship. As the Ahmedis consider themselves Muslims, every attempt at practising their religion is a contravention of the Ordinance XX of 1984 and provisions added to the Pakistan Penal Code through this Ordinance (222). Thousands of Ahmedis have been charged, arrested and sentenced under this law (223). Ahmedi publications are frequently proscribed and confiscated, and publishers arrested under the Ordinance.

While Ahmedis are physically attacked, killed, and their property destroyed by religious extremists, the State has failed to take action which would secure their lives, bodily integrity and property. The impression that this community can be harmed with impunity has encouraged acts of violence against it. Anti-Ahmedi hatred is preached openly, and none of the country's laws have ever been invoked against those who have incited violence against them. Ahmedis have been targetted individually and collectively. There have been frequent incidents of Ahmedi villages being burnt, causing loss of life, property and vast displacement of population. Ahmedi places of worship are frequently attacked; burial grounds are desecrated; and congregation for religious purposes either attacked or threatened. State forces have never been deployed to protect the Ahmedis. Every time their assembly is threatened, the State prohibits such congregation through administrative orders on the pretext of preventing a law and order situation from developing.

Other religious communities, though not openly denounced as pariahs, do not enjoy equality before the law or equal protection of the law. The Christians, in particular, are the most visible victims of violent religious intolerance. While the Pakistan Penal Code always included offences against religion, its provisions concerned injury to the tenets of all religions, and the fundamental goal was that of promoting tolerance. Under Zia's Islamization of laws, new offences were added to the Penal Code prescribing heavy punishment for blasphemy against the Holy Prophet of Islam (PBUH) (224), showing disrespect towards the holy personages of Islam (225), and for defiling the Holy Quran (226). The law of blasphemy, which entails a mandatory death sentence, has been widely used as an instrument of persecution against the Christian community. The most serious aspect of this persecution is not the prosecution under this law, but the risk to the life of the accused once the allegation is made. Several people have lost their lives in this way at the hands of fanatics, or those who claimed religious frenzy as a defence for killing the accused in these cases (227).

The Hindus, with a concentration of population in Sindh, constitute another community which has remained vulnerable to various forms of violence. Forced occupation of land owned by Hindus is common in Sindh. Numerous complaints to the authorities against powerful and influential landlords engaged in this notorious activity has brought no relief or redress for the affected Hindu families. The most common form of violence reported from this community is forced conversion, mostly by young women abducted and forced into marriage by Muslim landlords or their protégés. Kohlis and Bheels are generally considered part of the Hindu community, although they are separate communities and are listed as "scheduled castes", a nomenclature generally applied to backward groups. They constitute more than half of the agricultural labor force of Sindh, and are among the most oppressed of all haris (228).

Persecution, harassment, oppression and discrimination against non-Muslim populations in Pakistan have been the subject of numerous reports prepared by both international and domestic human rights groups. National laws and State policies that have contributed to the growth of violence against these communities have also been identified by these reports. Yet no government action has been taken to address the problems faced by these communities, or to secure their lives and property. The Bhutto government promulgated an Ordinance constituting a Tribunal for the Disadvantaged in 1994. The mandate of the Tribunal was to identify what discriminatory laws existed concerning minorities, women, and others, and to propose necessary changes. It was also to take cognizance of specific incidents of harassment, discrimination and other violations of rights. The efficacy of this law was never tested as the Tribunal was never established. The Ordinance having lapsed after the fall of the Bhutto government, the law is no longer in force.

## ETHNIC CONFLICT AND VIOLENCE

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Figures quoted by the press and other sources regarding killings, excesses and abuse of power by law enforcement agencies, and the damage to property in incidents of ethnic strife, delineates the direct connection between ethnic relations and security rights in Pakistan. The case of Pakistan demonstrates how the neglect of issues of the access to political power, sharing of national resources, and recognition of cultural diversity can create a crisis, threatening not only individual security but the security of the State itself. Moreover, the Zia regime fomented all forms of ethnic conflict and armed all combatants. The resulting appearance of volatility gave Zia the excuse to perpetuate his dictatorship. Governments since Zia have been neglectful of the need to re-establish and promote tolerance and respect for human rights.

The sense of deprivation amongst the Bengali population led to the break-up of Pakistan in 1971. Regrettably, no lessons were learnt from the 1971 tragedy. The age-old policies of centralized control, imposition of homogeneity despite the heterogeneous nature of Pakistan's population, and a failure to manage pluralism at the level of the State have caused different degrees of alienation amongst ethnic groups in the country. This alienation has manifested itself in conflicts, varying in intensity, and causing serious violations of the right to security of the population.

The most striking feature of Pakistan's ethnic diversity is the dominance of the Punjab, the most populous, richest and most developed of the country's four provinces. The Punjabis are the largest ethnic group and are predominant in the military (229) and the bureaucracy. The North West Frontier Province (NWFP) and Balochistan are the least developed and least populous provinces in the country with 13.1 and 5.1 percent (1981 figures) of the population respectively (230). Although the province of Sindh with its port city of Karachi has remained dominant in trade and industry, it contains only 22.6 percent of the population and stands sharply divided between local Sindhis and non-Sindhis (231). The raging ethnic conflict in the latter province is of serious concern with respect to the right to life, liberty and security of person. While the underlying causes of ethnic discontent have a long history in Sindh, the manifestation of this discontent in the form of violent conflict emerged in the mid-1980s and has lasted for more than a decade.

The first round of violence erupted in rural Sindh in the wake of the army crack-down against the Movement for the Restoration of Democracy (MRD) which was launched in 1983 by the political parties opposed to Zia's military regime. The situation in Sindh became particularly volatile, compared to other provinces, as this was the home province of Zulfikar Ali Bhutto, the popularly elected Prime Minister, hanged during the Zia regime. Since Bhutto's hanging in April 1979, frustration and anger had been growing amongst the rural population in Sindh, where there is a concentration of ethnic Sindhis. In the Sindhi nationalists' perception, it was the Punjabi army, in power at the time, and the Punjabi judiciary that had sentenced Bhutto to death, and they saw this as yet another assertion of Punjabi domination. Sindhi nationalist groups offered armed resistance to the military. Incidents investigated by the Human Rights Commission of Pakistan in 1986 revealed the devastation of rural Sindh at the hands of the army (232). The military presence in rural Sindh was justified by Zia's government on the pretext that a law and order situation prevailed in the province and needed a more powerful force than the police to curb lawlessness. The situation in the province deteriorated as time went by and no rapprochement or

dialogue took place between the government and the nationalist groups to resolve what was essentially a crisis generated by a militant political movement.

The conflict became more violent, and criminal trends were observed in the conduct of armed groups. Incidents of banditry were reported from all over rural Sindh. It was, however, evident that many of the gangs accused of banditry by the military were political dissidents turned outlaws. During investigations in rural Sindh, human rights groups noted the support that these gangs received from the peasantry. Army reprisals were carried out against villagers, including women and children, for giving refuge to "wanted criminals". In the period between 1983 and 1986, the situation in Sindh remained extremely tense. Independent observers investigated incidents of excesses committed by the military and civilian law enforcement agencies against the civilian population. Reports were published of findings that clearly indicated that the conflict was essentially political. Violence by the State authority had instigated a violent response, in which innocent lives were lost. The poor peasantry of Sindh was most affected by this conflict, and numerous families lost their homes, causing large-scale displacement. The government did not respond to the recommendations made in reports published on the Sindh situation. No judicial inquiry was conducted into reported incidents of excessive use of force by the law enforcement agencies, nor any measures adopted to give relief to the affected population (233).

Whereas anti-Punjabi strains have always been present in Sindhi nationalist sentiments, the conflicts amongst the different ethnic communities in Sindh have taken a more serious turn since the 1980s, and have been a greater cause of violence in recent years. At the time of Independence in 1947, there was an influx of Muslim population into the territories constituting Pakistan from other parts of the Indian sub-continent. Most of the migration originated from Punjab (234) and Uttar Pradesh (235), in India. The population that came into west Punjab was ethnically the same and its assimilation with the local population was, more or less, trouble-free. However, a majority of the population that came to settle in Sindh migrated from Uttar Pradesh and other parts of northern and western India. This population represented the educated and professional urban classes of Indian Muslims. They migrated to urban areas of a region of the sub-continent with very different culture, traditions, and a totally different social structure and environment. Feudal trends were very strong in Sindh. The majority of the population was rural and under the influence of the feudal structure. An educated, professional class was almost missing (236).

The needs of the new State machinery made it possible for the migrant population of Sindh, the mohajirs (237), to gain a more prominent role in the State structures than the indigenous Sindhis. They, therefore, enjoyed a share in power disproportionate to their numbers. On the other hand, the indigenous Sindhis have suffered discrimination by the State and have felt alienated from the Punjabi-dominated State. The Punjabis accommodated the mohajirs, because the State was promoting an ideology (238) shared by the mohajirs and, up to a time, there was no conflict of interest. The mohajirs gained particular prominence in the civil bureaucracy. Pakistan adopted Urdu as the national language, although it is not the native language of any part of Pakistan, and is, essentially, a language of the Muslims of Uttar Pradesh. This concession to the mohajirs has been particularly resented by the Sindhis. The Punjabi ruling elite, on the contrary, favoured this adoption, finding it suitable to the policy of imposing a semblance of homogeneity. Sindhi resentment has shown itself in language riots that erupted in the province in 1972.

The Urdu-speaking mohajirs, numbering nearly one million at the time of Partition, formed almost one-fifth of Sindh's population in 1951 (239). This changed Sindh's demographic balance and created an urban-rural divide in Sindh, as the mohajirs became concentrated in the urban areas and the Sindhis in the rural ones. Disparity in development of Sindh's urban and rural areas is one indicator of the discriminatory development policies of the central government. It was during the tenure of Zulfikar Ali Bhutto as Prime Minister that the Sindhis received more attention with regard to their development and share in power. The mohajirs, however, felt that this was a deliberate attempt at promoting Sindhis at their expense. Sindhis were given preference through quotas in employment and education fixed for the rural areas of Sindh. It is also important to take into consideration the fact that over the years a Sindhi professional class had begun to emerge. Urbanization of population from rural Sindh started as the feudal structure became more oppressive and less able to support the landless peasants economically. These two factors were responsible, to a large extent, for the perception by the mohajirs that they were now faced with competition in areas hitherto not intruded into by the Sindhis. It was largely a case of declining privileges, rather than active discrimination against the Urdu-speaking population in Sindh.

The induction of a popularly elected government headed by a Sindhi Prime Minister in 1971, with the Sindh government and legislature also being overwhelmingly composed of ethnic Sindhis, made the mohajirs feel vulnerable and insecure. They had felt more a part of the establishment under military governments. This was the first time that the mohajirs felt the need to establish themselves as a separate entity within Sindh, in order to establish their place in electoral politics. They claim a majority in urban Sindh, a claim strongly challenged by the ethnic Sindhis. However, it is also true that the Sindhis feel threatened that they may become a minority within their own province. The demographic reality of Sindh is shrouded in claims and counter-claims which are difficult to confirm or reject because no census has taken place in Pakistan since 1981 (240). Holding of census has become a sensitive issue in Sindh politics, and this sensitivity is largely responsible for the delay in conducting the national census due since 1991.

Amidst these conflicts, the Mohajir Qaumi Movement (MQM) (241) came into existence, asserting a mohajir nationalist identity, and laying territorial claims on urban Sindh. The emergence of the MQM is a phenomenon much discussed in the political literature in Pakistan, and different motives are attributed to its founders. It has been claimed that the MQM was created by military intelligence services under the direction of Zia-ul-Haq, in order to build a political force in Sindh to combat the popularity of the Pakistan People's Party, and to highlight the perception of a conflict of interest between the two largest communities in Sindh. The organization was

formed in 1986 by Altaf Hussain, a Bihari immigrant from Bangladesh. Up to that point, the Jamaat-i-Islami had received support of the mohajir community in Karachi and some of the other towns of Sindh. The MQM was initially a breakaway faction of the Jamaat student wing and called itself the All Pakistan Mohajir Students Organization (APMSO). The MQM did voice muhajir demands and was able to win the local body polls in Karachi and Hyderabad in 1987, as well as a majority of the seats in the urban constituencies of Sindh in provincial elections. But it used violence for ethnic mobilization and political control over the muhajir community in Sindh, a province where communal tensions already existed.

The influx of economic migrants from other parts of the country into Karachi created tough competition for the mohajirs over jobs and other advantages, which were fast dwindling with the rapidly increasing population of the mega-city. The first violent clashes in Karachi took place between the mohajirs and the Pakhtun (242) migrants. The MQM attracted mohajir support, especially amongst the unemployed youth. Support increased after the organization was able to demonstrate its ability to deploy armed groups against ethnic rivals to establish mohajir control over Karachi and other cities in Sindh. Violent ethnic clashes ensued in the wake of this bid for power by the MQM. The cities of Karachi and Hyderabad were particularly affected. Ethnic riots between Sindhis and mohajirs led to bloodshed and massive displacement of both Sindhi and mohajir populations in 1986 and 1987.

Though the country had returned to civilian rule in 1986, military rule effectively ended only with the death of Zia in 1988. Elections were held, and Benazir Bhutto came to power as the popularly elected Prime Minister. The 1988 elections made the urban-rural divide more pronounced in Sindh, with the PPP dominating the rural constituencies and the MQM winning a significant number of urban constituencies. The PPP government, failing to win a clear majority, initially entered into an accord with the MQM to retain its hold over the centre. However, the demands of the MQM were difficult for the PPP to fulfil without losing its support amongst the ethnic Sindhis, and the break between the two parties led to a campaign of violence by MQM in urban Sindh. The Army was once again deployed for restoring order. According to one estimate, nearly 15000 troops were deployed in urban Sindh by mid-1990 (243). The conflict intensified as the State machinery was ruthlessly used in operations against the MQM, resulting in mohajir casualties. Extra-judicial killings, detention without charge and general harassment of the mohajir population increased the resentment of the mohajirs against the government on the one hand, and strengthened their affiliation to the MQM on the other.

The ouster of the Benazir Bhutto government in 1990 and its replacement by the PML did not change the situation in Sindh. The army remained in control throughout the period of the PML government from 1990 to 1993. The MQM was given a favoured position in Sindh until mid-1992, and the PPP was targetted by the MQM with the help of the Sindh Chief Minister (244). Many PPP workers were killed by MQM activists and the police. It was at this time that the MQM split into rival factions which committed atrocious acts of violence against each other. The MQM broke away from the PML government in June 1992. Another crackdown against the MQM followed this break, in the wake of killings and factional violence in urban Sindh. The Human Rights Commission reports that, by the end of November 1992, as a result of the army's "operation clean-up", 6,000 MQM members had been arrested, 11,000 houses searched, and 300 people killed in what the law enforcement forces claimed to be skirmishes (245). 1994 saw the worst outbreak of violence. The Human Rights Commission calls it 'one of the blackest years in the country's recent history' (246). The Army was withdrawn from Sindh in November 1994. The civilian forces, aided by the Rangers, were unable to control the terrorism unleashed in Sindh. They also used excessive force, abused the authority vested in them, and caused unwarranted and unjustified harassment of people. Reports of illegal detention, extra-judicial killings and involvement of the police in criminal activity were made by national and international organizations.

Political activism in Sindh has undoubtedly taken the form of violent militancy. Politically motivated violence against rival factions and acts of terrorism have caused loss of innocent lives. The common citizen feels threatened and insecure in this atmosphere of violence. Large parts of the city of Karachi are controlled by armed factions. Violent feuds between these factions have taken a heavy toll of life and property. The inhabitants of these areas live in a perpetual state of fear. They are denied the freedom of movement, and are without any State protection. The Human Rights Commission of Pakistan reported widespread extortion by armed political factions in a report on the Karachi situation in 1995 (247). The State has responded in an inappropriate manner by using violence, excessive force and illegal methods in an attempt to restore order. The conduct of the law enforcement agencies has reduced the credibility of the administration, and people's confidence in the justice system is at a low ebb. At the same time, outrage against non-State violence has been mitigated by State brutality, and many see terrorism as a reaction to State excesses. Failure of successive governments either to end the conflict through political dialogue, or to control violence, has resulted in bolder action by the militants. This has in turn been used by law enforcement agencies to justify violation of their discipline, and to ignore citizens' right to life, liberty and freedom of movement.

## WOMEN

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Women in Pakistan are highly vulnerable to violation of their rights to life, liberty and security of person. Where social attitudes, cultural practices, and religious precepts have allowed violence against women, the law has failed to provide either adequate safeguards against violence, or to promote attitudes conducive to the women's enjoyment of their fundamental rights. State institutions lack both sensitivity and capacity to deal with gender-specific violence. Law enforcement seldom acts to aid women victims, and judicial pronouncements have frequently reflected biases that indicate the strong influence of prevalent social attitudes.

Sexual assault on women, including rape, remains one of the commonest crimes. The Human Rights Commission estimates that a

rape occurs every three hours (248). No estimate, however, can be made of the numerous cases that go unreported. Incidents of gang rape have increased to an extent that legal provisions for its punishment had to be added to the existing law (249). The provisions of the Pakistan Penal Code related to rape were repealed by the Islamic penal law in 1979 (250). This law has become extremely controversial, and the women's movement has consistently advocated for its repeal. The main reasons for the position against the law relate to the difficulty in prosecution for rape, as well as the lacuna in the law, which exposes the victim to prosecution if rape is not proved. The Islamic law of evidence applicable to cases of rape requires the evidence of four adult male Muslims in order for the penalty of had (251) to be imposed. According to the law, testimony of the victim requires strong corroboration for conviction by the court. On the other hand, where sexual intercourse is established, but the absence of consent cannot be proved, the presumption that such intercourse occurred with the woman's consent can place her at a risk of prosecution.

Since the enforcement of the Islamic penal law of zina, women's involvement with the criminal justice system has increased phenomenally. Their contact with the police and other investigating agencies has exposed them to the brutality of an undisciplined force, resulting in every form of custodial violence against women. The incidence of sexual assault on women in police custody has increased to such an extent that the law had to be amended to disallow remand of women to police custody (252). While numerous reports of custodial violence have come to light, no action is taken against persons responsible for this violence. The only known case in which State-initiated prosecution did take place was that of Aasiya Bibi (253). The police officer was acquitted for lack of evidence. It was only as a result of a campaign by women's organizations that the case was even registered and brought to trial.

Women suffer serious violence in the domestic sphere at the hands of members of their own family. The underlying cause of this violence is the attempt to impose control over women's right to freedom of movement, decision-making and exercise of autonomy in any aspect of life. Women's sexuality is particularly controlled, and any assertion of her sexuality provokes a strong and violent reaction. Killing women in the name of family or tribal honour is accepted as a social practice in all social settings in the country. Courts have condoned the practice by awarding lesser sentences in such crimes, which has encouraged it (254). Another practice, common in the Punjab, is cutting off a woman's nose if she is suspected of having an extra-marital relationship.

The incidence of wife-battering is so common that it is not even recognized as a pernicious form of violence against women. Such incidents are rarely reported, and when reported, rarely receive support from the law enforcing agencies. Such incidents are treated as issues that should be settled within the family without intervention of the State. Even in cases where women receive serious injuries and want to file complaints, they are advised by the police to reconcile with their husbands, as any matrimonial dispute would bring dishonour to them. This attitude has discouraged women from seeking redress, even when they suffer continued and extreme violence. The only known case in which the State prosecuted the husband for inflicting grievous injury on the wife is that of Zainab Noor in 1994. This case became an exception because of the direct intervention of the Prime Minister, under whose directions the police registered a criminal case against the husband, and brought it to court. The husband was sentenced to thirty years' imprisonment, because of the heinous nature of the crime and the serious injuries inflicted on the wife (255).

Women's right to liberty is restricted in the name of modesty, protection and prevention of immoral activity. Sui juris adult women are placed in involuntary confinement under many circumstances. Where a case of abduction of a woman is registered, upon her recovery she is often forced to reside under the custodial control of institutions in order to ensure her appearance in courts at the time of trial, as she is not only a prime witness, but is treated as crime property. In cases of a woman marrying without the consent of the family, intervention of the court is frequently sought by the family to separate the couple on grounds that the marriage is invalid, and co-habitation of the couple would amount to the commission of the offence of zina. In such cases women are incarcerated in institutions, until a decision on the status of their marriage is taken. All this is done in the name of social morality. Courts have been known to refuse issuance of the writ of habeas corpus seeking the liberty of a woman on the grounds that her right to liberty is subject to conformity to social norms, and any suspicion that she may not abide by the standards of morality can disentitle her from receiving relief in equity (256).

The issue of women's fundamental rights to life, liberty and security of person is foremost amongst the concerns of the women's movement in Pakistan. The movement has launched a forceful campaign in this regard and has been successful in getting some measures adopted for reducing the potential for violence on women. Benazir Bhutto's government established women's police stations for dealing with crimes against women, and to investigate crimes in which women were accused. The experiment has not been very successful, but improvements are under consideration which might prove to be more effective in achieving the objectives of this initiative. It is, nevertheless, true that a substantial change in social attitudes and institutional responses to violence against women is necessary to create an environment in which women can truly enjoy the fundamental rights guaranteed in the Constitution, without distinction on the basis of gender.

## CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

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The right to life is guaranteed in the Constitution (257). However, this right is subject to law. The death penalty continues to be imposed. Originally, murder was the only offence for which the Pakistan Penal Code prescribed the death penalty. Offences in the Penal Code as well as under special laws for which death penalty is now imposed have increased in number (258). Trafficking and transport of drugs was made a capital offence in 1993 (259). Islamic punishment for adultery is death by stoning (260). Murder remains a capital offence. However, the law regarding offences against the human body was amended in 1990 to bring it in accordance with Islam. While

there are serious objections to this law as concerns its conflict with human rights standards, murder is now compoundable and the family of the victim may accept compensation, which would result in avoiding the death penalty. Benazir Bhutto's Cabinet announced the decision to amend the law, thus barring the imposition of the death penalty on women. In the face of strong criticism by the religious lobby, it is not certain that the decision will lead to a change in the law. In any case, no woman has been executed since 1947, even though sentences of death are awarded to women and have been confirmed by appellate courts (261).

The death sentence is executed by hanging. Death by stoning is prescribed in Islamic penal law. Death by decapitation was also awarded by a court but never executed. Pakistan has a high rate of execution of death sentences. Amnesty International has expressed concern over this in its reports, as have the domestic human rights organizations (262). The Constitution gives the President power to grant pardon, or other forms of reprieve, including commutation of the death penalty. This power has now been limited by the requirement of consent by the heirs of the victim in cases of murder (263). The Human Rights Commission of Pakistan and the Pakistan Chapter of Amnesty International have publicly campaigned for the abolition of capital punishment. A federal Ombudsman, Justice A.S. Salaam supported the HRC position (264).

Corporal punishment is prescribed by all Islamic penal laws enforced in Pakistan. Imprisonment is frequently accompanied by the imposition of the punishment of whipping. Punishments for offences against the human body can certainly be defined as cruel and inhuman, as these punishments include the infliction of the same injury on the body of the offender as the one inflicted by him/her on the victim. These punishments are to be executed by a medical officer in the presence of the victim or his/her heirs. Amputation of hands and feet is prescribed as the extreme penalty for offences against property (theft) (265). While sentences awarding such punishments have been pronounced, none have yet been executed.

The Prison Rules allow the imposition of fetters on prisoners as a means of enforcing discipline. A large number of prisoners in Pakistan's jails are subjected to this inhuman form of restraint. Fetters are used even on children. Women have been allowed exemption from the imposition of fetters. In a 1994 order by the Lahore High Court partial relief was granted to children through a directive to the prison authorities not to impose fetters on child prisoners under trial in the Punjab (266).

## PREVENTIVE DETENTION

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The right to liberty guaranteed in the Constitution is subject to law. While there are legal safeguards in the normal criminal procedure against detention without charge or trial, extraordinary legislation allows for preventive detention with powers to the executive that can, and are, used arbitrarily. The Constitution exempts laws of preventive detention from applicability of the guarantee against deprivation of liberty. Laws for preventive detention deal with "persons acting in a manner prejudicial to the integrity, security or defence of Pakistan or any part thereof, or external affairs of Pakistan, or public order, or the maintenance of supplies or services" (267). Laws for the maintenance of "public order" (268) and other provisions regarding security for keeping the peace are also used for preventive detention (269).

## ILLEGAL DETENTION

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Detention without charge and without lawful authority is a common form of excess committed by the police and law enforcement agencies. Many times, individuals detained in this manner are released only after extorting payment from them. A serious concern for human rights groups has been the practice of detaining people in unauthorized detention centres, and keeping them incommunicado for long periods. The superior courts are swamped with petitions against the police for illegal detention. Relief is available through judicial intervention, but it is frequently difficult for the courts to effect the production of detainees, especially in cases where they are kept in the unauthorized "safe houses". It is also a common practice for the police to take persons accused of an offence into custody without formally recording the arrest to avoid their production before judicial authority to obtain remand, as prescribed under the law (270).

## TORTURE, DEATH IN CUSTODY AND EXTRA-JUDICIAL KILLINGS

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Article 14(2) of the Constitution of Pakistan states "No person shall be subjected to torture for the purpose of extracting evidence". The wording of this Article is unfortunate, as it suggests that security against torture is available only if a confession is extracted in the course of such treatment. It is true that torture is widely used during crime investigation. Systematic use of torture as an instrument of humiliation and punishment by the police and other law enforcement agencies is also a matter of serious concern. The press, human rights groups, both national and international have reported most heinous methods used for inflicting pain and causing humiliation to persons under custody. This has also been noted by the United Nations Special Rapporteur on Torture in a 1996 report (271).

Scores of deaths in police and prison custody are reported every year. The majority of such incidents are not properly inquired into, and only rarely have those responsible been prosecuted. Extra-judicial killings have reached enormous proportions and are most frequent in Sindh and Punjab. Killing of persons accused of crime in fake skirmishes has become a common occurrence. It is regrettable that some of the superior officers of the police have admitted and justified these killings on the grounds that laws and the judicial system are too lenient towards these criminals. This is nothing more than an attempt by the law enforcement and investigation agencies to cover up their own inefficiency and inadequacies. The ultimate admission to State atrocities was the dismissal of the



Benazir government on the grounds, amongst others, of an unacceptably high number of extra-judicial killings in Karachi (272).

## SLAVERY, FORCED LABOUR, TRAFFIC IN HUMAN BEINGS

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The Constitution forbids slavery in any form and prohibits forced labour and traffic in human beings. Child labor is prohibited for children under the age of fourteen specifically in factories, mines and other hazardous employment. The Constitution regards slavery as being "non-existent" in Pakistan (273). However, slave-like practices do exist together with forced and bonded labour. The latter practice is prevalent in both the industrial as well as the agricultural sector. While progress has been made in eliminating bonded labour from some industries (274), much remains to be done in the agricultural sector. The Special Task Force of the Human Rights Commission in Sindh has drawn attention to bonded and forced labour and slavery-like practices in rural Sindh. At the initiative of the Commission, between 1995 and 1997 a number of peasants were freed from private jails maintained by some of the powerful feudals of Sindh.

It was mainly through the use of the constitutional jurisdiction of the High Courts that the practice of bonded labour was made visible and relief obtained for the affected population. Hundreds of bonded labourers were released by action of the High Courts in petitions against illegal confinement of the victims, especially in the brick kiln industry. The Supreme Court, taking suo moto notice, pronounced a landmark judgment prohibiting bonded labour (275). The Bonded Labour System (Abolition) Act of 1990, enforced the law against bonded labour in pursuance of the prohibition in the Constitution. Bonded debt was abolished through this legislation and monitoring mechanisms were provided for prevention of the incidence of bonded labour. This is also one of the few laws related to human rights passed by the Parliament in the post Zia-ul-Haq period (276). The law was passed during the first Benazir Bhutto government (1988-1990).

The state of security rights in Pakistan indicates a lack of respect for the rule of law, human dignity and human life in the attitudes and practices of State authorities. The structures created by the colonial masters to rule the population are now used by the State authority to impose order. A service orientation is totally missing in the conduct of law enforcement authorities. Administrative structures, without adequate monitoring and accountability mechanisms, have tolerated indiscipline and arbitrariness at all levels of governance. It is, therefore, not surprising that excesses are committed with impunity by those in authority. Lack of proper training in methods of law enforcement and investigation, as well as an absence of human rights consciousness has resulted in the use of excessive force and resort to illegal methods in the performance of their functions by law enforcement personnel. An unstable political environment has added to the problems of an already insecure population. Pakistan needs a continuous political process for democracy to take roots, strong enough to inculcate a respect for human rights both in the attitude of authority as well as in society as a whole. For this to come about, the role of the State and citizens' perceptions about State authority need to undergo substantial change. The State must become a facilitator, rather than a controller. State authority must be seen as a resource available to the citizen for the enforcement of rights, not for their violation.

## NOTES

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**208)** Article 9 of the Constitution. [Return](#)

**209)** Report of Special Rapporteur on Torture; UN Economic and Social Council Document No. E/CN.4/1997/7/Add.2, 15 October 1996. [Return](#)

**210)** See Ahmed, Samina, *The Military and Ethnic Politics, Pakistan 1995-96*, Edited by Charles H. Kennedy and Rasul Bakhsh Rais, Vanguard Publications, 1995. [Return](#)

**211)** Some groups of militants are believed by many to have been trained by the Pakistan military agencies and financed by the United States during the Afghan conflict in the 1980s. [Return](#)

**212)** The two groups principally known for their militancy and involved in committing violence are the Anjuman Sipah-e Sahaba and the Lashkar-e-Jhangavi on the Sunni side, and the Sipah-e-Mohammadi on the Shia. [Return](#)

**213)** In September 1996, sectarian violence erupted in the Kurram Agency in the Tribal Area in the north of the country, resulting in a toll of 200 dead and unestimated damage to property. Sunni fundamentalist groups have attacked other denominations. The Zikris and the Ismailis have been targetted in Balochistan and the Northern Areas, respectively. [Return](#)

**214)** Human Rights Commission of Pakistan reports the killing of twenty-two persons in two Shia mosques in Karachi in February 1995. State of Human Rights in 1995. [Return](#)

**215)** State of Human Rights in 1996 - Report of the Human Rights Commission of Pakistan. [Return](#)

**216)** A bill presented in the National Assembly by the government of Benazir Bhutto in January 1993 was shelved by the government itself and still remains forgotten. [Return](#)

**217)** 21 religious parties formed the Milli Yakjehti Council (National Solidarity Council) in an attempt at bridging the sectarian

divide. However, the two main militant groups of Shias and Sunnis were the first to withdraw from the Council, claiming imposition on the basic tenets of their faith in the provisions of the code of ethics proposed by the Council. [Return](#)

**218)** The Preamble to the Constitution affirms the commitment of the State to make provision for the freedom of religion for minorities, and Article 36 affirms the responsibility of the State to protect the "legitimate rights and interests of minorities" as a principle of policy. [Return](#)

**219)** See section on Participation Rights. [Return](#)

**220)** The Muslims constitute nearly 90% of the population of Pakistan. [Return](#)

**221)** A commission of inquiry was set up under the chairmanship of a Judge of the Supreme Court, whose findings were published as the Munir Commission Inquiry Report. The issue of religious intolerance and its potential for causing violence is discussed in detail in this Report. [Return](#)

**222)** Sections 298-B and 298-C of the Pakistan Penal Code. [Return](#)

**223)** Human Rights Commission reports 2643 cases registered for different offences under the Ordinance between April 1984 to April 1996. State of Human Rights in Pakistan, 1996. [Return](#)

**224)** Section 295C of the Pakistan Penal Code. [Return](#)

**225)** Section 296 of the Penal Code. [Return](#)

**226)** Section 295B of the Penal Code. [Return](#)

**227)** The State of Human Rights in Pakistan reports of the Human Rights Commission of Pakistan list numerous such cases from 1992 to 1996. [Return](#)

**228)** Landless peasants, working as labourers on large landholdings. [Return](#)

**229)** Recent estimates show that 60-65% of Pakistan's army officers are of Punjabi origin, rising to over 70% in the high command. The Pakhtun (from NWFP) component of the officer corps is between 30-33%. The Baloch component of the army is between 2-3%. Sindhis represent less than 1% of the army's total strength. Ahmed, Samina; The Military and Ethnic Politics, Chapter 7 of "Pakistan 1995-96", Edited by Charles H. Kennedy and Rasul Bakhsh Rais. Vanguard Books (Pvt) Limited, 1995. [Return](#)

**230)** Economic Survey, 1995-96, Statistical Appendix, pg. 13 Table 1.5: Published by Government of Pakistan, Finance Division, Economic Advisor's Wing, Islamabad. [Return](#)

**231)** The political status of the Sindhis in Pakistan is the same as under colonial rule. The British showered the Muslim Punjabis with favours in return for their services to the State. The Sindhis were marginalized because they resisted colonial rule. [Return](#)

**232)** Sindh 1986 : Human Rights Commission of Pakistan, Sindh Investigation Report, published in January 1987. [Return](#)

**233)** Ibid. and The Sindh Report ; A Province in Turmoil, Mahmood, Sohail: Classic Publication, July 1989. [Return](#)

**234)** The pre-Partition Punjab was divided as a result of the partition of India, parts of west Punjab having been included in the new State of Pakistan. There was an exodus of Hindu population from west Punjab and of Muslim population from east Punjab. [Return](#)

**235)** Uttar Pradesh (UP) was a Muslim minority province of undivided India in which the movement for Pakistan had originated. [Return](#)

**236)** At the time of Partition, the total population of Sindh was 3.9 million as compared to 28.5 million in Punjab and 48.4 million in Uttar Pradesh (UP). The Muslim population of these provinces was 2.8 million (71.8% of the total), 14.9 million (52.3% of the total), and 7.2 million (14.9 % of the total), respectively. Literate in English amongst the Muslim population of twenty years and over in these provinces were 4900 in Sindh, 58800 in Punjab and 49400 in UP. Alavi, Hamza. Pakistan and Islam: Ethnicity and Ideology; State and Ideology in the Middle East and Pakistan, edited by Fred Halliday and Hamza Alavi, Monthly Review Press, New York, 1988. [Return](#)

**237)** This population is still categorized as the "mohajirs" (refugees). [Return](#)

**238)** For instance the "two-nation theory", which essentially delegitimized the assertion of ethnic identity or regional interests in Pakistan. [Return](#)

**239)** Ahmed, Samina; The Military and Politics; "Pakistan 1995-96", Edited by Charles H. Kennedy and Rasul Bakhsh Rais; Vanguard Publications, 1995. [Return](#)

- 240)** A census is to take place every 10 years. One was finally carried out in February and March, 1998, but the expected date of publication of the results has not been announced as of this writing (May, 1998). [Return](#)
- 241)** The MQM is a political organization, claiming to represent the mohajir population of Sindh. It has a well organized structure in urban Sindh. Karachi, Hyderabad and Sukkar are known to be their strongholds. [Return](#)
- 242)** From the NWFP. [Return](#)
- 243)** Ahmed, Samina; The Military and Ethnic Politics; Pakistan 1995-96; Edited by Charles H. Kennedy and Rasul Bakhsh Rais; Vanguard Publications, 1995. [Return](#)
- 244)** Jam Sadiq Ali. [Return](#)
- 245)** State of Human Rights in Pakistan 1992, Human Rights Commission of Pakistan publication, 1993. [Return](#)
- 246)** State of Human Rights in Pakistan, 1994, HRCP publication, 1995. [Return](#)
- 247)** Karachi: Quest for a Way Out; An HRCP Report, June 1995. Human Rights Commission of Pakistan, 1995. [Return](#)
- 247)** State of Human Rights in Pakistan, 1996. HRCP publication, 1997. [Return](#)
- 249)** Death penalty for gangrape has been added to the provisions of the Zina (Enforcement of Haddood) Ordinance, 1979. Women's organizations have, however, not supported this provision, as they oppose the death penalty as well as the Zina Ordinance. Another reservation about the law expressed by these organizations is that because of the harsh punishment, there will be more pressure on the victim, and prosecution will be even more difficult. [Return](#)
- 250)** Offence of Zina (Enforcement of Haddood) Ordinance VII of 1979, more commonly known as the zina law. This law makes extra-marital sex an offence. When the offence is committed with the consent of both parties, it is called zina, and when sexual intercourse is forced upon one party by another it is known as zina bil jabbar. [Return](#)
- 251)** Islamic punishment for an offence prescribed by the Koran. This is the extreme penalty prescribed in the law of zina. [Return](#)
- 252)** Section 167 of the Pakistan Penal Code was amended in 1995. [Return](#)
- 253)** Aasiya Bibi was arrested on charges of theft filed by her neighbour. She was illegally confined, tortured and sexually assaulted while in police custody. [Return](#)
- 254)** Karo kari is the name given to the killing of a woman by her family or tribe if she is suspected of any illicit sexual relationship. [Return](#)
- 255)** Zainab Noor's husband was a local priest who had brutally injured his wife by shoving a burning rod into her private parts. She has become permanently crippled because of the injuries. [Return](#)
- 256)** See the case reported in Pakistan Legal Decisions, 1971 as PLD 1971 Lahore 128. A more recent case is that of Saima Waheed, which has received international publicity. Saima Waheed spent eleven months in a women's shelter on the orders of a court deciding the issue whether a marriage of a Muslim woman contracted without the consent of her guardian (the father) is valid under Islamic law. [Return](#)
- 257)** Article 9 of the Constitution. [Return](#)
- 258)** Kidnapping and abduction for ransom carries the death penalty since 1990 (Section 365-A of the Penal Code). Stripping a woman and exposing her to public view was added as an offence in 1984 and carries the death penalty (Section 354-A of the Penal Code). [Return](#)
- 259)** Dangerous Drugs Act, 1930, was amended to introduce the death penalty for trafficking and transport of heroine, cocaine, etc. [Return](#)
- 260)** While sentences of stoning to death have been awarded, none have been executed ever since the law was promulgated in 1979. [Return](#)
- 261)** Fifteen women are on death row in Punjab province awaiting decisions on appeals or mercy petitions to the President. [Return](#)
- 262)** The State of Human Rights Report, 1992, of the Human Rights Commission of Pakistan reports eleven executions in the Punjab province on 15 November 1992. [Return](#)
- 263)** The Criminal Procedure Code was amended after enforcement of the Qisas and Diyat Ordinance, curtailing powers of the President to act in this behalf, without consent of the victim's family. [Return](#)

- 264)** State of Human Rights in Pakistan, 1996. HRCP publication, 1997. [Return](#)
- 265)** Offences Against Property (Enforcement of Had) Order, 1979. [Return](#)
- 266)** In Criminal Miscellaneous No. 200 of 1992. [Return](#)
- 267)** Article 10 of the Constitution. [Return](#)
- 268)** Maintenance of Public Order Ordinance of 1960. [Return](#)
- 269)** Provisions of Chapter VIII of the Criminal Procedure Code and laws regarding vagrancy are frequently used for detention. [Return](#)
- 270)** Under section 167 of the Criminal Procedure Code, every person who is arrested must be produced before a magistrate within twenty-four hours of the arrest. [Return](#)
- 271)** Economic and Social Council document No. E/CN.4/1997/7/Add.2 dated 15 October 1996. [Return](#)
- 272)** The Presidential proclamation dissolving the National Assembly under Article 58(2)(b) of the Constitution, dated 5 November, 1996. [Return](#)
- 273)** Article 11 of the Constitution. [Return](#)
- 274)** Notably so in the brick-kiln industry. [Return](#)
- 275)** Darshan Masih case, Constitutional Petition No.1 of 1988. [Return](#)
- 276)** Martial Law was lifted on 1 January, 1986, but Zia-ul-Haq continued as President till his death in a plane crash in August 1988. [Return](#)

### **PART 3: CONCLUSIONS AND RECOMMENDATIONS**

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#### **CONCLUSIONS AND RECOMMENDATIONS**

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##### **DEMOCRATIC DEVELOPMENT**

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Democracy in Pakistan remains fragile and strained. The legitimacy gained through elections is merely superficial, and has not created a sense of participation amongst the population. Imbalance in power and inequalities at different levels of social and political life persist, making the availability of opportunities unequal.

The development of the political process is constrained by the legacy of long periods of military rule. Parliamentary democracy continues to be challenged by the constitutional restraints imposed on it in order to retain a share of power for the military establishment. Recent attempts by the Parliament to assert its superior claims to govern are, however, encouraging ([277](#)).

Issues of national integration are critical to Pakistan's democratic development. Federalism can only succeed as a system of government if it is strongly complemented by provincial autonomy.

The heterogeneous nature of Pakistan's population needs to be recognized and interests of the different ethnic groups have to be accommodated in order to establish their sense of participation.

Aggressive claims to an ideological base for the State have resulted in different forms of intolerance. Religion has become a basis for division of population into first- and second-class citizens. Classification of citizens into majority or minority on the basis of religion is not a healthy sign for democracy.

There is no tradition in Pakistan of an interactive relationship between the State and civil society. Sporadic confrontation between State authority and organizations such as trade unions or political parties cannot take the place of constructive engagement of civil society institutions to check and balance State organs. Recent years have seen the emergence of a civil society in Pakistan. However, State institutions have yet to fully recognize their presence, or the legitimacy of their interventions.

The exercise of the fundamental rights to freedom of expression and association have improved considerably. This positive development can be utilized for bringing about a change in social attitudes and in creating a better environment for fostering democracy. Any lingering threats to these freedoms must be removed.

While the potential for participatory democracy has increased since 1988, centralized control of governance must be loosened in order to promote democracy at the grassroots. Power tends to become absolute if the sphere in which it is concentrated remains small. A crucial solution to vestiges of authoritarianism and elitism is the devolution of authority.

The performance of representative institutions has done little to instil support for democracy. With access to the State not improving, people's expectations are doomed to disappointment. This has spawned a culture of patronage, as the patron-client relationship limits autonomy of access. The popular will to demolish such practices is, however, not strongly in evidence.

Democracy, though adopted as a system of governance, has yet to find roots in the attitudes both at the level of the State and society. Feudal structures and traditions, class stratification, and an environment of discrimination and intolerance still prevail, and have become a hindrance in the democratization of the State and its institutions. While the poor, in general, remain powerless, women and minorities are visible victims of non-democratic practices and attitudes.

The functioning of the representative institutions themselves leaves much to be desired. Concentration of parliamentary representation in the hands of specific social and economic classes has created an imbalance in the representation of the interests of different groups. Policies beneficial to the country at large, and which would curtail the privileges of these classes, are strongly resisted (278). They have failed to demonstrate a responsible attitude towards the interest of the people, and politics for them has become more a game of "tit for tat" amongst the different political parties (279). However, prospects for democracy are firmly linked to the strength of representative institutions, and its sustainability depends on their conduct.

## RECOMMENDATIONS

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1. Efforts should be made to generate national consensus on issues of governance. The smaller provinces must be more involved in decision-making on national issues. Plurality needs to be accommodated in these policies. The State must refrain from suppressing legitimate assertions of identity. On the contrary, national integration and reconciliation must be sought by creating a sense of "common good" in the development and strengthening of democracy in the country.
2. Steps for decentralizing power are a priority. Local bodies must become an essential institution of governance, and arrangements for holding elections for local bodies must be urgently made. The local bodies Law must be amended to broaden the power base, and to make devolution more effective. Local bodies must be recognized as the third tier of government, and the Constitution amended to provide for this. Representation of the broad spectrum of interests including those of workers, peasants, women and youth should be ensured as promised by the Constitution.
3. Political parties must promote democratic culture. They must demonstrate their commitment to democratic practice by holding elections within their own organizations. Parties must encourage wider participation by broadening the social and economic base of their membership.
4. Parliamentary conduct of parties must be radically improved. Political polarization has seriously undermined the political process and has resulted in errors of governance. Rival parties must demonstrate a more responsible attitude towards each other in the interest of democratic development.
5. An enabling environment for civil society should be created, for example, by the removal of restrictions on the functioning of NGOs. The electronic media must be freed from government control. The electronic media and the press must play a more active role in engendering a progressive and forward-looking outlook. Civil society institutions must build accountability mechanisms and maintain transparency in their own work, and at the same time monitor the conduct of State institutions.
6. Academic freedom must be guaranteed and State interference in universities and other institutions of higher studies be eliminated. Interference in research activities, preparation of textbooks, and administration of student affairs must cease. Attempts to make academic work conform to State-sponsored ideology must be strongly denounced.
7. Laws placing illegal and arbitrary restrictions on the fundamental rights guaranteed in the Constitution must be repealed. These laws have been used by the State for political victimization and persecution of dissidents. Restrictions on freedom of the press, or practices that can afford the State opportunities to control press freedom must be abolished. Threats by non-State actors against journalists, lawyers, human rights activists and academics, designed to curtail the freedom of expression and performance of professional duties, must be treated as criminal acts and be systematically prosecuted by the State.

8. The right to franchise must be made equal throughout the country. The system of separate electorates must be removed to improve the participation rights of minorities. The extension of adult franchise to the Federally Administered Tribal Areas for the first time in the 1997 elections is an encouraging sign. Further steps must be taken to include these areas in the policy and legislative initiatives applicable in the rest of the country.
9. Religious intolerance must be discouraged without, however, repressing religious freedom or the freedom of expression. The latter must, of course, remain subject to the respect for the security and dignity of others. The media and other civil society institutions must face the challenge of resisting religious orthodoxy. They must build public opinion on the issue. This would help discourage the government from conceding to the forces of orthodoxy and strengthen its will to take necessary steps to eliminate intolerance.
10. Laws infringing on the freedom of religion must be repealed. The ant- Ahmedi laws merit special mention in this regard. Laws used and misused as instruments of persecution on religious grounds must also be repealed. The efficacy of the law of blasphemy needs to be reappraised. This law in particular needs review to prevent abuse by religious extremists.
11. Religious and sectarian motivated crime must be treated with perspicacity, but no false sensitivities should inhibit the prosecution of those responsible, lest an impression be conveyed that impunity can be expected for crimes committed in the name of religion.
12. More respect for women's rights to equality, freedom from discrimination and protection against violence needs to be shown both by State institutions and the society in general. Legislation for changing social attitudes must receive full support of public policy, if it is to succeed. Women's fundamental rights must not be diluted or be compromised at the altar of religion, cultural practices or tradition. Laws discriminating against women must be reformed to bring them into conformity with CEDAW, which was ratified by Pakistan in February 1996.
13. The political participation of women must be increased through affirmative action, if necessary. Special measures should be adopted for achieving women's involvement in mainstream politics.
14. Pakistan's record of ratification of UN human rights conventions improved with the ratification of CEDAW and the Convention on the Rights of the Child. However, most of the major human rights conventions remain unratified. Pakistan must, in particular, ratify the Covenant on Political and Civil Rights, and that on Economic, Social and Cultural Rights. These should become the standards against which rights are tested and State conduct evaluated.

## **RULE OF LAW AND THE ADMINISTRATION OF JUSTICE**

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Failure of the judicial system to dispense justice has eroded respect for the rule of law. This has led to a tendency in the general public to circumvent the law. The perception that the judicial system does not work has become common, and is used to justify excesses by the executive branch of government. Many laws do not conform to people's sense of justice and, therefore, do not receive the support necessary for the promotion of the rule of law. Laws that discriminate on the basis of gender, religion, and economic and social status generate dissatisfaction and resentment. Legislation using non-representative procedures and by authorities whose legitimacy is contested, has resulted in the population having no feeling of ownership towards the law. It is difficult to sustain either the credibility or the integrity of the system of justice in these conditions. Steps necessary for ensuring independence of the Judiciary need to be complemented by measures to correct the judicial system. The crisis linked to the weaknesses in the administration of justice has suscitated oppressive measures. The resort to special courts and extraordinary legislation has proved counter-productive. The creation of a parallel legal system through the enforcement of Islamic penal laws and the establishment of the Federal Shariat Court has created massive confusion, and has assisted neither in the dispensation of justice nor in the enforcement of law.

## **RECOMMENDATIONS**

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1. Prospects for parliamentary democracy in Pakistan can be improved through more responsible law-making by the legislature. Legislation by ordinance must only be resorted to in emergency situations. The practice of re-promulgation of ordinances runs counter to the spirit of representative governance. Ordinances, if promulgated, must be placed before the Parliament for enforcement in accordance with law.
2. Bills proposed to the Parliament must be properly disseminated for public debate and to afford an opportunity for critical appraisal before they are passed.

3. All parties in the Parliament should, by consensus, decide to review the ordinances in force today, and regularize, amend or repeal them through Acts of Parliament. Any action must, however, be preceded by a thorough debate in Parliament and adequate opportunity for involving the public in debate.
4. The process of separation of the Judiciary from the Executive needs to be expedited. The process is far from smooth and if the hurdles are not removed expeditiously, they are likely to become intrinsic to the system and the objective of this exercise could be totally lost. This could entirely destroy popular confidence in the rule of law and the system of justice.
5. Justice must be dispensed through the ordinary courts under ordinary law. Special laws and tribunals have done great injury to the credibility of the judicial system, and have eroded the principle of equality before the law. Procedures adopted in an attempt to reduce the incidence of serious crime and terrorism fall far short of standards of fair trial and due process.
6. The Judiciary and the Bar must take steps towards establishing respect for the rule of law. This can only be done if discriminatory or oppressive laws, designed to promote the vested interests of the power elite, are identified and a forceful campaign for their repeal is launched. Judicial conduct must reflect a respect for justice dispensed even-handedly and without fear or favour. The Judiciary must also rise above social biases, especially against women, and ensure that universal human rights standards are uniformly applied in the administration of justice.
7. The Judiciary, like all other institutions, must be accountable. Steps for creating appropriate mechanisms of judicial accountability should be supported by the Judiciary. The law of contempt of court places an unjustified restriction on fair comment on judicial conduct, or constructive criticism of judicial decisions. The law must be revised to allow comment and criticism, without undermining the dignity of the Judiciary as an institution.
8. Uniformity in the dispensation of justice should be ensured by better supervisory control of the subordinate judiciary through regular inspection and tighter disciplinary control by the superior judiciary. The Federal Judicial Academy should provide more adequate training for judges, and enhance their awareness of human rights standards.
9. The scope of public interest litigation must be better defined to save it from becoming inconsequential. Limits to judicial activism also need to be defined. Bar associations, other non-governmental organizations and human rights groups must initiate a debate on this process.
10. Delays in the courts is a matter of serious concern. Steps must be taken on a priority basis for reducing the back-log of work. The methodology of work employed both by the subordinate courts as well as the superior courts is outdated and archaic. This leads not only to delays, but also compromises the standards of fairness. Much of the problem can be allayed if this methodology is substantially changed.

## LIFE, LIBERTY AND SECURITY OF PERSON

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Security rights suffer extreme and grave violations in Pakistan. Where the State has resorted to violence itself, it has also failed to secure the life, liberty and property of citizens from non-State elements engaged in crime or terrorism. It seems that no rules apply to law enforcement agencies which have violated people's rights with impunity. The conduct of these agencies instils fear in the common citizen rather than inspiring confidence. These forces have not only demonstrated extreme brutality in the enforcement of law, there are serious allegations of the involvement of the police in criminal activities. This has been conceded by superior officers of the forces themselves.

Mismanagement of ethnic relations, and leniency towards sectarian and religiously motivated crime have made the right to security of person more vulnerable. Religious intolerance has been fostered by the laws and policies adopted by the State, especially during Zia's Islamization process. Successive governments have dissimulated their own inability to check the waves of intolerance by stimulating false sensitivity around all issues related to religion. Hate propaganda through the media, the mosques and publications of religious organizations has contributed to increase in violence resulting from religious intolerance.

Grievances of the different ethnic communities in Sindh have not received an appropriate response from the State. Their reaction to State policies has been seen as a law-and-order problem, rather than a political situation that requires deeper investigation and a reversal of policies that have led to this situation. At the same time, the State must cease the irresponsible practice of manipulating ethnic tensions for its own interests. Intelligence services must be controlled and their harmful interventions in the politics of Sindh, and the country as a whole, strictly forbidden. While acts of terrorism cannot be condoned under any circumstances, it is apparent that

the State has responded to terrorism by committing terrorism itself, through extra-judicial killings, torture in police and prison custody, detention without trial, and general harassment of the public.

Social attitudes nurtured by the culture of control, authoritarianism and use of violence, have threatened the security and liberty of weaker sections of the society. Bonded labor, slavery and slave-like practices are still committed in Pakistan. The incidence of violence against women is shamefully high, and has not been appropriately deterred by the authority of the State.

## RECOMMENDATIONS

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1. Ethnic tension must be reduced through seeking political solutions at the national level, with the help of organizations and individuals enjoying credibility with the parties to the conflict. The process of national reconciliation must be transparent, and the conduct of all parties visible to the public. Allegations of mala fide on the part of the State or other parties to the conflict in the process of reconciliation must be established through appropriate judicial proceedings. The State must first establish its bona fides, if any such venture is to inspire confidence.
2. The police system needs to be thoroughly restructured. Powers of the police must be curtailed and their functioning brought under judicial control. The police must be retrained, subordinating its enforcement role to a service orientation. The training of the force must include an understanding of human rights norms. More serious attention to police reform should be given than has been demonstrated so far. The work of different police reform commissions has not been made public.
3. Extra-judicial killings, deaths in custody, and complaints of torture and illegal detention must receive unequivocal response from the Judiciary. Penalties must be imposed on personnel found to have committed such acts. These penalties should not be limited to disciplinary action under departmental rules, but such acts must be prosecuted under criminal laws.
4. Deployment of several different forces for law enforcement and investigation facilitates the commission of irregularities and the concealment of excesses. More uniformity must be created in law enforcement. The use of paramilitary forces must, in any case, be discontinued.
5. Conditions in jails are unacceptably poor, resulting in violation of the basic right to dignity of the human person. Recommendations of jail reform commissions to improve these conditions should be properly implemented. Prisons must be more closely monitored by judicial authority, and more accessible to non-official monitors. Delays in trials have resulted in unjustifiably long periods of pre-sentence detention. The judicial system must be modified to ensure more expeditious disposal.
6. Cruel, inhuman and degrading punishments must be abolished. Pakistan must give serious consideration to the abolition of the death penalty.
7. Pakistan should be urged by the international community to ratify the UN Convention on Torture, and to subscribe to the code of ethics for law enforcement personnel.
8. The practice of bonded labour has not ended despite the enforcement of the Bonded Labour (Abolition) Act of 1992. State authority must be forcefully used to end this practice and to apply the penalties prescribed by the law on violators.
9. Violence against women is not only tolerated, but in many cases condoned by State authorities and the Judiciary. Incidents of gender violence must be forcefully condemned by the authorities, before social attitudes can begin to change in this regard. No leniency should be shown in the imposition of penalties for committing acts of violence against women. The human rights of women must be duly respected. Violation of their rights should not be condoned as concession to custom, cultural practice or religious precepts. Women should not be deprived of their fundamental rights to liberty and freedom of movement in the name of protection.
10. Penal laws which discriminate against women and undermine their legal status must be repealed. The criminal justice system should be made sensitive to women's special needs in order to guarantee their security and bodily integrity during any kind of contact with the police or investigating agency. Appropriate mechanisms should be



created for the reporting, investigation, prosecution and trial of the crime of rape. These mechanisms should afford maximum facilities to women for assisting prosecution. Adequate arrangements should be made for ensuring the physical and mental well-being of the victim immediately after the crime, and subsequently.

## NOTES

**277)** After the elections in February 1997, the notorious Article 58(2)(b) of the Constitution, allowing the President the power to dissolve the National Assembly, was removed through the Constitution (Ninth Amendment) Act. **Return**

**278)** The proposal for income tax on agricultural income is one example illustrating this problem. This proposal is being strongly resisted by feudal dominated legislatures, especially in Sindh and Punjab. **Return**

**279)** In a recent press interview, a government minister is quoted as having said that the government rejected the proposal of the opposition for amendment to the Constitution to restore reserved seats for women in Parliament, as a policy of "tit for tat" for what the PPP government had done to them when they were in power. **Return**

## APPENDICES

### APPENDIX I

#### THE CONSTITUTIONS OF PAKISTAN

Number	Introduced by	Year	Abrogated
Provisional Constitution	British Parliament	1947	Replaced by 1956 Constitution
First Constitution	Constituent Assembly	1956	1958 by President Mirza
Second Constitution	General Ayub Khan (President)	1962	1969 Military Coup
Interim Constitution	National Assembly (Z.A. Bhutto, President)	1972	Replaced by 1973 Constitution
Third Constitution	National Assembly (Z.A. Bhutto, President)	1973	1977 Suspended after military coup
Present Constitution	Zia ul Haq restored the 1973 Constitution but with fundamental alterations (Revival of the Constitution of 1973 Order (ROC) and later the 8 <sup>th</sup> Amendment, 1985)	1985	

### APPENDIX II

#### AMENDMENTS TO THE 1973 CONSTITUTION

<b>Amendment #</b>	<b>Government</b>	<b>Year</b>	<b>Key Issues</b>
1st	Zulfiqar Ali Bhutto (PPP)	1974	The territories of Pakistan are redefined to exclude East Pakistan [Art. 1(2)].  The right to found or belong to a political party is restricted [Art. 17(2)].
2nd	Z. A. Bhutto (PPP)	1974	Ahmedis/Qadianis/Lahoris are declared non-Muslims [Articles 106 & 260] .
3rd	Z. A. Bhutto (PPP)	1975	Period of preventive detention is extended from one month to three months at a time; the period for communication of grounds of detention is extended from 7 days to 15 days [Art. 10].
4th	Z. A. Bhutto (PPP)	1975	The power of the High Courts is reduced [Art. 199].
5th	Z. A. Bhutto	1976	The powers of the superior judiciary are further curtailed by making provision for transfer of judges from one High Court to another.
6th	Z. A. Bhutto (PPP)	1976	Chief Justice can continue in office and complete his term of office even after he reaches the age of superannuation. [Art. 179; Art. 195].
7th	Z.A. Bhutto (PPP)	1977	Ascertaining of people's confidence in Prime Minister through a referendum [New Article 96-A].
8th	General Zia ul Haq	1985	All President's Orders, Ordinances, Martial Law Regulations, Martial Law Orders are adopted and cannot be contested in any court. [Art. 270-A].  Establishment of the Federal Shariat Court.  Introduction of separate electorates.  Establishment of Permanent Benches of the High Courts.  The President is armed with wide powers including the discretionary dissolution of the National Assembly and appointment of Chiefs of Armed Forces.
9th	General Zia ul Haq	1985	Injunctions of Islam are declared the supreme law and a source of guidance for legislation to be administered through laws enacted by the Parliament and Provincial Assemblies, and for policy-making by the Government. The

## APPENDIX III

## GOVERNMENTS OF PAKISTAN

Year	Political Party	Head of the government	Means of getting power	End of the government
1947-1948	PML	Jinnah, M.A. Governor-General	Founder of the Nation  Appointed by British Crown	Expired in 1948
1948-1951	PML	Khwaja Nazimudin Governor-General	Crown appointee	Became Prime Minister
	PML	Liaquat Ali Khan Prime Minister (1947-1951)	Chosen by Jinnah, backed by majority	Assassinated in 1951
1951-1955	PML	Ghulam Mohammed Governor-General	Crown appointee	Resigned
	PML	Khawaja Nazimudin Prime Minister (1951-1953)	Leader of majority party	Ghulam Mohammed dismissed the government
	PML	Mohammed Ali Bogra Prime Minister (1953-1955)	Chosen by G-G, adopted by majority party	
1955-1956	PML	Iskandar Mirza Governor General	Crown appointee	Became President
	PML	Ch. Mohammed Ali Prime Minister	Leader of majority coalition	Resigned
1956-1958	PML	Iskander Mirza President	Elected	Military coup (First)
	AL	Hussain Shaheed Suharwardi (1957)	Leader of majority coalition	Forced by President to resign
	PML	Ibrahim Ismaeel Chundrigarh (1957)	Invited by President	Resigned for lack of majority
	Republican	Malik Feroze Khan Noon (1957-1958)	Leader of majority coalition	Military coup (First)

**APPENDIX IV**

## POLITICAL PARTIES

Number of seats won in the 1997 elections for the National Assembly

<b>Name of Political Party</b>	<b>Number of seats won</b>
Awami National Party (ANP)	9
Balochistan National Party (BNP)	3
Haq Parast Group (HPG)	12
Jamiat Ulema-e-Islam (Fazal-ur-Rehman Group) JUI (F)	2
Jamhoori Watan Party (JWP)	2
National People's Party (NPP)	1
Pakistan Muslim League (Nawaz Sharif Group) PML-N	135
Pakistan People's Party (PPP)	18
Pakistan People's Party (Shaheed Bhutto Group) PPP (SB)	1
Independents (IND)	21
<b>Total (general seats)</b>	<b>204</b>

Source : *Herald Magazine*, March 1997

**APPENDIX V**INTERNATIONAL HUMAN RIGHTS  
INSTRUMENTS SIGNED BY PAKISTAN

- International Convention on the Elimination of All Forms of Racial Discrimination.
- International Convention on the Suppression and Punishment of the Crime of Apartheid.
- International Convention against Apartheid in Sports.
- Convention on the Rights of the Child.
- Convention on the Elimination of All Forms of Discrimination against Women.
- Convention on the Political Rights of Women.
- Convention on the Nationality of Married Women.
- Slavery Convention of 1926 as amended.
- Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery.

- Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others

## REFERENCES

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## REFERENCES

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- Ahmed, Akbar S., 1990: *Pakistan: The Social Sciences' Perspective*, Oxford University Press, Karachi.
- Alavi, Hamza and Halliday, Fred, 1987: *State and Ideology in the Middle East*, McMillan Press, London.
- Alavi, Hamza and Harris, John, 1989: *Sociology of "Developing Societies": SOUTH ASIA*, Monthly Review Press, New York.
- Choudhury, G.W., 1969: *Constitutional Development in Pakistan*, Longman Group, London.
- Chowdhury, Mustafa, 1988: *Pakistan: Its Politics and Bureaucracy*, Associated Publishing House, Delhi.
- Election Commission of Pakistan, *Report on the General Elections 1985 Volume III*, Election Commission of Pakistan, Islamabad.
- 
- Griffin, Keith and Khan Azizur Rahman (Eds), 1972: *Growth and Inequality in Pakistan*, Macmillan/ St. Martin's Press, London.
- Human Rights Commission of Pakistan, 1991: *A Critique of Balochistan Special Laws*, Sohappan Publications, Lahore.
- Human Rights Commission of Pakistan, 1997: *State of Human Rights in 1996*, Human Rights Commission of Pakistan, Lahore.
- Human Rights Commission of Pakistan, 1996: *State of Human Rights in 1995*, Human Rights Commission of Pakistan, Lahore.
- Human Rights Commission of Pakistan, 1995: *State of Human Rights in 1994*, Human Rights Commission of Pakistan, Lahore.
- Human Rights Commission of Pakistan, 1993: *State of Human Rights in 1992*, Human Rights Commission of Pakistan, Lahore.
- Human Rights Commission of Pakistan, 1991: *State of Human Rights in 1990*, Human Rights Commission of Pakistan, Lahore.
- Human Rights Commission of Pakistan Fact-Finding Mission, 1994: *What next in Sindh? What the people say*, Human Rights Commission of Pakistan, Lahore.
- Human Rights Commission of Pakistan Fact-Finding Mission, 1990: *Sindh Inquiry: Summer 1990*, Human Rights Commission of Pakistan, Lahore.
- Hussain, Mushahid and Hussain, Akmal, 1993: *Pakistan, Problems of Governance*, Vanguard Books (Pvt) Ltd., Lahore.
- International Commission of Jurists Fact-Finding Mission, 1987: *Pakistan: Human Rights After Martial Law*, International Commission of Jurists, Geneva.
- Institute of Strategic Studies, 1987: *Afghanistan Report: No. 36*, March 1987, Kamal Matinuddin, Islamabad.
- Jalal, Ayesha, 1991: *The State of Martial Rule: The origins of Pakistan's political economy of defence*, Cambridge University Press, Cambridge.
- Jalal, Ayesha, 1994: *The Sole Spokesman: Jinnah, the Muslim League and the Demand for Pakistan*, Cambridge University Press, Cambridge.
- Kennedy, Charles and Rais, Rasul Baksh, 1995: *Pakistan, 1995-96*, Westview Press Inc., Colorado.
- Khan, Hamid, 1995: *Eighth Amendment: Constitutional and Political Crisis in Pakistan*, Maktaba Jadeed Press, Lahore.
- Khan, Mahmood Hasan, 1981: *Underdevelopment and Agrarian Structure in Pakistan*, Vanguard Publications Ltd., Lahore.
- Mahmood, Sadfar, 1990: *Pakistan: Political Roots and Development*, Vanguard Books, Lahore.
- Merloe, Patrick, 1993: *Election Campaign Broadcasting in Transitional Democracies: Problems, Principles and Guidelines*, Article 19 Report.
- Ministry for Foreign Affairs Sweden, 1994: *Free and Fair Elections and Beyond: Summary and Conclusions from the Conference on the International Electoral Institute Commission, Stockholm, Sweden May 18-19, 1994*, Ministry for Foreign Affairs, Stockholm.
- National Democratic Institute for International Affairs, 1989: *Pakistan Elections: Foundation for Democracy. An International Delegation Report*, National Democratic Institute for International Affairs, Washington.
- Nayak, Pandav, 1984: *Pakistan : Society and Politics*, South Asian Publishers, New Delhi.

- Newberg, Paula, R., 1995: *Judging the State: Courts and Constitutional Politics in Pakistan*, Cambridge University Press, Cambridge.
- Niazi, Zamir, 1992: *The Press Under Siege*, Karachi Press Club, Karachi.
- Pakistan Muslim League, 1993: *Election Manifesto 1993*, Pakistan Muslim League, Islamabad.
- Pirzada, Syed Sharifuddin, 1995: *Evolution of Pakistan*, Royal Book Company, Karachi.
- Raasta Development Consultants, 1990: *NGO Registration Study, Volume I: Policy Research Report*, Aga Khan Foundation.
- Safiullah, Maj. Gen. K.M., 1989: *Bangladesh at War*, Academic Publishers, Dhaka.
- Samad, Abdus, 1993: *Governance, Economic Policy and Reform in Pakistan: Essays in Political Economy*, Vanguard Books, Lahore.
- Tinker, Hugh, 1966: *South Asia: A Short History*, Pall Mall Press, London.
- Waseem, Mohammad, 1994: *The 1993 Elections in Pakistan*, Vanguard Books PVT Ltd, Lahore.
- Ziring, Lawrence; Braibanti, Ralph; and Wriggins, Howard, W., 1977: *Pakistan: The Long View*, Duke University Press, USA.

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