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1. SINGULAR MUSLIM IDENTITY AND CONTROL ON SHRINES: A BECOMING POST-COLONIAL MODERN IN PAKISTAN

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2. IMPERIALISM AND TERRITORIALITY

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3. EDUCATION IN PAKISTAN SINCE 1947

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DEPARTMENT OF HISTORY
GOVERNMENT COLLEGE UNIVERSITY, LAHORE

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1

IMPERIALISM AND TERRITORIALITY
IRFAN WAHEED USMANI & TAHIR JAMIL

29

EDUCATION IN PAKISTAN SINCE 1947
MOHSIN AHMAD KAHN

61

THE PERSPECTIVE OF THE LAWYERS' MOVEMENT (2007-2009)
MUHAMMAD SHAFI

88

**SINGULAR MUSLIM IDENTITY AND CONTROL
ON SHRINES: BECOMING POST-COLONIAL MODERN
IN PAKISTAN**

UMBER BIN IBAD

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ABSTRACT

A unique singular conception of Islam, emerging and prevailing in the twentieth century colonial Punjab, changed the relationship of the state with the customary practices at Muslim shrines. The idea of a Singular Islam, which initially emerged among varied Muslim groups, began excluding deviant pluralistic forms—which could contest the finality of prophet-hood and unity of God—and helped in imagining a “Singular Islamic identity” for the politics of All India Muslim League after 1940s. Over time, the idea became strongly entrenched in the political elite of Pakistani state after its establishment in 1947. To be considered modern, the Muslim political elite strived to develop a society where the idea of Singular Islam attached with higher-moral practices could be implemented. Through Auqaf Ordinances and powerful bureaucratic machinery, the state devised ways to control and curb deviant practices at shrines. In order to build the position, this article follows the Gramscian position of consensual process among ruling elite that reflects the contestation for the struggle of cultural hegemony. It also engages with the concept of reterritorialization in order to capture the process of renewed identification among colonial sector.

KEY WORDS

Muslim Identity, Shrines, Auqaf, Waqf Law, Sufism

In 1959, the first Martial Law regime of Pakistan issued an Ordinance to control and manage the local sacred sites, such as shrines, through Waqf law. The Ordinance defined the concept of Waqf as, “of any kind permanently dedicated to by a person professing Islam for any purpose recognized by Islam as religious, pious or charitable.”¹ The Ordinance showed its intent to completely take over all the local sacred sites including shrines. The Ordinance replaced the previous Auqaf law of 1952 promulgated for ascertaining and monitoring the economic and religious activities on shrines. The Ordinance, however, was a step forward; instead of showing respect for the customary shrine life, it took over their control for transforming them into modern and truer religious or Islamic places.

However, as it emerged later on, many caretakers of the shrines defied the definition of the Waqf law and challenged State’s decision for taking over the complete control of the shrines in the courts. The challenged positions maintained that the shrines were cultural or customary sites and could not be included into as “dedicated by a person professing Islam” as the Ordinance of 1959 suggests. The State Administration and Judiciary defied the resistance of caretakers and started taking over shrines immediately after the promulgation of the Ordinance, with the only condition of being profitable.² The courts ultimately decided in the favor of the Ordinance and provided justification of the underlying religious sensibility and history of the development of shrines in the subcontinent.³

The moment of the promulgation of the Ordinance thus became a moment for the prevalence of a unique religious understanding and subversion of the otherwise localized customary shrine-based practices. This article attempts to trace streams of religio-political activities leading to the promulgation of the Ordinance.

The argument here is to show the way the emergence of one form of Muslim religious identity dominated the other and later became the basis for promulgating the legal Ordinance of 1959 that intensified a process of institutionalized control of otherwise localized customary and pluralistic shrine-based practices in Pakistan.

In a rather broad theoretical framework, the article follows Gramsci's theory of hegemony: *a consent which is secured by the diffusion and popularization of the worldview of the ruling class.*⁴ The article presents the process of consent formation as it developed within Muslim Colonial Elite,⁵ especially, that of the Punjab. The Elite started developing itself around a renewed belonging to its religious identity. The article captures this development through Deleuzian conception of de/re-territorialization. The re-territorialized identity formation was at the same time a kind of de-territorialization, that is, a process of leaving previously established identity in order to develop new signs and symbols for regaining identity. The process that initiated in a communal conflicting environment of the 1920s helped the Elite to diffuse its world view and dominated and controlled the internal deviance that might threaten its prevalence at the same time.

Scholars variously view the relations between political ideas and religion, however, David Gilmartin has shown the process of redefining the religious ideas in the political domain of Colonial Punjab. His position remains focussed on the revivalist Sufis, such as Jamat Ali Shah Amir e Millat (1841–1951) and his son M. Hussain Shah (1898-1974) who re-defined Muslim identity while remaining aligned with the colonial authoritarian structure and, later on, with the Muslim League.⁶ This article, however, shows that the revivalist Sufis, along with the “colonial societal segmentation” or Colonial Elite,⁷ had a bad taste for the customary shrine-based

practices. In the newly found State, the Colonial Elite carried forward its bad taste in the form of extending control on customary or autochthonous institutions. Jamal Malik considers the post-colonial state as an extension of colonial state structure whereas the article finds itself closer to the position of Vali Reza Nasr and Ali Qasmi who consider that the political elite of the post-colonial state itself became the agent for Islamization. Differing from Qasmi, it maintains that the post-colonial state not only *institutionalized* its unique form of Islamization in a way that did not disturb its power structure but also re-aligned the 'deviant life-structures' with the rest of religio-politics. From Nasr,⁸ it differs by proposing that culture and mores can themselves be of multiple streams, and the post-colonial state could act to dominate one form upon the other, as in the case of pluralistic shrine-based ethos.

To present my argument, I start my discussion by placing two personalities, Allama Iqbal and Pir Akbar Ali, and their religio-political ideas as contrasting positions in Muslim political history. I shall show that Pir Akbar Ali, a Unionist representative in 1943 assembly, became a dying religious-voice because of his belonging to the customary shrine-based ethos. Distancing from Gilmartin who shows that the Unionists and the Colonial rulers kept their relationship well intact with customary shrine-based life and politics till the very end of 1945/46 when its alliance with Muslim League came to the fore, I argue that a fissure within the relationship had already surfaced as early as 1942/3 when the state tried to extend its moral control on shrines. Later, in the post-colonial state, the power of controlling morally the localized sacred sites increased with the extension of the process of Singular Islamization. While showing the State gradually played with the idea of Singular Islamization, I shall show that the State found it ideologically modern to

control completely the sites of shrines in order to remodel them according to the changed times.

Allama Iqbal had developed a unique but idealist identity for the Indian Muslims rooted into an Islamic culture and embedded within ethical ideals when he delivered his famous address at Allahabad in 1930. Considering the units of Indian society as not territorial, Iqbal presented the conception of Indian Muslims as “common consciousness” and “homogenous nation” within India. Iqbal maintained that the Muslim society in India was homogenous and it possessed inner unity because of a specific culture of Islam: “In India, as elsewhere, the structure of Islam as a society is almost entirely due to the working of Islam as a culture inspired by a specific ethical ideal. What I mean to say is that Muslim society, with its remarkable homogeneity and inner unity, has grown to be what it is, under the pressure of the laws and institutions associated with the culture of Islam.” His conception was a sort of de-territorialization, a process to leave identity located within the customs and soil,⁹ and re-territorialization¹⁰ that is, linking Muslim Identity with an idealism of unitary Muslim-ness without any internal differences.

In order to make clearer his conception of Islamic culture, Iqbal redefined his spiritual or *Sufistic* understanding. He considered *Sufistic* tradition as a necessary spiritual ground that animates the Islamic culture. He however brings forward Maulana Rumi (d. 1273) and Naqshbandi saint, Mujaddad Alif Saani (d. 1624) as his role models in order to qualify his Sufistic reading.¹¹ He ensured to criticize a form of Muslim spiritual idea, *Wahdat ul Wajud* (Unity of Being),¹² and the customary shrine based practices. He thought the shrine based practices were embedded in *Wahdat al Wajudi* (Unity of Being) spirituality, and were also

politically aligned with Colonial policy of Co-opting with the Sajjada Nashin (customary caretakers) of the shrines. In his poem, *Punjab kai Pirzado Sai* (To the sons of Pir of Punjab), he made his point clear that he does not consider the Sajjada Nashin (caretakers) of the shrines of Punjab as *Sufi-faqir*. And the main reason he brings forward is the close connection of the Sajjada Nashin with the Colonial State that allowed them to develop in esteem at the cost of spiritual degeneracy.

On the other hand, criticizing Wahdat al Wajud (Unity of Being) enabled him to give a secure place to the singular identity of Muslimhood without any rootedness to the maligned soil. Defining Islam as a spiritual idea of belief in the oneness of God, he was able to give a solid ground for the politics of Indian Muslim. However, the spirituality was not itself sufficient and therefore he forcefully linked the idea of the Finality of Prophethood as an essential element of the definition of Islam and necessary component of Muslim identity. His strategy, not only provided him with a loose Muslim identity sufficient enough to come closer to Pan-Islamism but at the same time had an ability to negate all forms of Islamicate possibilities violating his definitional principles. His criticism on Ahmadism highlighted significantly that he was sensitive to the political unity of Indian Muslims and any flight from the idea of the Finality of Prophethood might endanger the unity of Muslimhood in colonial India. On the other hand, his negation of shrine-based practices enwrapped within Unity of Being provided him with a solution to give limits to the pluralistic flights embedded therewith.

Iqbal was not alone, although indeed an ideal representative of the prevalence and owning of a unique form of religious voice. It had highlighted, when, Pir Akbar Ali, who became a member of Punjab Assembly, from a small town Faazilka, now in India, after the

election of 1937, made his case for the customary / soil-identity. He debated against the Female Singers' Prohibiting Bill, for preventing female dancing at shrines in 1943.¹³ Against the ruling benches who considered the purpose of the Bill for Prohibiting Female Singing at a shrine was to introduce social reform within society in general and especially Muslim society, in particular,¹⁴ he thought such an act could start a process of domination of one religious stream upon others. The members from the ruling benches perceived, in the Bill, the possibility of implementing Shariat and of Islamic principles in the Muslim society to purify the religious practices. The emphasis of the ruling members maintained that it was the right of the State to act as a purifier, and correct degraded and immoral practices. For them, the singing and dancing, as considered to be immoral acts, should not be allowed to take place on the shrines of Sufi saints who were active during their lifetime to preach and promulgate Islam. Interestingly, even the *Mela* and festivities on *Urs* were denied their cultural and traditional existence by some of the members. Instead, the activities, like, *Mela* on *Urs* of the Sufi Saints were seen as an immoral remnant of the old puritan practices. As Raja Ghazanfar Ali Khan maintained, that earlier on "... the various shrines of Muslim saints, for instance, Dargah Data Ganj Bakhsh, Dargah Ajmer sharif and Dargah Kaliar Sharif, on the occasion of "Urs", sermons used to preach openly and make religious speeches in public gathering with a view to improve the morals of the people. But later on the celebration of these anniversaries went on demoralizing gradually and now they have degenerated into 'Melas' which are lacking all those good things of olden days."

Pir Akbar Ali though did not differentiate between the puritan religious stream and autochthonous practices, he insisted that dominating one stream of

ideas on other might generate strange results. He questioned that what if another government came and put a restriction on giving Azan. He held that Mutwallis controlled the shrines and they must handle this matter too. "It is up to the Mutwalli of that shrine to permit or prohibit her from doing so, but you want to take upon yourself the duties of a Mutwalli and want to prohibit such singing," he held.¹⁵ For him, this Bill "attempts to apply a corrective to the morals of the people by compulsion which in itself is an effort of very doubtful value."¹⁶ Interestingly, to the surprise of many ruling members, Pir Akbar Ali quoted a Hadith, "He who does not recite the Quran with *Ghana* (in melodious voice) is not from among us," in order to put forward his case that what "if a female singer were to recite the Holy Quran with *Ghana* would you permit her to do so?" Pir Akbar Ali maintained that "even a prostitute can have an idea of salvation and may go to the places where she finds her peace." For many members, it was unimaginable to perceive that even a prostitute could have a religious idea of salvation and could go to the shrine for finding her peace. Putting forward the question of *Ghana*, coupled with the permission to the prostitute going to the shrine had invited a strong opposition. For many members, this was as immoral to think that way as to permit female singers to sing on the shrines. However, when a member commented that Pir Akbar Ali had said, "to sing verses of the Holy Quran, God forbid me is *Zina* (Adultery)," and even after clarifying by Pir Akbar Ali that he was saying *Ghana* not *Zina* (adultery), the member couldn't understand the meaning of *Ghana*, as he again understood this word as "*Gunah* (sin)." For Pir Akbar Ali it was enough to stop giving his argument as he understood the shallow religious understanding of the members who were ready to give *fatwas* against immoral practices for implementing their perceived form

of Shariat at the site of shrines. The Punjab legislative assembly promulgated the Bill as a Female Dancing Act in 1943.

The criticism of Pir Akbar Ali became invisible even further after the movement of Muslim League gained its momentum along with highlighting the Singular Muslim identity as embedded in the ideas of Allama Iqbal. The Muslim League stood for modern religious ideology proclaiming to transform the otherwise backward life by opening up developmental possibilities, especially and only, for Muslims of (India). This religious ideology gained its force tremendously when it entered into an alliance with the reformist/ revivalist Sufis in the Punjab. One of the common elements of this alliance was that they considered customary shrine-based practices devoid of modern rationality. The political success of the alliance that resulted in the creation of a new State of Pakistan, despite losses of millions of lives, provided a new strength to their moral-religious position. The Colonial Elite achieved its success after convincingly putting down customary or largely rural voices.

The acquiring of land, however, surfaced the inherent ideological contradiction of Singular Islam embedded within the Muslim Elite's ideology. For the newly emerging State that was compelled to see an undifferentiated Muslim-ness as a permanent majority under its owned ideology, belonging to the soil, customary or ethnic identity of the land, became a troubling question. The contradiction triggered a renewed search for redefining Muslim identity and unleashed a process of a kind of double-reterritorialization.¹⁷ As Muslims have already been crystallizing re-territorialized identity since the 1930s, as a brief look at the ideas of Iqbal shows, and Muslim League stood upon this identity to find success, the

acquired State/land becomes an enigmatic moment within the earlier articulations for a re-territorialized identity. The early re-territorialization was achieved within multiple religious communities while living and sharing the blended history since long.¹⁸ By owning a soil-less territory the Muslim identity started gaining a trans-ethnic but common politico-religious identity for the politics of the Center, within Colonial India.¹⁹ Within the new world, where old contesting communities did not exist in considerable numbers, the demand for re-identifying in the new situation, with the awareness of being rulers and inheritor of the colonial-ruling-structure along with the sense of a larger community already identified itself with the soil-less identity, started a kind of double re-territorialization process. De-linking completely from the earlier Singular Identity-within-plurality, the answer as a double re-territorializing came by purifying Singular identity through excluding completely the Others: in politics, by excluding religious Others through Objectives Resolution, in puritan religious space by excluding Qadianis, through anti-Ahmadi movements, and in mystical space excluding and controlling the deviant form of shrine-based practices.²⁰

In the context of Objectives Resolution and the ensuing *Politics of Islam* thereafter, for finding a dialogical relationship with largely puritan-revivalist religious movements, the state, however, found one of the easiest ways to enforce Augaf laws for extending the Islamization process. This was the easiest but not *un-Islamic* and non-profitable. The property attached to many of the shrines, *takia*, *Astana* and mosques seemed to be lying with no justification in the hands of traditional caretakers. Along with the ruling elite, the printing media and intellectual circles had already got convinced that these sites were not part of *Islam*, as such. These sites needed to be taken care of according to the principle of

Islam that was modern enough to reform pluralistic shrine-based practices and deviant mystic practices rooted in the customary practices of the old world. In the modernizing Islamic world, that the new post-colonial state intended to become, there was a very little place for the mystic practices not wrapped within the *Islamic* teachings.

In order to initiate Islamizing policy, and to support the central state in its policy of Islamization, therefore, the Punjab government prepared an Auqaf Bill in 1951-52. The treasury benches, however, presented the Bill in order to show their efforts for promoting Islamization through introducing a Shariat-based effort to have a control on shrines and other sacred sites. The Bill, however, came out as a surprise for many of the members of the assembly, as there was no mentioning of such thing during only recently held elections.²¹

The ruling benches considered the urgency for presenting the Bill as a *public* demand in order to bring transparency in the working of property and income attached with shrines.²² The benches though maintained that there was clear evidence of misappropriation of Waqf property, yet they made it clear that intention is to make the working of Auqaf transparent and clear, and therefore the Bill is only for surveying and supervision. The Bill movers made it evident that as Sikh Gurdwara Act 1925 bore very good results for the Sikh community, Auqaf Bill must be introduced for eradicating the social illness and re-directing the direction of wealth otherwise being wasted by Mutwallis (the caretakers of shrines and the other sacred spaces). The Bill in this sense presented as an effort to re-appropriate the missed moment of history for bringing shrines and other sacred sites under the community control. The ruling benches maintained that the earlier efforts to introduce such a bill failed because of the fear of having non-religious figures as

members of Muslim Auqaf Board. However, after the partition such fears have been dissolved altogether, this Bill that was seeking supervision of the shrines and their property must be in place.²³

The ruling benches made it clear that the Auqaf Bill came for implementing Shariat in totality. Although many of the opposition members criticized, and in some instances, severely, the whole debate remained a discursive activity enwrapped within the ambience of Shariat. Both opposition and treasury benches did their best to present their point of view by referring to their supporting Islamic texts. The criticism from the customary shrine-based practices, however, did not find a place, as it happened in the case of Pir Akbar Ali earlier in 1943. Rather, during the debates of the Auqaf Bill, even to speak in favor of Mutwalli appeared as a taboo, because of the almost unanimous acceptance of the Mutwalli, as "cheaters, usurpers and fraudulent," as "those who have been consuming the Waqf property without any right and legality."²⁴ Concerning the manner, the criticism also remained grounded upon the implementation of Shariat. The criticism maintained that the newly developed state intended to take a mediatory position between devotees and the shrines. However, for doing this, the state considered Islamic Shariat as its ideal and equated Auqaf Board with Islamic Shariat.²⁵

However, along with implementing Auqaf Bill, the post-colonial state never stopped supporting and relating to the certain form of religious expressions associated with the shrine-based practices. The state though kept revivalist Muslim scholars at a dialogical distance, yet at the same time came quite close to the Modern religious scholars²⁶ and ritualistic Ahl e Sunnah positions to the point of almost institutionalizing their positions. Interestingly, the post-colonial state started celebrating Eid Milad Un Nabi (the birth of the Prophet

(PBUH)), a function having a lot of similarities with *URS* festival, and largely an Ahl e Sunna's appropriated religious ritual only a few years after its birth. Although the postcolonial elite started celebrating Eid Milad Un Nabi (the birth of Prophet (PBUH)) non-officially almost from the very first year,²⁷ the Punjab government seemed to be taking lead for officially organizing a big function in January 1950 when for the first time the governor of Punjab, in the absence of Provincial Assembly,²⁸ organized a program in Shahi Qila (Fort), Lahore. Around two hundred and fifty thousand people gathered on the occasion.²⁹ The day was celebrated through reading Naat and the eulogizing (*Salam*) of the Prophet (PBUH). While ensuring to celebrate this day officially, the state used its departments to put lights on its important buildings of the city and to facilitate processions and other similar activities.³⁰

On the other hand, one could find during the same time, many reported instances in the newspapers of immoral or criminal acts related with shrines, and the failed expectations from the Auqaf Board. It is, however quite hard to find a difference between eccentric practices and criminality that was found attached with *Pirs* and *Pir Parasti* (Devotion for the *Pir*) in the reports published after the creation of Pakistan. An editorial report published in a newspaper, in 1955, after narrating that CIA (Central Intelligence Agency) Daska had caught a group of fraudulent who were disguised as "Pir" and active in looting *simpleton* rural women. The newspaper opined that this is not the first of its kind, rather almost daily since the emergence of Pakistan, such reports are received. The editorial further opines that it (to be *Pir*) seems to be the easiest way to earn money because of the *superstitious* beliefs of the rural people. Another similar report, as a Letter to the Editor, of the same year suggests that sorcerers in the guise of *Pir* came in the

villages and by showing the *Karamat* (miracles) stayed within the houses of villagers for many days. Further, these Pir made the women and girls of the villages dance on the melody of *Dhol* for many days. The letter suggests that these are not only immoral practices but also against Islamic Sharia, and must be stopped. However, occasionally one finds such suggestions as to differentiate between criminals and beliefs of the people, to ask for good policing and to advise politicians for participating actively in reforming activities in rural and backward areas in order to avoid such incidences.

Amongst all the shrines, it was the shrine of Data Ganj Bakhsh Sahib in Lahore that was considered to have been frequented by urban elite, and that gained a central stage within shrines after the emergence of the Post-Colonial state. Even earlier than the state started giving official holiday, most of the local markets seem to be closing down their work for a day on Urs of Data Sahib. However, the reporting of the deviant instances damaged its good repute. One such incident that jolted largely was a report of the abduction of two women, only a few days after the Urs in September 1958, by some of the Mujawarin or Mutwalli of the shrine of Data Sahib, Lahore. The incident took place when two women from Wazirabad city came to pray on Data Sahib and few Mujawarin allured them in order to show sacred *Ziaratai* (sacred belongings), abducted them and kept them for two days. Later on, while one of the women succeeded to flee from the cell where she was kept, she approached police and reported the incident. After searching for three or four days, police was able to arrest the run-away Mujawarin.³¹ The incident also took place only a few weeks before the enforcing of Martial Law of Ayub Khan in October 1958.

Post-Colonial Muslim Intelligentsia and the idea of the Politics of Singular Islam

Post-Colonial Muslim intelligentsia had already moved away from the localized, non-political to trans-local political Islam when Ayub Khan came to power. The modern intelligentsia, although distanced apart from one another, yet tried to appropriate Iqbal's ideas in order to bring forward their respective idea of Singular Islam in the post-colonial state. Interestingly, the figures as traditionalist as that of Maulana Abul Ala-Maududi and as modernist as that of Ghulam Ahmed Pervaiz³² claimed to stem from not only the ideas of Iqbal but also from his personal company. For the traditionalist, it was Iqbal who nominated Maulana Maududi for the headship of the Islamic school, Dar ul Islam, opened at Pathankot and later on transferred to Mansura, Lahore.³³ On the other hand, Ghulam Ahmed Pervaiz claimed to have enjoyed the company of Iqbal³⁴ and worked for Tulu e Islam, an Islamic research journal being published in 1935 by Syed Nazir Niazi, a close associate of Iqbal. Both even worked together in Jamat e Islami, till 1944, when Pervaiz left the party. However afterward both of the religious scholars separated their ways, and after another few years, both were almost at dagger drawn to each other. Both moved into radically different directions where Maulana Maududi championed traditionalist ideological teachings and Pervaiz became the leader for the Modern Islam. However, none of them ever stopped claiming to be the heir of Iqbal and proponent of Singular Islam.

Both appropriated the developmental spirit of their time that became for them the central reason for the creation of Islamic State in the modern times. Pervaiz linked his conception of Absolute Sovereignty³⁵ with the "socialism", and Maududi put forward his "capitalism

"without interest" as the ground upon which the State would grow. Maulana Maududi put forward his conception of Islamic State as an all-pervasive ideology without any need for geographical boundaries. Maududi advocated for bringing all India into the fold of Islam during Colonial times in order to show the universal reach of Islam: "On the one hand we have to imbibe exactly the Quranic Spirit and identify our outlook with the Islamic tenets while on the other, we have to access thoroughly the developments in the field of knowledge and changes in conditions of life that have been brought during the last eight hundred years; and third, we have to arrange these ideas and laws of life on genuine Islamic lines so that Islam should once again become a dynamic force; the leader of the *world* rather than its followers."³⁶ His universality never reduced its force in Pakistan, with a twist to make Pakistan a laboratory for the Islamic principles.

Similarly, for Pervaiz, the idea of a separate State, interpreting Iqbal through the development of events in the 1940s, was not only the need of time but also essential for the ideals of Islam to get materialized.³⁷ It is only within a state that Islam that is a-Din, a complete ethical-religious code for all aspects of the nation-state, rather could find its realization.³⁸ Interestingly, for him, the State has all the responsibility for the growth and development of its citizens. Rather, more than that, he considers this responsibility as a totalitarian socialist state where ownership of most of the business enterprises belongs to the State. His totalitarian-socialist bearing took him to consider Islamic teachings as an all-pervasive political ideology, like a Leninist communist ideology, requiring the State to prevail its Singular truth in order to trigger the development of its citizens.³⁹ His emphasis on development made him abhor all those modes of

thoughts and practices that came in the way. As a proponent of Ahl Al Quran, he did not consider the evidential position of Hadith for interpreting Quranic text and rather emphasized on interpreting Quran through modern knowledge system and broader history. However, he believed that whenever human mind reached a true understanding that would be the reflection of Quran. His on-slaught on superstitions was quite complete, and he even reinterpreted such concepts, as *Jinn* (jinn), *Ghaib* (unknown), etc. in his own unique sense, and, like Feuerbach and Sir Syed, anthropologized them.⁴⁰

Both fought with each other to prevail upon their religious articulation and conceptions bitterly and never refrained terming each other *Kafir* or "Traitor". However both the personalities remained almost unanimous on their conception and criticism of the shrine based practices and their effort to negotiate Islam within trans-local or the transnational discursive environment.⁴¹ With great emphasis on differentiating *Din* (a term used for Islam for denoting its ability to provide guidance in all fields of life) from Religion, Ghulam Ahmed Pervaiz made Religion a subjective experience without any objective validity to verify the truth of the human actions. In this way, he declined to accept any role of traditional-deviant spiritual practices into the human development of the modern man.⁴² For him, the Sufistic ethos was such remnant of this land's cultural tradition. It was essential to liberate oneself from the shackles of this tradition in order to grow stronger. Maulana Maududi holds almost similar views regarding shrines and Pir-Murid (local spiritual master-disciple) relationship as those of Deobandi school of thought. His disposition towards owning the revivalist worldview of Islam made him abhor local customs and traditions.⁴³ In his worldview, there is

no place of shrine-based culture along with turning ascetic and considering a dead person sacred.⁴⁴

The writings of scholars, like that of Pervaiz (1903-1985) and Maududi (1903-1979), whose writings though making influence in their own regard on the elites for the Politics of Islam since independence, were still unable to give straightforward answer to the questions of Ayub Khan (r. 1958-1969), the first martial law administrator of Pakistan. However, when Dr. Javed Iqbal (1924-2015), published his book, '*The Ideology of Pakistan and Its Implementation*', Ayub Khan, not only endorsed his position but also acknowledged that Javed Iqbal answered almost all of his questions quite satisfactorily. Instead of getting engaged in long religious controversies, the book sought strategic answers of the sought-after questions.

In order to retain nationalism without linking it with soil-territorialization, Field Marshall felt the need of Islamic ideology for the "conditions of life in Pakistan"⁴⁵ those are like "a collection of many races with a different history." He wants such an ideology that can give a way to weld these discrete identities together. However, he insisted while also reflecting his global fears, that such an Ideology must also combat the offensive of Communism and Hinduism.⁴⁶

The thesis put forward by Javed Iqbal not only delineates the definition of Muslim but also provides the position of spiritual condition. His thesis criticized the Munir Commission Report published earlier in 1954 in response to the violence taken place on the issue of Khatam e Nabuwat. The report, for him, had already confused the question of being Muslim and did not provide a clear definition for the Muslims when it was already defined by Iqbal. Re-appropriating Iqbal, the thesis links Islamic ideology with the state in a manner in

which Islam becomes an organ within the larger machinery of the state. However, Islam cannot be understood but as an animated force, and there would be no place for those, the thesis maintains, who, that is both Mulla and Pir, enervate this Organ. In the thesis where there is a criticism upon Mullah, there at the same time, there is a training program for improving them. The suggestions were given to grant special powers of Qazi to the Mullah and refashion the position of Mullah within the society. The book further maintains that in each mosque the office of Imam should be established and these Imams must be "graduates of Theology from our State recognized Universities". The book suggests that the Imam must be given the training to be transformed as a social worker. "In their spare time, they should teach children and adults in the villages, assist in building, cleaning and making houses, wells, roads, etc. They should work in the fields and assist in the programs of medical relief or other development programs."⁴⁷

However, for Sajjada nashins, khadmin, Gaddi Nashins or Mujawars, there is no suggestion of such a training program. Instead, for all connected with the monasteries, there are two options: "either be reformed" as suggested by Allama Iqbal or "removed from their self-created spiritual positions."⁴⁸ If these positions started reforming, the fallen mysticism would find its esteem back. "Islam has had too much of renunciation"⁴⁹ and Iqbal maintains the mysticism enwrapped within renunciation "gradually and invisibly unnerved the will of Islam and softened it to the extent of seeking relief from the religious discipline of the *law of Islam*. The nineteenth-century Muslim reformers rose in revolt against this mysticism and called Muslims to the broad daylight of the Modern World."⁵⁰ In the Modern World, therefore, there is no place for the 'medieval mysticism.' Therefore, there is no place in Modern

Pakistan for localized practices until and unless these practices embrace the puritan spirit of the nineteenth-century mystic revolutionaries or religious revivalists and leave renunciation.

The Ordinance for taking over Waqf properties was promulgated in March 1959 and it started taking over shrines in order to redefine their social and religious spaces.

CONCLUSION

The Waqf Ordinance that was initiated to take control of shrines was a religio-political act. The Ordinance emerged out of a unique consensual process had taken place within the ruling political and social Muslim elite in colonial and post-colonial Punjab. The consensual process was embedded within a certain identity-formation process triggered within the Muslim community around the second decade of the twentieth century. The process placed identity with a religious image, a kind of a singular Islam distanced from the customary identities generally considered to be rooted in the soil. The concept of Singular Islam imagined itself in a universal but non-pluralistic way. It envisaged that Muslim identity is not only unique and trans-historical but also did not require territory for its rootedness, a kind of reterritorialized identity linked with a deterritorialized self. However, the reterritorialized identity had its own traditional history with cultural imaginations not only enriching it but also providing it foundations to grasp modernity.

The birth of re-territorialized identity, however, was a moment of triggering a contestation to ward off elements in customary Muslim practices making it hard for the actualization of the newly imagined identity. One of such contestation was turning against the shrine

based practices and the supporting ideas. The shrine based practices were not only localized but also pluralistic in nature. The practices were largely embedded in customary ideas and soil-based identity. For a singular Muslim identity, therefore, the existence of such practices was lethal because of their localized nature and with their ability to keep at a distance the prevalence of a universal ideology. Further, their pluralistic nature was not in accord with the newly emerging Muslim politics of Colonial Punjab.

The Colonial Muslim elite not only considered it an irrational remnant of the past but also developed moral strategies to reform the localized sacred spaces of shrines. The passing of Female Dancing Act in 1943, made it clear that, though not politically aligning with Allama Iqbal, the Muslim elite was able to move against the customary shrine-based practices with an overwhelming consensus. The consensus later on only grew and in the post-colonial state it gained its moral strength further when the economic benefits attached with the shrines also came out in relief. The remnant of support for the shrines gradually died completely, and the irrationality of the shrine based life grew further. Determined to prevail singular Islam, the post-colonial elite finally took total control of the shrines in 1959.

REFERENCES

¹ P.L.D. Vol XI, 1959, Ordinance XXI of 1959: West Pakistan Waqf Properties Ordinance, 1959, p.202. This Ordinance of 1959 was repealed by the Ordinance X of 1960, West Pakistan Waqf Properties Ordinance, 1960. However, with the amendment of few terms, the whole ordinance remained almost in the same condition. P.L.D. Vol. XII, 1960, Ordinance X of 1960, West Pakistan Waqf Properties Ordinance, 1960, p. 116.

² The Pakistani State started taking over shrines with a proclaimed claim of making them Islamic. Different Governments showed varied emphasis, such as Ayub Khan's rule stressed on turning shrines into modern civility and Zulfiqar Ali Bhutto's rule, especially early years, supported popular practices. Without leaving the ideological claims, the Pakistani State was prudent enough to take over only those shrines capable to generate profits.

³ The detailed decisions on the cases between Pir Rashid ud Daula, representing the caretakers of the shrine of Shah Daula of Gujrat versus The Chief Administrator of Auqaf and Haji Ghulam Rasul, representing the *Mujawarin* of Data Ganj Bakhsh Sahib, Lahore against Auqaf Adminsitrator provide discussions and justification for considering such customary practices as religious and, therefore, stand open for the State's taken over. PLD 1971 Supreme Court, Vol. XXIII, p. 376. APLD, SC 1971, Vol. XXIII, p.388.

⁴ Thomas R. Bates, *Gramsci and the theory of Hegemony*, Journal of the History of Ideas, Vol. 36, No. 2, (Apr. - Jun., 1975), pp. 351-366. <http://www.jstor.org/stable/2708933> (accessed January 30, 2015).

⁵ Jamal Malik used the terms "Colonial Elite" and "Colonial Urban Sector" for denoting the developed section of the colonial society; the section that developed by absorbing and relating with the colonial institutional structures. Jamal Malik, *Colonialization of Islam: Dissolution of Traditional Institutions in Pakistan* (Lahore: Vanguard Books, 1996).

⁶ David Gilmartin, *Tribe, Land and Religion in Pakistan: Muslim Politics and the making of Pakistan*, phd thesis, (university of California, 1979) pp.169-170. Also in, David

Gilmartin, *Empire and Islam: Punjab and the Making of Pakistan*, p.218.

⁷ Jamal Malik, *Colonialization of Islam: Dissolution of Traditional Institutions in Pakistan*, pp.

⁸ Islamization, whether undertaken deliberately, or gradually and unwittingly, has been an effort on the part of the postcolonial state in the Muslim world to find legitimacy and relevance in terms of local culture and mores, and to anchor itself in its value system. Nasr, *Islamic Leviathan*, p.13

⁹ Already Allama Iqbal had clearly specified this position in an essay published in *The Reconstruction of Religious Thought In Islam*.

¹⁰ For Appadurai, the concept of Re-Territorialization means, regaining identity in a peculiar way, not necessarily linked up with the connection with *soil*: " soil needs to be distinguished from territory... where soil is a matter of a spatialized and originary discourse of belonging, territory is concerned with integrity, surveyability, policing, and subsistence. Further, for him, "De-territorialization expresses the disjuncture between feelings of belonging and place of residence." Appadurai, (1990) 'Disjuncture and Difference in the Global Cultural Economy',

Theory, Culture and Society, vol. 7, nos. 2-3: 295-310.

However, the process of De-territorialization necessarily gives birth to the process of Re-Territorialization.

¹¹ In Allama Iqbal's philosophical writings in prose, published as, *The Reconstruction of Religious Thought in Islam*, already published in 1930 clearly positioned his Sufistic thoughts and his sympathies with the specific spiritual tradition, especially those of Ahmad Sirhindi, famous as Mujaddad Alif Sani (d. 1624).

¹² Allama Iqbal severely criticized on the form of Tasawwuf that dwells and promotes the idea of Wahdat al Wajud (Unity of Being). For him this form, as an Ajami (Persian) ideas creep into the otherwise Arabic *Islamic* teachings. His efforts remained to disentangle Ajami influences on the original Arabic Teachings in order to revive and liberate the true spirit of Islamic teachings. See, Preface, *Ijaz ul Haq Qaddusi*, Iqbal Kai Mahboob Soofia (Iqbal Academy Pakistan: Lahore, 1976), And also Dr. Abul Lais Siddiqi, *Iqbal Aur maslak e Tasawwaf* (Iqbal Academy Pakistan: Lahore, 1977).

¹³ Though the Unionists remained unsuccessful to get control of shrines and Auqaf in 1937 in the wake of communal conflicts between puritan Muslims and Sikh Gurdwara Parbandhak Committee, the pressure to curb archaic practices from Muslim Society, in general, and from Muslim shrines, increased with the prevalence of the political movement built by the Muslim League.

¹⁴ "The Bill does not seek to interfere with religion at all. It is merely a Social Reform measure." Malik Khizar Hyat Tiwana, The Minister for Public Works, concluded at the end of debate on the Bill. The PLA Debates, Vol. XIV, 1940, printed by Superintendent Govt. Printing Punjab, 1942, p.789.

¹⁵ The PLA Debates, Vol. XIV, 1940-44, printed by Superintendent Govt. Printing Punjab, 1942, p.784. It is also interesting that the reply from a member of ruling bench did not say that he was in favour of taking the role of Mutwalli, instead he said that people on the day of Urs do not remain in the control of a Mutwalli. p.787.

¹⁶ Ibid.

¹⁷ Ali Usman Qasmi considers the advantage of using this phrase is that at the very same time we can discuss the "disputative negotiation of contrasting religious traditions, sectional interests and ideological worldview of key actors, and the imperatives of populist decision-making. It is the interplay of such variables and their relative strengths and weakness during different sets of socio-political, economic and, even, geostrategic compulsions, that has determined the course of Islam's role in the State of Pakistan." Ali Usman Qasmi, *God's Kingdom on Earth? Politics of Islam in Pakistan, 1947-1969*, Modern Asian Studies / Volume 44 / Issue 06 / November 2010, pp 1197 1253 DOI: 10.1017/S0026749X09000134, Published online: 04 May 2010.

¹⁸ Even Allama Iqbal had to make an effort for making a case for a separate Muslim communal politics during his famous Allahabad address in 1929. "... the principle that each group is entitled to its free development on its own lines is not inspired by any feeling of narrow communalism. A community which is inspired by feelings of ill-will towards other communities is low and ignoble. I entertain the highest respect for the customs, laws, religious and social institutions of other communities.

Nay, it is my duty, according to the teaching of the Quran, even to defend their places of worship, if need be. Yet I love the communal group which is the source of my life and behaviour; and which has formed me what I am by giving me its religion, its literature, its thought, its culture, and thereby recreating its whole past as a living operative factor, in my present consciousness." Sir Muhammad Iqbal's 1930 Presidential Address on the 25th Session of the All-India Muslim League Allahabad, 29 December 1930. Speeches, Writings, and Statements of Iqbal, compiled and edited by Latif Ahmed Sherwani (Lahore: Iqbal Academy, 1977 [1944], 2nd ed., revised and enlarged), pp. 3-26

¹⁹ For Appadurai, the concept of Re-Territorialization means, regaining identity in a peculiar way, not necessarily linked up with the connection with *soil*: "soil needs to be distinguished from territory... where soil is a matter of a spatialized and originary discourse of belonging, territory is concerned with integrity, surveyability, policing, and subsistence. Further, for him, "De-territorialization expresses the disjuncture between feelings of belonging and place of residence." Appadurai, (1990) 'Disjuncture and Difference in the Global Cultural Economy',

Theory, Culture and Society, vol. 7, nos. 2-3: 295-310. However, the process of De-territorialization necessarily gives birth to the process of Re-Territorialization.

²⁰ The Muslim political rulers found themselves in majority, having singular identity and a land to rule devise a technique to reduce all other communities into the status of Minority. The religious elite found itself in the position of Majority Rule, re-territorialized it-self through excluding Ahmadis. All of the political, intellectual and religious elite, in the new land, excluded traditional pluralistic mystical practices.

²¹ PLA (Punjab Legislative Assembly) Reports, p. 282, 1952.

²² Ibid., p.282. And the Bill was moved, with remembering, and in continuity with the futile efforts already made earlier in 1924 and 1934.

²³ Ibid.

²⁴ Ibid., p.339.

²⁵ Ibid., p.288.

²⁶ S. A. Rehman, the serving judge for the Supreme Court of West Pakistan in 1958, stated "that the field of fresh legislation

is wide open and that the classical jurisprudential compendiums need to be updated, albeit in line with the 'permanent values' specified by the Quran, so as to make them compatible with the challenges and demands of the modern world." With the fierce response of Maududi, the position of S.A. Reman seemed to be the prevailing voice of the state machinery ready to re-interpret religious teachings according to the changed situation. Maududi retorted with the argument that " the Prophet was not simply a priest who dictated certain permanent values but was mandated with the certain task of setting up an Islamic order, based wholly on Divine principles. The laws introduced for this purpose, and the mode of their practice, interpretation and implementation has come down to the Muslims in the form of Hadith and the Sunnat." Ali Qasmi, p. 1219.

²⁷ Even earlier, just after the independence the State authorities started participating activities on this day, however in Punjab it was officially organized first time in 1950. *Imroz*, 27 December, 1949.

²⁸ The Punjab Provincial Assembly was dissolved in January 1949 by Liaquat Ali Khan, after the uncontrolled dispute between the premiership of Iftikhar Mandot and Mian Mumtaz Doltana. Tahir Kamran, *Early Phase of Electoral Politics in Pakistan: 1950s*, pp.261-262, South Asian Studies, A Research Journal of South Asian Studies Vol. 24, No.2, July-December 2009, pp. 257-282.

²⁹ The Punjab government advertised the program of celebrating *Eid Milad Un Nabi* in newspapers. One of such advertisement that published in *Daily Imroz*, on 01 January, 1950, says that Police, Scouts, Paasban and National Volunteers gave Salute (Salami) to honorable Malik Muhammad Anwar and later on common meeting would begin under the presidency of His Excellency Governor Bahadur. Abul Hafeez Jalandhry and Saqib Zahrwi would present Naat and Salam, and Mr. Dinsha, Mr. C.E. Gibbon, Reverend Najm ud Din, Mr. Vir Sanan Sahni, Allama Ala ud Din Siddiqui, honorable Malik Muhammad Anwar and His Excellency Sardar Abd ur Rab Nishtar would make speeches. It seems interesting that some of the speakers were either Christians or Hindus. *Daily Imroz*, 01 January, 1950.

³⁰ Seerat Conferences and religious meetings besides rallies to commemorate the birthday of Holy Prophet (PBUH) are

regularly arranged in the Islamic month of Rabi Ul Awwal. Spiritual gatherings including Hamd O Naat and *Muhaafil* were also regularly held.

³¹ Nawai Wakt (Lahore), September 24, 1958.

³² Ali Qasmi describes him as “a leading proponent of *Modern Muslim Intelligentsia*.” Ali Qasmi,

³³ Syed Vali Reza Nasr, *Maududi And The Making of Islamic Revivalism* (New York: OUP, 1996), pp. 36-37.

³⁴ Ghulam Ahmed Pervaiz was part of the scholarly activity, Tulu e Islam, organized around Allama Iqbal in 1930, and one of the key figures of Ahl e Quran. See, Ali Usman Qasmi, *Questioning the Authority of the Past: the Ahl al Quran Movements in Punjab* (Karachi: Oxford University Press, 2011).

³⁵ Absolute Sovereignty belongs only to God and through it the Millat “totality of Muslimhood” creates a system of Government. “Islam kai Nazdeek Din ka Mansha Mahaz Aik Insaan ke Infaradi Najat Nahi Balkai Is ka Maqsad Yai Hai Kai Khuda Ke Is Wasee Aur Areez Zameen Par Jisai Insani Cheera Dastyo Aur Hawas Parastio Nai Jahannam Bana Rakha Hai, Khuda Ke Badshahat Qaim Ke Jai. Is Nizam e Zindagi, Is Zabta e Hayat ka Naam Hai Islam.” (The purpose of Din, for Islam is not only the salvation of an individual. Its purpose, rather, is to establish the Kingdom of God on this large earth that has been made hell by the cruelties and greediness of the human being.) Ghulam Ahmed Pervaiz, *Iqbal Aur Quran*, (Lahore: Tulu e Islam Trust, 1987), P.42

³⁶ Vali Reza Nasr, *Maududi And The Making of Islamic Revivalism*, p.51.

³⁷ Ghulam Ahmed Pervaiz, *Islami Muashrat* (Lahore: IDara Tulu e Islam, 1979),pp. 180-186.

³⁸ Ibid., pp. 13-14.

³⁹ For his detailed ideas regarding the nature of economic system in an Islamic state, see, Ghulam Ahmed Pervaiz, *Nizam e Rabubiyyat* (Lahore: Tulu e Islam, 1954).

⁴⁰ One can find such interpretations in many of his texts. For example see, Ghulam Ahmed Pervaiz, *Iblees wa Adam* (Devil and Adam) (Lahore: Idara e Tulu e Islam, 1983), first published, 1945.

⁴¹ For Pervaiz the socio-religious teachings of Islam emphasize upon System buildings and Socialist economic System. For the Jamat e Islami one can note the observation of justice Munir committee Report, "It (Jamat e Islami) aims at the establishment of the sovereignty of Allah throughout the world which, in other words, means the establishment of a religio-political system which the Jama'at calls Islam." Justice Munir Committee Report, p.243.

⁴² For the understanding of the ideas of Ghulam Ahmed Pervaiz see his books, *Iblees wa Aadam* (Lahore: Idara e Tulu e Islam, 1983) and *What is Islam* (Lahore: Idara e Tulu e Islam, 1984)

⁴³ Maulana Maududi remained determined to revive the true essence of Islamic civilization. For this, he rejected all other elements of civilization and tried to connect cultural practices with the scriptural principles to make them foundations of Islamic civilization. Syed Abul Aala Maududi, *Islami Tahzeeb aur us kai Asul e Mubaadi* (Lahore: Islamic Publications, 1986), pp. 7-12.

⁴⁴ Ibid., p.36.

⁴⁵ Ayub Khan, Foreword, xi, of Javed Iqbal, *Ideology of Pakistan and its Implementation*

⁴⁶ Ibid., xii.

⁴⁷ Javed Iqbal, *Ideology of Pakistan and its Implementation* p.27

⁴⁸ Ibid., p.29.

⁴⁹ Ibid., p.13.

⁵⁰ Ibid., p.29.

IMPERIALISM AND TERRITORIALITY

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ABSTRACT

This article aims to establish a relationship between imperialism and territoriality, by arguing that a sense of territoriality has always been a part of imperial ambitions since the times immoral. By focusing this theme, it implicates the notions of imperialism and territoriality, in their broader connotations, that is both in their literal and metaphorical meanings. More significantly, this paper utilizes Chandra Mukerji's notion of territoriality which, she has employed in her work *The Territorial Ambitions and the Gardens of Versailles*, by explicating this notion, as the "state of mind".¹ This article seeks to establish connections between two apparently disparate notions, by highlighting inherent sameness, between imperial ambitions and their fulfillment in forms of territorial acquisitions. If the later are construed as state of mind, then the apparent differences between these two notions is automatically eroded, as the imperial ambitions

and territoriality in context of mentalities acquire the same meanings. This article is divided into three parts. The first part deals with different connotations of these two concepts. The second part explores the connections between imperialism and territoriality through the course of history. In this process, it also underscores, how this sort of consciousness of territoriality, was appropriated by the inhabitants or subjects of the imperial empires, and how it became part of their mind make up or world view.

KEY WORDS

Imperialism, Territoriality, Empire, Nation State

Before highlighting the main premises of this article, it would not be out of place, to qualify the retrospective application of this term territoriality. As this concept appears to be intertwined with the notion of sovereignty, which is essentially a modernist legalist concept, and is generally considered to be part of legal vocabulary of the nation state system. Hence, it cannot be applied in the past retrospectively, without sufficient qualifications. Similarly, the concept of empire cannot be used in rigid and non-reflexive manner. It has to be used in a historicized sense. For instance, empires existed in past, more in the civilizational sense. They cannot be imbricated in modern territorial connotations. Moreover, sense of territoriality has varied across various regions, in context of imperial ambitions of sovereigns. For example, it was more explicit among the

sovereigns belonging to regions such as Near East, West Asia, South Asia, Middle East and Western Europe, where as it appeared to be quite fuzzy in South East Asia, Northern Europe, Latin America and Africa. This sense of territoriality gradually became more defined, since the decline of Roman Empire and its fragmentation into two parts. The advent of Islam and emergence of Muslim Empires also sharpened its contours. It became more explicit between eleventh to fifteenth centuries, in the wake of rise and fall of new empires in south, west and central Asia. It appeared further more conspicuous, in the imperial ambitions since the onset of the new era of, European colonization of the globe, particularly during the age of discovery as well as with the advent of capitalism. Ever since the treaty of Westphalia, its consciousness came to be firmly entangled with the notions of sovereign nation states in Western Europe. The purpose of making such qualifications is not to de-emphasize the main argument of this article, but to historicize it, in context of the two different historical epochs. For instance, the sense of territoriality behind the imperial ambitions of the civilizational empires may be explicated through the notions of suzerainty, empire or theocracy, which formed the basis of the normative foundations of these entities.² Their specific instances maybe cited as Chinese suzerain state system, the Roman Empire and the medieval *respublica christiana*.³

This section deals with the etymological, literal, broader as well as metaphorical meanings of the words of imperialism and territoriality. It further attempts to arrive at a more consensual understanding of these

concepts contained by these words. These words entail broader connotations and their elusiveness of meanings as well as definition betray meanings. For instance, the multiple meanings of imperialism are so diverse that cannot be reduced to one or two specific definitions. Similarly, one may infer a wide array of meanings from the term territoriality, ranging from territorial and possessive to zoological connotations.

The Etymological roots of imperialism are embedded in Latin word *imperium*. It entered into lexicon of English, through old French from Latin *Imperialis*, which itself was derived from imperialism⁴. This word was used to denote Roman sovereignty over the Mediterranean world.⁵ It acquired popular currency following the rise of Roman power. Thus it came to be tagged with conventional phrases such as “*imperium orbis terrae*” (empire of the world), “*imperium populi Romani*” (the empire of the Roman people), “*nostrum imperium*” (our empire), “*vestrum imperium*” (your empire) and “*hoc imperium*” (this empire).⁶ One may find a more succinct literal meaning of the word imperial in the *Longman Dictionary of the English Language* which defines it as 1. “govt by an emperor; 2. the policy, practice or advocacy of extending the power and dominion of a nation, esp. by territorial acquisition or by gaining indirect control over political or economic life of other areas”.⁷ It also refers to the spirit or character of an empire⁸ or advocacy of what are held to be imperial interests.⁹ The more broader connotations the word imperialism simultaneously denotes “(1)...economic expansion; (2)...subjugation of ‘others’; (3)...an idea or

spirit with many forms of realization and (4)...a discursive field of knowledge".¹⁰

The word territoriality is derived from the English word territory or territorial. These are in turn derivation from Latin words *territorium* and *territorialis* respectively. The former is from *terra* land, (in Italian the word *terra* also means land). It denotes "the district surrounding a town or city and under its jurisdiction, in particular a Roman or provincial city". The word *terra* has its roots in the *territorium*¹¹. The territory means "possessions in land; the whole, or a portion of the land belonging to a state",¹² whereas territorial connotes "pertaining or belonging to the territory of a state or ruler"¹³ or "limited or restricted to a particular territory".¹⁴ Another conspicuous set of meanings derived from this word is its zoological connotations. For instance, in this sense it underscores assertion of "ownership of areas"¹⁵ by certain animals or birds. It also connotes a tendency on the part of animals "to appropriate an area or territory and to protect that areas or territory against intruders of the same species, particularly the males".¹⁶ If put in more plain words the zoological connotations of territoriality refer to an animal's or bird's propensity "to establish and defend its area".¹⁷ The definition of Imperialism in context of occupation of the foreign land and appropriation of its resources also highlights savagery or brutal instincts of human imperial behaviour. The element of subjugating the others, as exemplified from the practices of slavery and its various manifestations further point towards, the dark aspect of such behaviour which will Durant in his

work *Our Oriental Heritage* refers practices of slavery among “civilizational sins”. In more general parlance, the word territoriality specifically connotes “attachment to or protection of a territory”,¹⁸ or in more elaborate terms “(1) territorial status; 2 (a) persistent attachment to a specific territory and (b) the pattern of behaviour associated with the defense by an animal of its territory”¹⁹. *The Oxford Encyclopedic English Dictionary* explicates its meanings as “of territory (territorial possessions of a person or animal) tending to defend an area of territory”.²⁰ The meanings of territoriality, which become even more explicit, if it is conceived in conjunction with territorialize may be understood as “to make a territory of, to make territorial... to enlarge (a country) by adding more territory”,²¹ or “to reduce the status of a territory; to make territorial” as *Webster’s Unabridged Dictionary* puts it.²² It also connotes “to organize on a territorial basis”²³. In this context it draws substantially closer towards imperialism.

As mentioned earlier, if one traces the more metaphorical meanings of territoriality as defined by Chandra Mukerji in her work, then it may be described as a “state of mind” and the imperialism defined in terms of imperial ambitions. In the similar vein, imperialism is also defined in terms of “attitude of mind”.²⁴ This attitude finds more visible manifestations in form of bombastic patriotism, which is labeled as Jingoism in Britain in the nineteenth century²⁵. In this context it reflected a psychological behaviour of British. Schumpeter also isolates elements of aggressive desires for territorial ambitions as manifestations of imperialism

in his work.²⁶ It is also construed as “rooted in the Psychology of rulers”.²⁷ Interestingly, on the other hand, if Imperialism is interpreted in terms of cultural project of control, as contented by Bernard Cohn and Edward Said, such conceptualizations of Imperialism involve the conquest of “epistemological space” of conquered territories. This sense of imperialism also underscores the cognitive diamensions of imperial projects, related to the state of mind, which fructify into systematic efforts of territorialization, through the manipulation of knowledge and power. All such interpretations of imperialism and territoriality, evidently establish sufficient link between these two concepts. Thus these reinforce our main argument that, imperialism and territoriality are intertwinely connected in context of “state of mind” which denotes territorial ambitions.

This section brings to the fore the “territorializing” tendencies of the imperial powers across the empires, so as to substantiate the main hypothesis of this article: that territoriality has been integral part of imperialistic ambitions. In order to provide more orderly semblance to the territorializing tendencies of different empires, it clubs these together under different patterns of behaviour. Moreover, it also explores how this sense of territoriality was appropriated by metropolitan inhabitants and how it got further reverberation in their thoughts and actions, as part of *lieux de memoire* or realm of memory.

TERRITORIALITY AND THE CIVILIZATIONAL EMPIRES

Among the ancient civilizations the Assyrian, was the first to tread, on the path of imperial conquests. But as its imperialism was devoid of any empire building vision, therefore, it wrought destruction into its imperial possessions. The sense of territoriality among civilizational empires found its more explicit manifestations, in the language, vocabulary, rhetoric, symbols, imagination of the Roman Republic and its institutions. Infact Roman practices, provided models for the modern imperialism to emulate , for instance, the word *imperium* not only denoted right of commands conferred to Roman magistrates and pro-magistrates, but also carried connotation of “an empire in an increasingly concrete territorial sense”.²⁸

While explicating this theme, J.S. Richardson argues that, if used in the sense of *Imperium Romanum*, it expresses empire rather than power of a magistrate and pro-magistrates. It denoted a “corporate” sense relating to power/empire of *populus Romanius* rather than any particular Roman”.²⁹ He further opines that the notion of *Imperium Populai Romani* also entailed broad connotation such as “*domi*” and “*militia*”³⁰. He further corroborates this contention, by historicizing as well as problematizing the uses of various definitions and connotations of Cicero, Sallust, St. Augustine and Vergil.³¹ From this debate he infers that over the period of time, this sense of territoriality came more clearly associated with the Roman rule. “The sense of ‘empire’ as a territorial entity, which these changes suggest, indicates that when Cicero, his contemporaries, and predecessors used Imperialism to describe a national or

political structure, they had in mind something less defined".³² According to his assessment it was in the last century of Roman republic, that the word *imperium* came to be used in the sense that was synonymous with English empire.³³ For instance, while referring to its vastness Vergil, described Caesar's *imperium* as "bounded only by Oceanus".³⁴ He also cites opinion of another scholar on Roman empire Dietman Kienast, to further argue that, there occurred a change in the "nature of Roman control of the world", for instance, what was "construed to be *patrocinum orbis terrae* was now in reality *imperium*".³⁵

This sense of territoriality appears also quite conspicuous particularly in the administrative system of the Persian civilizational empire particularly the role of its administrators called "Satrapas".³⁶ More specifically, it denotes designation of a governor of a province under Ancient Persian monarchy. Similarly, the examples of Persian control in Arab kingdoms in Iraq and those located on the borders of Syria further highlight the functioning of a pre-capitalist empire, through an elaborate territorial tribute structure. One also finds this consciousness of this territoriality explicitly reflected in Persians wars with Greeks and Romans.

MANIFESTATIONS OF TERRITORIALITY IN THE RELIGIOUS TRADITIONS

The urge for territorial control, for the establishment of religious theocracy, is quite conspicuous in religious traditions particularly, in Judeo-Christan, Islamic and

Hindu traditions. The most explicit example of this sense of territoriality comes from medieval ecclesiastical-political order, in form of an institution known as *Respublica Christiana*, that was both “a religious and a political organization”.³⁷ The nature of its reach was “*universitas* rather than *societas*”.³⁸ Its foundations were erected upon a “joint structure of religious authority (sacerdotium) headed by the pope and political authority (Regnum) headed by a secular ruler designated as emperor”.³⁹ It espoused the notion that secular as well as spiritual authorities were “subject of a higher authority, God, whose commandments were expressed by the precepts of Christianity”.⁴⁰ This institution, through the institution of papacy and offices of emperor and periodic holding of councils of church, used to maintain its firm grip on Western European political-religious affair.⁴¹ This sense of territoriality in the religious consciousness got further defined, in the wake of emergence of schisms in Christianity, during the sixteenth and seventeenth centuries.

The territoriality in Christian tradition was not only reflected, in form of an urge, on the part of the religious elites, to establish their firm control over ecclesiastical political order in the Latin *christiandom*, but also it found its reverberations in the organized imperial projects of proselytizing Christianity in newly acquired colonial territories. According to one interpretation the underlying motive of Spanish monarchs’ financing the initial voyage of Columbus (which resulted into the discovery of America) was to wage last crusade against Islam, as “Ferdinand and Isabella were attracted by the

prospect of an anti-Islamic crusade, that would make contact with the fabled Christian kingdom of Pester John, and deal a decisive blow to the Muslim enemy".⁴² The new findings about the voyage of Christopher Columbus' provide very pertaining insights about the territorial motives of imperialist ventures, which were strongly influenced by Christian traditions. New researches into the life of Columbus reveal that religious motivation played a major role in his decision to embark upon the "enterprise of the Indies".⁴³ His life infact, demonstrates visible influences of "the Bible and the prophecies of the sacred texts". He considered himself as a chosen representative of God "to serve as an instrument" to fulfill "the prophecies of sacred texts".⁴⁴ He also expressed these desires in a letter to Spanish monarchs. In this letter besides, offering his services as a best guide to lead a "final crusade", he mentioned in quite unambiguous terms that "Jerusalem and mount Zion are to be rebuilt by the hands of Christians".⁴⁵ In another letter, he expressed his wish to "spread the light of the Gospel throughout the world, and to enlist the newly converted peoples, in the life and death war with the Empire of Muhammad".⁴⁶ The interesting aspect about the territorial ambitions of the Spanish empire was its attempt to provide a façade of legitimacy to its imperial ventures. For this purpose, Spanish monarchs managed to get a "papal Bull from Pope Alexander VI, which grant them dominion over all the land would be "discovered" by Spaniards".⁴⁷ It also signifies the Juxtaposition of twin projects of conquest and conversion.⁴⁸

The most explicit manifestation of this sense of territoriality, in the religious tradition, may be identified in the Jewish tradition, in form of Jewish vision of their homeland in Palestine. The fulfillment of this vision, into reality, with the support of Western imperial powers, provided another instance, of convergence of imperial territorial ambitions and religious agenda. Maxime Rodinso, in his work on Israel, reflects upon the whole process through which, consciousness of territorial land was “kept alive” in the “entire Jewish tradition”,⁴⁹ and how it passed on “from generation to generation through reading and studying the sacred texts and their commentaries, through prayers and in all of the literature, named Palestine, in the circumlocution of Deuteronomy, “the land which the Lord your God giveth you to inherit”.⁵⁰

The Islamic concept of “moving Dar ul Islam”, the concept of Jihad and its more reified interpretations by certain Muslims scholars point towards, one dimension of territoriality, imbued in these concepts. The attempts made by certain rulers to legitimize their expansionist designs and appetite for conquest under the grab of Islamic notions of Jihad against infidels, provide another dimension. The instances, of Ghaznavid and Tamerlane’s invasions of India in the eleventh and fourteenth centuries respectively, evidently underscore this other aspect of territoriality. The scholars such as Burkholder and Johnson isolate Islamic Jihad, as the prime reason behind, Moor’s colonization of Spain.⁵¹ The Muslim concept of Ummah identity and its translation into a political system of Caliphate, also provides an

illustration of the theme of empire and territorialization in the discourse of Islamic history. The Arayan concept of establishment of Ramraj, presents another instance of territorialization imbued in religious traditions.

SENSE OF TERRITORIALITY AND THE MARITIME EMPIRES

The imperialist ventures of maritime empires like Spanish, Portuguese and the first Dutch empire also betray another sense of territoriality. It was demonstrated both through theory and practice. For instance, these words of Grotius "my work about freedom of sea was conceived in the best patriotic spirit",⁵² exemplifies another notion of territoriality, which he deemed necessary for the vested interests of Dutch, to be operationalized, not on land but, in high seas. Infact his work justified the Dutch act of the capture of Portuguese galleon, *Santa Caterina*.⁵³ Similarly, William Welwood's work *An Abridgement of all the Sea-Lawes*, which was published in 1613, provides us glimpse into the British sense of territoriality, in the struggle for oceanic supremacy among the imperial powers. It provides "theoretical background for the British claims to the domination of the Sea".⁵⁴

It appears that maritime empires had devised new ways and means, of maintaining their supremacy over maritime possessions, as well as for the protection of their commercial interests. Particularly, in context of their limitations of maintaining political dominance over land possessions for instance, the Portuguese *Estado do India* never managed to acquire any sort of political

homogeneity in India. Keeping in view such hindrances, they “initiated a new system of control over the movements of the merchant shipping through the introduction of *cartazes*”,⁵⁵ which enabled them to establish their “mastery of the open sea and dominance of shipping lanes, that linked those lands together”.⁵⁶ This system provides an illustration of the institutionalization of such practices, which were directed towards maintaining their supremacy over the Indian Ocean regions. These also brought Portuguese in a more effective position, of intrusive surveillance through elaborate search procedure and “ascertain whether their intended voyage was undertaken in good faith”.⁵⁷ In this sense, these proved veritable instruments of “asserting Portuguese rights” as well as “preserving order and security on the international Sea routes”.⁵⁸ Besides the use of *cartazes*, Portuguese used other tactics for maintaining their supremacy. These included: establishment of fortresses in the regions of from East Africa to Malacca, the treaties concluded with various rulers of India specifying terms and conditions beneficial to the Portuguese maritime interests.⁵⁹ Spaniards, on the other hand relied upon armies of occupation in establishing their colonies in the American continent.⁶⁰ There occurred an insidious change in the Dutch territorial ambitions in the region, during the initial phases of Dutch intrusion in Southeast Asian; their intents were more commercial and less imperialistic.

Over the period of time, the influence of the Dutch government increased, particularly, during 1840s and 1850s, which brought a change in Dutch “colonial

imagination" and they began to consider "the Indonesian archipelago, with its numerous islands as their "possessions". Soon Dutch also embarked upon the journey of imperial territorial conquests and the Ache war, marked the beginning of such imperialistic pursuits".⁶¹ This brief synoptic view of the phenomenon of territoriality in the maritime empires makes one thing abundantly clear that is: their imperial ambition and their insatiable thirst for conquests, which further aggravated with their economic and commercial interests and exposure of the relative weakness of their would be colonial acquisitions. Keeping in view such desires for territoriality acquisitions, it is not surprising to find that this sense of territoriality became part of the grandiloquent titles of monarchs. For instance, the king of Portugal, Dom Manual styled himself as "Senhor da Navegacao, conquista e commercial do Ethopia, Arabia, Persia e India" in 1501.⁶²

TERRITORIALITY IN THE CLASSICAL IMPERIALISMS OF NINETEENTH AND FIRST HALF OF THE TWENTIETH CENTURIES

This sense of territoriality became even more conspicuous, with the onset of classical age of imperialism, in late Nineteenth Century. Though this process has been set in motion, since Seventeenth Century that is with the rise of modern system of capitalist exchange, Europeanization of the globe and the age of scientific innovation, but since the Nineteenth Century the acquisition of new colonies, came to be

pursued as a policy choice. Russia and France took lead in this process, from this period there ensued intense debates in Britain regarding the vision of empire as well as the emergence of two distinct views on imperialism exemplified by Dilke and Disrealie's models.⁶³ Another peculiar feature of this period was the entry of new actors in this colonial race such as US and Germany. Even Dutch imperialism also appears to acquire more aggressive hues. France during the period of Napoleon III, began to tread a new path of imperial conquest directed towards reconstitution of the French empire, not in Europe, rather outside of the European territories.⁶⁴ These territorialistic hues of French Imperialism have been very succinctly encapsulated by Karl Marx, who highlighted their ideological trappings in his *Eighteenth Century Brumaire of Louis Bonaparte*. He explicated these in terms of an idea of vibrant national revival, which in turn implied the policy of national prestige, pursued through conquest and national expansion abroad.⁶⁵ The subsequent French expansion, led to their intrusion in Maghreb, Sub-Saharan Africa, the Lebanon, Syria and Polynesia.⁶⁶ This "colonial epic" may be construed as an "attempt to compensate for the loss of her distant possessions in the Seventeenth and Eighteenth Century and for her European defeats in 1815 and 1870".⁶⁷ For Robert Young, the French imperialism of Nineteenth Century was essentially of a revivalist nature as it was premised "on the idea of active development of national pre-eminence; an attempt to recover the grandeur of its Napoleonic empire"⁶⁸. New imperial ideology constructed a new

image of “Greater Farce”. It envisaged the flowing of Mediterranean in similar sense as the seine flowed through France itself.⁶⁹ Apart from these theoretical and imaginative visions of French territoriality, what the exponents of French imperialism tried to do was to camouflage its reality under the grab of moral justification of *mission civilisatrice*. This was projected ostensibility, as “an ideological alternative to the weaker economic arguments for Imperialism”.⁷⁰

The British not only pursued the policy of territorial expansion throughout Nineteenth Century, under the pretext of strategic or economic motives, but also made systematic efforts for devising such policies of imperialistic consolidation, so as to develop elaborate institutional mechanisms of governing the newly conquered territories. The Wakefield system of settlement colonization (1849), Lugard’s model of indirect rule, which was used in India, other colonies, mandates, and the transplantation and organization of bureaucratic and military apparatuses in colonies, may be highlighted as the conspicuous examples of British efforts to manage territorial acquisitions. More significantly, imperialism had become a party slogan since⁷¹ Disreali’s period. He espoused the policies of bombastic imperialism in such, a ruthless manner that led his opponent Gladstone to accuse “Tories” of having drunk “the intoxicating beverage of the New Imperialism”.⁷² The British attitude towards territorial acquisition and Imperialism demonstrated such a change, that Imperialism no longer remained a derogatory slogan of brandishing Napoleon III’s

imperialist ventures, or a liberal term of abuse, rather it came to be conceived as instrument of enhancing a national prestige and grandeur. More importantly, it came to be justified as an economic rationale in terms of “empire of industry and its drive from captive markets”.⁷³

The Russian, American and Germans Imperialisms of the Nineteenth Century also demonstrate visible, propensities of territorial acquisitions. For instance, in case of Russia, one may highlight such imperialist proclivities in Russian Imperialism, in form of Russian systematic policy of territorial acquisition in Central Asia and Caucasus, its tussle with Ottoman Empire and Czarist policy of Southward expansion aimed at gaining access to the warm water of South Asia. These also found reverberation in the statements of high ranking officials of the Czarist regime. For instance, Russian finance minister, Prince I.A Vyshogradsky, after a visit to Central Asia described it “a jewel in the crown of the Russian tsar”.⁷⁴ Another Russian official Brodorsky termed it as “a country indissolubly linked with Empire, market for Russian manufactures and a potential area of settlement”.⁷⁵ American Imperialism also exhibits visible signs of territoriality. Infact, the echoes of territoriality became explicit in America long before it began to tread on the path of imperial acquisition. For instance, one American intellectual Joel Barlow wrote in the 1809, “the vast extent of continent that is or must be comprised within our limits, containing not less than sixteen hundred millions of acres and susceptible of a population of two hundred million of human beings”.⁷⁶

This virtually encapsulates the crux of the policy of manifest destiny which came to be fructified in the middle of the Nineteenth Century.⁷⁷ The vision of American territoriality had become so thoroughly ingrained in American mind that one writer in his article in American Technological Review (1809), while highlighting the advantages of the American geographical situation, he went on to expound the thesis that by virtue of central location, it was “possible for Americans to reach every part of the world with the light of the Gospel and of the American system”.⁷⁸ Over the period of time this sense of territoriality got itself transformed into aggressive military agenda particularly during the Presidents of McKinley and Theodore Roosevelt. The period between 1898 to World War I, is referred to as, “the high point of general Jingoistic imperialism”,⁷⁹ for instance, this period witnessed the shift in US policy “from the acquisition and assimilation of contiguous territory, through a militarized form of settler expansion, to one of direct acquisition and control of colonies overseas on the European model”.⁸⁰ In the backdrop of US pursuit of such policies of Jingoistic imperialism American president Theodore Roosevelt came to be portrayed in literature as big game hunter.⁸¹ The territorial ambitions of German Imperialism from 1870 to the Rise of Third Reich are for too obvious to be further explained. The various manifestations of its territorial ambitions, fused with aggressive nationalistic aspirations, found their manifestations in wide array of slogans and instances of territorial acquisition. For instance, the slogans of ‘Velt

politics' and desire for place under sun, to the military forays in Africa in the nineteenth century and in Poland and Czechoslovakia, not only demonstrated the hazardous potentialities of unbridled territorial ambitions, but also pushed the world towards two world wars. By the end of the nineteenth century, the element of territoriality had become so much fused with imperialism that, almost eighty five percent of land mass of the globe, had fallen under the yoke of imperialist powers.

RESONANCE OF TERRITORIALITY IN THE REALM OF MEMORY

The sense of territoriality no longer remained confined to the imperial ambitions of the ruling elites. Rather it became part of the mindset of the inhabitants of the imperial powers. It was brought about through a systematic indoctrination of their subjects, about the virtues, as well as the benefits of imperial rule. It was carried out through multiple means, such as propaganda, acculturation through education, orientalist constructions and invention of traditions. Consequently, it got ingrained in their thought, in manner that they not only appropriated it, but also started owning it unapologetically that is: instead of acknowledging the heinous, dehumanizing and constricting fallouts of imperialism, they began to eulogize it. There are scores of instances from various imperialisms across the globe, from the Roman era to the twentieth century, that exemplify such the wide spread diffusion of such influence in the minds of the imperial inhabitants. For

instance, in the Roman Republic, the manner in which, Tacitus, depicts “the triumph of civilized races over the barbarism and savagery”⁸² sufficiently corroborates Roman attempts to justify their conquest under the notions of racial and civilizational superiority. Later the language of British Imperialists of the post enlightenment period, also betrayed such Romanized prejudices towards the conquered subjects.

The Jingoistic imperialism had got so much ingrained in British mind that it became the part of popular sensibility, and got itself manifested in songs as well. For instance, a popular song in 1878 which supported Disreali’s war threat to Russia in these words “we don’t want to fight, but by Jingo if we do, we’ve got the ships, got the men, and we’ve got the money too”.⁸³ Another expression of sense of British pride in this territoriality is its ostentatious display through invented traditions, various rituals and ceremonies associated with British pageantry, as well as through the construction of the imagery of the raj in orientalist constructions. David Cannadine’s work *Ornamentalism*, provides explicit details of British sense of territoriality through the display of social hierarchy across metropole and colonies.⁸⁴ One specific reference from this work further suggests how this sense of territoriality became part of the titles of British monarchs. Cannadine writes that “from King Edward VII, onwards, all of them were additionally styled as ruler of British Dominions beyond the seas”.⁸⁵ He goes on to aver that “more substantively, this meant that from Victoria to George VI, British

sovereigns unified an imperial dominion of ever greater diamensions and order".⁸⁶

This appears to become such a part of British *Lieux de memoire* that, even in 1960s, when British Imperialism had reached its throes of decline, the British Premier Harold Wilson was making such claims that "Britain's frontiers were on the Himalayas".⁸⁷ The British accorded so much primacy to their territorial concerns that they equated these as vital British interests, during the negotiations of transfer of powers in various regions. These were couched in their broader pre conditions, such as desire for federation, role of assets and British interests in maintaining control over strategic locations.⁸⁸ According to John Darwin the language of policy makers, conveyed "behind these rationalizations an instinct or habit of mind".⁸⁹ While further elucidating British concerns for territoriality, in the midst of decolonization, he goes on to suggest that "regardless of what was happening in elsewhere, the old assumption about what Leo Amery had once called the 'Southern British World' still held good".⁹⁰ A cursory look at the writings on French Imperialism, makes one thing abundantly clear, that French even held more stubbornly, on to their empire as compared to the other colonial powers. Through the ideological constructions of French Imperialism, they had begun to consider colonies as integral part of the body politics of France. Therefore, it is not surprising that, the French voted overwhelmingly in favour of military action in Algeria, when French President De Gaulle sought its approval, through referendum. The unflinching commitment of

French officials towards empire may further be explicated, through certain statements of high ranking French officials. While echoing such sentiments in 1944, a French Parliamentarian argued that, “without the Empire France is nothing but a liberated country, thanks to the empire, she is a conquering country”.⁹¹ Another deputy added “one can certainly live without colonies. Only do you want France... to fall to the level like Portugal”.⁹²

The theme of empire and imperialism has attracted so much scholarly and academic attention in France that the issues of empire and public opinion, representation of empire and empire and science have become focal point of the debate. One may get further inkling about these issues, through the edited work of Tony Chafer and Amand Sackur entitled, *Promoting the Colonial Ideas*.⁹³ French scholar Pierre Nora's paradigmatic notion of *Lieux de memoire* opens up, new vistas of understanding the resonance of such themes, in the public mind as well as institutional practices. One instance of its deep rooted impact on public comes from the naming practices in Paris streets.⁹⁴

SENSE OF TERRITORIALITY AFTER THE END OF EMPIRE

Though the period of decolonization has brought an end, to the era of formal imperialism, regulated through the colonial possessions, yet the decline of empire has not necessarily resulted into the vanishing or erosion of territorial consciousness, associated with imperialism, in its both forms, metaphorical as well as material. This

new imperialism after empire, in its transformed state of existence, may be identified with certain distinguishable characteristics, for instance, it has now become more informal. New imperialism has become structural as compared to formal Imperialism (which was more regional or formulistic). Another distinguishing aspect of this New Imperialism is that, it is economic rather than political. Similarly, it appears to be culturally more intrusive as compared to the militarily interventionist nature of the formal Imperialism. Similarly, in certain instances it is less discriminatory, but not necessarily less exploitative than the formal. Notwithstanding its apparent as well as structural differences, with formal Imperialism, it betrays visible manifestations of Imperial ambitions as well as territorial interests of the world powers.

Now the question arises, how did these territorial ambitions manage to outlive the demise of empire (if one conceives empire in Gibbonians terms). Its answer may be provided through a number of plausible explanations. These include: expansion of capitalism; continued economic dependence of the post-colonial societies on western world; increased role of the financial capital and western dominance over Development Financial institutions; the role of the technological innovations in global warfare, in enhancing the reach and access of the western powers, across the globe; dominance of world powers in global politics; increasing cultural intrusion of the West in the wake of new information order; and imposition of capitalist market discipline onto post-colonial societies.

One may argue that the end of empire has not necessarily resulted into end of capitalism rather the post-colonial era has witnessed the expansion of capitalism, in form of informal imperialism. It may be attributed to two main factors: (i) the expansion of informal capitalist imperialism has swallowed up empire;⁹⁵ and (ii) the success of the capitalist world in keeping the postcolonial world, with in the ambit of global capitalism. The compromises on the eve of decolonization have played a major role in preservation of the vital interests of formal colonial powers. The British strategy to negotiate its vital interests and compromises among the old and new colonial powers provide best illustrations of such bargaining for the sake of territoriality.

The political independence of former colonies has not reduced their economic dependence on the west, which provides the later requisite space to dictate its own terms. The increasing role of finance capital and the western dominance of the financial capital institutions have increased the intrusive role of the western power in the post-colonial societies. Technological innovations in armament and the consequent changes in the strategies of offence and defense, have led to enormous increase, in the capacity as well as reach and access of these power, to the sea lanes, trade routes, vital nodal points of trade and commerce, and oil resources. The presence of US naval fleets in important Oceans as well as its control over important maritime enclaves further brings it in a position to influence the territorial space of different regions of the world, in a more effective

manner. The dominance of world powers in the world politics further enables them to impose their own terms of territorial ambitions. For instance, the bi-polar world of cold war presented a different notion of imperialistic dominance. Its replacement with uni-polar world order, after the collapse of communist bloc, has enabled the US to dominate the world order according to its whims, through its plans or ordering or re-ordering the world order. The cultural influence of the western world has substantially increased, in the wake of creation of new information order. Last but not the least, the new economic order has also proved to be an effective instrument, of imposition of the capitalist market, onto postcolonial societies in the name of liberalization, deregulation and de-control.

From this debate one may conclude that, this sense of territoriality has been part of the mind makeup of the elites or ruling authorities, associated with imperial systems of dominance. The intoxicating fallouts of certain factors, such as proximity to the corridors of power, technological and military superiority and the awareness about the prospective and economic benefits accrued to empire, impel them to tread on the path of imperialistic domination. Moreover, as a part of human psyche, such habits of mind, manifested through territorial control could not be restrained. Therefore, it does not matter, whether imperialism is formal or informal, the sense of territoriality remains a part of imperialistic ambitions.

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⁶³ Dilke model envisaged imperialism, in terms of Great Britain. It projected Anglo-Saxon Alliance view of the Empire, whereas the Disreali model espoused the vision of Empire in East, particularly in India, its further explications lays bare concept of empire comprising exploitation colonies. For details see, Young, *Postcolonialism*, 33.

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EDUCATION IN PAKISTAN SINCE 1947

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ABSTRACT

Considering the importance of education, it has been drawing the attention of the Governments of Pakistan throughout the period; and due weightage was given to it in the Planning Process through Five year Plans and Policies were formulated to further clarify the aims and objectives which were not sustained but varied from one government to another and policies were formulated according till the 18th Amendment of the Constitution when education was decentralized and the subject entered into a new arena and debates and process. In the paper and attempt has been made to look into the historical perspective objectively.

KEY WORDS

Education in Pakistan, Five Years Plans, Policies, 18th Amendment

Pakistan achieved independence on 14th August 1947 from the British Colonial Rule. During the colonial period, some progress was made in the field of education in the subcontinent; however, it was

largely in the areas emerged as India. The regions comprising Pakistan were relatively backward in all respects, including education. At the time of independence, overall 85% of the population was without education; and in the comparatively backward regions like Baluchistan, it was further lower. The track record of the efforts made by the Government of Pakistan and others in the Education Sector since Independence was studied consulting various, document, papers, books, journals and other references for this paper and penned own below.

Recognizing, the role of educated and skilled manpower in the process of nation building; just after getting the independence, a National Education Conference¹ was convened in Karachi from 27th November to 1st December 1947, in which the primary education was emphasized, targeting, its universalization within a period of 20 years. Since then, universal primary education has remained an important objective of all the subsequent governments; and considerable resources have been expended in creating infrastructure and facilities, however, with proportionately lower quantitative and qualitative results.

Considering the importance of education and literacy, the Quaid-e-Azam, Muhammad Ali Jinnah gave the following message to the Conference.

... the importance of education and the type of education cannot be over-emphasized ... there is no doubt that the future of our State will and must greatly depend upon the

type of education we give to our children, and the way in which we bring them up as future citizens of Pakistan ... we should not forget that we have to compete with the world which is moving very fast in this direction.

Following were the major recommendations of various committees, formed by the Conference: national system of education should be based on the strong foundations of free and compulsory primary education; emphasis on the problems of medium of instruction, teacher training, physical education, etc; the primary aim should not be to make adults literate but to keep them literate; setting up of a permanent system of adult education, closely linked with compulsory primary education; emphasis on vocational and technical education; government Departments and the employers; and trade unions were asked to ensure that their employees, workers, and members are literate; making the social service obligatory on all the university students for a specific period may be considered; emphasis was made on the use of mechanical aids to learning, such as radio, cinema, the gramophone, and magic lantern etc.

In 1951, an Education Conference was held

to adopt a six-year National Plan of Educational Development for the period 1951-57.² The Plan was presented as “the first deliberate effort to anticipate and provide for our requirements in the various fields of education for a period of six years.” The Plan identified problems and constraints facing the task. The major constraints/issues identified were as follow: lack of trained teachers, as half of them in primary schools were untrained and the expansion of primary schools would require over 86,000 additional teachers hence need for more training institutions; needs for school buildings, teaching aids, scientific equipment.

In the First Five Year Plan 1955-60,³ which, was launched in December 1957, it was proclaimed that

“a system of universal primary education is imperative. Primary education is essential to prepare citizens for the discharge of their democratic and civic responsibilities and to provide them with equal opportunities for economic and cultural advancement.”

Following were the salient features and objectives of this plan:⁴ to add 4000 new schools to the 15,602 already in existence in the country; additional schools to be built under the Village-AID programme; the number of trained primary teachers was to be increased from about 75,000 to about 118,500 raising the percentage of trained teachers in primary

schools from about 65 to 85 percent; these additions were estimated to increase school enrolment by about 600,000 to one million children, and raise the primary enrolment rate from 43 to 49 percent; provisions made for teacher training, curriculum development and teaching aids; attention was given to the organization and management aspects of primary education; consideration for "the possibility of constituting local school management committees and district advisory boards ... elected by members of the community, responsible for providing school buildings; selection of teachers and the school programme, and for supplementing the school supplies and learning materials provided by the directorates in consultation with the area education officers.

In the Report of Commission on National Education 1959,⁵ compulsory education at elementary level, was thought as indispensable for the skilled manpower and intelligent citizenship. The target to achieve 5 years compulsory schooling was recommended within a period of 10 years and 8 years. Compulsory schooling was desired within a total period of 15 years.

The objectives laid down by the Commission were as follow: make a child functionally literate; develop all aspects of his personality i.e. moral, physical and mental; equip him with the basic knowledge and skill required of an individual and a citizen and prepare him for further education; arouse a sense of responsibility, love for his country and willingness to contribute to its developments;

develop the habit of industry, integrity and curiosity; awaken a liking for physical activity, sports and games.

The Second Five Year Plan,⁶ which incorporated the recommendations of the 1959 Policy, proclaimed that the education is the supreme task of preserving the national ideals and building up the national character on strong foundations of ***faith, unity and discipline***, without which no nation could aspire to greatness. The Second Plan allocated Rs. 990 million or 66 % of the total of 5-year social sector outlay to the education. It proposed to raise the proportion of children in the 6-11 age group attending school from 42.3 to 50 per cent by 1965. It provided for the opening of 15,200 new primary schools, in addition to the 18,000 existing in those days. The education of girls was given special attention.

The Third Five Year Plan⁷ allocated Rs 2652 million or 5.1 percent of the total 5-year outlay to the education. It recognized "the concept of education as a vital national investment and a major determination of the nation's economic growth." It set the following objectives of educational planning in the country: to provide an educational system which would facilitate transition into an era of science and technology, promote political, social and economic development and bring the country's spiritual and cultural heritage into harmony with the contemporary world; to provide the youth of the country with conditions conducive to the

full-fledged development of their individual capacities and character; to raise the quality of education at all levels so that it may properly fulfill the nation building tasks.

The Third Plan (1965-1970) aimed at widening the base of education and proposed to increase the enrolment rate from 45% to 70% per cent in 1970. To this end, 42,500 new schools were proposed to be set up in West Pakistan. Attention was also focused on improving retention rates, teacher training, teacher salaries, teaching aids, and physical condition of schools.

The 1970 Education Policy⁸ reaffirmed the government's commitment "to the objective of universal elementary education" accepting it as a "basic principle of State Policy in the Constitutions of 1956 and 1962", and of "the Karachi Plan of 1960 (which) proposed ... compulsory, universal and free primary education as a target for 1980." The education and training were considered critical inputs in the economic effort of the nation harnessing the vast human resources available in Pakistan to fulfill the task of sustaining and accelerating economic development. The basic objectives of this policy were to broaden the base of education to attain universality of literacy and productive society; and continuous supply of highly trained persons capable of providing imaginative and creative leadership in different spheres of national activity.

The 1972-1980 Education Policy⁹ aimed at eradicating illiteracy within the shortest possible

time through universalization of education and a massive adult education programme" and at "equalizing access to education through provision of special facilities for women, under-privileged groups and mentally-retarded and physically-handicapped children and adults in all areas in general and the backward areas in particular.

It declared that the education will be made free and universal up to Class X for all children throughout the country, both, in the government and privately-managed schools with anticipation to make the primary education universal for boys by 1979 and for girls by 1984. The Policy proposed to construct 61,000 additional class-rooms for primary classes; train 150,000 teachers, and recruit an additional 75,000 teachers through the National Literacy Corps.

The 1972 Policy declared the massive literacy programme to be undertaken in every town, and village with establishment of literacy Centers all over the country in schools, factories, farms, union councils and other community places. The 1972 Policy could not be implemented due to coup d'etat. However, the Fifth Five Year Plan was prepared and launched a year later.

The Fifth Five Year in 1978-83¹⁰ Plan claimed to mark a fundamental reordering of national priorities in favour of education; and aimed at a comprehensive approach towards education, which would include not only the augmentation of physical facilities but also reduce the drop-

out rate by improving the quality of teaching and better supervision.

The Plan proposed to earmark 33 per cent of the development expenditure for primary education. It also proposed to raise per capita expenditure on education from Rs. 43 in 1977-78 to Rs. 88 in 1982-83 and, thereby, increases the outlay on education from < 2% to 3.1% of GNP by 1982-83. It aimed at "increasing enrolment at primary stage so that the universal enrolment for the age group (5-9) is attained by 1986-87. An essential feature of the plan was reduction in the dropout rate from 50% to 40%. High priority was also given to the expansion of girls' education; and estimated to increase at the rate of 9.6 % per annum as against 7% for the boys. The Plan provided the following as well: renovation and expansion of 17,166 schools; opening of 12,641 new primary schools; 10 per cent of the new schools will be provided with furniture; village and mohallah mosques will be utilized to teach primary classes; it was estimated to add 45,054 male and 30,694 female teachers; 5,800 residence units will be constructed to house the school teachers to overcome the non-availability of teachers.

The 1979 Education Policy¹¹ was presented one year after the launching of the Fifth Five Year Plan, with a change of target dates. While the Fifth Plan proposed to achieve the targeted enrolment of the boys by 1982-83 and achieve universal enrolment by 1986-87, the 1979 Policy proposed to achieve the same by 1987

and 1992, respectively. The Policy recognized the potentials of the indigenous institutions and aimed at patronizing these for bringing about greater educational development. The Policy aimed at providing a minimum acceptable level of functional literacy and fundamental education to all citizens of the country particularly the young, irrespective of their faith, caste, and creed in order to enable them to participate productively in the total national efforts.

EDUCATION DURING 1980s - YEARS OF EDUCATIONAL PROMOTION

The 1980s was a decade of a series of initiatives in the field of education and literacy. The Literacy and Mass Education Commission (LAMEC) was established in 1981; the 10-Point Education Programme was announced in 1983; the Sixth Five Year Plan with an ambitious educational component was launched the same year; and the Two Year National Literacy Plan was launched in 1984. In 1985, the Literacy Ordinance was promulgated levying the Iqra Tax; launching also the Drop-in Schools Programme. The following year in 1986, the Nation-wide Literacy Programme was launched and, in 1988, the Seventh Five Year Plan with an equally ambitious educational component was unveiled. The Literacy and Mass Education Commission (LAMEC) was established in 1981 under the Federal Government through a notification¹² to pursue its policy goals of achieving mass literacy. Following were the salient

features of this Programme: the importance of knowledge in Islam; highlighted the low Literacy Ratio in the country; commemoration the Advent of the Fifteenth Hijra Century; launching a Literacy Drive; establishment of Literacy and Mass Education Commission with powers to promote literacy in the country.

Following functions were also assigned to the Commission: to evolve strategies of formal and non-formal mass approaches for the purposes of eradication of illiteracy and promotion of functional literacy; to develop plans on literacy and non-formal mass education commensurate with the needs of the target population and make recommendations to the Federal Government; to organize and launch regular campaigns for the purposes of eradication of illiteracy and promotion of mass education.

In 1989, LAMEC was reconstituted as National Education and Training Commission and in 1995 it was renamed as the Prime Minister's Literacy Commission. LAMEC commenced with a budget of Rs 1.03 million whereas, it reached at a level that it had about 7,400 persons with a budget of Rs 160.94 million.

In 1983, the Chief Martial Law Administrator addressed a National Workshop on Female Literacy and announced a 10-Point Education Programme, as follows:¹³ an Annual Drive every summer for literacy and mass education should be initiated; the educational institutions and other agencies dealing with

education, the Armed Forces, Non-Government Organizations such as Girls Guides and Scouts Welfare Agencies etc. should participate in this drive; university degrees to be awarded to the students conversant with the basic Islamic Teachings; all the Government organizations must arrange to impart literacy to their illiterate employees; illiterate prisoners who learn to read and write should be granted remission in their sentences; arms Licenses, Driving Licenses and similar other licenses and permits should be granted only to literate persons: incentives and rewards be given to the communities i.e. villages, wards or mohallas which achieve hundred percent literacy; rewards and incentives such as trophies and shields be given to the persons with outstanding achievement in the field of literacy and mass education; governments' grants to all social welfare institutions be made conditional upon their undertaking literacy/adult education programmes; the radio and the T.V. be used in the service of education /adult education.

The Sixth Five Year Plan¹⁴ proclaimed that Education is the most vital investment for any programme of socio-economic development. The Plan claimed to approach education with the earnestness and urgency; and serious efforts will be made to institute universal education by ensuring that all boys and girls get enrolled by the end of the Plan. A minimum of five years of schools will be made obligatory to begin with and the tenure will gradually be raised to 10 years.

One year after the launching of the Sixth

Plan, an ambitious 2-Year National Literacy Plan (1984-86)¹⁵ was launched at the cost of Rs 317 million to make 2.2 million persons literate and raise the literacy rate from 26.2% to 33%. The plan envisaged opening over 25,000 literacy Centers, which were to be implemented federally by LAMEC with assistance from the concerned Provincial Literacy Council and non-government voluntary organizations.

Following were the major components of this plan: Afternoon School Projects; Iqra Projects; Razakar Muallim Projects; Mosque Projects; NGOs Volunteer Literacy Corps Projects; Sipah-e-Idrees Projects; Social Welfare Agencies Literacy Projects; Literacy Village Projects; Azafi Literacy Centers Projects.

In 1985, the Literacy Ordinance¹⁶ was promulgated prohibiting an illiterate person from obtaining a passport or a driving license. However, the Ordinance was never enacted and lapsed after 120 days. The same year, the federal Budget for the year 1985-86 introduced a new tax, called the Iqra Tax, as a 5 percent charge on all imports to finance education and literacy projects.

The Drop-in-Schools scheme was overtaken by the Nationwide Literacy Programme in December 1985¹⁷ for which it was claimed that the achievement in increasing the literacy rate was far less than the stipulated rate of 48 percent proposed in the Sixth Five-Year-Plan, therefore the a Nation Wide Literacy Programme 1986-90 is

presented, which, would supplement the efforts in spreading literacy and mass education. Further, it would, not only, reduce the extent of illiteracy, but also would provide about 2,000 jobs on full time basis and 115,000 - 150,000 jobs on part-time basis to the educated people. For this purpose a National Literacy Corps of educated people would will be formed to increase the literacy rate up to 53.53% in the period of four years and six months up to June, 1990

The Nationwide Literacy Programme was also overtaken by another scheme called Nai Roshni Schools to be implemented over the period 1986-90,¹⁸ as it was considered that the literacy activity was being staged under an approved National Literacy Programme costing Rs 317.016 million for 1985 to 1988; and the programme at its preliminary evaluation had not shown any worthwhile results, therefore it was replaced by Nai Roshni Schools with an objective to raise the literacy percentage to 50%. This called for planning on a larger scale to cover the segment of society whose responses to education were likely to be positive and whose coverage would be rewarding results.

The Seventh Five Year Plan was launched in 1988.¹⁹ It critically evaluated the performance in the education sector and by and large, as almost like all the previous plans the conclusions were negative. However, the Seventh Plan acknowledged that the Sixth Plan experience has shown that there is no substitute for formal education. Seventh Plan's strategy was to increase

the literacy rate through improvement and expansions of education. It was estimated that the literacy rate will rise to about 40 per cent by 1992-93 and to 80 per cent by the end of the century. The Plan proposed to provide every child in the age group of 5 to 9 access to a school within a radius of 1.5 kilometers by 1992-93, so that no child is deprived of basic education due to unavailability of a school within a reachable distance. It was also proposed to introduce legislation for compulsory education up to Class V for all localities where a school is available within a radius of 1.5 km.

NATIONAL EDUCATION POLICY: 1990's²⁰

The 1992 Education Policy commented about the "Policy Initiatives" taken since 1947, stating that the documents on restructuring of education of 1959, 1972 and 1979 were more comprehensive. According to the Policy the earlier reforms appeared in four areas i.e. the educational, social, economic and institutional; and that caused a ten-fold increase in educational facilities. However, the limitation of financial resources, poor appreciation of educational priorities, inadequate delivery system, and population pressure hardly allowed a full expression of the desired change; and education, as a social artifact, could not assure good life for the individual and best arrangements for society. Its ability to build human capital which could provide high rates of return to society remained minimal.

However, the 1992 Policy commented that:

the participation rates at various levels of education were low; the progress in the direction of universalization of education was far from satisfactory; the drop-out rates were in the vicinity of 50 per cent, the women participation in education was minimal; the quality of public instruction deteriorated; the system had not responded in proportion to the inputs made; the curricula, apart from being overloaded, had not kept pace with the advancement of knowledge; the textbooks did not promote self-learning.

In line with the above the Government reshuffled the priorities, restated the policy, revised the strategy, and re-examined the fabric of education. A large number of proposals on educational parameters were received were discussed by the Education Minister with the Education Committees of the Senate and the National Assembly; and ultimately the Policy emphasized on the following key issues: opening non-formal education to non-governmental organizations; achieving 100% literacy in selected districts; setting up model schools (male and female) in rural areas; introducing compulsory social service for students; using general schools as technical schools in the evening shift to capture the drop-outs of general education.

The Eighth Five Year Plan was launched in 1993;²¹ and it proclaimed again that education is an indispensable ingredient of development and a fundamental right of every individual. However, admitted that almost half of the girls and one-fifths of the boys of the relevant age

group (5-9) were not enrolled in schools; and the adult literacy rate was still barely 35 percent. Reviewing past performance, the Plan admitted that the National Educational Policies and Five-Year Plans of Pakistan had emphasized universalization of primary education at the earliest possible, improving the relevance of curricula, reforming the examination system and enhancing the quality of education in general. However, it lamented that despite substantial growth in the number of educational institutions, the desired goals could only be partially achieved; a large number of educational institutions were started without proper infrastructure; and the old infrastructure has deteriorated and dilapidated in the absence of proper maintenance. A large number of schools lacked essential facilities such as latrines, potable water, teaching aids etc.; and the standard of education was from satisfactory. The curricula lacked relevance; methodologies of instruction and testing were outmoded.

NATIONAL EDUCATION POLICY: 1998-2010²²

The 1998 Education Policy acknowledged that the education was universally recognized to be the prime key to moral, cultural, political and socio-economic development of a nation. However, in case Pakistan, it lamented by observing that inspite of an unprecedented history of producing excellent documents of plans and policies these could not be fully implemented. It further stated that Pakistan stood at 142nd position among 160 countries, and among SAARC countries, its

position is 6th. It was certainly a depressing scenario as it was opined that in Pakistan, the overall strategy, during the period from 1947 to 1997 remained one of expansion of the existing system and efforts were directed solely to the establishment of more of the existing type of formal institutions an approach which was not found satisfactory.

The Policy recalled provisions of the Universal Declaration of Human Rights (1948), whereby it is stated: "Elementary education is the fundamental right of all people, men and women, of all types of areas and places, irrespective of gender, sect, religion or any other denomination. Everyone has the right to education" and The Convention on the Rights of the Child (1989), which states that the child has a right to education and it is the State's duty ensure that primary education is free and compulsory.

The Policy proposed to construct 190,000 new formal primary schools, 250,000 non-formal basic education Centers, and 57,000 mosque schools, upgrade 60,000 primary schools, begin double shifts in 20,000 existing primary schools, and recruit 527,000 additional teachers. Necessary resources were also pledged at the highest level to raise the expenditure on education from 2.2 to 4 percent of GNP. The Policy also proposed to raise the literacy rate to 55 percent during the first five years and 70 percent by 2010.

While introducing the National Education

Policy 2009, the basis for the Policy has been explained as below:²³

The National Education Policy (NEP) 2009 ("the Policy") comes in a series of education policies dating back to the very inception of the country in 1947. The review process for the National Education Policy 1998-2010 was initiated in 2005 and the first document, the White Paper was finalized in March 2007. The White Paper became the basis for development of the Policy document.

Ministry of Education, Government of Pakistan, has given the following reasons for launching the review in 2005 well before the time horizon of the 1998-2010 Policy.²⁴ it stated that the Policy was not giving envisaged educational results and the performance was deficient in several key aspects including access, quality and equity of educational opportunities; and the international challenges like Millennium Development Goals (MDGs), Dakar Framework of Action, Education for All (EFA) Goals and the challenges triggered by globalization and nation's quest for becoming a knowledge society in the wake of compelling domestic pressures like *devolution and demographic transformations* necessitated a renewal of the commitment to proliferate quality education for all.²⁵

The National Education Policy 2009 described the challenges and identified the factors responsible for the deficiencies in performance i.e.

the commitment gap and the implementation gap; and outlined the way forward. It suggested the ways to fill the Commitment Gap like *system values, priorities and resources*; and the Implementation Gap of ensuring the *Good Governance*. The Policy aimed at provisions of Islamic Education; and transformation of the society on Islamic and human values. It outlined the reforms and policy actions to be taken at the ground level; and suggested a Framework for Implementation of the Action Plan as part of the NEP 2009.²⁶

In its Introduction, the NEP 2009 stated in the Para 4, of Page 7, as follows:

Many of the areas discussed in this document were present in the previous policy documents prepared in the country from time to time and apparently many of the problems persist. A new policy document on its own will not rectify the situation but all the segments of the society will have to contribute in this endeavour. However, the document does recognise two deficits of previous documents i.e. governance reform and an implementation roadmap which if redressed, can alter results for the present Policy.

While discussing the Governance, the policy emphasized upon the inter-tier responsibilities, roles and functions of the federal-provincial-district governments which had to be clearly defined; and there would not be any confusion,

especially at the provincial-district levels after the 'Devolution Plan'. The governance reforms would be able to resolve the fragmentation of the ministries; institutions etc. for the management of various sub-sectors of education; and, at times, within each sub-sector by improving the problems of management and planning in this regard.

The Policy recognized the role of the Federal Ministry of Education as coordinator and facilitator so as to ensure sectoral and geographical uniformity in achievement of the educational goals. The Policy recommended that the Inter-Provincial Education Ministers' Conference (IPEMC) with representation of all the federating units would be the highest body to oversee progress of education in the country.

The Policy affirmed the continuation of already on going reforms in the domains of curriculum development, textbook/learning materials policy, provision of missing facilities etc. embedded within the Islamic ethos, as enshrined in the Constitution of the Islamic Republic of Pakistan. The Policy wished for the national commitment appreciating the continuation of the successes already made in the Education Sector; and for availability of the matching resources with enhanced capacity for the absorption of the same to improve education outcomes for the children of Pakistan.

CONCLUSION

In the 1973 Constitution of Pakistan, the education was a joint function of federal, as

well as, provincial governments. At federal level, the Ministry of Education formulated the policies, plans and National Curriculum, whereas, the provinces developed their own planning and implementation schemes in the larger framework as envisaged in the National Policies and Curriculum.

For the improvement, promotion, coordination and regulation of higher education, University Grants Commission (UGC) was established in 1974 through an Act of Parliament.²⁷ UGC was replaced by the Higher Education Commission (HEC) in 2002²⁸; and in order to ensure quality and uniformity across the country Inter-Board Committee of Chairmen (IBCC)²⁹ was formed in 1976, which, not only helped coordinate a uniform system of education in all the federating units but also had a fundamental role in the approval of scheme of studies.

After the 18th Amendment, the Provinces, besides, their supporting roles in curriculum and policy formulation are responsible for the implementation and administration of all the education affairs in their respective areas. All the provinces have their own administrative structures; departments of education with secretaries as Administrative Heads of the Organizations, supported by a Provincial Directorate as well as Divisional and District Formations.

The 18th Amendment has arisen to new the

challenges, problems, dimension and legislation in the field of education for the provinces to face and resolve. The provinces have been empowered to do so after the deregulation and they should come to the expectations of the nation and their people adopting a balance approach in line with the Quaid-e-Azam's Pakistan.

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THE PERSPECTIVE OF THE LAWYERS' MOVEMENT (2007-2009)

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ABSTRACT

The Lawyers' Movement in Pakistan was started on 9 March 2007 when the Chief Justice of Pakistan was unconstitutionally sacked by General Pervez Musharraf. Justice Iftikhar Muhammad Chaudhary came into the lime light when he took up many important cases regarding violations of human rights, public interests and provided relief to most neglected and unprivileged people of Pakistan.¹ The tussle between Chief Justice of Pakistan and government started over the issues of Judicial Activism, annulment of Karachi Steel Mills, cases of missing persons, investigation of land allotments to influential people in Gawadar, cases of environmental pollution like New Murree Project, conflicts among judges, letter written by Advocate Naeem Bokhari, Chief Justice's efforts for the rule of law and supremacy of the constitution and above all Musharraf wanted to elect himself as President in uniform.

KEY WORDS

Pakistan, Judicial activism, Doctrine of necessity, *Suo moto*, Military

The Coup launched by General Pervez Musharraf on 12 October 1999 was the Fourth Military takeover in Pakistan's history. Unfortunately, once again the "Doctrine of necessity" prevailed when the Supreme Court of Pakistan validated the takeover of General Musharraf and it is interesting to note that Justice Iftikhar Muhammad Chaudary was the part of that Judiciary. "In December 1999, a Constitutional Petition, No.63/99 was filed by five leaders, Syed Zafar Ali Shah, Wasim Sajjad, Illahi Buksh Soomro, Raja Zafar ul Haq and Ch. Pervez Elahi on behalf of PML(N) to challenge the validity of 12 October 1999 Coup".² In this petition the Military Coup of General Musharraf on 12 October 1999 was challenged by prominent leaders of Pakistan Muslim League (N). The Supreme Court of Pakistan after hearing this petition issued an order on 12 May 2000 in which the Supreme Court of Pakistan validated the Coup of 12 October 1999. "In case of Zafar Ali Shah Vs Federation, the Supreme Court of Pakistan not only validated the Coup of Musharraf but the usurper of the Constitution was also given the power to amend the constitution of Pakistan".³

In Zafar Ali Shah case the Supreme Court of Pakistan had provided three years to General Musharraf to hold elections and restore the constitution. Since Musharraf's coup on 12 October 1999, although the Bar Associations of Pakistan and number of prominent political leaders continued their struggle against military rule and extra-constitutional actions of General Musharraf but the relationship between the Superior Judiciary and Military regime remained comfortable and General Musharraf had seen no serious resistance from the Judiciary of Pakistan.

JUDICIAL ACTIVISM

When Iftikhar Muhammad Chaudary took over the charge as Chief Justice of Pakistan on 30 June 2005, he started efforts for the independence of Judiciary and rule of law through "Suo Moto" actions in public interest. First time in the history of Pakistan's Judiciary, a Special Cell was established by Chief Justice of Pakistan, Iftikhar Muhammad Chaudary in Supreme Court. The purpose of this Cell was to pursue the cases of deprived classes of Pakistan through "Suo Moto" actions without any cost.

The Chief Justice of Pakistan had taken lot of "Suo Moto" actions in short time. For instance, the case of "Mukharan Mai" in Punjab, "Sohnia Naz" in Baluchistan, the case of "Monu Bheel family" of Sind, case of "Vani" in Jacobabad, "the detention of foreign prisoners in various jails of the country" and the cases of missing persons, etc.⁴ It was a great relief from the Superior Court of Pakistan for deprived, underprivileged and ever neglected masses of Pakistan. First time in the Judicial history of Pakistan the poor and neglected masses of Pakistan have been compensated by the Supreme Court of Pakistan. Their problems were addressed by Chief Justice of Pakistan as top priority. "Chief Justice Iftikhar Muhammad Chaudhary came into the lime light for using his suo moto powers", particularly in cases of human rights violations and public interests, and provided great relief to most neglected people in Pakistan and investigated a huge number of cases included the "cases of missing persons, land allotments to influential people in Gawadar, banned on destruction of millions of trees to New Murree Project".⁵ He also took strong action and passed orders to Balochistan Police IG to

recover the 42 children abducted from Quetta and submit compliance report to the Court. He took severe stance against the customs like vani and sawara.⁶

In Pakistan, many constitutional experts are disagree with "Judicial Activism" because they are strongly of the view that this practice of "Judicial Activism" is interference in the affairs of the executive and this ultimately leads to the constitutional imbalance in the institutions of the state. However, the practice of judicial activism is very common in the countries where executive failed to address the issues of masses. The practice of judicial review in USA was started by Justice Marshal in famous case of malburi vs medicine in which it was declared that court can null and void any case in public interest. However, the British judiciary has no example of judicial review because in British system the judiciary is directly controlled by the Parliament. The constitution of 1973 clearly called judiciary the custodian of Constitution. During Musharaf period Parliament had become a "Rubber Stamp" and failed to play its role as watched dog over the executive. Chief justice Iftikar Muhammad Chaudary tried to overcome this vacuum through judicial activism. The judicial activism which started by Chief Justice of Pakistan, Iftikhar Muhammad Chaudary was an alarming situation for military establishment because the establishment of Pakistan had never seen any resistance since Musharraf successful Coup of 12 October 1999. The tussle between military – establishment and Chief Justice of Pakistan was started particularly over the issue of cases of missing persons. According to annual report of Supreme Court of Pakistan, on 30 June 2006, 38139 cases were pending in courts which were decreased

to 23353 within short period⁷. Due to *Suo Moto* actions of Justice Iftikhar Muhammad Chaudary, the numbers of cases were decreased within short time which was great relief to deprived masses.

ANNULMENT OF KARACHI STEEL MILLS

However, the most important judgement of Chief Justice, Iftikhar Muhammad Chaudary was the annulment of Pakistan steel Mills (A precious asset of Pakistan). On 31 March 2006, seventy five percent shares of Karachi Steel Mills were sale out in 21 billion rupees. "It was estimated that the worth of Karachi Steel Mills was not less than 125 billion".⁸ The process of sale out had lacking transparency. "Even Hafeez Pirzada, lawyer of government called it undue unholy haste".⁹ So the whole process of the privatization of Pakistan Steel Mills was doubtful and lacking transparency. The worth of 14,500 acres of land of Pakistan Steel Mill was more than 40 billion rupees but it was sale out in 21.67 billion rupees with all machinery and infrastructure, including big concession in taxes.¹⁰ Barrister Zafarullah, Chairman of the Watan Party had challenged the privatization of the country's largest industrial unit in Supreme Court of Pakistan. The nine members' bench of Supreme Court headed by Iftikhar Muhammad Chaudary declared it null and void because the process of privatization had serious doubts about its transparency.

The Chief Justice also observed that the total privatization process, worth Rs.7.7 billion had been issued to pay off the Mill's liabilities. At the end of day the privatization commission would hardly get Rs.12 billion for the Mills wherever the value of 14,500 acres of land was Rs.40 billion, as had been suggested by the PSMs

comprehensive reply that was submitted earlier by Kamal Uddin Azfar.¹¹ After the verdict of Supreme Court of Pakistan in which the privatization of Steel Mill called "Null and Void" the honesty and credibility of Shaukat Aziz Government had raised many questions to be answered. In Parliament speech, Chaudary Aitzaz Hassan raised a question, that after the Supreme Court decision in which privatization of Steel Mill called "Null and Void", Prime Minister should keep in mind that any time FIR can be registered against you and you may ready to go to jail in near future¹². This misconduct and lack of transparency was clear in whole process of privatization, so the arguments of Ch. Aitzaz Ahsan were very relevant that in case of misconduct Shaukat Aziz, Prime Minister of Pakistan could be called in court and faced trial. It is also argued that real tussle between Chief Justice and Government started after the verdict of Pakistan Steel Mills. Now the apprehensions of General Musharraf, Establishment and Shaukat Aziz regarding Chief Justice of Pakistan raised high after Judicial activism.

CONFLICTS AMONG JUDGES

One of the allegations against Chief Justice of Pakistan, Iftikhar Muhammad Chaudary was that he was not cooperative and had serious reservations with his colleagues. For instance, the conflicts between Chief Justice of Pakistan with Chief Justice of Lahore High Court, Ch. Muhammad Iftikhar were open secret. Chief Justice of Pakistan had serious reservations with Chief Justice Lahore High Court, particularly when Chief Justice of Lahore High Court refused to give due protocol to Chief Justice of Pakistan at the time of his arrival in Lahore High Court. On

the other hand, the Chief Justice of Lahore High Court was of the view that Chief Justice of Pakistan unnecessary interfered in the matters of Lahore High Court.¹³

The relationship between Chief Justice of Pakistan and two other judges of Lahore High Court, Justice Akhtar Shabir and Justice Sheikh Rasheed were tense as Chief Justice of Pakistan warned both judges previously in different observations. Similarly, Chief Justice of Baluchistan High Court, Aman Ullah Yaseen Zai was not happy with Chief Justice of Pakistan. Another judge of Peshawar High Court, Justice Jahanzab Raheem started allegations against Chief Justice of Pakistan¹⁴. "In order to understand the background of reference against Chief Justice of Pakistan, the role of his brother judges cannot be ignored." The relationships between Chief Justice of Pakistan and other judges were not good, so the brother judges played important role in reference against Chief Justice of Pakistan.

Later on an affidavit was presented by Lt. Gen. Hamid Javed and head of Military Intelligence Bureau, Nadeem Ijaz in Supreme Judicial Council on behalf of the President of Pakistan in which they repeated the serious allegations against Justice Iftikhar Muhammad Chaudary regarding his conflicts with other judges.¹⁵ It was alleged that the Chief Justice of Pakistan had started campaign against the judges of High Courts which was not based on facts, as Chief Justice was biased against these judges. The name of these judges were, Justice Akhtar Shabbir, Justice Adul Rasheed, Justice Shaber Raza, Justice Abdul Shakoor Piracha in Lahore High Court, Justice Arif Khilji, Justice Ameer Hani Muslim and Justice Afzal Soomro in Sindh High Court,

Justice Shah Jahan, Justice Ijaz-ul-Hassan and Justice Jahanzeb Raheem in Peshawar High Court.¹⁶

LETTER BY NAEEM BOKHARI TO CHIEF JUSTICE

It was 16 February 2007 when a letter was written by Naeem Bokhari, Advocate Supreme Court to Chief Justice of Pakistan in which he addressed lot of allegations on Chief Justice of Pakistan. He accused that Chief Justice was over conscious of protocol and he used expensive cars and government helicopters for personal use which was against the status and honour of Chief Justice's designation. He further alleged that Chief Justice of Pakistan favoured some lawyers over the others and humiliated the senior civil servants and police officers in his court: "We were treated harshly, rudely, brusquely, and nastily". "We are not heard and we are not allowed to present our case". "There is little scope for advocacy". The words used in Bar Room for Court No.1 are "the slaughter house". "We are cowed down by aggression from the bench led by you", "all we receive from you is arrogance, aggression and belligerence". "You also throw away the file, while contemptuously announcing". "This is dismissed".¹⁷

There were some indications that this letter was part of conspiracy against Chief Justice of Pakistan which started since Chief Justice declared decision against the privatization of Pakistan Steel Mill. Naeem Bokhari was considered among the close circles of friends of General Musharraf and secondly the timing of this letter was very important because it was a time when Chief Justice was heading many important cases regarding missing persons and executive was under target. However, the eminent lawyer and prominent leader of "Lawyers Movement" Ch.

Aitzaz Ahsan is disagreed with this theory of conspiracy. According to Ch. Aitzaz Ahsan some constitutional experts link President Reference with the letter of Naeem Bokhari which is exaggeration.¹⁸ Ch. Aitzaz refused to link any relationship with letter of Naeem Bokhari but still there are numbers of indications that this so called “Open Letter” was the part of conspiracy against Chief Justice of Pakistan. Letter on all the Bar Councils of Pakistan have banned the entry of Naeem Bokhari.

The eminent lawyers and prominent leader of the Lawyers Movement for the restoration of judiciary, Muneer A. Malik is strongly of the view that the letter written by Naeem Bokhari was motivated and inspired by the opponents of the Chief Justice. It was a deliberate attempt and this letter had close link with the reference against Chief Justice.¹⁹

HOLDING OF DUAL OFFICES BY GENERAL MUSHARRAF

The biggest and foremost reason for the judicial crises was the intensions of General Pervez Musharraf to elect himself as President in uniform for another five years but Chief Justice of Pakistan was reading the constitution differently. General Musharraf was strongly of the view that national interest of the country demands his re-election as President in Uniform. Like his predecessors General Musharraf logic was based on the theory that he was inevitable for the country and he himself defined the theory of national interest which revolves around his personality. Both the actions (9 March 2007 and 3 November 2007) of General Pervez Musharraf were based on the apprehension of General that the Chief Justice and Judiciary would not allow him to elect as President in uniform. Hence, the issue of

dual office of General Musharraf was became the bone of contention between government and judiciary which ultimately led to judicial crises and Lawyers' Movement.

Musharraf was keen to elect himself as president in uniform through current Assemblies for another five years term which becomes the point of contention. One of the main causes behind the removal of chief justice on 9 March 2007 was "his equivocal answer to the question whether Musharaf would elect in uniform; he replied that it was a debatable question".²⁰

In case of Zafar Ali Shah Vs Federation, the Supreme Court of Pakistan not only validated the Musharraf Coup of 12 October 1999 but he was also given the right to amend the constitution to achieve his declared agenda within three years.²¹ In order to secure himself he arranged a fraud referendum to elect himself as President. After referendum and declared himself elected President, Musharraf made certain amendments in the constitution through Legal Framework Order (LFO). After holding elections of 2002 the next major target was to get a constitutional cover for remaining the office of the Army Chief and President. In order to meet this challenge a new Mulla-Military alliance was created by Establishment.

"Under the Seventeenth Amendment all the constitutional amendments promulgated by General Musharraf under the LFO were validated and Musharraf was allowed to keep his uniform along with the office of President".²² In response to this Musharraf was agreed and made a promised on television that he would left the uniform by the end of 2004. However, later on he never fulfilled this promise and refused to resign from the post of

Army Chief because he knew that his real strength was uniform (which he called his skin).²³

Pakistan lawyers' forum and Qazi Hussain Ahmad had filed petition in which the dual office of General Musharaf was challenged but once again Supreme court of Pakistan had favoured General Musharaf and validated his referendum, dual office and constitutional amendments under 17 amendment.²⁴ The Supreme Court of the Pakistan keeping in mind the Zafar Ali Shah case had provided protection to all actions of General Musharaf under PCO of 1999, including the removal of former president Rafiisque Tarar and declared himself as president. The debatable issue among the various circles of legal community was that Musharraf and his supporters insisted that he would be re-elected as President in Uniform by the existing assemblies.

Under these circumstances, the Chief Justice of Pakistan, Iftikhar Muhammad Chaudary was called by General Musharraf on 9 March 2007. He was asked to resign over allegations of misconduct but the Chief Justice of Pakistan refused to surrender (who previously had taken oath under the PCO of General Musharraf), all the bars, civil society, media and political parties stood behind Justice Iftikhar for the cause of the independence of the judiciary. Hence, the first phase of Lawyers Movement started which attracted almost the whole nation and ended after the reinstatement of the Chief Justice of Pakistan, Iftikhar Chaudary. Undoubtedly, the reinstatement of Chief Justice on 20 July 2007 was a historic and unforgettable decision in Pakistan's history but it was beginning not end of the lawyers' movement for the restoration of judiciary and its independence. There were lot of challenges and issues to

be resolved. The dream of the independence of Judiciary and supremacy of the rule of law over the wishes of dictator was yet to be fulfilled.

In order to re-elect General Musharaf as president in uniform from recent assemblies a plan was discussed by the leadership of Pakistan Muslim League (Q) in cabinet meeting held on 21 August 2007. The Pakistan Muslim League leadership has “decided to hold Musharaf re-election from same parliament on 15 to 20 September 2007”.²⁵

There were two major challenges to General Musharaf in managing his election as president. One was street demonstration and public sentiments who considered Musharaf re-election against the norms and spirit of Democracy. During lawyers’ movement the civil society of Pakistan, political activists and vibrant media strongly showed their displeasure with General Musharaf regime under these circumstances it was really hard task to Musharaf elect himself President in uniform. “The second hurdle was more serious and that was legal and constitutional, being a candidate in uniform the objection would be that during the service of the state he was unfit for the post of President. If he took off the uniform before election he was still unfit because he had not completed his two years period after retirement”.²⁶

After the reinstatement of Chief Justice of Pakistan, a number of petitions were filed in Supreme Court of Pakistan regarding the dual offices of President and Army Chief by General Musharraf. “The main petitions filed by the Pakistan Lawyers’ Forum, Qazi Hussain Ahmed and Imran Khan”.²⁷ The Chief Justice of Pakistan constituted a larger

bench to review a five judges verdict which validated the 17 amendment, legal frame work order (LFO) and holding of dual office by president Pervaiz Musharaf in 2005. It was an emergence of new independent judiciary, a seven- member bench of the Supreme Court of Pakistan headed by Chief Justice Iftikhar Muhammad Chaudary accepted the petition of Qazi Hussain Ahmad²⁸ and appointed the most senior and top counsels to advise the court namely S.M. Zafar, Barrister Abdul Hafeez Pirzada, and Barrister Aitzaz Ahsan. Later on, Chief Justice marked application to a nine-member bench while Chief Justice isolated himself from the bench because he did not like to sat on a bench where the personal interest of General Musharraf was involved and it was exemplary decision of Chief Justice which showed that he was totally unbiased and impartial.

On 10 September 2007 the presidential election rules had emended by the election commission of the Pakistan in which it was declared that the article 63 of the constitution which deals the disqualification for the membership of Parliament would not apply to presidential candidates.²⁹ It was a drastic development from Election Commission of Pakistan in which the amendment of Presidential Election rules clearly indicated that Election Commission wanted to elect General Musharaf in uniform at any cost. During the hearing of 9 members' bench, Syed Sharif Udin Peerzada filled a statement in Court, "if General Musharaf elected as president for the next term, he would leave the charge of Army chief immediately after election but before taking oath as president of Pakistan for the next term, the nomination papers should be scrutinized by the election commissioner or returning officer".³⁰

However, the objectionable and debatable point among lawyers and constitutionalist community was that in statement the word “IF” means that General Musharraf would leave the office of Army Chief in case he would be elected President. The second part of the statement was that returning officer should scrutinize the nomination paper. The core issue in the petition was the eligibility of General Musharraf in coming elections. Hamid Khan, a senior advocate argued on the eligibility issue of General Pervez Musharraf in which he said, that the next term would be General Musharraf’s third term as President. According to Hamid Khan, the first term was the incomplete term of ex-President Rafique Tarar, second term started when he elected after referendum. In Hamid Khan views “to elect general Musharaf through present assemblies was totally against the letter and spirit of the Constitution” as the terms of both were over, it was question of eligibility that how present assemblies would elect Musharaf as president for next term as the term of these assemblies was to be ended on 15 November 2007³¹. “Attorney general Malik Qayum had challenged the maintainability of the petition on the basis that the petitioners were not candidates for the election of president”, he pointed out that as far as the matter of nomination papers was concerned, “it was election commission of Pakistan the appropriate forum to decide the matter”.³²

On 28 September 2007, the nine-member bench dismissed the petitions on a ground that the petitions were not maintainable. After this judgement, the lawyers’ community and their leadership decided to boycott and protest on the day when the nomination papers of General

Musharraf were submitted in election commission. As the petition was rejected on the issue of maintainability, in order to meet this legal deficiency, the legal community convinced Justice (Retd) Wajihuddin Ahmad to become a candidate of President against General Pervez Musharraf. Justice Wajihuddin Ahmad was judge who refused to take oath under PCO promulgated by General Musharraf. The nomination papers of General Musharaf were accepted by the election commission. "Justice Wajji udin filed a direct petition under article 184(3) of the Constitution".³³

Chief Justice Iftikhar Muhammad Chaudary constituted a nine-member bench, headed by Justice Javed Iqbal to hear the petition. The election commission of Pakistan declared the schedule of election on 6 October 2007. After hearing the arguments of both parties, the nine-member bench unanimously decided that "the election process would continue as announced by election commission but the result would not be notified till the decision on the petitions".³⁴ Meanwhile Justice Wajihuddin Ahmad filed application for full court hearing; however, a new eleven member bench was constituted by the Chief Justice. Barrister Aitzaz Ahsan a leading counsel of Wajihuddin Ahmad had given tremendous arguments on the eligibility of General Musharraf. He had given a new turn in the proceedings of the court when he argued that so far mostly arguments have been given on Musharraf's eligibility as President but the real issue was whether being a uniformed officer, the Army Chief was authorized or eligible to occupy any political office. The constitution of Pakistan has determined certain boundaries or restrictions around the office of Army Chief.

Chaudary Aitzaz Ahsan urged the court that time has come to bury the notorious Doctrine of Necessity and stop the way of new Martial Law. Justice Ramde replied that even though the court trying to bury it but this Doctrine of Necessity always come back to tease us.³⁵ It was a remarkable performance of Chaudary Aitzaz Ahsan as a constitutionalist. He urged the court to set aside the doctrine of necessity which was the mother of all crises and Martial Laws in Pakistan's history. During the last phase of hearing of the petition the apprehensions were expressed by the lawyers and other reliable sources that in case of defeat in court, General Musharraf and his advisors once again looking for Martial Law and Emergency plus, etc. It was 3 November 2007 when General Musharraf imposed second Martial Law or Emergency plus and sacked the judiciary of Pakistan. The judges were arrested or detained and the second phase of Lawyers Movement for the restoration of Judiciary was started.

ISSUE OF MISSING PERSONS AND FUNDAMENTAL RIGHTS

Immediately after re-instatement, the Chief Justice of Pakistan Iftikhar Muhammad Chaudary had continued the efforts for the supremacy of the rule of law, independence of the judiciary and fundamental rights of the people.

After re-instatement, the chief justice of the Pakistan passed the orders to interior ministry in case of missing persons to submit a detailed report about each missing person during next hearing on 20 August 2007. According to the report of human rights commission of Pakistan more than 150 persons missing from different parts of the country when Supreme Court took suo moto notice³⁶. The civil society and oppressed classes including the families of

missing persons greatly participated in the Movement for the restoration of Chief Justice and Independent Judiciary.

“On 20 August, 2007, a four members bench headed by chief justice warned the Director General FIA Tariq Pervaiz to bring back a missing person Hafiz Basit in 24 hours, otherwise he will be put behind the bars”.³⁷ The Chief Justice had passed orders to Government to submit details of the whereabouts of missing people. Prior to 9 March 2007, many people who were disappeared and illegally detained by intelligence agencies were released due to uncompromised efforts of Chief Justice Iftikhar Muhammad Chaudhary.³⁸

The Chief Justice of Pakistan had given zero level of tolerance on the cases regarding missing persons. The head of the intelligence services had been called in court to produce the record or list of missing persons. Due to the extra ordinary efforts of Chief Justice Iftikhar Muhammad Chaudhary out of 416 missing persons 181 had been traced. One of the causes of judicial crises and act of 3 November 2007 was the Chief Justice had spared no one in the case of missing persons. It was acknowledged by General Pervez Musharraf after the imposition of emergency on 3 November 2007 that senior civil servants and the head of the agencies had been humiliated and threatened the Supreme Court; due to the cases of missing persons the war against terrorism was affected. Similarly, as it was the emergence of new independent judiciary after Chief Justice re-instatement, the benefits of suo motto actions and fundamental rights of the people were now more secured.

ELECTION’S CASES

Mohtarma Benazir Bhutto had filed a petition in Supreme Court against the Election Commission of Pakistan in which it was requested to Supreme Court to take action against the omitting of 22 million voters from the electoral list. "It was argued in petition that according to the voters list of 2002, 74 million voters were registered but now this list contained only 52 million voters".³⁹ The Chief Justice had passed orders to election commission that it would not be allowed to postpone the election on the basis of correcting the voters list. The chief justice observed that 30 days would be enough to meet the task.⁴⁰

THE CASE OF SHARIF BROTHERS

Former Prime Minister Mian Muhammad Nawaz Sharif and Former Chief Minister of Punjab Mian Muhammad Shahbaz Sharif filed a petition in Supreme Court against their forced exile from the country. Justice (Retd) Fakhruddin G. Ibrahim, a lawyer of Mian Brothers challenged their exile on the ground that it is fundamental right of every citizen to live in his country and Supreme Court of Pakistan should pass orders in which they were allowed to come in the country. Mian Brothers had refused to admit that they had signed any agreement with the government for the period of ten years.⁴¹

The Attorney General, Malik Qayyum submitted a copy of agreement in Supreme Court and he argued that return of Mian Brothers would be against the national interest of the country. However, the seven-member's bench declared the decision in the favor of Mian Brothers and they were allowed to come back in the country.⁴² The Supreme Court declared invalid any agreement which is against the spirit of fundamental rights of the people.

On 10 September 2007 Mian Muhammad Nawaz Sharif landed at Islamabad Airport where he was served brutally by government official and he was sent back to Saudi Arabia. On behalf of the Sharif Brothers Kwaja Muhammad Asif, a parliamentarian of Pakistan Muslim League (N) moved an application for contempt of court against top government functionaries including Prime Minister Shaukat Aziz, the Federal Interior Secretary, The Chief Secretary of Punjab, the IG of Punjab, Chairman of PIA and Director General Civil Aviation Authority.⁴³ The government had refused to obey the orders of Supreme Court and Mian Nawaz Sharif sent back to Saudi Arabia by Force once again. The Supreme Court of Pakistan started proceeding to the application of Mian Nawaz Sharif regarding contempt of court against responsible authorities. One of the causes behind the imposition of emergency of General Musharraf on 3 November 2007 was the possible contempt of court and court proceedings of Supreme Court of Pakistan.

ALLEGATIONS ON CHIEF JUSTICE IFTIKHAR MUHAMMAD CHAUDHARY

The reference filed by the President General Pervez Musharraf against the Chief Justice of Pakistan was mainly based on allegations that Chief Justice was over conscious regarding his protocol. He used his office and influenced to accommodate his son Dr. Arslan Iftikhar from medical profession to police service of Pakistan. It was also mentioned in reference that he frequently used helicopters of Governors or Chief Ministers during his travel and used more cars than he was authorized. His behavior towards

senior officers and government officials was humiliating and authoritative, etc.⁴⁴

EVENTS OF 9 MARCH AND 3 NOVEMBER 2007

The suspension of Chief Justice Iftikhar Muhammad Chaudhary was unprecedented not only in the history of Pakistan but in the entire world. It was attack on the principle of separation of powers and the independence of judiciary.⁴⁵ The reference against the Chief Justice under Article 209 of the Constitution was mala fide act due to following factors. Firstly, that Chief Justice was called to the Army Camp Office rather President House by the President who was in Army Uniform as well. Secondly Chief Justice of Pakistan was physically detained by military officers till the Acting Chief Justice, Justice Javaid Iqbal had taken oath. When he was allowed to go, Chief Justice tried to visit Supreme Court but he was forcibly prevented by law enforcement agencies. The Chief Justice was also detained with his family members without warrant and even not allowed to speak with any one and treated like criminal.⁴⁶

9 March 2007 was the most significant and historic day in the judicial history of Pakistan when Chief Justice of Pakistan, Iftikhar Muhammad Chaudary refused to surrender against military dictator General Pervez Musharraf. He was asked by General Musharraf and head of the intelligence services either to resign or face the reference. The events of 9 March 2007 shocked the whole nation when Chief Justice of Pakistan detained in the custody of Army Chief and his colleagues. It added fuel to fire when Chief Justice of Pakistan was mishandled by government agencies and police, when he was coming to

appear in Supreme Judicial Council with his family members. It was the most pathetic and probably the black day in our country's history when it was seen on Television that the Chief Justice had been manhandled dragged by the hair and torn his coat. The reaction against the 9 March 2007 event was extremely strong when a spontaneous wave of resentment against General Musharraf started in the country which led by lawyers with overwhelming support from civil society, opposition parties, human rights bodies and almost all circles of society.⁴⁷ Hence the first phase of the Lawyers Movement for the restoration of judiciary had been started. After a historic struggle by the lawyers, civil society, political parties and media, Chief Justice was re-instated on 20 July 2007 but he continued efforts for the rule of law, supremacy of the constitution and fundamental rights of the people. When General Musharaff launched coup against judiciary on 3 November 2007, he said that suicide bombing, terrorist attacks on law enforcement agencies, judiciary interference in executive affairs, particularly release of most wanted militants, terrorists and suicide bombers by the judiciary were the causes behind proclamation of emergency.⁴⁸ On 3 November 2007 once again military dictator detained the independent judiciary and brought PCO judges which led to the second phase of the Lawyers Movement for the restoration of judiciary.

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