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Address for Correspondence :

The Editor, IBS Journal, Institute of Bangladesh Studies, Rajshahi  
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S. A. AKANDA  
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## CONTRIBUTORS

Chittabrata Palit

Reader in History,  
Jadavpur University,  
Calcutta.

Shamsun Nahar

Associate Professor in  
Islamic History and Culture,  
Rajshahi University

M. Badruddin

Associate Professor in Law,  
Rajshahi University

Mohammad Sadeque

Associate Professor in  
Social Works,  
Rajshahi University

M.K:U. Molla

Professor of History,  
Rajshahi University

S.A. Akanda

Professor of Social History,  
Institute of Bangladesh Studies,  
Rajshahi University

F.R. Khan

Professor of Sociology,  
Rajshahi University

M.A. Halim

Assistant Professor in Social Work,  
Rajshahi University

M. Kalim

Professor,  
Department of Languages,  
Rajshahi University.



# Aspects of Agrarian Relations in Bengal 1750-1850

Chittabrata Palit

## Land Reclamation and Founding of Villages

### A : Government Initiative :

Much of Lower Bengal at the time of Murshid Quli Khan was waste land. It was the constant endeavour of Bengal Nawabs since Murshid Quli to promote reclamation and create revenue-bearing estates out of the jungle. All land grants were made to the Zamindars with the first stipulation that they would bring waste land under cultivation. The Zamindars in their turn made similar terms with their grantees. The *sanadi* and *jungleboori* grants were official attempts at reclamation through Zaminders. As a results, much of virgin forest was cleared and villages were founded.

Thus, Zamindars were obliged to reclaim waste land and forests and empowered to dispose of them as is evident from the purchase deed of Calcutta Zamindari by the East India Company.<sup>1</sup> Muhammad Reza Khan in his reply to the Revenue Board enquiry defines *jungleboori* grants as 'those which have been cleared off jungle and cultivated from a barren desert state, the Zamindars of which are called *jungleburs*'. A *sanadi* grant of the first order is defined as a grant by the king to any person a certain quantity of waste jungle land to be brought by him into a state of cultivation after which he pays a rent of it to Government.<sup>2</sup> The report of the Amini Commission (1778) describes the process of reclamation thus :

There is reason to believe, however, that it was originally confined solely to them (i.e. holding directly from Government) that the whole of Bengal was distributed amongst Zamindars and Chaudhuries and that they in order to bring waste lands into cultivation in consideration of sum of money or the performances of a particular service or to provide for a relative or dependent were induced to parcel out portions of their districts to Talookdars subject to their authority and who engaged to collect and pay an annual revenue.<sup>3</sup>

1. British Museum Addl. Mss. 24039 No. 39.

2. N. K. Sinha, *Economic History of Bengal* Vol. 2, Calcutta : Firma K. L. Mukhopadhyay, 1968, PP. 7-8.

3. *Report of the Amini Commission* (1778)—BM. Addl. Mss. 29086 p. 2.



During Murshid Quli's time, 100,000 villages constituted 1660 parganas into which Bengal was divided. Barring Nadia and Burdwan Raj, most other large estates were born out of Nawabi land grants to further reclamation. Zamindaries of Rajshahi, Rajanagar, Muktagachha and Mymensingh were created by Murshid Quli Khan. Even older Zamindaries were not old enough. Nadia, Burdwan, Sheoraphuli, Silberis, Rokunpur etc. could at best be traced back to late 17th century and were mostly given over to favourites and court officials. The landed aristocracy in Bengal. therefore were of recent vintage.

All these grant were made at a quit-rent or no rent initially.<sup>4</sup> Murshid Quli's average rate of rent was 10 annas per bigha which rose to Rs. 2 by 1755-61 in an all out drive to reclaim Lower Bengal.<sup>5</sup> Of Murshid Quli's creations, the Zamindaries of Rajanagar and Muktagachha were carved out of Sunderbans and extended by reclamations and founding of villages. The East India Company continued the same practice of settling grantees at a quit-rent on forest land for its reclamation. The typical case was Bakarganj which at Permanent Settlement was virtually jungle but fetched enormous profit to the Zamindaries in a century of steady reclamation.<sup>6</sup>

#### **B : Zamindars' Initiative :**

Thus, the Rajshahi Zamindari became one of the largest Zamindaries of the province during Murshid Quli's rule extending over 12909 square miles and 181 parganas.<sup>7</sup> Rajanagar Zamindari of Raja Rajballav originated in 1720. By 1728 it paid a total revenue of Rs. 86,298 and in 1753, it absorbed Buzrugumedpur and went on waxing by steady reclamation in Sunderbans.<sup>8</sup> The Bhukailash Zamindari of Chittagong was largely the outcome of reclamation of waste land as admitted by Joynarayan Ghoshal, its founder in 1763.<sup>9</sup> The settlement of Noabad in Chittagong shows a giant reclamation work by Pattardars raising its revenue from Rs. 68,422 in 1713 to Rs. 4,43,918 in 1759.<sup>10</sup>

4. *Board of Revenue Progs.* (BRP) Range 71, Vol. 44 July, 1788.

5. Shirin Akhtar : "The Role of the Zamindars in Bengal (1707—1772)," Unpublished Ph. D. Thesis, SOAS, London, 1973 p. 106.

6. C. Palit, *Tensions in Bengal Rural Society*, Calcutta, Progressive Publishers, 1975, P. 14.

7. N. K. Sinha, *Op. cit.*, p. 17.

8. H. Beveridge, *The District of Bakarganj : Its History and Statistics* (London 1876) p. 95.

9. *Bengal Revenue Consultations* (BRC), 22 April, 1796.

10. *Noabad Settlement* (Calcutta, Bengal Secretariat Press, 1886).



The Burdwan Raj explained its practice of *lakhiraj* thus :

I beg to acquaint you that I issue them with a view to better the country and increase its cultivation, waste and jungle lands yielding no revenue. I dispose of to the ryots in *Pykust Pottahs* and *Imah Sunnuds* at small assessments to encourage cultivation. The Company sustains no loss by them whereas the country is improved and ryots made happy.<sup>11</sup>

*Lakhiraj* grants were one of the levers of reclamation and settlement till the end of the 18th century. By settling a school teacher on *Mahatran* grants, a locus for a village was established and the neighbourhood developed which became ultimately revenue-bearing.<sup>12</sup>

The Nadia Raj further illustrated the point. One-fourth of the Raj was distributed rent-free among relatives, servants and Brahmins. The grantees were in addition given homestead. *Devottar* and *Chakran* grants abounded. *Chakran* lands had to pay rent. Because  $\frac{3}{4}$  of the reclamable waste, rent was as low as 2 annas per bigha in the 18th century for paddy land. Maharaj Krishnachandra made over many villages to his two wives which came to be known as *Baradewri* and *Chhotodewri*. He founded villages named *Krishnaganj*, *Srinivas*, *Anandadham*, etc.<sup>13</sup> By settling Brahmins and other respectable people on *Devottar* land specially across *Ichhamati* river as the nucleus for future villages to be reared by reclaimers who would gather round such settlement. The *Lakhiraj* grantee was to act as the collecting agent for the Raj for these new revenue-bearing areas. *Bishnuram Chakrabarty*, founder of *Satkhira Zamindari* of *Khulna* was a writer of *Jumma* papers in the Nadia Raj who was settled on a *Devottar* grant. He had by 1804 established a flourishing *Zamindari* with a revenue demand of Rs. 20,089.<sup>14</sup>

The *Muktagachha Zamindari* of *Srikrishna Chaudhuri* had a similar development since *Murshid Quli Srikrishna* was a *quanungo* of the Nawab and was invested with *Momenshahi pargana* in 1719. This swampy wasteland was affectively colonised by him by over 500 men brought from West Bengal in 100 boats including barbers, washermen and priests. Brahmins were settled on *Lakhiraj* to promote reclamation. This was followed by digging of canals, making of embankments and

11. A. Mitra & R. Guha eds., *Bengal District Records—Burdwan*, New Series, 1788—1800 Section II, p. 10.

12. *Ibid.* Introduction LXVI also BRP 7 September, 1787.

13. K. C. Roy, *Kshitisha Vamsavali* (in Bengali), Calcutta, 1932, pp. 6-16, 108-120.

14. S. C. Mukherjee, *Final Report on survey-Settlement of Dihi Bhadra Estate in the Khulna District, 1905—1909*, Calcutta, Bengal Govt. Press, 1911 p. 4.



creation of village markets. *Pykast* ryots were settled at a quit rent. A typical village so created was Krishnapur named after him by his son and successor, Chand Rai. By the time of Krishnakishore, villages in Chandpur, Jagadishpur were settled by ryots wrested from neighbouring Zamindars and invested with land, cattle, seed and homestead around 1779.<sup>15</sup>

Cultivable waste at the time of the Permanent Settlement was one-third to two-third of the total area and the Land Revenue Commission admits the role of Zamindars in its reclamation by settling ryots at a low rent.<sup>19</sup>

### C : Initiative of the Pioneer-Farmer :

The Government had appointed a few Zamindars as the agents of reclamation. They had in turn found out pioneer-farmers and managed to settle them in the wasteland with a package of concessions like low or no rent, homestead, seed and cattle, canals and embankments and other collateral facilities. But the ultimate reclamer was the man on the spot to clear the waste and create a village. The pioneer-farmer (the *Mondal*, the *Pramanik* or the Village headman) became the real master of the land in view of their pioneering role in reclamation with complete control over labour supply in a situation of more land and less people. The Zamindars allowed them a quit-rent for their declared holding and winked at towfir or concealed land in their possession. This was almost a general picture for agrarian Bengal since the Famine.<sup>17</sup> Though the headman or the promoter paid the least, he determined the rent of other villagers, Write Sinha :

The hereditary resident ryot generally paid the highest rents. The non-resident ryots who cultivated lands of distant villages were tenants at will and in some parts, they paid the lowest rents. Even some resident ryots who cultivated the lands of their own village did not pay rent for their dwelling house nor did they pay so high a rent for their lands as the resident ryots described as *Khodkast*. These privileged tenants were described as *Neizghari bykast*. Other non-resident were described as *baze-goan pykast*.<sup>18</sup>

The Gantidar of Jessore was another pioneer who enjoyed his land at a quit-rent but was responsible for collection and payment of

15. S. K. Roychoudhury, *History of the Mymensingh Zamindars*, Vol. 1 ( Cal. 1911 ) pp. 18-40, 114-117 ( in Bengali ).

16. *Report of the Land Revenue Commission* ( 1940 ), p. 24 and Vol. 2, p. 211.

17. N. K. Sinha, *Op. cit.*, p. 133

18. *Ibid.*, p. 135.



revenues of other adjacent lands. In this way he acted as the pivot of a growing village.<sup>19</sup> Large parts of Bengal were depopulated and covered with jungle after the famine of 1770. There was a dearth of immigrant labour for reclamation. The pioneer-farmer with their colonies of migratory labour were very much sought after by Zamindars. The head ryots were like labour contractors of modern times. Colebrooke reports as early as 1794 that homestead, low rent facilities and other indulgence were given to the *khudkast* head ryots for the purpose of enticing the distant cultivator.<sup>20</sup>

Buchanan-Hamilton described this early process of pioneering pithily :

Whenever one of them is discontented, he gives up his farm and retires with all his dependents to some other estate where there are waste lands which his stock enables him to clear. The village he left is then for some years unoccupied until the landlord can find a fugitive of the same kind and in general must use a good deal of solicitation before he can induce with his dependents to settle. In reclamation areas involving capital investment, the big landholders had to depend on these pioneer farmers for their command of capital and labour.

Colebrooke noticed that 'a class of tenantry monopolising land to relet it to the actual cultivators at an advanced rent or half the produce' had emerged who retained their hold in areas having more land and less people like Rangpur, Dinajpur, Mindapur, Birbhum and the Sunderbans well into the 19th century.

What kind of village did they set up with thier under-tenants ? Hamilton remarks :

These men have in general large capitals and advance money or grain or both to those who cultivate for a share and to their other necessitous neighbours to enable them to live while the cultivation is going forward. It may indeed be said that their stock carries on at least one half of the whole cultivation of the country.<sup>21</sup>

Village formation was likewise in Rangpur as described by Tomas Sisson, Magistrate, Rangpur in 1814 :

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19. BRP Range 71, Vol. 44, July, 1788.

20. H. T. Colebrooke, *Remarks on the Husbandry and External Commerce of Bengal*. Calcutta, 1806 (original 1794), p. 64.

21. F. Buchanan-Hamilton, *A Geographical, Statistical and Historical Description of the District or Zillah of Dinajpore in the province of Sadaah of Bengal*. Calcutta, 1883 (Original 1807-8), pp. 235-239.



Throughout the interior of the district, there is no such thing as a regular village according to the common acceptation of the term. In whatever quarter I ride, I find nothing by which to distinguish one estate from another, the whole face of the country presenting but one continued view of an extensive plain with the huts of the inhabitants irregularly scattered over the most cultivated parts of it. Wherever the ryot finds a spot most conveniently situated for the village of the land he rents, there he raises his hatch and there also his *purja* build their huts round their superior. If these *purjas* exceed the number necessary for the due cultivation of the land contiguous to his hut, the superior distributes the remainder in such different parts of the land he rents as may appear most convenient for an equal cultivation of the whole. A *purja* in this district is one who not having the means of purchasing a stock of cattle and the necessary implements of husbandry hires himself to a cultivator of more substance who supplies him with seed, stock and the implements of husbandry and who after deducting the advance made on such account divides an equal share of the crop. The *purja* is not answerable to any one but his ryot to whom alone the zamindar looks for his *malgoozari*.<sup>22</sup>

Reclamation work had gone on since the time of Murshid Quli at the three levels described above and carried over into the 19th century. Hence, Rennell could describe Bengal of 1765-72 as 50,000 square miles of level land and not a rock or stone to be met with throughout that ... granary of the east as fertile as Egypt as level as a bowling green.<sup>23</sup>

The Famine of 1779 and 1785 were severe setbacks. But the country had recouped itself within 25 years. If Colebrooke is to be believed, the population in 1794 was 'fully adequate to the cultivation of all land that is now waste and numerous for existing tillage and manufacture.'<sup>24</sup>

The judges' reply to Wellesley's Interrogatory in 1802 for several districts confirmed the growth of population. In Midnapur, it reached the pre-famine figure of 1½ millions. In Burdwan, 24 Parganas, Rangpur and Dinajpur, the population was over 2 millions. There was a hectic founding of villages.<sup>25</sup>

According to W. N. Lees, 30,000,000 acres were under cultivation in 1793 and the figure reached 70,000,000 in 1857 implying a total reclamation of 40 million acres over a period of 64 years.<sup>26</sup> The population had soared from a mere 10 million during the Famine to 40 million in 1857.<sup>27</sup>

22. E. G. Glazier, *Further Notes on Rangpur Records* Vol 11. Calcutta, 1876, App. A No. 30.

23. N. K. Sinha, op. cit., p. 218.

24. Colebrooke, op. cit., p. 27.

25. Palit, op. cit., 159.

26. W. N. Lees, *Land and Labour of India*, (London, 1867) p. 196.

27. Palit, Op. cit., P. 159.



The practice of reclamation and raising of villages is described for Hooghly in 1865 by Zamindar Joykrishna Mukherjee of Uttarpara confirming the tradition in jungle areas. He describes how thousands of villages have been reared by Zamindars in a familiar way. "Where there is plenty of waste lands, the landholder often takes good deal of pains in looking out for new hands and generally incurs large expense in giving them money rewards, in building their huts...creates a new village." He next describes the members of village so formed.

"A Raot who settles in a village will be a *khodcasht ryot*...New settlers in waste lands have no such rights beyond annual lease. The *Asulle Proja* gets a margin out of new *jumma* caused by new *Korfa* under-tenants paying a higher sum than the existing *nerik* or rate of rent as his sublessee—a practice of 30/40 years "standing in the district".<sup>28</sup>

### Some Characteristics of the village.

#### A : Absence of the village Community :

These villages were founded by vertical mobilisation and the result was an early and rigid rural stratification which was further riveted by British rule within its legal framework. Metcalfe's description of U. P. Villages as sleepy republics does not seem to apply to these Bengal villages. They were highly differentiated. This is evident from the difference noticed between *Khodkasht*, *Pykasht*, *Neiz-gheri* and *Baze-gaon*. *Pykashts* in the 1770s, the pioneer-farmer and his *Purjas* or dependents as in Rangpur in 1814 or the *Asulle Proja* and his *Korfa* settlers as in Hooghly in 1830—40. Colebrooke had drawn attention to this differentiation in 1794. The undertenants depressed by an excessive rent in kind and usurious returns for the cattle, seed and subsistence advanced to them can never extricate themselves from debt. In so abject a state, they cannot labour with spirit while they earn a scanty subsistence without hope of bettering their situations.<sup>29</sup> Colebrooke also refers to those Brahmin rich peasants who 'superintended the culture performed by their servants or by hired labourers...who were restrained by prejudice from personal labour.'<sup>30</sup> This was also the case in Nadia where cultivating Brahmins used Sudras to till their land.<sup>31</sup>

28. A Lover of Justice, *The Permanent Settlement Imperilled*, (Calcutta, 1867), P. 28.

29. Colebrooke, *Op. Cit.*, P. 64.

30. *Ibid.*, P. 96.

31. K. C. Roy, *Op. Cit.*, P. 30.



Hamilton also draws a vivid picture of the army of *adhiars* and small farmers who were indebted to the *jotedar* beyond the surrender value of their stock and would starve for the entire off-season if they would not advance them grain. These *jotedars* even supplied seed, plough and cattle for cultivation.<sup>32</sup> Writes Hamilton : "The creditor acquires a set of necessitous dependents to whose wants he must administer in order to procure a share of their labour in place of interest and these dependents are reduced to perhaps one of the worst kinds of slavery, that of insolvent debtors."<sup>33</sup> His description of the rural scene in his contemporary Dinajpur ( 1897 ) projects a highly differentiated village society and not a homogeneous village community. "There were large farmers having 165 bighas each and there were small farmers owing less than 15 bighas. There were 1,50,000 families of share-croppers on the one hand and 80,000 families of agricultural labour on the other."<sup>34</sup>

The hierarchy operated in another subtle way. Colebrooke shows how 'favouring a few leading cultivators, they ( i.e. Zamindars ) obtained through their influence, general agreements to authorise exactions and imposts on the multitude.'<sup>35</sup> This Zamindar-jotedar collaboration to exploit the poor peasantry is also confirmed by Hamilton. He writes :

A clamour ... has gone abroad against the wealthy farmers who are condemned as mere flayers of the poor and no people privately join more earnestly in the cry than the landlords. In public, however, they court the wealthy farmers and it is alleged often, purchase their assistance to enable them to fleece the poorer tenantry.<sup>36</sup>

As to later examples of this collusion, one can turn to Funicane's report on Chanchra Raj estate, Jessore in 1833 or conditions in Dacca as late as 1872-73 where *mondals* conspired with Zamindars to break the solidarity of striking villagers and levy higher assessment.<sup>37</sup>

#### **B : Rural hegemony : Zamindar vs Jotedar :**

There is a tendency among some scholars in the field to regard the former as landlords and the latter as lords of the land. In other words, they see the *jotedar* as the real magnate of rural power and Zamindars as nominal titular heads trying to realise their rent by coming to an understanding with the *jotedars*.<sup>38</sup> The above section to some extent corroborate this view. But this was true largely in the 18th century in districts like Rangpur, Dinajpur, Midnapur, Birbhum and the Sunderbans where reclamation was going on and *jotedars* retained their pioneering role and considerable power far into the 19th century. This was

32. Hamilton, *op. cit.*, pp., 235-236.

33. *Ibid.*, p. 241.

34. *Ibid.*, p. 236.

35. Colebrooke, *op. cit.*,

36. Hamilton, *op. cit.*,

37. Palit, *op. cit.*, p. 137.

38. R. Roy and R. Roy, "Zamindar and Jotedar," *Modern Asian Studies*, 1976.



a matter of temporary bargain and was not to be expected in settled plains. Though Zamindars continued to utilise *jotedars* whenever they could by bribe or *hajjot*, they were capable of using strong-arm methods and for this purpose maintained a retinue of private militia. The peasant uprising in Rangpur in 1783 is frequently cited as a case of peasant power. But as N. K. Sinha points out, this was not a mere peasant revolt. It was an uprising in which the Zamindars combined with the ryots against the farmer of revenue, Debi Singh and his agents.<sup>39</sup> With the coming of the British, Zamindars were armed with Huftam and Punjam regulations. Enhancement of rent and eviction of peasants became a matter of daily occurrence to which all sources testify. The indigent Zamindars of 1793 would not have doubled their receipts by 1831-32 by economic operations alone. The club must have clinched the issue.<sup>40</sup> Zamindars like Odwait Chaudhuri in Dinajpur kept upto 30% of the total rental as their profit from the estate by territorial power.<sup>41</sup> J. C. Jack describes how Nilkantha Saha, a zamindar of Bakarganj began in 1844 to build up his 'lathi Zamindari' or rule of lathi or club. The rule of *lathi* was admitted by Government to be stronger than rule of law and *jotedars* surely came under it.<sup>42</sup> The *jotedar* was the pivot of economic and the Zamindar of the territorial power. By the twin policy of coercion and conciliation, the Zamindar got his dues from the *jotedar* right down to the time of abolition of Zamindari in 1952.

### C: Operation of Cash-nexus and commercialisation of Village economy :

It is sometimes taken for granted that money economy came only in the wake of British rule. Irfan Habib had already shown that Mughal economy was fairly highly monetised and operation of merchant capital was visible in agriculture and handicrafts.<sup>43</sup> Land purchase and sale were common throughout the provinces according to Barwell.<sup>44</sup> The British Deed of purchase of Calcutta zamindars is a case in point.<sup>45</sup> Rent was mostly paid in cash. Two *pattas* one to a *Khud Kasht* and the other to a *Pykasht* of 1735 and 1760-61 reveal Rs. 2 per bigha as rent in both cases, only the latter paid *abwabs* in addition. Coin was scarce. Batta was taken by shroffs for money-changing as also by Zamindars from the ryots.<sup>46</sup> A classification of rent of different kinds

39. Sinha Vol. II, *op. cit.*; pp. 198-99.

40. Palit, *op. cit.*, p. 13.

41. Hamilton, *op. cit.*, p. 247.

42. Palit, *op. cit.*, p. 89-92 for more on lathialism; for examples of eviction of pioneer-farmers for the period, pp. 171-74.

43. I. Habib, "Potentialities of Capitalist Development in the Economy of Mughal India," *Enquiry*, vol. VI, 1959.

44. Sinha, *op. cit.*; p. 9.

45. BK. Addl. Mss. 24039 No. 39.

46. S. Akhtar, "The Role Zamindars in Bengal," Unpublished Ph. D Thesis, London University, 1973, p. 111.



of land in 1776 shows the operation of both the cash-nexus and the market forces. Thus, shallee land paid a rent of Re. 1-4 as per bigha for one harvest; shoona—2 harvests—1.00; Double crop—1.8 as; Cupass Re. 1 (Sonaut); Bastu—Rs. 2—lanna (Arcot).<sup>47</sup> It is also interesting to note that in Chittagong, 32 *mondals* as panfarmers paid Rs. 1422 as revenue to Mughal Government and there were 248 whole-sale tobacco shops reported in 1775-76.<sup>48</sup>

Hamilton sketches this early phase of commercial agriculture in Dinajpur of 1808. 'The principal farmers formed part of a market network of grain trade in the district. They supplied the greater part of the stock of the primary producer such as food, plough, seed and cattle as advance to be paid back in grains. They commanded a capital from Rs. 5000 to 20,000. This credit was in turn supplied to them by merchants from Murshidabad and Calcutta who annually purchased Rs. 4,00,000 worth of rice in Dinajpur. Rich farmers hoarded grain from their own land or from others for favourable market. Great business houses like those of Boidyanath Mondal, Bhojraj of Bhojpur and Thakurdas Nandi of Kalna, Burdwan sent agents to Dinajpur for their cargo to Murshidabad and Calcutta markets. The crop was gathered in riverside warehouses and borne by boats. With the progress of British rule, the trade increased in volume. Rice export had increased from Rs. 4 million in money value to Rs 6½ million, according to Sherwill in the fifties. Market forces militated against whatever communal life remained in the village. Its summit was reached in the 20th century when rich peasants like Porsha Shah Chaudhuries ( in the District of Rajshahi, Bangladesh ) established paddy estates storing 60,000 maunds of paddy and practised large-scale farming with agricultural labourers or share-croppers. They seldom let out for cash-rent and were glad if a tenant surrendered a holding. The latter process was on the rise because of rural indebtedness as evident from the great body of share-croppers in the district.

The village had been profoundly disturbed by this kind of commercialisation under British rule. Dislocation caused by transfer of estates was far less than actual land transfer at the village level leading to rural pauperisation.<sup>49</sup>

47. *Ibid.*, p. 307.

48. BRC 9 December, 1777.

49. Palit, *New Viewpoints on Nineteenth Century Bengal*, Calcutta, 1978, pp., 16—17, 21, 23.



# The position of the Muslims in the service of the Government of Bengal in the late Nineteenth Century—a statistical analysis.

Shamsun Nahar

With the establishment of the English military and political supremacy in Bengal, the urban based Muslim aristocracy was thrown off the balance in particular. They suffered mainly because they were slow to adjust themselves with the changed situation. Their loss was heavy in the field of government employment. The present article will first discuss the background and extent of their loss. Then an attempt will be made to show how the position of the Muslims continued to deteriorate during the period under review.

Almost all the studies on the nineteenth century Bengal relate to, or touch on, the condition of the Muslims. They, in general, deal with political and social aspects of the Muslims putting less emphasis on the economic position of the two major communities of Bengal. W. W. Hunter in his book, *The Indian Musalmans*, just outlines the main causes of the Indian Muslims' backwardness without providing any historical analysis.<sup>1</sup> No elaborate attempt has been made to bring out the share of the Hindus and the Muslims in government employment. His statistics of the government services held by the Hindus and the Muslims are evidently inadequate, concentrating only on one year 1869-1870. A. R. Mallick's *British policy and the Muslims in Bengal 1757-1856* has laid special emphasis on the growth of Muslim society and education.<sup>2</sup> He vividly narrates the Faraidi and the Wahhabi movements in Bengal devoting few pages on the declining economic conditions of the Muslim aristocracy. He has not given the gradewise statistics of the government jobs held by the two communities. Sufia Ahmed in her *Muslim Community in Bengal 1884-1912* discusses mainly the educational and literary developments of the Muslims in Bengal.<sup>3</sup> Hence the need of the present article; its

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1. London, 1871.

2. Dacca : Asiatic Society of Pakistan, 1961 ; Bangla Academy, 1977

3. Dacca : Oxford University Press, 1974.



purpose, as stated, is to concentrate on the government jobs held by the two communities.

On 12 August 1765, the English East India Company assumed the charge of Bengal administration—the civil and revenue.<sup>4</sup> Soon the Bengal officials, many of whom were reportedly "inefficient, corrupt and idle", were put under the control of European supervisors called Collectors.<sup>5</sup> European supervisors were posted in important districts of Bengal, such as Dacca, Hughli, Birbhum, Dinajpur, Jessore, Nadia, Rajshahi and Rangpur.<sup>6</sup> They were well paid. Their main purpose was to direct revenue administration and to enforce the rule of justice in their areas.<sup>7</sup> With the appearance of collectors, the Bengal revenue officials, called *amils*, were gradually withdrawn.<sup>8</sup> As a result, many urban-based middle class government employees of Bengal—Hindus and Muslims were adversely affected.

An important link in the revenue administration of pre-British Bengal was the institution of *Qanungos*.<sup>9</sup> The *Qanungos* maintained the survey records and the details of revenue collection. They also kept the genealogies of *Zamindars*.<sup>10</sup> The English officials, however, regarded that the *Qanungos* were a burden on the Company's revenue: they blackmailed the *Zamindars* and collected hush money from them. Hence the posts of *Qanungos*, which were held by the locals, were abolished in 1793 throwing many out of employment.

Again by the regulation 11 of 1793, the judicial powers were taken away from the collectors and the Board of Revenue.<sup>11</sup> Now the offices

4. For details see *Bengal District Records, Chittagong*, Calcutta, 1923, P. 151.

5. Select Committee to J. Alexander, *Bengal Secret and Military Consultations*, 29 March 1770, Range A., Vol. 10, P. 134.

6. N. K. Sinha, *The History of Bengal 1757—1905*, Calcutta: University of Calcutta 1967, P. 83.

7. *Ibid.*

8. *Ibid.*, P. 84.

9. For details see M. Huq, *The East India Company's Land Policy and Commerce in Bengal 1698—1784*, Dacca: Asiatic Society of Pakistan, 1964, PP. 272—276.

10. *Zamindar*: The *Zamindar* was a landlord. The *Zamindar's* right consisted of the privilege of collecting rents from the peasants. In addition to this the *Zamindar* generally had the responsibility or privilege of maintaining peace and order within his *Zamindari*.

P. Moon, *Warren Hastings and British India*, London: The English Universities Press, Ltd., 1961, PP. 94—95.

11. H. H. Dodwell (ed), *The Cambridge History of India, British India, 1497—1858*. Vol. V, New Delhi: New Age Printing Press, P. 453.



of Judges and revenue collectors were separated. English Judges were to preside over the courts in each district and were responsible for all civil cases.<sup>12</sup> From them appeal was to lie to four provincial courts of appeal, situated, like the criminal courts, at Patna, Dacca, Murshidabad and Calcutta. In larger cases appeal lay to the Supreme Council—the Sadr Diwanni Adalat. Over each of these provincial courts were three English Judges. These Judges presided over the criminal courts of Circuit stationed at the same towns. The administration of Justice, both civil and criminal, was, therefore, vested in the same hands and the criminal courts of justice, which had been run mostly by the Muslims, were abolished.<sup>13</sup> Gradually, the high posts of the *Qazis*,<sup>14</sup> *Muftis*<sup>15</sup> in the judicial administration were rendered unnecessary. The offices of *Fauj-dars*<sup>16</sup> run in general by the Muslims were abolished in 1781 on the ground that they were no longer necessary. The Company's aim was to provide Englishmen in offices with almost unparalleled powers.

The resumption proceedings introduced by Lord William Bentinck<sup>17</sup> in 1828 further weakened Bengal aristocracy. During the Muslim rule in India, the rulers granted *Jagir*,<sup>18</sup> *Al-Tamgha*,<sup>19</sup> *Aima*,<sup>20</sup> *Madad i-Ma'ash*<sup>21</sup>

12. Sir G. Campbell, *Memoirs of My Indian Career*, London: MacMillan and Co., 1893, Vol. 1, P. 162;

Also, L.S.S. O'Malley, *Indian Civil Service: 1601-1930*, London: Frank Cass and Co. Ltd., 1965, P. 65.

13. H.H. Dodwell (ed), *The Cambridge History of India, British India, 1497-1858*, Vol. V, New Delhi: new Age Printing Press, P. 453.

See also, N.K. Sinha (ed), *The History of Bengal (1757-1905)*, Calcutta; University of Calcutta, 1967, P. 85.

14. *Qazi*: A muslim Judge was appointed by the government to try civil and criminal cases.

H.H. Wilson, *A Glossary of Judicial and Revenue Terms and of Useful words occurring in official Documents*, London: WM. H. Allan and Co., 1885, P. 272.

15. *Mufti*: A muslim law officer was to expound the law which the *Qazi* executed. *Ibid.*, P. 349.

16. *Faujdar*: A police officer. *Ibid.*, P. 158.

17. Lord William Bentinck (B. 14 Sept. 1774- d. 7 June 1839): Governor of Madras, August 1803 - September 1807; Governor of Bengal, July 1828; first Governor General of India, November 1834- March 1835; M.P. for Glasgow in 1837.

For details of the proceeding A.R. Mallick, *British Policy and the Muslims in Bengal 1757-1856*, Dacca: Asiatic Society of Pakistan Publication, 1961.

18. *Jagir*: Feudal lords under the Muslim rulers.

19. *Al-Tamgha*: A royal grant under Muslim rulers.

H.H. Wilson, *A Glossary of Judicial and Revenue Terms and of Useful words occurring in official Documents*, London: WM. H. Allan and Co., 1885, P. 19,

20. *Aima*: These lands were granted by the Mughal rulers either in rent-free or subject to a small quit-rent to learned and religious muslims for charitable uses. The holders of these lands were known as *aimadars*.

21. *Madad-i-Ma'ash*: Grants of means of subsistence in general.

H.H. Wilson, *A Glossary of Judicial and Revenue Terms and Useful words occurring in official Documents*, London: WM. H. Allan and Co., 1885, P. 314



to the high and responsible officers and persons of distinction in lieu of the payment of their salaries and stipends in cash.<sup>22</sup> As a rule *Jagirs* and *Al-Tamgha* were granted to civil and military officers, and *Aimas* and *Madad-i-Ma'ash* to learned men, spiritual leaders and persons of noble descent. *Jagirs* were granted normally for life and became hereditary in the family. *Aimas* and *Madad-i-Ma'ash* were granted in perpetuity chiefly to persons of noble birth and to holymen. Besides these grants, rent-free lands were set apart by the government for the maintenance of holy shrines, mosques and other religious establishments.<sup>23</sup>

However, it was resolved that all grants before 1765 were valid if the holders of rent-free lands could produce documentary evidence in support of their claims. All grants registered between 1765 to 1790 were declared to be valid if these were confirmed by the government. Many of these were not in circulation among the people.<sup>24</sup> The Muslims had enjoyed more of these rent-free lands than the Hindus under the Muslim rule.<sup>25</sup> Reportedly the Muslims had suffered much because of the promulgation of these alws. It was argued that the Hindus whenever possessed any revenue in free grants took great care of their title-deeds in order to safeguard their interests both under the Muslim and British rulers. The Muslims, on the other hand, in a sense of security under the Muslim rule, had allowed the documents of their rent-free lands to be lost or destroyed. The resumption proceedings, though intended to apply to both Hindus and Muslims, fell most heavily on the latter. About one-fourth of the entire land in Bengal were absorbed by such proceedings. At an outlay of £800,000 upon resumption proceedings, an additional revenue of £300,000 a year was permanently gained by the state, representing a capital at 5 per cent of six million sterling.<sup>27</sup> A large part of this sum was derived from lands held rent free by the muslims. Hundreds of ancient families were reportedly ruined. The educational institutions of the Muslims, which were almost entirely maintained by the rent-free grants, received a severe blow.

22. Khondakar Fuzli Rubbee, *The Origin of the Musalmans of Bengal*, Calcutta : Thacker, Spinck and Co., 1895, P. 35.

23. *Ibid.*

24. A.R. Mallick, *British Policy and the Muslims in Bengal 1757-1856*, Dacca : Asiatic Society of Pakistan Publication, 1961, pp. 38-39.

25. W.S. Blunt, *India Under Ripon*, London : T. Fisher Unwin, 1909, P.290.

26. A. R. Mallick, *op. Cit.*, pp., 38-39.

27. Ameer Ali, "A Cry from the Indian Mahommedans", *The Nineteenth Century*, August, 1882, P. 199.



The Muslims, who remained in official jobs, faced with great difficulties, when the hitherto state language Persian was replaced by English in 1837. If the Muslim employees of the government were taken for the middle class of their community, the weakening of the middle class Muslims dated from this time. Most of the Hindus accepted the change because to them the British and their language were as foreign as the Muslims and their language Persian; they learnt Persian for their material prosperity under the Muslim rule, and similarly under the British rule, they also learnt English. On the other hand, the Muslims regarded the British as their political supplanters and remained as far as practicable aloof from English education. The *Maulvis*, the Muslim religious leaders, were reported to forbid their co-religionists "under pain of eternal damnation" to learn English.<sup>28</sup> As a result the well-to-do Muslims kept their children aloof from the English education. Many had no money to go in English education.<sup>29</sup> By degrees, the number of Muslims began to decrease in government jobs mainly because of the language difficulties. "Persian ceased", Theodore Morison<sup>30</sup> commented, "and with it the service of the state, which had been for generation the hereditary occupation of the middle and upper classes of Muslim society passed into other hands"<sup>31</sup> For the public services, a knowledge of English had become indispensable. Law, medicine and engineering had been revolutionized by the introduction of European ideas and could only be studied to any purpose in English text-books. The Muslims' apathy to English education drastically blocked their own future.

It was against this background that I shall examine the position of the Muslims in government employment. The Muslim position was brought out clearly by the Calcutta based Central National Mahommedan Association in 1882; "English educated Hindu youths, trained for the most part in missionary institutions, from which the Mussulmans naturally

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28. Sir John Cumming (ed), *Political India, 1832—1932*, London: Oxford University Press, 1932, P. 87.

29. Ameer Ali, Addl. Member of Viceroy's Legislative Council, to H. W. Primrose, Pvt. Sec. to the Viceroy, 10 March 1884, *Ripon Papers, Correspondence with persons in India*, 1884, L. No. 104.

30. Sir Theodore Morison (b. 1863—d. 1936): Principal of Aligarh Oriental College in 1899; President of Mahommedan Educational Conference in 1904; Member of the Council of London for ten years in 1906; Principal of the Arnstorn College at New Castle from 1919 to 1929.

31. Sir J. Cumming (ed), *Political India 1832—1932*, London: Oxford University Press, 1932, P. 87.



stood aloof, now poured into every department office and completely shut out the Muhammadans. A few unimportant offices remained in the hands of the Muhammadans, but year by year and day by day their number has decreased...".<sup>32</sup> Clerks and officers were recruited from "the pushing Hindu youth" coming out of the government schools and colleges.<sup>33</sup> Sometimes when "the head ministerial officer in the department is a Hindoo, it is asserted that he makes every effort to secure that all subordinate offices in his department are filled by Hindoos."<sup>34</sup> Some of the district reports, for example, Pabna, Bakarganj, revealed that "the Hindu head ministerial officers, if they have their own way, often favour men of their own religion and perhaps even with the Hindu Munsifs. Mahomedan candidates do not get a fair chance."<sup>35</sup> When any subordinate office in a department happened to fall vacant, the claims of the Muslim candidate were either not brought to the notice of the head of the department, or were treated with contempt or indifference. Sometimes when a Muslim had been fortunate to obtain an appointment, intrigues were set on foot, often not unsuccessfully to get him out.<sup>36</sup> Whether exaggerated or not, the information pointed to the fact that the Muslims were facing difficulty in obtaining and retaining a government job.

A comparative list will show how did the Hindus outnumber the Muslims in most of the government jobs in Bengal from time to time. In 1869 in the first, second and third grades of government jobs in Bengal, the ratio of the Muslims stood 1 to 2 Hindus, 2 to 9 and a little

32. Memorial of the Central National Muhammadan Association, to the Marquis of Ripon, February 1882, Para 11; K. K. Aziz, *Ameer Ali, His Life and Work*, Lahore: Publishers United Press, 1968 P. 27.

Quoted in S. Ahmed, *Muslim Community in Bengal 1884—1912* 'Bangladesh: Oxford University Press, 1974' P. 133.

33. W. W. Hunter, *The Indian Musalmans*, Dacca: W. Rahman, 1975 P. 150.

34. Quoted in S. Ahmed, *Muslim Community in Bengal 1884—1912*, Bangladesh: Oxford University Press, 1974, PP. 135—136.

35. *Ibid.*, P. 137.

See also District Judge of Pabna and Bogra to the Govt. of Bengal, 16 March 1886, Para 4.;

District Judge of Bakarganj to Govt. of Bengal, 6 February 1886, *Bengal Education Proceedings*, October 1886.

36. Memorial of the Central National Muhammadan Association, Calcutta, to the Marquis of Ripon, February, 1882, Para 19.

K. K. Aziz, *Ameer Ali, His Life and work*, Lahore: Publishers United Press, 1968, P. 34.



higher than the former two respectively.<sup>37</sup> Third grade government engineers and apprentices were recruited solely from the Hindus and the Europeans. In the list of Sub-Engineers of the Public Works Department there were 14 Hindus and no Muslim.<sup>38</sup> A look in the gazetted appointments of Bengal of April 1871 would further clarify the point.<sup>39</sup>

	Europeans	Hindus	Muslims	Total	Percentages Hindus—Muslims	
Covenanted Civil Service ( appointed in England by the Crown )	260	0	0	260		
Judicial Officers in the Non-Regulation Districts	47	0	0	47		
Extra Assistant Commi- ssioners	26	7	0	33	21.7%	
Deputy Magistrates and Deputy Collectors	53	113	30	196	57.32%	15.15%
Income-Tax Assessors	11	43	6	60	71.2 %	10%
Registration Department	33	25	2	60	41.4 %	3.1%
Judges of Small Cause Court and Subordinate Judges	14	25	8	47	53.9%	17.1%
Munsifs	1	178	37	216	82.11%	17.7%
Police Department, Gazetted Officers of all grades	106	3	0	109		
Public Works Department Subordinate Establishment	72	125	4	201	62%	2%
Public Works Department Engineer Establishment	154	19	0	173		
Public Works Department Account Establishment	22	54	0	76		

37. W. W. Hunter, *The Indian Musalmans* ( Beng. Trans. ), Dacca : Bangla Academy, 1370, Beng. year , P. 165.

38. *Ibid.*

39. *Ibid* , P. 166



	Europeans -Hindus -Muslims -Total -Percentages				Hindus -Muslims	
Medical Department						
Officers attached to Medical College, Sanitation, Jails, Charitable Dispensaries and Vaccination Establishments and Medical Officers in charge of Districts, etc.	89	65	4	158	41%	2.42%
Other Department such as Customs, Marine, Survey, Opium etc.						
	412	10	0	422		
Department of Public Instruction						
	38	14	1	53		
Total	1,338	681	92	2,111		

The proportion of Muslim to Hindus was less than one-seventh. The proportion of Hindus to Europeans was more than one-half, while that of Muslims to Europeans was less than one-fourteenth. The proportion of the Muslims in the whole administrative body then fell to less than one-twenty third. In 1880 the proportion fell below one-tenth. The situation did not improve in 1892.

The following statistics show Hindu predominance in government employment :

A list of Gazetted officers and other officers in 1880 : <sup>40</sup>

	Christians—Hindus—Muslims—Total -Percentages				Hindus—Muslims	
Judges of the High Court of Judicature	12	1	0	13		0
Covenanted Civil Servants appointed in England	248	7	0	255		0

40. Memorial of the Central National Muhammadan Association, Calcutta, to the Marquis of Ripon, February 1882, Para 14.

K. K. Aziz, *Ameer Ali : His Life and work* Lahore : Publishers United Press, 1968, P. 31



	Christians	Hindus	Muslims	Total	Percentages Hindus -Muslims	
Judicial Officers in the Non-Regulation District	1	0	0	1		0
Police Department Gazetted Officers	118	38	9	165	23%	5.46%
Public Works Department	167	217	17	401	54.11%	4.21%
Medical Department	98	24	3	125		
Public Instruction Department	53	98	6	157	62%	About 4%
Registration Department	4	18	3	25	72%	12%
Forest, Excise, Assessed, Tax, Custom, Salt, Opium, Stamp, Stationary, Mint and Survey	300	2	0	302		0
District and Sessions Judges	29	1	0	30		0
Judges of Small Cause Courts and Subordinate Judges, District and Session Judges	9	44	3	56	78.57%	2.68%
Total	1039	450	41	1530	29.4%	2.68%

A COMPARATIVE TABLE OF MUSLIM AND NON-MUSLIM  
EMPLOYEES IN THE TOWN OF CALCUTTA, 1880.<sup>41</sup>

	Hindus	Christians	Muslims	Total	Percentages Hindus -Muslims	
Office of the Private Secretary to His Excellency the Viceroy	3	15	0	18		
Foreign Department	39	14	1	54		

41. Syed Ameer Ali, "A Cry from the Indian Mahommedans," *The Nineteenth Century*, August 1882, PP., 206-7.



Hindus - Christians - Muslims - Total - Percentages  
Hindus - Muslims

Home, Revenue and Agricultural Department	39	23	1	63		
Department of Finance and Commerce	17	58	0	75		
Comptroller-General's Office (Higher grade)	18	45	0	63		
Bengal Secretariat (General Revenue, Financial and Statistical Department)	15	75	0	90		
Judicial, Political and Appointment Department	16	64	2	82		
Accountant General's Office	12	169	0	181		
Board of Revenue	24	88	1	113		
Department of Issue of Paper Currency	11	7	0	18		
Director-General's Office in Calcutta (Postal)	11	29	0	40		
Comptroller-(General's Office (Lower grade)	34	226	5	265	85.23%	Nearly 2%
Postmaster-General's Office	65	264	37	336	78%	11.1%
In the Moffussil in Western Bengal Circle (Postal Department)	7	763	22	792		
In Eastern Bengal Circle (Postal Department)	3	151	9	163		
In Bihar and Orissa (Postal Department)	19	353	37	409		
Office of the Inspector General of Registration	4	6	1	11		



	Hindus - Christians - Muslims - Total - Percentages				Hindus - Muslims	
Customs Department	0	130	0	130		
Office of the Director of Public Instruction	1	21	0	22		
High Court (original Jurisdiction)	25	91	0	116		
High Court (Appellate side)	20	115	47	182	11%	26%
Legal Remembrancer's Office	1	11	1	13		
Presidency Court of Small Causes	8	18	1	13	29.63%	3.69%
Survey or General's Office	55	18	10	83	66.26%	12.04%
Department of Public Instruction	61	421	38	573	73½%	7%

LIST OF THE EMPLOYEES IN SOME DISTRICTS, 1880 <sup>42</sup>

	Hindus - Muslims - Total - Percentages				Hindus - Muslims	
Bhagalpore	113	22	135	83.13%	16%	
Bogra	91	33	124	73.12%	22½%	
Bardwan	117	14	131	82%	2%	
Faridpur	336	30	366	90%	8.12%	
Howrah	206	8	214	96%	4%	

42. Syed Ameer Ali, "A Cry from the Indian Mahommedans," *The Nineteenth Century*, *Ibid*, August 1882, PP., 208.



	Hindus	Muslims	Total	Percentages	
				Hindus	Muslims
Murshidabad	343	39	382	89%	11½%
Mymensingh	324	20	344	94%	5.5%
Midnapore	460	39	499	95%	7%
Pabna	179	26	205	87.65%	12.8%
Purneah	129	59	188	77%	31.18%
Rajshahi	287	51	338	84%	16%
Barisal	389	34	423	92%	8.16%

The distributions of Deputy Magistrate and Collectors, Sub-Deputy Magistrates and Collectors were as under :

#### DEPUTY MAGISTRATES AND COLLECTORS

	Hindus	Muslims	Total including	Percentages	
			Christians	Hindus	Muslims
1876	119	21	198	60%	10.20% <sup>43</sup>
1880	153	22	216	70%	16.3%
1886-87	171	26	237	72%	11% <sup>44</sup>
1892	256	31	326	79%	8% <sup>45</sup>

#### SUB-DEPUTY MAGISTRATES AND COLLECTORS

	Hindus	Muslims	Total including	Percentages	
			Christians	Hindus	Muslims
1876	76	16	98	77%	16.26% <sup>46</sup>

43. *The Quarterly Civil List for Bengal*, 1876, No. XXXVIII, PP. 50-56.

44. Report of the Indian Public Service Commission, 1886-87,  
*Report of the Commissioners*, 1888, Vol. XLVIII, Paper No. C.5327, P. 28.

45. *The Civil List of Bengal*, 1892, No. CV, PP. 63-66.

46. *The Quarterly Civil List for Bengal*, 1876, No. XXXVIII, PP. 68-73.



	Hindus -Muslims		-Total -including Christians	Percentages	
				Hindus	-Muslims
1886-87	78	18	102	66%	17% <sup>47</sup>
1892	198	35	242	81.9%	14.56% <sup>48</sup>

The dwindling number of the Muslims caused economic depression in the muslim society.<sup>49</sup> In the Judicial department of Bengal, the Muslims held a very few posts.

A table showing the number of subordinate Judges and Munsifs is given below :

#### SUBORDINATE JUDGES

	Hindus -Muslims		-Total including Christians	Percentages	
				Hindus	Muslims
1876	31	3	41	76%	7½% <sup>50</sup>
1882	44	3	56	78½%	5½%

47. Report of the *Indian Public Service Commission*, 1886-87,

*Report of the Commissioners*, 1888, Vol. XLVIII, Paper No. C, 5327, P. 28.

48. *The Civil List of Bengal*, 1892, No. CV, PP. 63-66.

49. One could have some ideas about the salary of government servants from the below :

	Total	Hindus	Muslims
First grade on Rs. 800 per month	4	0	1
Second grade on Rs. 700 „	10	4	0
Third grade on Rs. 600 „	18	8	0
Fourth grade on Rs. 500 „	30	21	5
Fifth grade on Rs. 400 „	45	28	7
Sixth grade on Rs. 300 „	50	30	6
Seventh grade on Rs. 200 „	41	29	3

*The Quarterly Civil List for Bengal*, 1976, No. XXXVIII. PP. 50-56,

50. *Ibid.*, PP. 86-89.



	Hindus	Muslims	Total including Christians	Percentage Hindus	Muslims
1886-87	46	1	48 <sup>51</sup>		
1892	52	55	53 <sup>52</sup>		

## MUNSIFS

	Hindus	Muslims	Total including Christians	Percentages Hindus	Muslims
1876	166	25	193	86%	12% <sup>53</sup>
1880	247	14	261	95%	6%
1886-87	227	46	273	83.16%	17% <sup>54</sup>
1892	283	Not known	290 <sup>55</sup>		

The Muslim's number in the education department was far from satisfactory. For example, in 1876, out of 93 Deputy Inspectors of schools, 83 were Hindus and 10 Muslims.

While discussing the condition of the Muslims in Bengal it might be appropriate to throw some light on the position of the Muslims of other major Indian Provinces. In Bombay as in Bengal, the Hindus were well ahead of the Muslims. The following comparative figures of the Hindus and the Muslims would help us a good deal in understanding the state of affairs as then existed ;

51. Report of the Indian Public Service Commission, 1886-87, *Report of the Commissioners*, 1888, Vol. XLVIII, Paper No, P. 28.

52. *The Civil List for Bengal*, 1892, No. CV., P, 124.

53. *The Quarterly Civil List for Bengal*, 1876, No. XXXVIII, PP. 86-89.

54. Report of the Indian Public Service Commission, 1886-87, *Report of the Commissioners*, 1888, Vol. XLVIII; Paper No, C. 5327, P. 28.

55. *The Civil List of Bombay*, 1892. No. CV, P, 124.



Executive Service	Hindus	Muslims	Total including Christians	Percentages	
				Hindus	Muslims
1876 Deputy Collectors	43	0	47 <sup>56</sup>		
Mamlatdars	167	6	174		
1886-87 Deputy Collectors	53	5	59		
Mamlatdars	192	15	208	92%	7% <sup>57</sup>
1892 Deputy Collectors	58	7	74		
Mamlatdars	195	4	200 <sup>58</sup>		

The number of Muslims was also very small in the judicial service of Bombay : in 1886-1887 out of 117,107 were Hindus, only 1 was a Muslim.<sup>59</sup> No significant change was noticed in 1892, there being appointed only two more Muslims.<sup>60</sup> In the education department, the muslims' absence was remarkable : during 1876-92 only 3 Hindus served in the superior grade of the education department but there was no Muslim.<sup>61</sup> Out of 20 Headmasters of Government High Schools, 12 were Hindus only 1 was a Muslim.<sup>62</sup>

56. *The Civil List of Bombay*, 1876, P. 42.

57. *The Civil List of Bombay*, 1886-87, PP. 74-95.

58. *The Civil List of Bombay*, 1892, PP. 76-95.

59. *Report of the Indian Public Service Commission, 1886-87, Report of the Commissioners*, 1888, Vol. XLVIII, paper No. C. 5327, P. 28.

60. *The Civil List of Bombay*, 1892, PP. 152-159 ;

Also, *Proceedings of the Sub-Committee, Public Service Commission, Bombay* (Education Department), P. 83.

61. *The Civil List of Bombay*, 1876, P. 142.

*Ibid.*, 1892.

62. *Report of the Indian Public Service Commission, 1886-87, Report of the Commissioners*, 1888, Vol. XLVIII, Paper No. C. 5327, P. 29.



In Madras as in other provinces, the Hindus dominated the scene :

Executive Service	Hindus	Muslims	Total including other Communities
1876 Duputy Collectors	20	0	51 <sup>63</sup>
1886-87 „ „	47	4	67
1892 „ „	57	4	71 <sup>64</sup>
Judicial Service	Hindus	Muslims	Total including other Communities
1876 Subordinate Judges	9	0	14 <sup>65</sup>
Munsifs	Not known		
1886-87 Subordinate Judges	15	0	17 <sup>66</sup>
Munsifs	98	2	106
1892 Subordinate Judges	15	0	16 <sup>67</sup>
Munsifs	110	1	125

In the education department also the Muslims' position was no good. Out of 148 staff, 140 were Hindus and 2 only Muslims. The same disparity was noticeable in the Central Provinces and Assam. As for instance, in 1886 out of total of 121 executive and judicial services of Central Provinces, 91 were held by the Hindus and 22 by the Muslims : <sup>68</sup>

Executive and Judicial Services	Hindus	Muslims	Total	Percentages Hindus Muslims
Extra Assistant Commissioners	34	2	44	

63. *The Civil List of Madras*, 1876, PP. 33-34.

64. *The Civil List of Madras*, 1892, PP. 95, 148-149.

65. *The Civil List of Madras*, 1876, PP. 33-34

66. Report of the Indian Public Service Commission, 1836-87, *Report of the Commissioners*, 1888, Vol. XLVIII. Paper No. C. 5327, P. 29.

67. *The Civil List of Madras*, 1892. PP. 95, 148, 149.

68. Report of the Indian Public Service Commission, 1886-87, *Report of the Commissioners*, 1888, Vol. XLVIII, Paper No. C. 5327, P. 29.



Executive and Judicial Services	Hindus	Muslims	Total	Percentages	
				Hindus	Muslims
Tahsildars	42	18	60	70%	30%
Munsifs	15	2	17	88.23%	12%

In Assam, of 66 executive and judicial services, 56 and 6 posts were occupied by the Hindus and the Muslims respectively. The breakdown of posts is given below : <sup>69</sup>

Executive Service	Hindus	Muslims	Total
Extra Assistant Commissioners	22	3	29
Sub-Deputy Collectors	12	2	14
Tahsildars	12	0	12
Subordinate Judges	1	0	1
Munsifs	9	1	10

It was only in the Punjab that the Muslims were in a better position : of 222 executive services—Extra Assistant Commissioners, Tahsildars and Superintendent of Settlement—107 were held by the Hindus and 93 by the Muslims. <sup>70</sup> In the Judicial services, 54 were Hindus and 34 Muslims. <sup>71</sup> The improved position of the Muslims was partly due to the fact that they formed the majority of the population and partly due to the Punjabi Muslim's being a bit more advanced in education. <sup>72</sup>

69. *Ibid.*, P. 30

70. Report of the Indian Public Service Commission 1886-87, *Report of the Commissioners*, 1888, Vol. XLVIII, Paper No. C. 5327, p 30.

71. *Ibid.*

72. In 1891 the Hindus numbered 10,122,473 and the Muslims 11,198,270 while the total population was 23,272,623. The following table showed the number of Muslims under instruction in public institutions:

	1891	1901
Art colleges	123	309
Secondary schools	13,900	19,512
Primary schools	36,252	43,772
Special schools	513	1,224



In conclusion, it could be said that the disparity in government jobs between the Hindus and the Muslims formed the background of communal politics in subsequent times. In Bengal as in other parts of India, the differences between the two communities were brought into sharp focus. The differences continued to widen. With the growth and development of nationalist movements, the leaders of the two communities became concerned with the problems of the economic welfare of their co-religionists. This community consciousness eventually gave birth to the creation of two separate states in South Asia in 1947.



# Unlucky Guardian in the law of Bangladesh

M. Badaruddin

Bangladesh is inhabited by the people of various communities, who are governed in their family matters by their respective personal laws. The Mughal administration did not interfere with the religious and customary laws of these people. Muslim law as provided in the *Koran* and *sunna* was administered to the Muslims, and Hindu law as contained in *sastras* to the Hindus; and to the sects and sub-sects, castes and sub-castes were applied their distinguishing special rules, if they had any, along with the general Muslim and Hindu law as the case may be. From the inception of their government in this Sub-continent the British people did not attempt to interfere with the personal laws of the Muslims and the Hindus, and they maintained this *status quo* even after the acquisition of the *diwani*.<sup>1</sup> Besides the Muslims and the Hindus, to all other people, such as the Christians, Armenians, Parsees, etc., English law was applied.<sup>2</sup> In this way three major systems of law, viz., Muslim, Hindu and English law, were in operation during the British rule. Guardianship being an institution of personal law, the guardians of Muslim, Hindu and other minors were selected according to these three systems of law. Generally, so long as the parents are alive they are the guardians of their minor children, and in their absence or when they are deemed unfit the courts appoint guardians. But all the three systems are not uniform in respect of the guardianship of minors' property. No doubt, in all the above systems father is the guardian of his minor children's property, but on his death or in his absence only Hindu and English law give mothers the guardianship of their minor children's property. Muslim law does not recognise

1. Warren Hasting's Plan of 1772, Art. 23 ; *Bengal Regulation* 4 of 1793, sec. 15.

2. Madras Regulation 11 of 1802, sec. 17 ; Bombay Reg. 4 of 1827, sec. 26 ; Bengal Reg. 7 of 1832, sec. 9, *Musleah v. Musleah* (1844) Fulton Rep. 420, 423 : 1 ID 894, 896 (OS). P. K. Irani, 'The Personal laws of the Parsis of India', in J. N. D. Anderson ed., *Family law in Asia and Africa*, London, 1968, 273-300.



the guardianship of the mother in this respect. She is not a natural guardian in the sense in which it is understood in other systems ; and she is not allowed to deal with her minor children's property.

But do we want that a Muslim widow should always appear before a judge for every transaction in respect of her minor children's property ? Where thousands of cases are pending before our civil courts and the courts are not at our next door, where litigations are expensive and the court procedure is lengthy and delaying, and where communications are hazardous and life-risking, I think, nobody wants it ; but an unfortunate Privy Council decision has made her to do so. In this article an attempt will be made to show how unwisely the mother, whom Islamic law recognises as the number one possessor of softer feelings which are most essential to the growth and development of the person and personality of children, has been denied the guardianship of the property of her minor children by the courts of this subcontinent following the Privy Council decision. Unlucky really she is. She will bring up her children ; but she shall not touch their property. She shall call in a doctor in their illness ; but the grandfather will pay the doctor out of her children's property, and not she.

#### **Mother as guardian in Muslim law and the Privy Council decision**

In Muslim law mother is the guardian of the person of her minor children and the custody or *hizanut* of the children rests with her till they attain a particular age : <sup>3</sup> and in her absence there is a long list of females who will have the *hizanut*, the guiding principle being that females possess that love and affection which is necessary for the welfare of minors' person. But in respect of the guardianship of their property she is not in the list ; the father, the executor appointed by the father's will, the father's father and the executor appointed by the will of the father's father are the guardians of minors' property in the order in which they are mentioned. In default of them, the *kazi* or judge as the representative of the ruler of the state appoints guardians of the property of minors. These guardians of property may, under special circumstances, <sup>4</sup> transfer or alienate minors' property either for the necessity or benefit of the minors and their estates. This doctrine of necessity or benefit is inherent in Muslim law in relation to transactions with minors' property. Some <sup>5</sup> may apprehend that this doctrine is an

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. For this age of boys and girls see C. Hamilton, *The Hedaya*, ed., S. G. Grady, London, 2nd. ed., 1870, 139 ; N.B.E. Baillie, *A Digest of Moohummudan law* Vol. 1 London, 2nd ed., 1875, 437-38.

4. For these circumstances see *Hedaya*, 702 ; Baillie, *op. cit.* 687.



importation of Hindu law principle into Muslim law ; but such an apprehension is not correct. This doctrine used to be referred to and applied by the Benches and Bars of the Subcontinent in cases of transactions of minors' property by the above guardians, and even it was extended to protect the alienations made by mothers and others who acted as *de facto* guardians of minors' property. Prior to the Privy Council decision the mother could act as the guardian of her minor children's property and could deal with the property although she was not mentioned in the list of guardians of property. But in 1918 in *Imambandi v. Mutsaddi*<sup>6</sup> their Lordships of the Privy Council in deciding the question : "how far or under what circumstances according to Mahommedan law, a mother's dealings with her minor child's property are binding on the infant ?", unfortunately observed :

Under the Mahommedan law a person who has charge of the person or property of a minor without being his legal guardian, and who may, therefore, be conveniently called a '*de facto* guardian', has no power to convey to another any right or interest in immovable property which the transferee can enforce against the infant ; nor can such transferee, if let into possession of the property under such unauthorised transfer, resist an action in ejectment on behalf of the infant as a trespasser."

The questions arise : was the law prior to this decision same ? Did their Lordships consider cases of extreme necessity and benefit of minor ? Is there any direct prohibition in Muslim law against assigning capacity to *de facto* guardians ? Are the authoritative texts on Muslim law uncompromising on the dealings of a *de facto* guardian with the minor's property ?

So far the first question is concerned their Lordships in *Imambandi's* case observed that the decisions of different High Courts of the Subcontinent as to a *de facto* guardian's capacity to deal effectively with his minor ward's property in Muslim law were not uniform. So they felt the desirability of laying down a definite rule on the subject : and they did it virtually by examining the decision of a single High Court case<sup>7</sup> and referring to a single privy Council decision<sup>8</sup>. Let us see, in brief, what exactly the situation was before this historic Privy Council judgment.

#### Earlier decisions

Before the decision in *Imambandi's* case the Calcutta High Court followed more or less the principle of extreme necessity and benefit of

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6, (1918) 23 CWN 50, 53.

7. *Hyderman Kutti v. Syed Ali* (1912) 23 MLJ 244.

8. *Mata Din v. Ahmad Ali* (1912) 16 CWN 338 (PC).



minor in determining the validity of transfers of minors' property by their *de facto* guardians. The first relevant case in which the test was applied is probably *Mussamut Bukshun v. Mussamut Doolhine*<sup>9</sup>. It was a case in which an adult elder brother of two minor sisters sold as guardian the shares of his minor sisters in their estates to pay off certain family debts. Norman, J., relying on the authority of Macnaghten<sup>10</sup> and particularly on '*fuzuli sale*' [sale of the property of other without the consent of the owner] held that in case of urgent necessity or very clear advantage to the minor such a sale would be permitted. This principle was upheld in the cases of disposition of minors' property by their *de facto* guardians. In *Ramcharan Sanyal v. Anukul Chandra*<sup>11</sup>, Maclean, C. J., and Casperz, J., specifically held that a sale by the mother as *de facto* guardian of her minor son was good and valid if it was found to have been made *bona fide* and for the benefit of the minor. The Allahabad High Court adopted the same principle in *Hasan Ali v. Mehdi Husain*<sup>12</sup>, *Majidun v. Ram Narain*<sup>13</sup> and *Abid Ali v. Imam Ali*.<sup>14</sup> The Bombay High Court did not disapprove of the trend followed by the Calcutta and Allahabad High Courts. In *Hurbai v. Hiraji Byramji*<sup>15</sup>, Starling, J., treated the mother as having the power to mortgage or sell her minor child's property if there was absolute necessity for the transaction, or if it was for the benefit of the minor. The Madras High Court in its earlier decisions<sup>16</sup> did not express any definite opinions on the authority and validity of a *de facto* guardian's alienation of a minor's property. But in *Aliyamma v. Kunhammad*<sup>17</sup> and *Hyderman Kutti v. Syed Ali*<sup>18</sup> it was Particularly

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9. (1869) 12 WR 337 (CR).

10. *Principles and Precedents of Moohummudan law*, Madras, 2nd ed., 1860, 305 ch. VII case 2.

11. (1906) 34 Cal. 65.

12. (1877) 1 All 533.

13. (1903) 26 All 22.

14. (1915) 38 All 92.

15. (1895) 20 Bom. 116.

16. *Pathummabi v. Vittil* (1902) 26 Mad 734; *Durgoji Row v. Fakir Sahib* (1906) 30 Mad 197; *Abdul Kadir v. Chidambaram* (1908) 32 Mad 276.

17. (1910) 34 Mad. 527.

18. (1912) 23 MLJ 244.



held that the *de facto* guardian of minor could dispose of the minor's property in 'cases of urgent and imperative necessity and in cases which are necessarily beneficial to the minor'. A similar view was adopted by the Patna High Court in *Sheikh Rajab Ali v. Sheikh Wazir Ali*,<sup>19</sup> and by the Chief court of Punjab in *Anant Ram v. Nazir Hussain*.<sup>20</sup> The High Court of North-West Provinces in *Sahu Ram v. Mohammed Abdul Rahman*<sup>21</sup> and *Mirza Pana Ali v. Sadik Hossian*,<sup>22</sup> and the Chief Court of Oudh in *Matadin v. Ali Mirza*,<sup>23</sup> *Amba Shankar v. Ganga Singh*<sup>24</sup> and *Mata Din Sah v. Shaikh Ahmad Ali*,<sup>25</sup> however, held that the mother or any *de facto* guardian could not sell a minor's property even if the sale or disposition was good and for the benefit of the minor.

Besides the High Courts, the Privy Council also considered the authority of a *de facto* guardian in the disposition of a minor's property in *Mata Din v. Ahmad Ali*.<sup>26</sup> The question involved in this case was whether the transfer of a minor's property by a person who was not his natural guardian could be upheld when made to discharge a debt payable by the minor. The facts of the case show that a minor's share in an estate was sold by his elder brother along with his own share to pay an ancestral debt. The estate was already in mortgage executed by their ancestor, and the vendee was in possession of the property. On attaining majority the younger brother ignoring the sale brought a suit against the vendee-mortgagee for redemption of his share. The lower courts decreed the plaintiff's claim. In the Privy Council Lord Robson in delivering the judgment of the Board observed.<sup>27</sup>

It is difficult to see how the situation of an unauthorised guardian is bettered by describing him as a *de facto* guardian. He may, by his *de facto* guardianship, assume important responsibilities in relation to the minor's property, but he cannot thereby clothe himself with legal power to sell.

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19. (1916) Pat LJ 188.

20. (1883) PR 433.

21. (1884) N-WP HC Rep 268.

22. (1885) N-WP HC Rep 201.

23. (1902) 5 OC 197.

24. (1906) 9 OC 97.

25. (1908) 11 OC 1.

26. (1912) 16 CWN 338 (PC).

27. *Ibid*, 57.



### Imambandi's case and its rationale

Against this background of rulings of different courts of the Subcontinent and the decision of the Privy Council, the oft-quoted *Imambandi's* case came before the Privy Council in 1918. This was a case in which the mother sold for herself and as guardian of her two minor children their shares in her deceased husband's estate to the plaintiff primarily to avoid a litigation brought by the defendants who were disowning her and her children's shares in the estate. The question raised for decision was how far according to Muslim law a mother's dealings with her minor children's property were binding on the minors. Their Lordships, *per* Ameer Ali, observed: <sup>28</sup>

The mother has no larger powers to deal with her minor child's property than any outsider or non-relative who happens to have charge for the time being of the infant.

Now we come to our second question: Did their Lordships consider the case of extreme necessity and benefit of the minor? From the facts of the case it appears that the question did not arise at all. The contending defendants did not claim through the minors; on the contrary, they were establishing their right in the whole estate illegitimatising the minors. It appears from the judgment that their Lordships were more concerned in establishing the principles of law than in finding whether the alienation was for the necessity or benefit of the minors. There was, however, little scope in that case to consider minors' necessity or welfare unless one could look beyond the immediate facts. In their judgment their Lordships relied on the earlier Privy Council decision in *Mata Din's* case (1912) where Lord Robson in delivering the judgment of the Board adopted mainly the reasoning of Greeven, J. C., in *Mata Din Sah v. Sheikh Ahmad Ali*, <sup>29</sup> against whose judgment the appeal was made to the Privy Council. Mr. Ameer Ali himself was also a member of this Privy Council Board.

In *Mata Din Sah's* case (1908) the concerned party failed to prove the necessity and benefit of the minor. In that case Greeven, J. C., examined the authority of the following passage of Ameer Ali's book: <sup>30</sup>

A mother is not a natural guardian. She is entitled to the custody of the persons of her minor children but she has no right to the guardianship of their

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28. (1918) 23 CWN 50, 57.

29. (1908) 11 OC 1.

30. Mahommedan law Vol. 2 (Calcutta, 2nd ed., 1894), 476.



property. If she deals with their estate without being specially authorised by the judge or by the father her acts should be treated as the acts of *fuzulee* [one who sells the property of other without the consent of the owner]. If they are to the manifest advantage of the children, they should be upheld; if not they should be set aside.

The authority of this passage was doubted by a number of English judges<sup>31</sup> in some earlier cases,<sup>32</sup> but in none it was discussed. Greeven, J. C., based his attack mainly on the term 'fuzuli'. His contention was that as a minor could not give a valid consent so a *fuzulee's* contract which needs the consent of the owner could not take place in the case of minors. Greeven, J. C., failed to realise that this is an exception to the generally accepted rule. It is to provide advantage to a person who himself does not make the contract. It does not correspond to the law of agency. The following relevant portion from the *Hedaya*<sup>33</sup> about a *fuzuli* contract will bear it out:

If a person sells [sic.] the property of another without his order, the contract is complete, but it remains with the proprietor either to confirm or dissolve the sale as he pleases...there is no injury in this (contract) to the proprietor (as he has the power of dissolving it), it is attended with a great advantage to him.

No time is fixed for the consent to be given in this kind of contract; but it is accepted that until it is given, the contract remains suspended or voidable. The *fuzuli* contract is equivalent to *negotiorum gestio* in Roman law; and like the *negotiorum gestor*, the *fuzulee* can validly transfer the property of his 'friends or acquaintances' when it is to the advantage of the latter. It is submitted that in *Mata Din Sah's* case Greeven, J. C., did not properly understand the passage of Ameer Ali's book against its academic background. The learned Judicial Commissioner followed *Sita Ram's*<sup>34</sup> and *Amba Shankar's*<sup>35</sup> case. In *Amba Shankar's* case the passage of Ameer Ali's book was rejected on the ground that 'no authority is cited by the author'. But could it be asked what justification prompted the learned Judicial Commissioner to follow *Sita Ram's* case? The reasoning in *Sita Ram's* case was *obiter*

31. Rampini, J.; Pratt, J., Chamier, A. J. C.; and Wells, A. J. C.

32. *Moyna Bibi v. Banku Behari* (1902) 29 Cal 473; *Amba Shankar v. Ganga Singh* (1906) 9 OC 97.

33. *Hedaya*, 296.

34. *Sita Ram v. Amir Begum* (1886) 8 All 324.

35. (1918) 9 OC 97.



and less persuasive as in that case Mahmood, J., did not cite any authority in support of his statement of the principle of law. However, the author has dropped the passage from his book in its subsequent editions after his judgment given in the Privy Council case. For this quiet dropping of the passage the author did not assign any reason in the preface to the 5th edition in which it was first dropped; on the contrary he has naively given the whole judgment of *Imambandi's* case in the appendix of the book. Even in the 4th edition of the book the relevant passage was there, and Wilberforce, J. C., in *Kapura v. Shankar Das*<sup>36</sup> cited the passage from that edition of Vol. 2, page 611. What prompted the famous justice and writer, Mr. Ameer Ali, to drop this passage from his book is yet a mytery.

### Legal texts and the doctrine of necessity in Muslim law

We shall now consider the third and the fourth questions together. Muslim legal authorities do not, in fact, provide any guiding light to the problems unless they are pieced together and read as one supplementing the other. The dearth of authorities is mainly due to the fact that a minor's property should be kept in the care and custody of the executor appointed by his father. Thus the law relating to the powers and duties of an executor may be taken to apply to the guardian of a minor's property.

The author of the *Hedaya* in laying down the general rules with respect to an infant's property observes :<sup>37</sup>

If a person bestow anything in gift or alms upon an orphan under the protection of a particular person, it is lawful for that person to take possession of such gift or alms on his behalf. It is here proper to remark, that acts in regard to infant orphans are of three descriptions :—

I. Acts of guardianship, such as contracting an infant in marriage, or selling or buying goods for him: a power which belongs solely to the *walee* [wali], or natural guardian, whom the law has constituted the infant's substitute in those points.

II. Acts arising from the wants of the infant, such as buying or selling for him on occasions of need, or hiring a nurse for him, or the like; which power belongs to the maintainer of the infant, whether he be the brother, uncle or (in case of foundling) the *Mooltakit*, or taker-up, or the mother, provided she be maintainer of the infant; and as these are empowered with respect to such acts, the *walee*, or natural guardian, is also empowered with respect to them in a still superior degree :—nor is it requisite, with respect to the guardian that the infant be in his immediate protection.

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36. (1918) PR 350.

37. *Hedaya*, 608.



III. Acts which are purely advantageous to the infant, such as accepting presents or gifts, and keeping them for him; a power which may be exercised either by a *Mooltakit*, a brother or an uncle, and also by the infant himself, provided he be possessed of discretion, the intention being only to open a door to the infant's receiving benefactions of an advantageous nature.

Of the three classes of acts, class I need not be considered, for it refers to the acts of a *de jure* guardian. So also class III, for it does not refer to sale or mortgage but to the acceptance of gifts and presents. Although in class III mother is not mentioned as capable of performing those acts, in the interest or advantage of the estate of the minor, she can do them.<sup>38</sup> Class II refers to acts which may be performed by a *de facto* guardian, although a *de jure* guardian possesses the same power in a superior degree. They are acts necessary for supplying the wants of the minor, and may be performed by the brother, uncle, mother or the *Mooltakit* in their individual capacity when the minor is under their direct guardianship. For these acts their powers to transact the minor's property are inherent powers, and for them they need not be empowered by a judicial officer. Such is the implication of the parenthetic clause, and as these are empowered in respect of such acts' in the above quotation from the *Hedaya*. These powers are their natural powers like those of the *wali*. In the absence of natural guardians and for the manifest advantage and extreme necessity of the minor the *de facto* guardian may exercise them.

This passage of the *Hedaya* was quoted by their Lordships of the Privy Council in *Imambandi's* case and a Full Bench of the Sind Judicial Commissioner's Court in *Naraindas v. Mt. Obhai*.<sup>39</sup> But the passage was not properly appreciated in either of these cases. First, they failed to realise that the second class of acts is an exception to the first class of acts; these are acts of extreme necessity and purely advantageous to the minor. The full formalities of law are relaxed in their case, because of the very nature of their urgency. Their Lordships of the Privy Council and the learned judges of the Full Bench did not consider this urgent nature of the acts. They did not like to allow *de facto* guardians to transact minors' property under this class of acts unless they were empowered by a judicial officer. The derivative authority of which they spoke is not implied from the actual meaning of the words used in the original Arabic and translated Persian version of the *Hedaya*. Their contention was that when an almost absolute restriction was imposed on the powers of legal guardians on the

38. *Ibid*, 699.

39. (1913) 19 IC 911 (FB).



ground of conservation <sup>40</sup> of minors' property how a *de facto* guardian could claim such powers. But it may be said that the restriction on the ground of conservation does not imply that the property cannot be transferred even in cases of extreme necessity. It simply implies that an immovable property, as it is, should not be changed into a movable one. Alienation of a property in the case of necessity or for the benefit of the minor is quite different from the alteration of character of the property for conservation. Secondly, their Lordships tried to restrict the powers of *de facto* guardians by referring to the classification of goods into movable and immovable. They assume that the power of alienation could be exercised only in the case of movable goods. But the words used in the original Arabic text imply all sorts of property obtained by gift or alms and do not admit of any such division. In the case of transfer, Muslim law does not recognise any distinction between movable and immovable property, as the transfer of land is not distinguished from that of other kinds of property. <sup>41</sup> Thirdly, their Lordships reasoned that if the *de facto* guardians were considered as *fuzulees* even then the transfer could not be justified, as they thought that the parties to a *fuzuli* contract must be *sui juris* persons. But we have already seen that such a view is unsupportable; the minors can be parties to a *fuzuli* contract. Their attempt to find analogical identification of the *fuzuli* contract with the law of agency led them astray. *Fuzuli* contract is a Muslim counterpart of Roman *negotiorum gestio* and is distinct from the law of agency. Lastly, the second class of acts admits the utility of *de facto* guardianship. These acts are allowed to be performed by *de facto* guardians in extreme cases of necessity and they will be binding on the minor's property. The decision of their Lordships in *Imambandi's* case has denied this utility of *de facto* guardianship and caused hardship to the parties to a *de facto* guardian's contract. In the present state of society the Privy Council decision has created problems. What will happen in a case where there is no legal or court appointed guardian of a minor and the minor has no other property except lands and a situation has arisen which demands immediately an amount of money which can be obtained only by the sale of the lands? In such a case

40. For restriction on the ground of conservation see the *Hedaya*, 702. In their judgement their Lordships referred to this restriction on an executor's power of selling an absent adult heir's property.

41 N. B. E. Baillie, *Moohummudan law of sale* (London, 1850) at page 42 of the introduction.



Baillie has shown in the following passage of his *Digest*<sup>42</sup> that equity allows a *de facto* guardian to deal with the minor's property :

When no executor has been appointed by the deceased, who has left both adult and minor children, the judge should appoint an executor; and if there be no judge, and the elder children maintain the younger out of their shares of the property, though they are legally responsible, they are justifiable, as between themselves and their consciences, for so meddling with the shares of the younger children.

Muslim legal texts do not, therefore, disregard cases of extreme necessity; and in proper and fit cases they uphold alienations by *de facto* guardians. The Privy Council decision has only put a roadblock on the need of the society. In the modern nuclear family a Muslim mother should be given the position and power which her counterparts in Hindu and Christian society are enjoying.

Generally, the females are not considered in Muslim law to be endowed with any managing or administrative qualities. Thus they are deprived of the guardianship of the property of their minor children. In discussing the law relating to the powers of a *Mooltakit* with respect to the disposition of a minor's property the author of the *Hedaya* has said that the mother of a minor is not at liberty to perform any act respecting the minor's property only because she is deficient in point of discretion although she has complete affection for her child.<sup>43</sup> But Baillie has shown that if she effects a sale of her minor child's property, the sale will not be altogether void, but voidable only.<sup>44</sup> This situation has developed due to the general notion of women's deficient mental faculty,<sup>45</sup> the assumed idea of their physical debility<sup>46</sup> to exercise the power to manage property, the Arab tribal tendency to perpetuate the property within the family, and the 'facility of divorce on the one hand and remarriage of widows on the other'.<sup>47</sup>

If we consider the law as it was in the Arab tribal society as inadequate to meet the needs of modern nuclear families and accept the principles stated in Muslim legal texts as supplementing each other without conditioning

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42. Vol. 1. 464.

43. *Hedaya*, 208.

44. Baillie, *Moohummudan law of sale*, 249.

45. *Hedaya*, 208.

46. *Ibid*, 699.

47. *Sita Ram v. Amir Begum* (1886) 8 All 324.



or restricting one another the following principles may be evolved :

- (1) In case of necessity and for the benefit of the minor a natural guardian including the mother can deal with the minor's property, both movable and immovable.
- (2) In default of any natural guardian, the *de facto* guardians (persons belonging to immediate family) may, in extreme cases of emergency and for clear advantage of the minor, deal with such property.
- (3) The transactions will be voidable at the instance of the minor on his attaining majority, but the avoidance must be by returning the benefit obtained therefrom.

If these principles are followed, the most important safeguards provided by the Mahommedan law for the protection of the interests of infants<sup>48</sup> will not be wiped out ; on the contrary, Muslim law of guardianship will be able to meet the problems of all circumstances. And thereby the basic principles of guardianship will be restored, since the law which enquires who made the alienation and not why it was made, cannot meet the emergencies and protect the interests of the minors adequately under modern conditions. The courts have no doubt a duty to protect the interest of minors, but that does not imply creation of new problems. Kensington, C. J., observed : <sup>49</sup>

As a general rule far less harm is done by leaving people to manage the affairs of their children in their own way than by attempting to do it for them through the agency of a District Court.

In these circumstances, the consideration of Muslim law, as done by their Lordships in *Imambandi's* case, demands rethinking. In the modern socio-economic environment it proves inadequate.

#### **Ghost of Imambandi's rule**

Since *Imambandi's* case sale, mortgage or any other transfer of a minor's immovable property by his mother, brother, uncle or other relations as *de facto* guardian is considered void. Whenever there is a case of alienation of a Muslim minor's property by a *de facto* guardian the courts follow the above Privy Council decision without taking the least trouble to distinguish them. In *Mohd. Ejaz Hussain v. Mohd. Istikhar Hussain*<sup>50</sup> another Board of the Privy Council followed *Imambandi's* case

48. *Imambandi's* case (1918) 23 CWN 50, 61 (PC).

49. *Hayat Khatun v. Sharam Khatun* (1914) PR 345, 347.

50. (1931) 59 IA 92 (PC).



without any discussion. In *Mohd. Amin v. Vakil Ahmad*<sup>51</sup> and *Gulam Ghouse v. Kamisul*<sup>52</sup> the Indian Supreme Court following the decision in *Imambandi's* case did not admit the guardianship of elder brothers of minors. The Pakistan Supreme Court followed *Imambandi's* case in *Abdullah Khan v. Nisar Mohd. Khan*<sup>53</sup> and did not consider the application of a paternal uncle to be appointed as the property guardian of a minor.

Similar to the Privy Council and the Supreme Courts, the High Courts of India, Pakistan and Bangladesh did not assess the question of a minor's necessity and benefit and did not admit the utility of *de facto* guardianship. In some cases, however, some judges tried to distinguish the facts of their cases vis-a-vis the facts of *Imambandi's* case and treat the alienations by *de facto* guardians as voidable. In *Shidlingava v. Rajava*<sup>54</sup> Mudgavkar, J., tried to give a different interpretation to the ruling of *Imambandi's* case. The learned judge admitted that the mother of a minor had no power as *de facto* guardian to alienate the minor's property, but he reasoned that this absence of power did not necessarily imply that alienations made by her would be void. On the contrary, he observed, they would be voidable in cases of extreme necessity. A similar view was adopted in *Zaminuddin Hossain v. Muhd. Abdur Rahim*<sup>55</sup>. Again, a Division Bench of the Peshawar Judicial Commissioner's Court in *Jawahir Singh v. Kohat Municipality*<sup>56</sup> held that a *de facto* guardian's contract was voidable, and they disagreed with the statement made by D. F. Mulla in his book<sup>57</sup> that a "*de facto* guardian has no power to transfer any right or interest in the immovable property of the minor", and that "such a transfer is not merely voidable but void." They also pointed out that although Mulla had cited the two Privy Council cases, viz., *Mata v. Ahmad Ali*<sup>58</sup> and *Imambandi v. Mutsaddi*<sup>59</sup>, as the authority of his statement, in none of them was there

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51. AIR 1952 SC 358.

52. AIR 1971 SC 2184.

53. PLD 1965 SC 690.

54. (1930) 33 Bom LR 603.

55. AIR 1933 Cal 102.

56. AIR 1937 Pesh 74, 75.

57. Principles of Mahomedan law (Bombay, 17th ed., 1972), 342 sec. 364.

58. (1912) 16 CWN 338 (PC).

59. (1918) 23CWN 50 (PC).



anything to support it. In *Abdul Hakim v. Jan Mohammad*<sup>60</sup> Bind Basini Prasad, J., attempted to distinguish *Imambandi's* case in a convincing manner. The learned judge observed that this privy Council decision must be interpreted in the light of the circumstances in which the case arose. This decision was followed with approval by a Division Bench of the Saurashtra High Court in *Haji Abdulla v. Daud Mahomed*.<sup>61</sup> In this case Baxi, J., in delivering the unanimous judgment of the Bench held that a mortgage by a *de facto* guardian resulting in the enlargement of a minor's estate was binding on the minor. In a recent case<sup>62</sup> of the Kerala High Court Madhavan Nair, J., considered the validity of a *de facto* guardian's dealings with his minor ward's immovable property and held that such dealing was only voidable at the instance of the minor and was ratifiable by them after they become major. A year after this decision was confirmed in *Lakshmi Amma v. Kunhi Bava*.<sup>3</sup> Madhavan Nair, J., distinguished *Imambandi's* case as one in which no ratification by minors on their attainment of majority was ever alleged and in which the minors did not appear to have entered an appearance in the suit. On this ground he did not consider *Imambandi's* case as an authority for the statement that 'a sale by a *de facto* guardian of the minor's property cannot be ratified by the minor on attaining majority'. These two cases of the Kerala High Court were overruled by a Division Bench of the same High Court in *Saidu v. Amina*<sup>64</sup> where Raman, C. J., considered a *de facto* guardian as a rank outsider and held that a sale of immovable property of a Muslim minor by such guardian could not be ratified. But the views of the learned Chief Justice cannot be accepted, since he was lost in the quagmire of *fuzuli* sale and his idea about this kind of sale was erroneous.

#### **Modern Muslim society and the need of mother's guardianship**

Islam has no doubt raised women from an ignoble position to an exalted one, took them to fight for hearth and altar, adorned them with legal rights and obligations and allowed them to inherit and hold property, movable and immovable, but the old idea of distrust in them and the pre Islamic tribal notion about their deficient physical power and mental faculty

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60. AIR 1951 All 247.

61. AIR 1953 Saur 84.

62. *Abdul Sukkoor v. Muhd. Dirar* (1966) KLT 605.

63. (1967) KLT 203.

64. (1970) KLT 430, 435.



still persist in some respect of their legal capacity. Indeed, the legally depressed position of women in early Muslim society did not allow the mothers to act as *de facto* guardians of their minor children.<sup>65</sup> The fundamental cause of a man's superiority over women is the men's spending money on women,<sup>66</sup> but that condition has changed now in the present society. Women are almost equal earners with men. Today they are no more in the *purdah*; they can now aspire to hold any position in the society if they have the necessary qualifications for it. They are participating in programmes of national development and holding responsible key posts like professors, doctors, bureaucrats, ambassadors, judges and even ministers.<sup>67</sup> Kemal Faruki observes:<sup>68</sup>

The socio-economic structures of Muslim groups have been undergoing great, indeed unavoidable, changes. The change from a pastoral or agricultural to an increasingly industrial economy, the growing concentrations of people within large impersonal cities and the movement of people from place to place, as their occupations demand, far from their ancestral homes...all these factors have tended to make the larger family of the past less meaningful as a social unit. Indeed the process has gone to the extent of making even the close, immediate family a much looser bond in some parts of the world.

In this changed conditions of society and its families should the old law and the rules unduly deduced therefrom decide the capacity of mothers and others when they are acting as *de facto* guardians purely for the welfare and benefit of minors? Or, should they be reformed? Nothing can stand on the way for reforms, as the Muslim law is now used to reforms.<sup>69</sup> The law of guardianship should be considered in the light of the new social set-up, and it should be changed for a situation in which the benefit and welfare of minors would be well protected. As far back as in 1938

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65. John L. Esposito, 'Women's rights in Islam', in (1975) 14/2 *Islamic Studies*, 99-114.

66. The *Koran*, IV. 34.

67. S. A. Raza, 'Modern reforms in Muslim family laws', in (1974) 13/4 *Islamic Studies*, 235-252, 243.

68. 'Orphaned grandchildren in Islamic succession law', in (1965) 4/3 *Islamic Studies* 253-274, 254.

69. J. N. D. Anderson and N. J. Coulson, 'Islamic law in contemporary cultural change', in (1967) 18 *Saeculum*, 13-92; N. J. Coulson, 'Islamic family law, progress in Pakistan', in J. N. D. Anderson ed., *Changing law in Developing Countries*, 240-57; M. I. Zagday, 'Modern trends in Islamic law in the Near, Middle and Far East', in (1948) 1 *Current Legal Problems*, 206-221; J. N. D. Anderson, 'Muslim personal law in India', in Narmada Khodie ed., *Readings in uniform Civil Code*, 41-61.



Stone, C. J., and Clarke, J., visualised in *Gulam v. Mir Jakirali*<sup>70</sup> a situation where a minor's land might be needed to be sold for its sustenance; but as glibly as they indicated the way to empower a *de facto* guardian to effect such sale, it is not easy to obtain it. The learned judges did not consider that the geo-physical factors of this Subcontinent are quite different from those of Europe. The judicial systems of our counties are complex and longdrawn. The consideration of an application for the appointment of a guardian may outlive its utility and exigency, and sometimes may even outweigh in finance the value of the property to be disposed of.

Again if considered from the purchasers' point of view, *de facto* guardians should be allowed to deal with minors' property. Unless the purchasers' interest is looked after, *de facto* guardians will not be able to procure money for the minors' needs. Nobody wants to purchase a litigation; and if *de facto* guardians have no authority to deal with minors' property, nobody will come forward either to purchase minors' lands or to lend money on the security of minors' property. Thus all sorts of transactions by *de facto* guardian will be stopped, and that will be an undesirable state of affairs. All things considered, *de facto* guardians need authority; and that can be done by changing the Privy Council ruling.

Among all classes of guardians, *de jure* and *de facto*, mother should be given preference immediately after the father. If welfare of minors be the guiding principle of guardianship, and actually that is the acknowledged principle which law and practice have so far evolved, it raises the pertinent question: Who can give effect to this welfare...mother, father appointed executor or grandfather? Surely grandfather's case is a lost one. That he feels more for his own children than his predeceased sons' children is evident from the deliberations of the members of the Commission on Marriage and Family laws, on whose recommendation a provision has been made in the Muslim Family Laws Ordinance, 1961, that if a grandfather survives the father of the grandchildren, the latter will represent the share of their deceased father in the grandfather's property. The executor is rather a least trusted person,<sup>71</sup> and if he is a person other than the mother, he will take interest rather in filling his own pocket dealing with minors' property than in the welfare of minors. In the courts of

70. (1940) Nag 553.

71. About the office of an executor Abu Yusuf observes: "To enter upon executorship for the first time is a mistake, for the second a fraud, and for the third a theft." Baillei, *Digest* Vol. 1, 676.



the Subcontinent it is found that in nine out of ten cases of guardianship the contest is between the mother and other relations of minors invariably for the guardianship of minors' property; this contest is actuated by low and selfish motives for grabbing minors' property. Cases are not rare where minors' life becomes risky in a contest for guardianship; unscrupulous contestants do not hesitate to take the life of minors. If the courts are to look to the welfare of minors, mothers should be reorganised as guardians of their minor children's property with an authority to deal with such property in case of necessity and for the benefit of minors.

### Initiative for the change of Imambandi's rule

The change of the Privy Council rule in *Imambandi's* case has become due in the new social perspective in all the three countries of the Subcontinent, viz., Bangladesh, Pakistan and India. The rule being that of a Privy Council, its change may be effected either by the highest court of the concerned country or by its parliament. The respective Supreme Courts of the three countries take the lead. They cannot avoid it merely by saying that they are not to legislate or by referring to the principle of *stare decisis*. A Privy Council rule which has outlived its utility in the society and creates only hardship to the parties, cannot claim to be respected and followed.<sup>72</sup> The process of overruling an old rule may require time because the courts can do it only as and when a fit case comes before them. Parliament may also effect this change but there must be a public demand for the change. The general public are less concerned and they understand little about the technical application of the rules of law. On their behalf the vigilant Bars should raise the demand and persuade the parliaments to introduce bills replacing the old rule. It is not for the first time that the parliaments of these countries are introducing reforms in Muslim law. In 1913, 1939 and 1961 by direct legislations they reformed Muslim law. The old sacrosanct and immutable character of Muslim law is no more there; it has yielded to the needs of the time. So long as the rule is not changed by the parliaments the Supreme Courts of these countries should, if proper cases come before them, recognise the powers of *de facto* guardians and give preference to mothers. According to the doctrine of *qiyas* the courts can come to

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<sup>72</sup> Hamdoor Rahman, C. J., in *Asma Jilani v. Govt of the Punjab* PLD 1972 SC 139, 169 observed: "Law cannot stand still nor can the courts and judges be mere slaves of precedents."



their own conclusions by the process of *Istihad* by departing from a principle which is not directly based on the *Koran*. They should not be unnecessarily conservative. Indeed, the *Koran* itself has ordained the Muslims to deal equitably towards the minors and solely for their welfare.<sup>73</sup>



## Juvenile Court For Bangladesh

*Mohammed Sadeque*

There is no separate juvenile justice system in Bangladesh. The youthful offenders are detained with the adult criminals and processed through the same criminal court. Our criminal courts are mostly overcrowded with cases and the arrested juveniles are detained along with the adult offenders without trial for inordinately long periods. The convicted offenders are also subjected to the same unwholesome environment in the conventional jails. A tremendous social cost is involved in processing minor and juvenile offenders through the criminal courts. The British colonial rulers in India initiated some measures, mostly legislative in nature, for the special handling of the juvenile offenders through the prevailing criminal courts and for their placement in separate institutions to be established. The change in legislation, unaccompanied by a change in the attitude of the dispensers of justice and lack of correctional institutions, did not create any significant difference in the justice system itself. In Bangladesh a favourable situation has been created for ushering in desirable changes with the enactment of the children's Act of 1974.

### **Legislations during British rule :**

The reform process was initiated by the British rulers in India with the passage of the Reformatory Schools Act of 1897. The High court, Court of Sessions and the District Magistrate were given discretionary powers for the trial and special disposition of the juvenile offender under fifteen years of age. The courts and the District Magistrate could discharge him 'after due admonition' or order him to be placed under the care of his parent, guardian or nearest adult relative with or without sureties. If he was considered 'a proper person to be an inmate of a Reformatory School', the offender could be placed in Reformatory schools for a period of not less than seven years. Under this Act the superintendent of prisons could also refer confined juvenile offenders to the District Magistrate who would order for his placement in Reformatory School. The Act provided for the



establishment and management and inspection procedures of a Reformatory School. Another significant feature of the Act was that the inmates of the school could be licensed to the employers of labour for employment and apprenticed if they behaved well during one or more periods of license.

A similar law, the Bengal Children Act of 1922 that repealed and replaced the 1897 Reformatory School Act, was a fairly comprehensive legislation. This Act was specially significant in that it provided for the first time for the establishment for any district or any other area of one or more 'special courts for the hearing of charges against children or young persons' and for the separate sitting of other courts (that was empowered to dispose cases of young persons) 'either in a different building or rooms in which the ordinary sittings are held'. In addition to incorporating provisions relating to the discharge or commitment of the offender to the custody of parents, any adult relative or any trustworthy and respectable person, the Act empowered trying courts to place him under the supervision of a person nominated by the court. Convicted youthful offenders aged twelve years or upwards would be sent to the Reformatory School, and those under twelve years might be placed in the Industrial School 'for the teaching and training of the child' until he attained sixteen years of age. Under this Act neglected children could also be committed to such institutions.

As a supplementary legislation during the British regime, The Bengal Borstal Act of 1928 made provision for the committing of 'adolescent offenders' in Borstal schools to be established under this Act for not less than two and not more than three years. While recommending such a placement the courts had to consider the character, state of health and mental condition of the offenders who would profit by such detention. This Act gave power to the Inspector General of Prisons to transfer adolescent offenders detained in jail or Reformatory School to the Borstal School.

The enactment of these legislations made an important beginning in the process of instituting separate procedures for the trial and rehabilitative dispositions of juvenile offenders, but their intentions could hardly materialise either due to the persistent punitive orientation of the trying Magistrates or complete absence of suitable institutions like Reformatory or Industrial Schools in areas now constituting Bangladesh. One Borstal School was established by the Government only in 1947. Even in this lone institution the occupancy was always about 50% or even less than



than that. Neither the criminal courts nor the Inspector General of Prisons were referring adolescent offenders to this school.<sup>1</sup>

### **The Probation of Offenders Ordinance 1960.**

This Ordinance was promulgated by the President of Pakistan and applied in East Pakistan (now Bangladesh) under the Probation of Offenders (East Pakistan Amendment) Act 1964. Although the Ordinance did not provide for the establishment of juvenile courts<sup>2</sup> not did it seek to deal with the trial and rehabilitation efforts of the juvenile offenders alone, it laid down specific legal provisions for the special handling of the first and minor offenders by the judicial magistrates.

Section 4 of the Ordinance empowers the court to conditionally discharge a first offender who 'is convicted of an offence punishable with

1. Mr. B. R. Klausener Officer-in-charge, Probation and After Care Services of the then East Pakistan Directorate of Social Welfare visited Murapara Borstal School near Dacca on 23rd June 1962 and submitted a report on its working to Government. The main features of the report are the following :
  - a) During the last few years there have been so few referrals from the court, in spite of transfers from jail by the Inspector General of Prison, that the occupancy was less than or just about 5%. This is wasteful in terms of both Government funds and human resources. It was also said that the per capita cost of keeping one inmate in Murapara Borstal School is roughly double what it costs to keep an inmate in Dacca Central jail.
  - b) Of the total 94 inmates interviewed, only 40 were referred by the courts, whereas 54 were transferred from over crowded jails.
  - c) Borstal Schools are designed to cater to the needs of youngman between the ages of 15 and 21. The visit revealed that about one third of the inmates was outside this age range.
  - d) Of the 94 inmates, 54 were convicted of nonviolent crimes such as theft, pick pocketing, cheating etc. 40 cases show convictions under murder, rape, robbery dacoity, kidnapping, etc.
  - e) Although Borstal sentences should be between one and three years, 24 inmates are serving sentences of more than three years.
  - f) Only 22 inmates were able to express their preference for or against Borstal school detention as against jail. Of them, 17 preferred Borstal school primarily because it offered them the opportunity to learn a trade.
- At the end Mr. Klausener recommended that the Deputy Commissioners and judicial magistrates should be made aware of the findings so that the existing facilities of the Borstal School could best be utilized.
2. Proposals for establishing juvenile courts were made in the Second Five Year Plan of Pakistan (pp. 329—391). But no definite steps were taken to establish any such court.



imprisonment for not more than two years' and who has committed the offence under extenuating circumstances. The magistrate will consider 'the age' character, antecedents or physical or mental condition of the offender' and also require the offender to enter into a bond with or without sureties while passing discharge orders.

The primary aim of the legislation was, however, to enable the trying magistrates to put these male or female offenders, who are not convicted of an offence under chapter VI or chapter VII of the Pakistan Penal Code or under some other serious sections of the same code, or of an offence punishable with death or transportation for life, under probation supervision for a period of not less than one year or more than three years. Sections 12 and 13 relate to the appointment of probation officers and their duties. The pre-sentence investigation reports prepared on the offender's total life situation by the probation officers are designed to aid the judge in passing probation orders. Only if the judge was satisfied that the offender would benefit from a probation supervision, he would issue such orders. The court further required the offender to enter into bond with or without sureties, and the bond shall contain such conditions which may be necessary for securing supervision of the offender and 'for preventing a repetition of the same offence or a commission of other offences by the offender and for rehabilitating him as an honest, industrious and law-abiding citizen'. Furthermore, the Act provided for the manner in which the offender will compensate for the loss, damage or injury caused to the victims of offences, and specified the circumstances under which the probation order could be revoked and the probationer could be sentenced for original and subsequent offences.

The court was given enough powers to vary the bond by extending or reducing the conditions thereof by altering any of its terms and conditions or by inserting additional conditions there in, and it could do so either on the application of the person under probation or of the probation officer or of its own motion' if it thinks it expedient' to vary the probation bond. But if the sureties do not consent to the variation, the court shall require the person under probation to execute a fresh bond with or without sureties.

One positive aspect of the legislation was the provision for appeal or application for revision against conviction of the offence and this might prevent any possible abuse of legal powers by the trying magistrates.

Another desirable feature relates to the effects of discharge and probation. Conditional release or release on probation shall be disregarded for any purpose other than the purpose of the proceedings of the individual



case and neither will debar such persons from performing their duties and enjoying the civil and political rights in the society. The offender of course will not be entitled to such rights if he or she is subsequently sentenced under this ordinance.

Experiences have shown that the 1960 ordinance too has not made much headway. Its provisions are, for all intents and purposes, inoperative in many areas of the country and the reasons are not far to seek. The Magistrates, empowered to exercise discretion under this ordinance, do not seem to be serious about implementing the ordinance. Many who are not themselves entitled to take action under this ordinance do not often care to submit the proceedings to the Subdivisional Magistrate or a Magistrate of the first class, although they are under statutory obligation to do so.<sup>3</sup> The Directorate of Social Welfare<sup>4</sup> organised some regional seminars in the sixties with a view to educate and motivate the Magistrates in respect of the implementation of this ordinance but without much effect.

Moreover, the probation service is not part of the court structure. The probation officers, posted at some district headquarters, are under the administrative control of the Bangladesh Department of Social Welfare and hence there are enormous problems of establishing effective communication between the probation officers and the Magistrates. Furthermore, some areas do not have probation officers and obviously the courts are also handicapped since they can not utilize the services of the probation officers as and when they choose to do so.

In order to bring an end to this stalemate the Bangladesh parliament passed the Children's Act of 1974 that repealed and replaced the Children Act of 1922. In fact the present legislation is modelled on the 1922 Act. The Act, when implemented, is expected to arrange separate detention, trial and confinement facilities for the juvenile offenders under sixteen years of age since it has made provisions for the establishment of juvenile courts, remand homes and certified institutions in Bangladesh. Until juvenile courts

3. The observations are based on the author's personal experiences gained through the field supervision of social work students since 1967.
4. The Directorate ( now Department ) of Social Welfare was established by the Government in 1961 with a view to evolving a suitable administrative structure for all social welfare programmes including probation and after Care services. It is headed by Director at its headquarter at Dacca, capital of Bangladesh. An Additional Director, four Deputy Directors and nine Assistant Directors, working in a horizontal setting, assist the Director of Social Welfare in the administration of all programmes including probation service. One of the Assistant Directors is in-Charge of the Probation Service at the headquarter and providing supervision to the probation officers posted in the District towns.



are established, the Act makes it obligatory for certain categories of criminal courts to adopt special procedures for the hearing and trial of cases where children under sixteen years are involved. The courts can set a juvenile offender free in the community and place him under the supervision of probation officers, while the recalcitrant offenders have to be committed to certified institutions. For bringing closer working relation between the court and the probation officers, the courts have been given power to exercise control and supervision over the probation Officers. A special characteristic of the Act is that it has brought the destitute and the victimized children, besides juvenile offenders, within its jurisdiction.<sup>5</sup>

The stage has now been set for initiating necessary reform measures for handling the juvenile offenders in a desirable way. The establishment of an experimental juvenile court could significantly contribute to instituting a separate juvenile justice system for this independent nation. A juvenile court model is recommended in this paper. The proposals are suggested in the expectation that they would be incorporated in the 1974 Children's Act. The experimental court shall be located at Dacca, the capital city of Bangladesh. Similar juvenile courts could be started in other cities should the experimental court prove successful in attaining its goals.

#### **Juvenile Court for Bangladesh**

##### **Goals :**

- a. To provide for initial screening out and adjustment of minor offenders at the prejudicial stage.
  - b. To eliminate status offenders from judicial processing and arrange for their diversion to community facilities.
  - c. To process only the serious juvenile offenders through the juvenile court.
  - d. To provide public defender services to protect the rights of those who are processed through the juvenile court.
  - e. To put suitable juvenile cases to probation supervision.
  - f. To institutionalize the relatively serious offenders in the Borstal School and ensure that they are receiving proper treatment and facilities for rehabilitation.
  - g. To develop written guidelines with regard to operations of the juvenile court.
5. Juvenile court is often accused of exercising powers over wide jurisdiction. The Illinois Act of 1899 brought dependency and neglect cases too under the jurisdiction of the first juvenile court in the world. Some feel that neglect and dependency cases are socio-economic problems and hence should not be processed through the juvenile court.

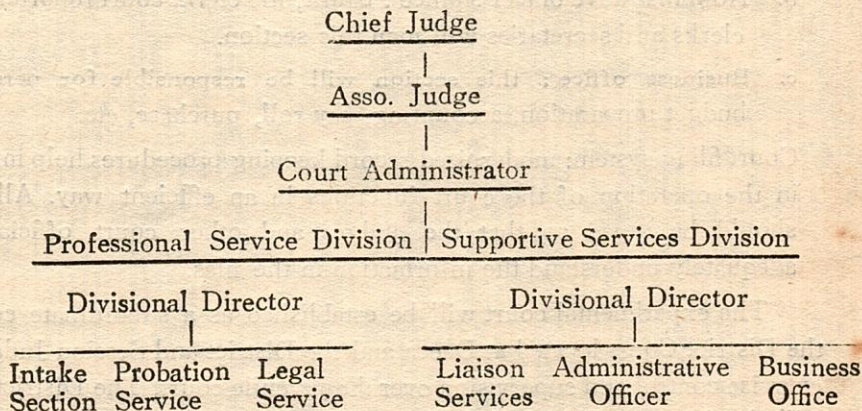


- h. To arrange pre-service and inservice training programs for different categories of court personnel.
- i. To establish a data base.
- j. To evaluate the performance of the juvenile court in terms of its intake, probation supervision, and institutionalization, and the impact on recidivism.

### **Organizational Structure of the proposed court :**

Any human organization involves complex operations and problems of management, administration, coordination and control. Unless these organizational and administrative problems are taken care of, the organization can never function smoothly and efficiently. So we should try to build up such a mechanism that will hopefully minimize the administrative and management problems of the experimental court. We are proposing a vertical structure, for that will ensure delegation of authority and responsibility. Coordination among functional units will be relatively easier to achieve.

#### Organizational Chart



### **Functions :**

The functions of the juvenile court will be divided into— (1) the Professional service and (2) administrative services. Each division director will be assisted by section supervisors who shall maintain operational control over personnel. The over-all supervision of the court operations will be vested in a Court Administrator who will be responsible to the Chief Judge. The court Administrator should have law background and possess enough administrative and management experience. This administrative



arrangement will allow juvenile court judges to devote substantial portion of their time to judicial functions.

The Court Administrator shall be provided with required research and development planners, executive staff and administrative assistants. The duties of the Court Administrator will be staffing, planning and personnel management as well as coordinating the court's professional and supportive services. The professional services shall consist of the following :—

- a. Intake section : the responsibilities of this section will be initial investigation of cases prior to adjudication.
- b. Probation section: this section will be responsible for providing probation supervision to the child after disposition.
- c. Legal services : this section will provide legal services to the child during adjudication and disposition phases.

The support services shall be the following :—

- a. Liaison services : this section shall maintain liaison with those agencies which refer clients to the juvenile court i. e. police, school and social agencies.
- b. Administrative officer's office : bailiff, file clerk, court reporters, data clerks and secretaries will man this section.
- c. Business office : this section will be responsible for personnel, budget preparation, accounting, pay roll, purchase, etc.

Court filing system: modernized record keeping procedures help immensely in the operation of the court functions in an efficient way. All cases should be typed so that the judges and other court officials can adequately understand the information in the files.

The experimental court will be established as a subordinate court of the District Court located at Dacca and the District and Session Judge will exercise control and supervision over the juvenile court. The District Court will also have appellate jurisdiction.

#### **Intake Section :**

The importance of intake can hardly be overemphasized. There is a good deal of agreement on the desirability of prejudicial handling of juvenile cases. Since court labeling is harmful for the reformation of the child's conduct and since the court is left with limited disposition alternatives, it would be to the greatest interest of the child that as many juvenile complaints should be adjusted at the prejudicial stage as possible. The intake section will keep the number of cases to be adjudicated at a



managable level. Written guidelines are extremely essential to avert the legal implications which are associated with 'due process of law' concept. They will provide safeguards against intake officer's bias, whims and irrational discretion. The intake officers shall be professionally qualified social workers with correctional training.

The functions of intake officer shall be the following :—

- a. To determine whether the complaint appears to be within the jurisdiction of the juvenile court. Ordinarily the Intake Officer shall be able to decide but he should consult the legal counsel if he can not settle the jurisdictional problem himself. Those cases in which the interested parties cannot agree shall be resolved by the judge.<sup>6</sup> This step is essential to dispell any doubt regarding the administration of justice. Statistics shall be maintained on the number of cases closed at intake.
- b. The Intake Officer must decide whether the evidence is sufficient to support allegations. One strong view is that the intake officer should not involve himself in social investigation, because by so doing he might usurp the judge's prerogative to try cases on their merit. If the evidence is insufficient the Intake Officer shall notify the referring agency so that it can decide whether to investigate further.
- c. To decide whether the case shall be referred for judicial hearing in the interest of both the child and the community. Such factors as seriousness of the act, the attitude of the child and his age may be considered while taking decisions. These terms should be clearly defined so that confusion does not arise in their application and the Intake officer can apply them in a consistent manner.
- d. To make arrangement for the informal adjustment of those cases in which the complainant exeggerate the incident. When making an informal adjustment the Intake Officer shall attempt to satisfy the complainant with a less severe remedy than formal adjudication i. e. restitution, warning or diversion to rehabilitation facility. The diversion must be voluntary. Written criteria should be developed for selection of cases for informal adjustment. The Intake Officer will hold voluntary adjustment conferences with the child and the parents and the holding of conferences be limited to thirty days from the date of complaint. In no case can the statement made at such conferences

6. Ferster, Elyce Zenoff, et.al., 'Separating Official and unofficial delinquents—Juvenile Court Intake,' in *Iowa Law Review*, Vol. 55, 1970,



be used against the child should the complainant decide to file petition later on. All the steps taken at the adjustment process shall be recorded for research and evaluation purposes.

One further consideration at this stage is whether the child should be entitled to counsel. One view is that since the crucial question of referring the case for adjudication are decided upon at this stage, the child should have the right to counsel.<sup>7</sup> Others contend that counsel is needed if informal probation is provided. My own feeling is in favour of providing counsel as the screening out and adjustment decisions vitally affect the interest and the right of the child.

#### **Clinical Psychologist :**

A full time salaried clinical psychologist shall be provided to the intake section to supply professional information to the Intake officer while he makes decisions. The psychologist's diagnosis of the child's mental and emotional problems and a comprehensible report will be of tremendous value at the intake level, for, on the basis of the report the child's case can be informally handled and referred to either the psychiatric section of Dacca medical hospital or to the mental hospital for full treatment. If the parents agree to such prejudicial adjustment decisions, there will be no need to process the child through the court for finding his deviance. But if the parents do not agree, the case will have to be decided by the court.

#### **Legal Services :**

Prosecutorial as well as defence services will be available. The prosecutor while protecting the interest of the community is also expected to protect the constitutional rights of the child. As the court proceedings will be adversarial in nature the court will appoint a full time prosecutor and he will be provided with adequate number of staff to enable him to perform his legal functions. His functions will be :—

- a. to assist the Intake Officer in investigation and jurisdictional determinations.
- b. to attend all kinds of hearings. To avoid future confusion his duties and responsibilities should be defined clearly by the court.

At all stages in the proceedings the child shall have the right to be represented by an attorney. The public defender will be the full time salaried officer of the court and he will also be provided with staff and investigators. The public defender will represent the indigent child who cannot

7. Juvenile and Domestic Court at Falls Church, Virginia has granted the child the right to be represented by a counsel so that discretionary authority of the Intake Officers may not be abused. See MacFaden, William E., "Changing Concepts of Juvenile Justice", in *Crime and Delinquency*, April, 1971.



afford one. Since he will be exclusively dealing with juvenile cases as a full time professional, it is expected that the child will receive a more adequate defense than can be achieved through appointment of a private attorney who, as our experience goes, might not have enough interest due primarily to monetary considerations.<sup>8</sup> The duties of the public defender will be the following :—

- a. to determine whether the case should be handled judicially or non-judicially at the intake level.
- b. to ensure that the child's constitutional rights are protected at the adjudication, disposition and post-adjudication levels. Once the disposition decisions have been carefully taken by the judge, he will assist the child and the family to accept the treatment plans.

As prosecutor and public defender shall perform important functions, it is imperative that training programs be conducted to enhance their competence.

#### **Juvenile Probation Section :**

In an adversarial system the probation officer has no particular role to play in the adjudication hearing as the adjudication functions will be handled by the prosecutor and the public defender. In the proposed juvenile court structure the probation officer will have a very crucial role to perform in the disposition hearing. After the adjudication hearing is complete, the judge shall hold the case for some days in order to allow the probation officer to investigate the circumstances of the case and prepare a clear, concise and thorough social study report to aid the judge, child's attorney and the parents to gain a complete picture of the child's needs. Because the juvenile court upholds the rehabilitative philosophy, a complete understanding of the needs of the child will lead to mutual cooperation among the participants involved. A good and qualitative report, which is not exaggerated nor full of probation officer's emotional tones but which objectively depicts the child's development process, family and school situations and the circumstances under which he committed the offense, will immensely help the judge to decide upon a suitable disposition alternative to help the child in his reintegration into the society. The court's counsel as well as the probation officer shall try to help the child and the parents to appreciate the constructive aspects of the court's disposition decisions.

The most important function of the probation officer will be to provide skilled social casework help directed toward the return of the child to a

8. Richard w. Kobetz and Betty B. Bosarge, *Juvenile Justice Administration*, International Police Chiefs Association, 1979, p. 280



secure and normal status in society. There is nearly full agreement among authorities that incarceration of children should be avoided as far as possible. Of course, there will always be some hardcore delinquents who will need institutionalization in their own interest as well as in the interest and safety of the community. It is proposed that at least five probation officers, one of whom will act as the chief probation officer will man the probation section so that they can provide adequate personal contact, make home visits, arrange vocational training and job placement. No real rehabilitative purpose will be served if probation supervision is kept limited to office attendance by the probationer or some phone calls. That is why, the selection of probation officers assumes so much importance. Professionally qualified social workers and correctional workers should be appointed as probation officers. They will also be provided with secretarial services to enable them perform their job better.

### **The Judge:**

In the entire juvenile justice system the judge will play a vital leadership role. His concern will be not only to protect the safety of the community but also to work for the best interest of the child who is in conflict with the law. The judge should particularly see to it that the child is given humane care, proper guidance, understanding and control which are relevant to his welfare. He will also ensure that the child is given full and fair hearing and will carefully decide upon such a course of action for the child which will lead to his correction and rehabilitation. He should be competent enough to understand the real needs of the child and ensure that the child receives proper care and protection from institutions and facilities.<sup>9</sup> This is why he is involved in a network of interrelationship with the child protection agencies.

It is true that his dual role is not easy to perform. He is first and foremost a judge. There are real possibilities of conflict between his legal and social welfare roles. The conflict can be minimized in at least two ways—by separating the finding of the case from disposition. While finding the case the judge must uphold the fundamentals of justice. Only after a determination of the case is made the judge will play the key role

9. Betty, J. Clark, "Do Juvenile Courts Have A Duty To Supervise Children Agencies And Juvenile Detention Facilities?" *Howard Law Journal*, Vol. 17, 1972.



of arranging a suitable disposition.<sup>10</sup> Secondly, the establishment of community juvenile justice coordinating council will define the duties and functions of all system components and provide mutual support.

The quality of justice as well as the protection of the interest of the child will depend to a great extent on the outstanding ability and dedication of the judge. So suitable standard for the selection and training and retraining will enable the judge to attain the objectives of the juvenile court.<sup>11</sup>

### **Evaluation :**

For the purpose of evaluating the effectiveness of the performance of the experimental juvenile court, the ideal method would be the classic experimental design. But it would be extremely difficult to conduct a 'pre-test' of the alleged juvenile offenders who have not been adjudicated yet and many of whom would be screened out by both the juvenile court and the conventional criminal court. Secondly, it would not be an easy task to get response from people who are under trial and charged with emotion and fear. Thirdly, the 'pre-test' might bias the results of the 'post-test'. So, the second best alternative for us to follow would be to go for the experimental static group comparison design. In this design the adjudicated juvenile offenders handled by the juvenile court will be randomly assigned to the experimental group whereas the convicted juvenile offenders handled by the conventional criminal court will be randomly assigned to the control group and a 'post-test' will be conducted. It is hoped that random sampling will overcome many of the deficiencies arising out of our inability to conduct a 'pre-test'. A structured interview schedule will be framed and information will be collected on the respondents' school attendance, school grading, school adjustment, relationship with parents and other family members, mosque attendance, smoking and alcohol habits, visit to movies, confrontation with police, placement in probation or parole, vocational training, job placement and adjustment, participation in games and sports, self-image, etc. The interview schedule will be administered on a released offender after one year of his or her completing the intake program, probation supervision or placement in Borstal School in the case of offenders handled by the juvenile court and award of fines,

10. Robert M. Emerson, *Juvenile Delinquents Context and Process in Juvenile Court*, Chicago, Aldine Publishing Co. 1969, p. 14.

11. The Juvenile court should frame elaborate model rules to cover such aspects as police record, report to the police on court disposition, guidelines for police procedure, etc.



probation supervision or incarceration in conventional jail in the case of offenders processed through the criminal court. After the data is collected by trained interviewers, they will be coded, tabulated, mean scores will be computed and compared between the experimental and the control group.

### Conclusion

The juvenile court for Bangladesh shall strive to achieve its goals keeping the experiences of other countries in view. Such courts have been in operation for about one hundred and fifty years in both U. S. A. and U.K. Throughout this period welfare approach got preponderance while the justice approach was completely neglected in the juvenile justice process. The juvenile courts adopted informal and private procedures and did not insist on the discovery of truth through the adoption of adversary procedures. As a result extensive powers were exercised by the court personnel in the name of correction and rehabilitation of the offender. In fact, the youthful offender was denied the 'due process protection' right and this led to abuse of powers and discretion.<sup>12</sup> The experimental court shall try to achieve a balance between the justice and welfare approaches.<sup>13</sup>

12. Task Force Report : *Juvenile Delinquency and Youth Crime*, The President's Commission On Law Enforcement and Administration of Justice, U. S. Government Printing Press 1967, p. 3. Also see Joel F. Handler "The Juvenile Court and the Adversary System : Problem of Function and Form", in *Wisconsin Law Review*, Winter, 1965.

13. Professor Phyllida Parsloe strongly suggests for maintaining a balance between the welfare and the justice approaches so that the aims of welfare are not liable to be corrupted. See Phyllida Parsloe, "Social Work and the justice Model" in *The British Journal of Social Work*, vol. 6, No. 1, Spring, 1976.



# Formation of Khwaja Sir Nazimuddin's Ministry 1943 : Its Background.

M. K. U. Molla.

A K Fazlul Huq (1873—1962)<sup>1</sup> who had been the Chief Minister of Bengal since 1937 announced his resignation on 29 March 1943 in the Legislative Assembly. On 31 March, the Governor Lt. Colonel Sir John Arthur Herbert (1895-1943) imposed section 93 administration in Bengal and requested Khwaja Sir Nazimuddin (1894—1964)<sup>2</sup> to explore the possibilities of forming a new ministry. On 24 April a new cabinet was constituted with Nazimuddin as Chief Minister. What difficulties did the Government face at the time Huq announced his resignation ? Why did the Governor resort to section 93 ? Why was Nazimuddin asked to examine the question of forming a new cabinet ? Why was not Huq summoned again to head the government ? How did Huq react against the Governor's measure ? This paper seeks to provide answer to these and other such questions.

Why did Huq resign ? Huq met the Governor on 28 March 1943. In course of their discussions on the issue of reconstituting the cabinet Huq tendered his resignation. Later on, he explained that as their talks proceeded, the Governor was "loosing temper and matters were becoming unpleasant and I therefore agreed" to sign a letter of resignation "kept ready typed".<sup>3</sup> Herbert countered that Huq had resigned in order to enable the formation of a ministry representative of most of the political parties in Bengal. In

1. Huq : Educated in Barisal and Calcutta. Entered the Provincial Civil Service in 1906 but resigned in 1912. One of the signatories of the Muslim League-Congress Pact in 1916.

President of the Muslim League 1916—21. General Secretary of the Congress in 1918. Education Minister of Bengal 1924. Founded Krishak Proja Party and Provincial Muslim League Party in April 1937. Chief Minister of Bengal 1937—43. Broke with Jinnah and the League over his appointment to the National Defence Council in July 1941. Formed a new ministry combining his own Muslim supporters with the Hindu Mohasabha and the Forward Bloc, and resigned in 1943.

2. Nazimuddin : A member of the Muslim aristocracy of Bengal. Minister of Education 1929—34 and member of the Bengal Executive Council 1934—37. Home Minister in the Huq cabinet 1937—41. In 1938, he showed firmness and tactfulness in negotiations with MK Gandhi about the release of political prisoners and detenus. Broke with Huq in December 1941.

3. Huq to Herbert 4 April 1943 114A Park Street, Calcutta : R/3/2/83



support of his contention, Herbert referred to a letter written by Huq. In that correspondence, Huq promised: "If at any time I am found to be a hindrance to the formation of a more representative ministry I shall be glad to tender resignation of my office."<sup>4</sup> Herbert further stated that he did not prepare a letter for Huq to sign. It was only after Huq had indicated his decision to resign that Herbert showed him the rough draft of a letter which might assist Huq in formulating the terms of his resignation. Huq chose to sign the draft letter in preference to preparing his own.

As mentioned, on 29 March 1943, Huq announced his resignation in the Legislative Assembly. Thereupon the Speaker ruled that remaining ministers were no longer in office and adjourned the Assembly for a fortnight. The Assembly was then dealing with the budget estimates for the coming financial year which, under the Government of India Act, must be passed before 1 April. The Speaker's decision made it difficult to secure the approval of the Legislature for the complete budget. In the very short time available it was impossible to form an alternative ministry to see the budget through. The Governor could not find an elder statesman or a man of high standing in province who could come forward and hold the ministry together with or without changes for the purpose of securing supply "until a regular political leader could secure a majority and take over position".<sup>5</sup> Again, even if the Speaker agreed to call the Assembly in modification of adjournment for a fortnight on a date early enough to vote grants by 31 March, it could be legally questioned on the ground of insufficient notice to members who had in the meantime left Calcutta.<sup>6</sup> In any case, the budget could not be passed by 31 March. Therefore the Governor sought advice on the issue from the Viceroy Lord Linlithgow.

The Viceroy's first reaction was one of deep concern at Huq's resignation. He wrote to the Governor: "I cannot feel that any risks should have been taken with Huq unless and until you had your budget through, given past experience of him".<sup>7</sup> The Governor pleaded that he had accepted Huq's resignation on "the distinct understanding between us that resignation and my acceptance of it would not be published until Huq had seen

4. Huq to Herbert 21 March 1943 : *Linlithgow Collection* EUR MSS F/127.

5. Viceroy to Secretary of State 31 March 1943/Secret/No 869—S: L/P & J/8/651

6. Governor of Bengal to Viceroy 29 March 1943 TR : R/3/2/84

7. Viceroy to Governor of Bengal 30 March 1943 Secraphone Message ; *Linlithgow Collection* MSS EUR F/125/1943



budget through".<sup>8</sup> The Governor thus charged Huq with the "premature and unauthorised" disclosure of his resignation.<sup>9</sup> Huq argued that it was not a deliberate disclosure. When pointed questions were put to him, he told the Assembly that he had resigned. "I could not tell a lie", he added.<sup>10</sup> As the question was asked by Kiran Sankar Roy, the leader of the Bengal Congress, and as Huq was very close to the Congress circle, it was not unlikely that Huq himself had arranged such a question to be put in order to embarrass the Governor. His motives emerged clearer from his reminder to the Governor when the budget complications arose: "you will now see the reason why I had advised you not to press for my resignation".<sup>11</sup>

However, on the budget issue the Viceroy communicated to the Governor the views in which he had concurred with the Secretary of State: "unless a ministry could secure the agreement of the legislature before 31 March to the demands for grants, there would be no lawful supplies available for the administration of the province after that date. And it would, in consequence, be left to the Governor to take the necessary steps to secure supplies under section 93".<sup>12</sup> Now should the Governor take over the entire administration under section 93 to obtain supplies? Or should he resort to section 93 only for the limited purpose? The Governor indicated that the second alternative was disadvantageous in that there seemed no chance of an alternative stable ministry being formed within a predictable time. The Viceroy agreed with the Governor and advised him to take over the entire administration immediately under section 93. To remain politically clean, he asked the Governor to make it clear in a public statement that "your action was necessitated in the first instance by the necessity of securing supply, and that your anxiety was to see a reversion to normal government on the basis of a ministry with a stable majority with the minimum of delay."<sup>13</sup> This was the solution which the Governor had in his mind. Total application of section 93 was preferable to using the section only to secure supplies. This was "simpler more foolproof and not likely to provoke strong comment".<sup>14</sup>

8. *Ibid.*

9. *Ibid.*

10. Huq to Linlithgow 16 April 1943 : L/P & J/8/651.

11. Huq to Herbert 29 March 1943 : L/P & J/8/651.

12. Viceroy to Governor of Bengal 30 March 1943 : *Linlithgow Collection MSS EUR F/125/1943.*

13. *Ibid.*

14. Governor of Bengal to Viceroy 31 March 1943 Telegram by Secraphone : *Linlithgow Collection MSS EUR F/125/1943.*



Thus when the stage was set for section 93 administration, a technical point was raised. Should the date of the section 93 proclamation be effective from the date of acceptance of Huq's resignation while other ministers continued in office? The strict view, as expressed by Viceroy's legal adviser, was that the date of the proclamation should be the date of acceptance of Huq's resignation. But "I recognise", the Viceroy informed the Governor, "that adherence to that view may cause some embarrassment to you in as much as other Ministers did not cease to function on the same day. On the whole therefore I think it would be advisable for you to issue the proclamation on the day of resignation of the other Ministers".<sup>15</sup> The Speaker had already ruled that with the Chief Minister's resignation other ministers automatically went out of office. On the other hand, Huq conceded privately that "other ministers remain in office until they resign or are dismissed".<sup>16</sup> The Governor held the same view. Nevertheless he sought the Advocate General's opinion on the constitutional aspect of the point in questions. The Advocate General argued that the Government of India Act made provisions for the choosing of ministers and for their dismissal. It made no distinction in those respects between a chief minister and any other ministers, and the convention of nominating a chief minister arose from para VII of the Instrument of Instructions. Whilst, however, that Instrument and other declarations—the Viceroy's statement of 21 June 1937—indicated an intention of fostering a sense of joint responsibility, the explicit provision of the Act was that ministers should hold office during the Governor's pleasure. From this it appeared to follow that they should hold office unless they ceased to be ministers or were dismissed or resigned and their resignations were accepted. "In my opinion therefore", the Advocate General concluded, "the resignation by the chief Minister of his office as Minister will not by that reason render the other Ministers *functus officio*, and they will continue to hold office unless they resign and their resignations are accepted or they are dismissed".<sup>17</sup> Hence there ought to be a formal resignation by the other ministers and "it will be proper for the Governor to ask them to send in such formal resignation, in case they voluntarily do not do so".<sup>18</sup> Accordingly the Governor met ministers and told them in the morning of 31 March that Huq had

15. Viceroy to Governor of Bengal 31 March 1943 Telegram by Secraphone No. 872-S : Linlithgow Collection MSS EUR F/125/1943.

16. Governor of Bengal to Viceroy 29 March 1943 TR : R/3/2/84

17. Opinion of Advocate General, Bengal, 31 March 1943 : R/3/2/82



resigned with "the avowed and public spirited" object of enabling the formation of a broadbased ministry representing as many parties as possible.<sup>19</sup> "I am sure that you, his colleagues, would wish to further that object".<sup>20</sup> He disclosed that he was requesting Nazimuddin, as the leader of the largest self-contained party outside Huq's ministry, to investigate and report to him the possibilities of the kind of ministry which "your late Chief Minister envisaged".<sup>21</sup> With these words, he asked them to cooperate with Nazimuddin in his investigation. He mentioned the name of Nazimuddin purposely. If he delayed in doing so, "obstructionists may achieve infructuous equilibrium".<sup>22</sup> At the same time, he avoided commissioning Nazimuddin now definitely as Chief Minister designate because this would, he thought, "antagonise others and prejudice" Nazimuddin's chances.<sup>23</sup> However all the ministers resigned—Hashem Ali Khan, Abdul Karim and Barman in brief terms, the others with "a verbose statement on 'enforced' resignation of Huq."<sup>24</sup> The Governor accepted their resignation. Thereafter, he issued the proclamation under section 93, simultaneously declaring that he would return to normal government as soon as a truly representative ministry was formed. The budget was authenticated immediately.

The imposition of section 93 in Bengal was put for comments in the India Office file. A F Morley, an information officer in the British Foreign Office, warned that British official sources "must be careful to keep their comments entirely objective."<sup>25</sup> J P Gibson, an India Office Political Department expert, supported section 93 administration to avoid a budgetary tangle. He argued that three years ago in the case of Sind, the Secretary of State ruled that if demands for grants were not approved by the legislature and authenticated by the Governor by 31 March, the only lawful course open to the Governor to provide funds for the administration thereafter was by recourse to his special powers under section 93. In Bengal, the Governor after discussions with the Viceroy had thought it best

18. A K Roy's File Note 31 March 1943 : *Ibid.*

19. Governor of Bengal to Viceroy 31 March 1943 Secraphoned at 11 AM : R/3/2/84.

20. *Ibid.*

21. *Ibid.*

22. Governor of Bengal to Viceroy 31 March 1943 No. 47/3685/43 : L/P & J/8/651

23. *Ibid.*

24. Governor of Bengal to Viceroy 31 March 1943 quoted in Viceroy to Secretary of State 14 April 1943 Secret 293 No. 977-S : L/P & J/8/651

25. A F Morley to R W Brock 5 April 1943 ID 1739/43 : L/P & J/8/651



that he should take over the whole of the administration by a section 93 proclamation and after doing so should approve and authenticate the whole of the budget demands. "This is certainly tidier and probably more satisfactory in the long run since the prospect of a stable alternative ministry is not certain".<sup>26</sup> The position was further discussed with Sir Kenneth McIntyre Kemp (1883—1949), the legal adviser to the Secretary of State. His view, as recorded by Gibson, was that, provided the Governor made no alteration in the demands already voted there could be no cause of complaint if he dealt with the whole budget under section 93, since nobody was prejudiced or harassed thereby. Thus Kemp covered only the technical aspect of the issue.<sup>27</sup> On the other hand, P J Patrick (1888—1975), Assistant Under Secretary, stressed the political side of the measure. As he put it, section 93 was a necessary prelude to the constitution of a new ministry. "We have yet to see what conditions Jinnah may impose on Nazimuddin for taking office, if he can be assured of a majority. Apart from this, the late Ministry's general attitude towards administrative problems ... was such as to leave a great deal of essential work to be done which there was no guarantee that a new ministry would immediately face".<sup>28</sup> George Herbert Baxter (1894—1962), Assistant Under Secretary, held that if the voting estimates had not taken place until after the commencement of a financial year, any interim expenditure incurred would be validated in one of two ways. Either a ministry would shortly take office and would secure the voting of the necessary grants, or there would be such a hiatus that on general grounds, and not merely because of a supposed technical budgetary difficulty, a section 93 regime would have to be proclaimed and the grants would be validated under the procedure appropriate thereto. "It seems to me obvious commonsense that all concerned should act on this interpretation", he added.<sup>29</sup>

After the declaration of 93 administration, Herbert proceeded to take steps to form a new ministry. He formally called on Nazimuddin, as leader of "the largest self contained" party to investigate and report to him "the possibilities of forming a stable and representative Ministry".<sup>30</sup> If he was satisfied with Nazimuddin's findings, he would commission him. The next day Nazimuddin sent his reply, claiming that he was in a position to fulfil

26. File Note by Gibson 31 March 1943 : L/P & J/8/651

27. *Ibid.*

28. File Note by Patrick 2 April 1943 : L/P & J/8/651

29. Baxter to Gibson 31 March 1943 : L/P & J/8/651

30. Herbert to Nazimuddin 1 April 1943 : *Linlithgow Collection* MSS EUR F/125.



the conditions which "require that Your Excellency should be satisfied that I can form a stable Ministry".<sup>31</sup> In support of his claim, Nazimuddin stated that he would be definitely supported by 133 members in a house of 228 : 85 Muslims of whom 70 were Muslims League Parliamentary Party members, 14 Scheduled Caste members, 25 Europeans, two Anglo-Indians and seven unattached members. In his enumeration, he had not taken into account the members of the Bose group or the Nationalist Party a large number of whom, he hoped, would agree to work with him when he would be in a position to offer them seats in the ministry. Further, he added, "when they will see for themselves that I can form a stable Ministry even without their help, I am more than confident that they will not deny their cooperation. Everybody recognizes the existence of an emergency, and the desirability of as much cooperation as possible between the various groups" in the larger interests of the province.<sup>32</sup> Even the Congress was prepared "to offer responsive cooperation".<sup>33</sup> Three days after Nazimuddin enthusiastically informed Herbert that he would be able to obtain the support of "practically 90 per cent of the Muslim MLAs", adding "Disintegration or rout of the Progressive Coalition Party is complete ; the scattered remnants are surrendering unconditionally".<sup>34</sup> He was contemplating a cabinet of 13 consisting of five Muslim, three Caste Hindu, three Scheduled Caste ministers and a Muslim chief minister.<sup>35</sup> He clearly spelled out the programme of the proposed ministry. First, the ministry would wholeheartedly support war efforts. Second, the ministry should make "a concentrated and earnest effort" to solve the food problem.<sup>36</sup> It would take all possible steps to bring down the price of foodstuffs, and provide "adequate supply and better and equitable distribution thereof" throughout the province.<sup>37</sup> Third, the ministry should adopt a national policy to deal with (a) liberty of the press, (b) liberty to hold meetings, (c) arrests, detentions and trials for political offences, (d) regular periodical reviews of the cases of political prisoners by some independent tribunal with a view to securing their

31. Nazimuddin to Herbert 2 April 1943 : *Linlithgow Collection* MSS EUR F/125.

32. *Ibid.*

33. *Ibid.*

34. Nazimuddin to Herbert 5 April 1943 : *Linlithgow Collection* MSS EUR F/125/43

35. Nazimuddin to Herbert 8 April 1943 : *Linlithgow Collection* MSS EUR F/125/43

36. Muslim League's Suggestions, Enclosure to A De C Williams, Private Secretary, Governor of Bengal, to Laithwaite, Private Secretary, Viceroy, 12 April 1943 D-O No. 173-S : *Linlithgow Collection* MSS EUR F/125/43

37. *Ibid.*



release or providing amenities for them, (e) family allowances to security prisoners on a generous scale and (f) application of Defence of India Rules and Ordinances. Fourth, the cabinet would abide by the principle that "each party would remain loyal to its political creed for and against Pakistan".<sup>38</sup> Fifth, the government would undertake to establish communal harmony and a spirit of good will and unity among the different sections of the people. Sixth, every effort should be made to resolve controversies over legislations affecting the representation and economic interests of the principal communities.<sup>39</sup> The programme as a whole seemed to reflect the League's desire to work in harmony with the other major communities of the province.

In view of the above, Nazimuddin claimed that he had the right to form a ministry. The delay in commissioning him to do so, he informed the Governor, was likely to be misunderstood and might seriously handicap him in his efforts, adding "I feel that I ought to be given a fair and reasonable chance to form a ministry".<sup>40</sup>

Meanwhile Huq had conveyed to Herbert that the Progressive Coalition Party<sup>41</sup> was the largest party and the Governor "can only call upon" its leader "to form a stable and broad-based Ministry in Bengal, as representative as possible in the present circumstances".<sup>42</sup> He stated that it was the "desire and anxiety" of his party to have a ministry representative of all parties and groups who were willing to work the constitution in accordance with a common programme calculated to advance the welfare and security of the province.<sup>43</sup> He emphatically protested against Herbert's decision to ask Nazimuddin to explore the possibility of constituting a new ministry, pointing out with "unconcealed frankness" that Nazimuddin "does not enjoy, even remotely, the confidence of the majority of the

38. *Ibid.*

39. *Ibid.*

40. Nazimuddin to Herbert 8 April 1943 : *Linlithgow Collection* MSS EUR F/125/43

41. Huq formed the Progressive Coalition Party in December 1941. Its members were drawn from the Congress, the Krishak Proja Party, the Hindu Nahasabha and other groups. Explaining the need of organising this party, Huq said : "The Muslim League atmosphere was entirely unIslamic and utterly undemocratic. It is the will of one man that prevails and this man is more haughty and arrogant than the proudest of the Pharouhs". Obviously Huq meant M A Jinnah. Government of India, Information and Broadcasting Department, to Secretary of State, 3 April 1943 Telegram No. 2613 : *L/P & J/8/651*

42. Huq to Herbert 1 April 1943 : *R/3/2/83*

43. *Ibid.*



members of the legislature".<sup>44</sup> He warned the Governor's private secretary A De C Williams : "I will never tolerate Sir Nazimuddin as the Chief Minister in Bengal. Very serious things will happen if this is attempted specially in view of the fact that not one single Hindu is going to join Sir Nazimuddin's Government, not even perhaps the Scheduled Castes. Why not try Nausher Ali as the Chief Minister ? Why not Sir Azizul Huq, Khan Bahadur Momen or Sir F. Rahman ? Anybody but Sir Nazimuddin."<sup>45</sup> This was indicative of Huq's political grudge against Nazimuddin and the Muslim League with which Huq had broken. Embittered by frustrations Huq wrote to Herbert : "Your Excellency has stabbed me completely. It matters nothing to me with what intention or motive you acted ; to me the result has been a devastation of my political life. You have brought me down from the pinnacle of power, honour and glory to the very dust. Had I been thrown out on a vote of the house, I could have had some consolation. But the tragedy of the situation is that I signed my death warrant with my own hand at a time when I had every reason to believe that I had weathered all storms and that a further lease of life was in store for me. Was it really a pen that you had put in my hand or was it a dagger with which I had unwillingly stabbed myself ?" "I have no peace anywhere now", he continued, "All my friends and relations are surprised that I could be befooled in such a manner. My colleagues do not trust me ; nor do my party. They can never believe that I, of all persons, should, with all my political experience and whatever sense God Almighty has given me, have committed such an act of political suicide... You have stabbed me completely and without justification."<sup>46</sup> Nevertheless, he was prepared to believe that, left to himself, the Governor would not have done it. The Governor was led by a vile conspiracy" ; and "Heaven alone knows that I have been trying to convince myself that my Governor was no party to this conspiracy" : its purpose was "to oust me from office and to install Sir Nazimuddin and crush me politically."<sup>47</sup> Thus Huq attempted to arouse in his favour Herbert's emotions.

At this juncture, it was unlikely that Herbert would consider Huq's case. He had already made up his mind against Huq. To call on Huq to constitute a ministry would "humiliate the Governor while rendering his relations with the Muslim League and the European Party intolerable".<sup>48</sup>

44. *Ibid.*

45. Huq to A De C Williams 2 April 1943 : R/3/2/83

46. Huq to Herbert 4 April 1943 (114A Park Street, Calcutta) ; R/3/2/83

47. *Ibid.*

48. Governor of Bengal to Viceroy 31 March 1943 Telegram by Secraphone : *Linlithgow Collection MSS EUR F/125/43*



If Huq was reinstated, the Governor feared, a regime of "unbridled corruption, inefficiency and ... sedition would be inaugurated."<sup>49</sup> Apart from this, a new ministry under Huq would be necessarily unstable when faced by the greatly increased Muslim League and the European Party With possibly some scheduled caste elements. The European group had made it clear that they would oppose any ministry under Huq as they had been disgusted with the misgovernment and corruption which they associated with "his leadership and with him personally".<sup>50</sup> But they did not appear to have specified the cases of corruption and Huq's personal involvement in them. However in Herbert's estimate, when Huq resigned, his ministry was tottering. He believed that if Huq had not resigned when he did, he would have been beaten on a vote of no confidence in the Assembly on 29 or 30 March.<sup>51</sup> Whether or not he would have been defeated in the Assembly it was certain that the ministry was losing ground; indications of this were there: at the last division on a vote of no confidence the ministry was only saved by ten votes of the official Congress which generally did not vote; after the division it was reported that 14 members had seceded from Huq to the opposition.<sup>52</sup> Even if the reported secession was taken as political propaganda against Huq, for all practical purposes, an escape like that, by the skin of the teeth, was defeat. If the voting represented a sincerity of view on the ministry's efficiency, it might indicate that the ministry had no strength left for its work. In such circumstances, as Herbert put it, good government was impossible and where the ministry was kept in force by the Congress vote "the law and order position was necessarily impossible".<sup>53</sup> The background to Herbert's comment could be traced to the Congress movement launched in 1942. It was on 26 April 1942 that M K Gandhi (1869—1948) first gave public expression to what soon crystallised into the Quit India movement. Deploring the introduction of foreign soldiers into India to defend her against Japan, he asserted that India's "real safety and Britain's too lie in orderly and timely British withdrawal from India".<sup>54</sup> Two months after, on 14 July the Congress Working Committee at Wardha resolved that "British rule in India must end immediately".<sup>55</sup> Next month, on 8 August the All India Congress

49. *Ibid.*

50. Herbert to Linlithgow 19 April 1943; *Linlithgow Collection MSS EUR F/125/43*

51. *Ibid.*

52. Governor of Bengal to Viceroy 31 March 1943; *Linlithgow Collection MSS EUR F/125/43*

53. Herbert to Linlithgow 7 April 1943; *Linlithgow Collection MSS EUR F/125/43*

54. *The Harijan* 26 April 1942

55. *Congress Responsibility for the Disturbance 1942—43* (Delhi: Government of India 1943), Appendix III(I) P. 51



Committee met at Bombay and endorsed the 14 July resolution, adding that "the immediate ending of the British rule in India is an urgent necessity both for the sake of India and for the success of the cause of the United Nations".<sup>56</sup> Since this time the Congress activities in general had been openly anti-government.

However regarding Huq's claim that he would be backed by the Hindus solidly, Herbert disclosed that the Caste Hindus "have for the moment frankly abandoned the idea of insisting on another Huq ministry".<sup>57</sup> in order to substantiate his statement, he mentioned that the rajas of Burdwan and Casimbazar "voluntarily explained to me with some concern that though they had signed as supporters of Huq they would very much prefer a Ministry which did not contain Huq".<sup>58</sup> S P Mookerjee (1901—1953)<sup>59</sup> was reported to have admitted to Nazimuddin that the presence of a person's name in the list of Huq's supporter's supporters would not bound that person not to cooperate with a ministry under Nazimuddin. Such an admission did not indicate any assurance that Mookerjee and his followers would remain neutral or would side with Nazimuddin. Nevertheless all this went to influence Herbert's decision.

As mentioned, Nazimuddin was pressing the Governor to commission him to constitute the ministry. What Herbert wished Nazimuddin now to do was to secure representative caste Hindu elements in the proposed ministry. Otherwise the Caste Hindus could question the Governor's motives in "forcing out" the Huq ministry.<sup>60</sup> But Nazimuddin strongly contested the propriety, and indeed the constitutional legality, of attaching to his authorisation an absolute requirement that he should secure the support of the representative Caste Hindus. He argued that as he commanded an absolute majority in the Assembly, he had the right to be called on now to form a ministry without qualification as to its composition. Apprising Linlithgow of Nazimuddin's points, Herbert noted : "I cannot help

56. *Ibid.* Appendix III(2) P. 56

57. Herbert to Linlithgow 10 April 1943 ; *Linlithgow Collection* MSS EUR F/125/43

58. *Ibid.*

59. Mookerjee : Fellow of Calcutta University, 1924. Vice-Chancellor of Calcutta University 1934-39. Carried on vigorous propaganda on behalf of Bengali Hindu against Huq's first ministry, appealing particularly to youths. Bitterly opposed to Communal Award. Elected Vice-President of All India Hindu Mahasabha in December 1941. Attended non-party leaders conference at Bombay in March 1941. Finance Minister in Huq's second ministry in December 1941. Defied the orders of the government of Bihar, banning the Mahasabha session at Bhagalpur ; detained for a few days. Resigned the cabinet position 1942.

60. *Ibid.*



feeling that constitutionally, he may be right and that we are not entitled, however embarrassing the results may be politically, or tactically, to insist on a Ministry of a composition to suit our requirements".<sup>61</sup>

The Viceroy was concerned about the continuance of section 93 administration in Bengal. He was only anxious to get out of it as early as possible, whether the Chief Minister was to be Huq or Nazimuddin or any one else, the one essential condition being that he must have a stable majority.<sup>62</sup> At the same time he was conscious of the "fictitious hysteria over Huq's 'enforced' resignation"<sup>63</sup> that "clearly makes it easier for Nazimuddin or any other prospective Chief Minister to play for time and decline immediately to undertake ... responsibility of forming an administration; and Jinnah, if he wants to be a nuisance, might of course take advantage of that to try to make formation of any administration impossible save on his own terms which might be quite unpalatable so far as we are concerned."<sup>64</sup> Nevertheless, he was eager to restore ministerial government in Bengal. Very firmly he told the Governor: "I must make it plain that we could not leave Bengal under the breakdown clauses if in fact there exists in the legislature a working majority willing to support a Ministry and a number able to form a government".<sup>65</sup> "My own feeling", he added, "is that at the point things have reached if you are satisfied that Nazimuddin has a better chance of forming a Ministry than any one else, and that he could produce a Ministry ready to support the war effort in all possible ways, appropriate course would now be formally to invite him to form a Ministry".<sup>66</sup> At the same time he made an alternative suggestion to the obvious dislike of Herbert. If Nazimuddin proved unable to give a stable majority explicitly committed to support the war effort, it must be made clear to the public that he had been unable to form a ministry, and that thereafter the Governor must see who else could do so. "It goes without saying that it would not be possible in that event to exclude Huq from the list of possibles, and if Huq proves to be able to form a ministry and gives undertakings as regards support for the war effort, the mere fact that he recently resigned could not be held to be a justification

61. *Ibid.*

62. Linlithgow to Herbert 2 April 1943: *Linlithgow Collection* MSS EUR F/125/43

63. Governor of Bengal to Viceroy 29 March 1943 Telegram Pol. 3645/1943/11477; L/P & J/8/651

64. Viceroy to Governor of Bengal 31 March 1943 No. 859—S Secret 253: L/P & J/8/651

65. Linlithgow to Herbert 11 April 1943: *Linlithgow Collection* MSS EUR F/125/43

66. Viceroy to Governor of Bengal 11 April 1943 Telegram R No. 946—S: *Linlithgow Collection* MSS EUR F/125/43



for remaining in Section 93 rather than accepting a Ministry under Huq".<sup>67</sup>

As stated, Nazimuddin had already agreed to fulfil all the conditions Linlithgow had put forward. Accordingly on 13 April Herbert called Nazimuddin to form a ministry.<sup>68</sup> When this news was noised abroad, Huq reacted sharply. He told the Governor : "you contemplate the formation of a cabinet which far from being an all parties one will be much less representative than the last cabinet".<sup>69</sup> "It is strange", he added, "that although I am the leader of the biggest party in the House.....you have not thought fit to consult me even once during the whole of the period since you obtained my resignation, nor have you consulted any other leaders or representative of any of the constituent groups of the Progressive Coalition Party".<sup>70</sup> In the morning of 15 April, Huq sent an ultimatum to the Governor demanding to know whether he had by now changed his views regarding the formation of a new cabinet. "If I do not hear from you by 5 O'clock this afternoon, I shall release all the correspondence" regarding resignation to the press.<sup>71</sup> This he did possibly to create a sensational diversion in politics thereby hoping to prevent the Governor from forming a government with Nazimuddin as Chief Minister. Whether or not Huq intended to carry his ultimatum into action, his letter was given much attention in the Bengal secretariat. The Governor's private secretary A De C Williams rang up Nazimuddin and indicated to him that Huq wished to

67. *Ibid.* The suggestion seemed to have sprung from the Viceroy's desire to find a quick solution to the constitutional deadlock, not from any liking for Huq's political sagacity. What he thought of Huq and his second ministry had already been made clear in his comments : the Bengal ministry "seem to have put about the ingenious theory that the Council of Ministers is distinct from the Government — a theory which the Chief Minister puts into practice by agreeing departmentally to the issue of orders, necessitated under direction from the Centre, and then coming back with a memorandum from the 'Council of Ministers' protesting against the policy. In brief the idea appears to be to hang on to the sweets of office without accepting its responsibilities". Linlithgow to Amery 28 March 1942 Telegram ; *Linlithgow Collection* MSS EUR F/125/42. On another occasion when the possibility of Huq's appointment in the Viceroy's Executive Council was being considered Linlithgow remarked that Huq was "volatile and undependable". Linlithgow to Amery 1 May 1942 Pol 3897/1942 ; L/P & J/3/651 117 File C 66 Part 2 FFI 68—332

68. Governor of Bengal to Viceroy 13 April 1943 Telegram ; *Linlithgow Collection* MSS EUR F/125/43

69. Huq to Herbert 15 April 1943 88/2 Jhautala Road, Calcutta ; R/3/2/83

70. *Ibid.*

71. *Ibid.*



publish protest against the Governor's steps to constitute a ministry.<sup>72</sup> "Nazim says", Williams noted, "the explanation is that there are threatened-splits within the Nationalist and Bose groups and that disgruntled elements have probably stirred up Huq to do this in order to create a sensational diversion. Nazim says that publication is not going to worry him ..."<sup>73</sup> Therefore it was decided to send a reply to Huq's letter. Regarding the nature of the proposed reply, Williams suggested that it was to be "completely noncommittal: I Consider a reasoned reply both undignified and dangerous."<sup>74</sup> Accordingly a brief noncommittal reply was issued to Huq at luncheon telling him that the Governor had "no comment to offer on your proposal to publish his correspondence".<sup>75</sup> Huq was reported to have received the reply calmly. When the Chief Secretary E B H Baker rang him the same day at 3.45 pm, Huq said that he did not want to publish anything for the present.<sup>76</sup> Within a week Huq sent a telegram to the Viceroy warning that if his party was excluded from the formation of a cabinet, this "will lead to unprecedented troubles in Bengal"<sup>77</sup> He insisted on the Viceroy's not conceding to revocation of the proclamation under section 93 unless "fullest possible attempts have been made for formation of an all-parties cabinet".<sup>78</sup> By "fullest possible attempts" Huq meant the Governor's consultation with him. He made this point clear next day in his telegram to the Viceroy's private secretary, Sir John Gilbert Laithwaite (1894— ). He requested Laithwaite to tell the Viceroy that the Governor "has not had one single word with me nor with any of the party leaders but has entrusted Sir Nazimuddin with a roving commission to get Hindus to join his proposed cabinet".<sup>79</sup> Huq further asserted that Nazimuddin "has utterly failed to get representatives from any Hindu groups except two seceders from Bose group without a following".<sup>80</sup> All Huq's warnings and pleadings failed to persuade the Viceroy to interfere with the Governor's programme of action.

Nazimuddin submitted a panel of ministers to the Governor for his approval. Ministers were chosen from three political groups. Nazimuddin,

72. File Note by Private Secretary to Governor of Bengal 15 April 1943; R/3/2/83

73. *Ibid.*

74. *Ibid.*

75. *Ibid.*

76. Baker's File Note 15 April 1943; R/3/2/83

77. Huq to Viceroy 21 April 1943; R/3/2/83

78. *Ibid.*

79. Huq to Private Secretary to Viceroy 22 April 1943 T22 GTC; R/3/2/83

80. *Ibid.*



H S Suhrawardy, Tamizuddin Khan, Sayid Muazzamuddin Hossain, Mosharraf Hossain, Khwaja Shahabuddin and Jalaluddin belonged to the Muslim League. From the Caste Hindu Group were taken T C Goswami, B P Pain and T N Mukherjee. The Scheduled Caste was represented by P Barman, P B Mullick and Jogendra Nath Mandal. Of these ministers, Nazimuddin, Suhrawardy, Tamizuddin Khan and Mosharraf Hossain had previously held office. Mukherjee had broken with the nationalist Hindus on the issue of taking office under Nazimuddin. Goswami and Pain represented a group of eight members of the Bose Party in the Legislature. They resigned from the party and joined the ministry on the ground that failure to cooperate in the constitution of a ministry meant "a falling away from the idealism of their leader, Sarat Chandra Bose who had aimed at a large combination of parties working in harmony to an agreed programme".<sup>81</sup> They disclosed that agencies were at work to undermine Sarat Chandra Bose's influence in Bengal and that there was a danger of the party "falling into the hands of the Hindu Mahasabha and becoming completely obliterated".<sup>82</sup> Hence their leader wished them "to keep in with any Muslim ministry as he fears that if they do not he may on his release find himself without a party and Mukherjee the sole Hindu leader".<sup>83</sup>

Commenting on the party affiliation of the ministers, the Governor remarked that the Caste Hindu representation was weak. This was, he suggested, owing to the uncompromising attitude of a large section of Hindu. Those sections, he suspected, were under S P Mookerjee's domination and Mookerjee, he added, "is almost fanatically working against a settlement with Nazimuddin".<sup>84</sup> In his assessment the Caste Hindus had partiality for Huq as a leader. They wanted to lend a Muslim their political support because Muslims formed the majority in Bengal, and they liked a Muslim leader who depended for his political stability on the Hindus. The Governor found a psychological cause for the Hindus preference for Huq "Hindus have something 'on' Huq which is actionable and puts him at their mercy".<sup>85</sup> The Governor did not elaborate what was that 'something' and how it work.

The Viceroy confessed some disappointment at "the quality and

81. Extract from Confidential Report on Political Situation in Bengal for Second Half of April 1943, Pol. 5395 : L/P & J/8/651

82. *Ibid.*

83. Governor of Bengal to Viceroy 22 April 1943 Telegram Pol. 4122 : L/P & J/8/651

84. *Ibid.*

85. *Ibid.*



quantity" of Caste Hindu support.<sup>86</sup> At the same time he accepted that all practicable efforts had been made to secure a greater degree of support from the Caste Hindus; and that while Caste Hindu backing on which Nazimuddin could rely "is not very satisfactory, it at any rate exists".<sup>87</sup> In the Viceroy's opinion, Goswami and Pain were men of "dubious personal morals".<sup>88</sup> He did not state on what he based his opinion. He however believed that the facade of Caste Hindu representation would have been considerably improved if S P Mookerjee would not have employed his "wrecking tactics".<sup>89</sup> That Mookerjee would employ wrecking tactics was neither unusual nor unexpected. He had been in sharp disagreement with the government policy since the start of the Quit India movement. He saw a solution of Indian problems in the transfer of power to Indians. As early as August 1942 he had fully expressed his views to the Viceroy: "Public opinion in India demands today that the British Government cannot sit idle and merely rule over India with British bayonets. If you are anxious to save India and the cause of the Allied Powers you must make a gesture and no gesture will satisfy India today other than one that will mean a transfer of power to our hands of fighting for the freedom of our motherland".<sup>90</sup> Three months after, on 16 November 1942 he resigned his cabinet position making an emphatic protest that "I disapprove of the policy adopted by the British Government and the Government of India with regard to the present political situation in the country".<sup>91</sup> Since then he seemed to have been waiting for what he called the "nemesis" of British justice. Against this background it was expected that Mookerjee would use methods to create administrative problems with a view to bringing about the eventual downfall of British rule in India.

However regarding support from other quarters, the Viceroy observed that Nazimuddin could rely on an adequate degree of backing from the Europeans and the scheduled castes.<sup>92</sup> The Viceroy was not willing to delay any more the formation of a new ministry because "delay in the present flux of politics will almost certainly cause backsliding".<sup>93</sup> He

86. Viceroy to Secretary of State 22 April 1943 No. 102—Sc : L/P & J/8/651

87. Viceroy to Governor of Bengal 22 April 1943 Telegram No. 103—Sc : L/P & J/8/651

88. Viceroy to Secretary of State 22 April 1943 No. 102—Sc : L/P & J/8/651

89. *Ibid.*

90. Mookerjee to Viceroy 12 August 1942 : L/P & J/8/651

91. Mookerjee to Herbert 16 November 1942 : L/P & J/8/651

92. Viceroy to Secretary of State 22 April 1943 No. 102—Sc : L/P & J/8/651

93. *Ibid.*



therefore telegraphed the Governor that "in these circumstances I agree to the proposal to revoke section 93 proclamation and thereafter to invite Nazimuddin to assist you to form a Ministry with a view to swearing in a new cabinet as soon as possible."<sup>94</sup> Accordingly a day after, on 24 April 1943 the new ministry with Nazimuddin as Chief Minister was installed.

Since the new ministry came into office, there had been almost daily meetings organised and addressed by ex-ministers. On 25 and 28 April meetings were held at Sradhananda Park, Calcutta, the attendance being very small; about 100 persons gathered there. The Governor was subjected to abusive criticisms. His acceptance of Nazimuddin as Chief Minister was put forward as an act of "transparent hypocrisy".<sup>95</sup> He was accused of working for "the establishment of Muslim League dominance".<sup>96</sup> Frustrated in his attempts either to form the ministry or to stop its formation, Huq attacked the constitution as "a cruel mockery of unsubstantialism".<sup>97</sup> He did not care to mention that it was this constitution under which he had worked for six years as the Chief Minister of Bengal. He was so much annoyed with the Governor that he threatened he would prepare "a charge sheet" against the Governor to be submitted "for the verdict of his countrymen".<sup>98</sup> He did not explain what would be the contents of the charge-sheet and what he meant by the "Verdict of his countrymen". But Huq's private disclosures were of a different variety and belied the fervour and strength of his public utterances. He was swept aside by his defeat in the run for chief ministership. Now he thought of leaving Bengal. He wrote to the Viceroy's private secretary Sir Gilbert Laithwaite: "The curtain has fallen on the Bengal political drama ... I have now to decide what line of a action to adopt ... My own inclination is to leave Bengal".<sup>99</sup>

In fine, it could be said that several causes helped Nazimuddin form a government. Support for the Muslim League within the legislature had considerably increased. This was due to the changed political situation. The League had grown popular among the Muslims for its Pakistan programme in the post—Lahore Resolution days. Huq's coalition with the Hindu Mahasabha, a communal political organisation of the Hindus, in

94. Viceroy to Governor of Bengal 22 April 1943 Telegram No. 103 : sc : L/P & J/8/651

95. Extract from confidential Report on Political Situation in Bengal for Second Half of April 1943, Pol. 5395/1943 : L/P & J/8/651

96. *Ibid.*

97. *Ibid.*

98. *Ibid.*

99. Huq to Laithwaite 24 April 1943 : L/P & J/8/651



December 1941 had alienated many of his supporters and antagonised Muslim neutrals who found it convenient to transfer their loyalty to the League. The European group sided with the League hoping that the League would be better able to maintain law and order which would, in turn, ensure the province peaceful commerce and industry vitally necessary for the prosecution of war.<sup>100</sup> The scheduled castes political line-up had already been made clear ; they believed that the League could better appreciate their points because they, like the Muslims, were backward educationally and economically and hence the League could effectively champion their cause. Further there was no combined political front determined to face the Muslim League. By the 1940s the split in the Bengal Congress had been complete, Kiran Sankar Roy leading one faction and the Bose brothers the other. Even the Boseites were divided amongst themselves. The Hindu Mahasabha was no match for the League ; its leader S P Mookerjee seemed highly ambitious and unwilling to cooperate either with the Congress or with the Bose group. In such a complex political situation, Herbert's sympathy for the Muslim League was no less an important factor in the formation of Nazimuddin's ministry. Herbert was aware that the Muslim League would fully cooperate with the government war efforts and he seemed bent on disassociating the government from the Congress die-hards and their followers. The Viceroy backed him totally.

Nazimuddin continued in office until 28 March 1945 when he was defeated by a snap vote. On the following day the Speaker adjourned the Assembly *sine die* on the ground that the government having been defeated was *functus officio*. The Governor R C Casey (29 August 1890— ) had no option but to issue a proclamation under section 93 and take over the powers of the ministry and the legislature. The budget, which must be got through before 31 March, had not yet passed the legislature, and it was necessary for the Governor to ensure that supply should be legally provided for the beginning on 1 April. The Governor, having tided over the immediate crisis of the budget found it difficult to resort to constitutional arrangement. Nazimuddin was unable to reconstitute his ministry and the Governor was satisfied that in the existing state of the parties there was no other politician on whom he could rely to form a ministry which would cooperate fully in the wartime administrative responsibilities. Even if a government was possible, this, in Casey's opinion, would

100. The Calcutta area supplied more than half of India's war production. Linlithgow to Amery, Secretary of State, 12 April 1943 ; *Linlithgow Collection MSS EUR F/125/42*



not last "more than a week".<sup>101</sup> At the same time, the section 93 government meant that "there was no shock absorber between me and public criticism", Casey added.<sup>102</sup> Hence the only remedy for the impasse was felt to lie in a general election. "General election in Bengal would", Casey told the Viceroy, "I am sure be regarded by all responsible opinion as a right course,"<sup>103</sup> adding that the decision to hold elections next winter would be generally welcome.<sup>104</sup> Sir John Colville, who was acting as the Viceroy in Lord Wavell's absence, passed on Casey's views to the Secretary of State, L S Amery.<sup>105</sup> The question of holding elections in Bengal had in the meantime been studied in the India Office. F F Turnbull, Secretary to the Secretary of State, argued that if a general election were held in Bengal in 1945 "I should suppose that it would be very difficult to refuse one simultaneously in any other province where ministerial government prevails and the ministry in office wished for an election, or, indeed in some of the section 93 provinces ... where political leaders may represent that an election would be likely to make possible the formation of a ministry".<sup>106</sup> To Gibson, the case for a fresh general election in Bengal seemed strong and "I should think it wise to let the Governor have it if he wishes, and to face the risk, which may not prove so serious, of embarrassment in other provinces".<sup>107</sup> Patrick agreed with Gibson that elections were desirable, because "there is in fact no other way of securing a popular verdict on constitutional developments and of curbing the pretensions of communal parties to speak for the electorate".<sup>108</sup> He however pointed out that if Bengal were to have an election in 1945, this would precipitate a demand for elections elsewhere.<sup>109</sup> Sir David Taylor Monteth, Permanent Under Secretary of State, observed that if ministerial government could be restored by holding elections, "it would be a fraud

101 Lord Casey, *Personal Experience 1939—1946* (London : Constable & Company Limited, 1962), P. 216

102. *Ibid.* P. 218

103. Casey to Viceroy, 30 April 1945 Telegram No. 134 : L/P & J/8/653

104. Casey to viceroy, 30 April 1945, Telegram No. 134 : L/P & J/8/653

105. Viceroy to Secretary of State, 30 April 1945, Telegram / Pol/ 5764/45 : L/P & J/8/653

106. File Note : FF Turnbull to Gibson, 23 April 1945/Pol. 7269/1945 : L/P & J/8/653

107. Gibson's File Note 24 April L/P & J/8/653

108. Patrick's File Note 25 April 1945 Pol. 7269/1945 ; L/P & J/8/653

109. *Ibid.*



on the Act to defer holding them".<sup>110</sup> At the same time he mentioned that if elections were announced to be held in Bengal in December 1945, there would follow a demand for elections in other provinces. On the basis of all these notes, the Secretary of State wanted to know from the Viceroy whether elections could be held in Bengal this year without creating difficulties elsewhere. He advised the Viceroy "to put in hand at once consultations with Governors of other provinces as to possible reactions of holding an election in Bengal only at the end of this year".<sup>111</sup> After ten days, the Viceroy informed the Secretary of State that he had discussed the matter with all the provincial governors. The Governor of the Punjab only raised objections against holding election in Bengal on the following grounds. Announcement in Bengal would result in demand that election in other provinces should be held simultaneously and such demand would be difficult to resist. If demands were conceded attention would be diverted from prosecution of the war, and general tranquillity would be seriously disturbed. In the Punjab, the Muslim League would intensify Pakistan propaganda and communal tension would increase. This would gravely prejudice the process of return to normal conditions and the re-settlement of soldiers. The question of soldiers' votes had also to be considered. All other provincial governors found no embarrassment to themselves.<sup>112</sup> Hence the recommendation for holding elections. But should election precede or follow reintroduction of ministries? Except the Governor of Bombay, all section 93 governors would prefer elections to follow restoration of ministries. The Viceroy argued against this, so far as Bengal was concerned. "In Bengal I consider there is a very strong case for refusing to go out of section 93 until elections have been held. Any Ministry formed now would be an unstable combination of parties and its main object would be to manipulate elections for its own purposes".<sup>113</sup> Hence section 93 remained in force in Bengal until elections were held in March 1946 with the following results :<sup>114</sup>

110. Monteath's File Note 27 April 1945 : L/P & J/8/653

111. Secretary of State to Viceroy, 4 May 1945, Telegram No. 999 Dept. No. 5764/45  
L/P & J/8/653

112. Viceroy to Secretary of State, 14 May 1945, Telegram No. 852 S Pol/6022/1945 :  
L/P & J/8/654

113. Viceroy to Secretary of State, 3 August 1945, Telegram/Pol/7930/1945/25601 ;  
L/P & J/8/653

114. Burrows to Wavell, 11 April 1946, FJB 2 ; R/3/2/59



The Muslim League	...	115 seats
The National Congress	...	87
The Hindu Mahasabha	...	1
The Krishak Proja Party	...	5
The European Group	...	25
The Anglo-Indians	...	4
Independent Scheduled Castes	...	5
Independent Muslims	...	2
Indian Christians	...	2
Communists	...	3
Independent Hindu Landholder	...	1

From the above it became clear that the elections had resulted in a "re-sounding success" for the Muslim League.<sup>115</sup> The League had obtained 115 out of 250 seats ; it had increased its representation from 39 in 1937 to 115 in the Assembly. A striking feature of the League success was that almost all anti-League prominent Muslim candidates—Syed Nausher Ali, Nawab Bahadur Habibullah of Dacca, Nawab Sir K. G. M. Farouqi and Jalaluddin Hashemy—were defeated in the elections. They lost by a big margin, often as much as 20 to one. Huq was the only eminent Muslim elected in opposition to the League.

The Congress had improved their position from 51 in 1937 to 87. The Congress members returned included at least nine ex-security prisoners and Miss. Bina Das, who was swarded a sentence of nine years imprisonment for the attempted murder of the Governor of Bengal Sir Stanley Jackson in 1932. The only organised opposition to the Congress came from the Communists who contested 19 constituencies but won only three : Railway Labour, Tea Garden Labour and Territorial Scheduled Castes.

As the League had a clear majority, the Governor F. J. Borrows invited its elected leader H. S. Suhrawardy (1893—1963) to assist him in forming a government. Suhrawardy indicated that he thought it desirable, in the interests of stability, to form a League—Congress coalition government—a project in which, the Governor noted, "I have, of course, given him every encouragement"<sup>116</sup> Suhrawardy opened negotiations with the Congress. The discussions which dragged on till 20 April 1946 partly at Delhi and partly in Calcutta, broke down finally. Why did the talks fail? First, the question of representation of the two parties in the ministry was

115. *Ibid.*

116. *Ibid.*



raised. The Congress would join the coalition provided that Suhrawardy would agree to give them six seats in a cabinet of 13 or five in a cabinet of 11. Suhrawardy was willing to offer them five seats in a cabinet of 12. The Congress was not prepared to accept this term. At a late stage of the discussions, the Congress put forward a new formula : According to this, they would agree to the five-seven distribution of cabinet posts, if an independent Hindu were taken as 13th minister. If an independent Hindu was not acceptable to the League, the Congress would remain content if Huq were made speaker.<sup>117</sup> On the other hand, Suhrawardy insisted on the unconditional acceptance of his offer and straightway refused to consider the Congress proposal.

The second point on which they differed was the allocation of portfolios. Suhrawardy retained the home department for himself and offered the Congress the civil supplies department. The Congress, on the other hand, pressed for the ministry of education. Suhrawardy did not yield to this demand.

Third, Suhrawardy outright rejected the Congress proposal that no 'communal' legislation—legislation relating to a particular community—should be under taken without the consent of the party concerned. Suhrawardy objected to the Congress use of the term 'communal'. The term 'communal' he argued, was not susceptible of satisfactory definition. Any acceptance of a vague principle of this kind, he believed, would involve either the speedy disruption of the cabinet or its practical inability to put through any measures of importance.<sup>118</sup>

Thus having failed to secure a coalition with the Congress, Suhrawardy formed the Muslim League ministry that took oath at 12-30 on 4 April 1940. This ministry remained in power until the partition of Bengal in 1947.

117. When Huq came to know that his name was mentioned in connection with the speakership, he emphatically stated that this had been done entirely without any authority, direct or indirect, from himself. He added that Suhrawardy should have known that the office of the speaker in the present Assembly "carried no more honour or dignity than that of the superintendent of a Zoological garden or the manager of a lunatic asylum." Burrows to Wavell, 25 April 1946, FJB 3: R/3/2/59.

118. Burrows to Wavell, 25 April 1946, FJB 3 : R/3/2/59



# The Working of the Ayub Constitution and the People of Bangladesh

S. A. Akanda.

The Constitution of a country is the sheet-anchor on which a political community can be established on a solid foundation. It can be durable and abiding only if the constitution is the expression of the collective will of the people. It is only then that it can carry with it the necessary authority, effectiveness and the willing support of the nation. Hence a durable constitution is the precondition for national unity, economic development and political stability in the country.

The 'Ayub' constitution, promulgated on 1 March, came into force on 8 June 1962. During the intervening period, the 'Basic Democrats'<sup>1</sup> elected in the winter of 1959—60 were called upon to elect the members of the National and Provincial Assemblies on 28 April and 6 May respectively. As President Field Marshal Mohammad Ayub Khan (1907—1974) had already sought a mandate from the same Basic Democrats in February 1960, this early 'Vote of Confidence' was construed as the confirmation of the President under the constitution for the first term of office as well.

The first test of the constitution thus came in the wake of the National and Provincial election in April and May 1962. It may be pointed out that many politicians of the parliamentary era (1947—58)—some 3,978 political leaders in East Pakistan and 3000 politicians in West Pakistan—had already been disqualified under the Elective Bodies Disqualification Ordinance (EBDO) issued on 6 August 1959, and this remained in force until the end of 1966.<sup>2</sup> With the dates of the elections approaching, seven former political leaders of East Pakistan, including three former Chief Ministers—Nurul Amin (1897—1974, M. L.), Ataur Rahman Khan 1907—, A. L.)

1. According to the constitution, 80,000 Basic Democrats (40,000 from each region of East and West Pakistan) constituted the electoral college for the election of the President and the members of the National and Provincial Assemblies. By the Eighth Amendment Bill, Passed in 1967, the number of Basic Democrats was increased to 120,000 (60,000 from each region), and the number of National and Provincial Assembly seats increased from 156 and 155 to 216 and 215 respectively. *The Pakistan Observer* (9—12 December 1967).

2. Karl Von Vorya, *Political Development in Pakistan* (Princeton: Princeton University Press, 1965), p. 190.

The Political Parties Act passed on 14 July 1962 extended this disqualification until 31 December 1966. *The Pakistan Observer* (12—15 July 1962).



and Abu Hossain Sarkar (1894—1969, KSP), and Shah Azizur Rahman (1925—, M.L.),—representing various de-funct political parties, in a joint statement declared that with the Basic Democrats/Union Council members electing the members of the National and Provincial Assemblies, mass opinion would ‘hardly count’. They termed the detention of ‘quite a number of leading public men’<sup>3</sup> not only extremely harsh and illogical but unjust, and appealed to the government to “release immediately all the political prisoners.”<sup>4</sup> Therefore, whereas some of the old politicians kept aloof from the first elections under the 1962 constitution, others decided to contest the elections to get into Legislative Assemblies. They devised their strategies—both short and Long-range—under which they planned to bring about a transformation of the Presidential system into a Parliamentary one by means of (i) total mobilisation of mass opinion ; (ii) capturing political power through regular electoral process ; and (iii) initiating constitutional amendments. The short-range strategy was aimed at organising public opinion throughout the country in order to provide support to their efforts in this legislatures, and the long-range objective was to subvert the constitution from within the legislative forums.

As Martial Law was still in operation, there were no political parties to take part in the electoral process. As a result, the candidate contested the elections purely on individual basis. The government sponsored projection meetings in which the candidates could meet the electors and express their views. But in East Pakistan majority of the candidates avoided the government-sponsored meetings. The local press except the Karachi-controlled *Morning News* ignored them. It was during these election campaigns that the East Pakistan leaders established informal contacts with individual candidates in order to enlist their support for their political programmes. It is interesting to note that many of these candidates in East Pakistan did not conceal their political affiliations with the disbanded political parties and the EBDOed politicians. Many of them were also quite frank in taking strong position in favour of popular political demands, such as repeal of the 1962 constitution, establishment of parliamentary system, revival of political parties, universal franchise and direct elections.<sup>5</sup> On the day of

3. As for instance, H. S. Suhrawardy, the Chief of the Awami League was arrested a few weeks before the promulgation of the constitution on 30 January 1962 to prevent him from acting in a manner “prejudicial to the security and defence of Pakistan.” *Ibid* (31 January 1962).

4. *Ibid* (14 April 1962).

5. See Karl Von Vorys, *op. cit.*, pp. 234—236.



polling. the country was calm, and as Von Vorys says, almost 'sullen'.<sup>6</sup>

The results of the elections were surprising even to the government leaders and officers. The Basic Democrat electors showed neither any dislike for old politicians, nor any special preference for their fellow Basic Democrats who were contesting the elections for seats in the National and Provincial Assemblies.<sup>7</sup> Most of the successful candidates belonged to the old group of lawyers and businessmen in East Pakistan, and landlords and industrialists in West Pakistan. 43 out of 78 East Pakistani members of the National Assembly and 136 out of 156 members of the National Assembly had a clear record of their affiliations with the old parties, particularly the Muslim League.<sup>8</sup>

On 8 June 1962, the National Assembly was convened by the President in Rawalpindi, the interim capital of Pakistan. With it Martial Law was lifted and the constitution came into operation. With Martial law gone, the government lost its most important authority-coercion to control the population and the politicians. They now came out openly for a revision of the constitution, and return to party politics and parliamentary government. Henceforth was to start a phase of unparalleled political activity and agitation against the 'Ayub' constitution, which reached its climax in 1969 when it was abandoned by its own architect. He handed over power to another General for the reimposition of Martial Law in March 1969. In the present paper we shall try to examine the attitude of the people of East Pakistan towards the 'Ayub' constitution, the continuing dialogue between the East Pakistani 'autonomists' and the protagonists for a strong centre, called 'centralists',<sup>9</sup> and relate it to the general dynamics of Pakistani politics and its consequent impact on National integration.

6. *Ibid.*

7. A. H. M. S. Doha (1903— ) retired Inspector General of Police and the Chairman of 'the showcase Union Council at Tejgaon', Dacca was badly defeated in the National Assembly elections. Later on, he was appointed as the Minister of Agriculture in the Presidential Cabinet.

8. *The Pakistan Observer* commented that the Muslim League had staged a come back. For results, see *The Pakistan Observer* (30 April, 3 and 7 May, 1962).

*The Statesman* reported that nearly 70 of the 150 members (46%) were former Muslim Leaguers with perhaps 40 additional ex-politicians affiliated with other parties. *The Statesman* (2 June 1962).

9. Ataur Rahman Khan divided the people of Pakistan into two groups—the "autonomists" or "regionalists" and the "centralists". Speaking on the constitution Bill in 1956, he observed: "Sir, in the present context I will tell you that so far as the people of East Bengal are concerned, I mean the people of Pakistan as a whole, I divide them into two groups—autonomists and the centralists." *CAP Debates*, vol. I (January 27, 1956), p. 2126.

Continued.....



Within a week of the convening of the National Assembly, it became apparent that a tussle between the Bengali members and the President over the constitution was inevitable. Now the question is why the East Pakistanis made the constitution so much an issue and were vehemently opposed to it. The answer can be found in a close examination of the power structure in Pakistan. With the federal government located in West Pakistan, the central Government came to be dominated by the West Pakistanis. The West Pakistani landlord, politicians, industrialists, bureaucrats and the members of the defence forces constituted the important elements which had always dominated the central government. In such a power structure, the East Pakistanis had little opportunity of exercising their legitimate share of power. The imposition of Martial Law and the promulgation of the Presidential system of government implied exclusive concentration of power in the hands of the West Pakistani dominated bureaucracy and the military elite. Hence the politically articulate people of East Pakistan were aware—and the politicians of the province never let them forget—that they could hope for exercising their legitimate share of power only in a parliamentary structure where the focus of political authority happens to centre round the parliament. It was in such a system that their numerical strength could be expected to be well represented and consequently they could hope to play an effective role in the affairs of the nation and making and implementing decisions. Thus the demand for the restoration of parliamentary democracy had become the new focus of East Pakistani leadership. Within a week of the coming of the constitution into operation 60 out of 78 East Pakistani members of the National Assembly presented to the government a series of demands for an early revision of the constitution, a return to party politics and restoration of political rights of the people within a parliamentary framework.<sup>10</sup> These were the minimum conditions on which the Bengali group was willing to co-operate with the government.

The term 'autonomists' 'regionalist' will be applied in this paper to those sections of East Pakistani elites who considered regional autonomy as an essential condition of national integration in Pakistan. The term 'Centralist' shall be referred to those leaders who regarded, in opposition to the 'autonomists', that the key to nation-building lay in a strong central government under a Presidential constitution.

10. The minimum demands, among others included : (i) democratisation of the constitution and justiciability of fundamental rights ; (ii) no detention without trial and all political prisoners should be released at once ; (iii) the right to form political parties should be restored ; (iv) budget and money bills should be voted by the National Assembly ; and (v) removal of economic disparity between the two regions of Pakistan. *The Pakistan Times* (14 June 1962).



If taken on face value, these demands implied a drastic revision of the constitution.

President Ayub Khan backed by the army and the bureaucracy was, however, in no mood to accept any dictation from a powerless legislature. In order to counteract this move, he promptly offered political appointments, that is, cabinet posts and positions of Parliamentary Secretaries,<sup>11</sup> as a bait to the East Pakistani members. This was clearly intended to divide the rank and file of their group within and outside the legislature. Immediately following this the five senior East Pakistan leaders accepted Ministerial positions without having any prior consultation with their group.<sup>12</sup> At this the East Pakistani group reacted sharply, and passed at a caucus of 62 members a vote of censure against them.<sup>13</sup>

Outside the parliamentary forum, nine prominent political leaders—Nurul Amin (M. L.), Aaur Rahman Khan (AL), Abu Hossain Sarkar (KSP), Sheikh Mujibur Rahman (1920—1975, AL), Syed Azizul Huq (b1912, KSP), Hamidul Huq Choudhury (b1903, KSP), Yusuf Ali Choudhury (1909-1971, KSP), Mahmud Ali (1922, NAP), and Pir Mohsinuddin Ahmed (b1921, NI)—issued a joint statement, denouncing the 'Ayub' constitution as 'unworkable' as it was fundamentally based on a distrust of popular will, and urged for a "special body to be elected" to draft a new constitution so as "to make its acceptance unquestioned by the people."<sup>14</sup> The demand of the nine leaders for a new constitution was endorsed by a mammoth public meeting (of more than 200,000 people) held at Dacca for the first time after the withdrawal of Martial Law.<sup>15</sup> This was followed by a series of meetings all over East Pakistan demanding repeal of the constitution.<sup>16</sup> Simultaneously, Khan Abdul Qayyum Khan (1901-1981), the President of the old Muslim League, was engaged in mobili-

11. The President announced that excepting the specialists most of the new ministers would be appointed from amongst the members of the Assembly. *The Pakistan Observer* (19 May 1962). Besides, the posts of seventeen Parliamentary Secretaries authorised by the Constitution, waiting to be filled by the President, were open. President announced; To those of you who share my views ... I extend an invitation to come forward and collaborate with me in my difficult task ... *Ibid.* (10 June 1962).

12. Messrs Mohammad Ali Bogra (1909—1963), Abdul Monem Khan (1902-1971), Khan Abdus Sabur Khan (1910—1982), Fazlul Qadir Chowdhury (1919—1972) and Wahiduzzaman (1912— ).

13. *The Pakistan Times* (15 June 1962).

14. *The Pakistan Observer* (25 June 1962).

15. *Ibid* (9 July 1962).

16. See *The Pakistan Observer*, *The Daily Ittefaq* (July 1962).



sing mass opinion in West Pakistan for the repeal of the presidential constitution. Khan Abdul Qayyum Khan's attack on the constitution in public meetings ultimately led to his arrest on 7 July 1962.<sup>17</sup>

The opposition of the East Pakistani leaders and other forces to the constitution outside and the demand for the removal of all restrictions on political activity articulated by Maulvi Farid Ahmad<sup>18</sup> inside the National Assembly caused a great concern to the government leaders. They in fact apprehended that these forces might ultimately succeed in organising a United Front against the government. The demand for the restoration of political parties had gained such widespread popular support that several members of the National Assembly were considering whether they could introduce private bills for the legalisation of political parties. Therefore in order to forestall an eventuality of a private bill on the subject, the government leaders themselves hurriedly introduced a bill on 30 June 1962.<sup>19</sup> Under the bill the political parties were allowed to revive their activities, but it laid down serious limitations and restrictions. The Bill restrained the political parties from associating themselves with the EBD leaders of the parliamentary era. This move was severely criticised by the opposition.<sup>20</sup>

In the teeth of the opposition, it was difficult on the part of the government to muster the two-thirds majority in the National Assembly in order to secure the passage of the Bill.<sup>21</sup> However, the government maneuvered by using coercion, patronage, and political bribery to secure the

17. *Ibid* (8–9 July 1962).

18. Maulvi Farid Ahmad of former Nizam-i-Islam was the leader of the Pak People's group of twenty East Pakistanis in the National Assembly.

19. The Bill was drafted in so haste and presented in such a hurry that even the government mouthpiece, *the Dawn* felt obliged to comment: "Drafted in haste and introduced in a hurry—presumably to forestall any private Bill on the subject—the Bill introduced by the Law Minister...to provide for the formation and regulation of political parties in the country seems an ill-fitting patch work." *The Dawn* (3 July 1962).

20. For details, see Saleem M. M. Qureshi, "Party Politics in the Second Republic of Pakistan" *The Middle East Journal*, Vol. 20 (Autumn 1966), pp. 456–72.

21. From the very beginning the President had the solid support of some fifty West Pakistani members of the National Assembly. *The Pakistan Observer* (10 June 1962). The East Pakistani Ministers did succeed in bringing about twenty-eight East Pakistani members into the Presidential fold. The Presidential supporters however, had such a party position that when the 'opposition' staged a walk-out in protest against the arrest of Khan Abdul Qayyum Khan, there remained only sixty one members in the National Assembly. *Ibid* (9 July 1962).



necessary support in the Assembly, <sup>22</sup> and ultimately the Political Parties Bill was passed on 14 July 1962 without any dissenting vote.<sup>23</sup>

The passage of the Political Parties Act evoked widespread resentment in East Pakistan. The printed copies of the Act were burnt in public by the students of the Dacca University. The political leaders of the pre-1958 era mutually resolved and pledged that they would stand together and would not revive political parties until the restoration of full democracy.<sup>24</sup>

Nevertheless two of them the Jamaat-i-Islami, a predominantly West Pakistani party, and Nizam-i-Islam, decided to revive their activities. Neither the Muslim League nor the Awami League could be revived as most of their leaders were in jail, or disqualified or opposed revival. In these circumstances the Presidential supporters planned to set up a party under a prestigious name and that could only be the Muslim League. Since the old guards in the League ranks would have been the obvious persons to retain the leadership in case of revival of the Muslim League, the President's supporters became interested in the reorganisation of the Muslim League to the exclusion of most of the old, influential politicians. Though President Ayub was at first afraid that "a political party organised from the official heights will be branded from the start as the 'Kings Party' or the Palace Party"<sup>25</sup> he ultimately blessed the revival of the Muslim League by calling a convention at Karachi on September 3-4, with Choudhury Khaliquzzaman, an old guard and a former Governor of East Pakistan, as the Chief Organiser.<sup>26</sup> The Pakistan Muslim League (conven-

22. How the government secured the necessary two-thirds majority to pass the government bills and to amend the constitution from time to time has been well described in Khalid B. Sayeed, *The Political System of Pakistan* (Boston: Houghton Mifflin Company, 1967), pp. 105-107.

23. Two motions of amendments moved by the opposition were defeated by sixty-six to forty three and sixty-two to thirty votes. In protest against the arbitrariness of the government, the opposition group finally staged a walk-out. *The Pakistan Observer* (12-15 July 1962).

24. A group of old Muslim Leaguers in East Pakistan led by Nurul Amin and Shah Azizur Rahman insisted that the political parties could not be revived until the infrastructure for open political activity was created by achieving democratisation of the 1962 constitution and restoration of the fundamental rights to the people. *Ibid* (19-25 July 1962). Also cited in Qureshi, *op. cit.*

25. 'Editorial, *The Dawn* (31 July 1962).

26. *Dawn* (5 September 1962). According to reports, only the hand-picked supporters of the members of the Presidential cabinet were invited. The Home Minister declared that non-invitees would not be permitted to attend. Many old guards, such as Mumtaz Daultana and his supporters, and Abul Kashem Khan (1907- )



tionist) as it came to be called, however, found it difficult to enlist public support; so Field Marshal Ayub Khan was requested to join the party as its Chief Organiser in May 1963; and in December 1964, he was unanimously elected the President of the Pakistan Muslim League (PML). The party's support mainly came from West Pakistan. In East Pakistan, it failed to mobilise mass support for the government, and could not persuade the intelligentsia to accept the new constitution.<sup>27</sup> On the other hand, the old guards of the Muslim League who still constituted the majority of the pre-1958 M. L. councillors reorganised the Council Muslim League according to the old constitution of the Muslim League<sup>28</sup> and elected Khwaja Nazimuddin (1894-1964) as the President. Khwaja Nazimuddin declared that the League of which he was the President was the only genuine successor of the old Muslim League. He also declared that the PML (Councillist) stood for a programme for "introduction of democracy, adult franchise, sovereignty of the parliament, justiciability of the fundamental rights and rule of the people, for the people and by the people."<sup>29</sup> Thus a split in the ML became complete.

The Awami League, a predominantly East Pakistan party, was not revived so long Huseyn Shaheed Suhrawardy (1893-1963) was alive. After his release from jail,<sup>30</sup> Suhrawardy expressed himself against the revival of political parties and declared that he had "no intention to revive

were not invited. While some others, such as Nurul Amin, Yusuf Khattak, Sardar Bahadur Khan (President's Younger brother), Maulana Akram Khan (1869-1969), and Chaudhury Nazir Ahmed were invited, but they declined the invitation. Even the pro-government *Dawn* condemned the move of the Ministers "as a disguised attempt by the Muslim Leaguers in power to capture the organisation and turn it into their handmaiden." For details, see *Dawn* (31 July, 27 August, 7-10 September 1962).

27. The constitution of the PML (conventionist) was also very similar to the Pakistan Constitution of 1962. The President of the Party appointed or nominated other office bearers of the party. The President wanted to appoint an East Pakistani as the Secretary-General of the Party, but no prominent Bengali was willing to accept the offer. *The Pakistan Observer* (27 December 1963).
28. The provisions of the M. L. constitution authorised 75 councillors to requisition a meeting and on the request of 75 Councillors, Abul Kashem, Junior Deputy Speaker of the National Assembly (1962-65) and Joint Secretary of M. L. until 1958 called the meeting at Dacca on 27 October, 1962).
29. *Dawn* (29 October 1962).
30. On his arrival at Dacca, immediately after his release from Jail in September 1962, Suhrawardy was accorded a reception by more than 200,000 people which even, according to the pro-government newspaper, *The Dawn* "no leader after the Qaid-i-Azam had the fortune to receive in East Pakistan," *Dawn* (17 September 1962),



the Awami League"; instead, he mooted the idea of forming "a United Front of all the political parties" to fight for the restoration of democracy in the country.<sup>31</sup> The suggestion was well received by the leaders of the Jamaat-i-Islami, the Nizam-i-Islam, the Pakistan Council Muslim League, National Awami Party, Krishak Sramik Party and the non-revivalist Muslim League group led by Nurul Amin. Suhrawardy's idea was to put up a joint opposition against Ayub Khan.

On 4 October 1962, Suhrawardy announced the formation of the National Democratic Front popularly known as the NDF as "a movement for the restoration of democracy" and not a party as defined in the Political Parties Act. The NDF stood for one-point programme—the democratisation of the constitution and declared that none of the signatories would accept any office under the new government.<sup>32</sup> In expounding the political goal of the NDF, Suhrawardy observed that it stood for :

the principle that Pakistan belonged to its people and not to any person, a group, or a party and that no one has the authority to deprive the people of their inalienable rights of freedom and democratic exercise of the supreme authority of the state.<sup>33</sup>

The NDF, according to Von Vorys, "seemed to be a popular mass movement, spearheaded by a phalanx of national leaders and dedicated to the total destruction of the President's political system".<sup>34</sup>

The government reacted sharply and decided to take strong measures against the NDF which initiated a mass movement taking advantage of a lacuna in the Political Parties Act. Under the Act, the EBD Oed politicians, were only debarred from activities of the political parties, but this did not apply to the NDF since it was supposed to be a movement rather than a political party. On 8 January 1963, the President promulgated two Ordinances amending the Political Parties Act (1962). The first amend-

31. *Ibid* (25 September 1962)

32. Suhrawardy released a list of the names of 54 (fifty-four) leaders from both East and West Pakistan who had joined the movement. The most important ones included in the list are : Fazlur Rahman (1905—1966), Nurul Amin, Aatur Rahman Khan, Sheikh Mujibur Rahman, Hamidul Huq Chaudhury, Syed Azizul Huq, Mahmud Ali and Pir Mohsinuddin from East Pakistan and Maulana Abul Ala Maududi (1903—1979), Yusuf Khattak (1917— ), Sardar Bahadur Khan (1908— ), Mumtaz Daultana, Z.H. Lari, Ghulam Ali Talpur (1909— ), M. A. Khuro (1901—), and Chaudhri Mohammad Ali (1905—1980) from West Pakistan.

33. *The Pakistan Observer* (5 October 1962).

34. Karl Von Vorys, *Political Development in Pakistan* (Princeton : Princeton University Press, 1965), p. 258,



ment sought to redefine the term 'political activity' so as to include "a group or combination of persons operating for the purpose of propagating any political opinion or indulging in any other political activity". It also authorised the government to direct any disqualified person not only to refrain from becoming members or office bearers of any party, but also from "otherwise associating themselves" with any kind of political activity including holding of press conferences and issuing of public statement for six months. The second Ordinance authorised the President to remit the disqualification against any EBDOed leader on application by the individual concerned.<sup>35</sup> The Ordinances were directed on the one hand to deprive the NDF of some of its important leaders; on the other, to seduce some of the leaders who wanted to take advantage of the Ordinance to apply for the removal of the disqualification and join the President's party.

In December 1963, Suhrawardy died in Beirut. On 25 January 1964, the Pakistan Awami League was revived with Nawabzada Khwaja Nasrullah Khan as the President. Sheikh Mujibur Rahman was elected the General Secretary of the East Pakistan Awami League. The party assured full support to the National Democratic Front.<sup>36</sup> The National Awami Party, already revived on 31 August 1963, at a meeting under the Chairmanship of Maulana Abdul Hamid Khan Bhashani (1885—1976) had also committed itself to working in cooperation with the NDF for the restoration of democratic process.<sup>37</sup> In March 1964, an NDF Conference was held at Dacca and it was attended by all the leading political personalities of East Pakistan. Each of the speakers gave a clarion call to all democratic forces to sink their differences and unite on one platform to wage a struggle for the restoration of the democratic rights of the people.<sup>38</sup> An East Pakistan NDF Committee was constituted with Nurul Amin as the Chairman. In spite of division in the ranks of the opposition and the government's frequent use of coercion against the opposition elements, the NDF remained the most important political force in East Pakistan.<sup>39</sup>

The approaching national elections in 1964-65 offered a golden opportunity to all democratic elements to patch up their differences. In July 1964, the Awami League, the Council Muslim League, the

35. *The Pakistan Observer* ( 8 January 1963 ).

36. *Dawn* (26 January 1964),

37. *The Pakistan Observer* ( 1 September 1963).

38. *The Daily Ittefaq* (4—6 March 1964).

39. Von Vorys, *op. cit.*, pp. 262—268.



Jama'at-i-Islami, the Nizam-i-Islam, and the National Awami Party supported the idea of a United Front for fighting the elections. After a joint meeting of all the political parties, the leaders announced the news of the formation of the Combined Opposition Parties (COP) and their resolve to put up a common candidate for the Presidency.<sup>40</sup> The NDF did not formally join the COP but endorsed its nine-point programme which included: (i) the achievement of a fully democratic constitution; (ii) the direct elections of the National and Provincial Assemblies; (iii) full legislative and budgetary powers for them; (iv) a federal parliamentary structure with built-in provincial autonomy consistent with the integrity of Pakistan and parity at the center; (v) curtailment of the Presidential powers; (vi) separation of the judiciary from the executive; (vii) Supreme Court's right to determine the constitutional validity of the laws; (viii) release of all political detenus; and ix) repeal of all repressive laws.<sup>41</sup>

The Combined Opposition Parties (COP) decided to nominate Miss Fatima Jinnah (1894–1967), sister of the Quaid-i-Azam Mohammed Ali Jinnah (1876–1948), popularly known as Mother-i-Millat to contest the election against President Ayub Khan.<sup>42</sup> Like her illustrious brother, she

40. *The Pakistan Observer* (22 July 1964).

41. *Ibid* (25 July 1964), For the COP Manifesto, also see *The Dawn* (31 October, 1964).

42. Mother-i-Millat or Madar-i-Millat literally means Mother of the Nation. Ever since the death of the Quaid-i-Azam, she was respectfully addressed as the Mother of the Nation. The selection of Miss Jinnah was revealed in a Karachi daily in 1966 about fifteen months after the presidential election as having been more or less forced upon the COP. This was due to the diversity of feeling and purpose among the diverse components of the COP which prevented agreement on a mutually acceptable candidate. The interesting story about the manner of Miss Jinnah's selection as a presidential candidate they would all support was that she must be an unanimous choice of all the constituent parties. To this Maulana Bhashani, the President of the National Awami Party, added the condition that no one who had been associated with the declaration of Martial Law in 1958 would be acceptable. It was difficult to refute the reasonableness of the suggestion, but this eliminated the possibility of Lt. General Mohammad Azam Khan's candidature who would have been a popular choice. General Azam Khan was one of Ayub's erstwhile colleagues associated with the imposition of Martial Law in 1958, but later he became so popular as Governor in East Pakistan during 1960–62, that he developed differences with the President over the issue of constitution promulgated in 1962, quarrelled with him, resigned and joined the political opposition. As an election rival he might have proved formidable and was thought of carrying East Pakistan in the election. But his chances as the Presidential candidate were nullified by Maulana Bhashani's stratagem. It is held that Ayub's Foreign Minister Z. A. Bhutto engineered this strategy and worked



had been a staunch advocate of constitutionalism and democracy. Naturally, therefore, she could not approve of the constitutional autocracy envisaged in the 'Ayub' Constitution. On many occasions she had openly criticized the Ayub regime and its policies. Above all, she possessed character which was beyond any reproach. For these reasons, the NDF adopted a resolution supporting Miss Jinnah as their Presidential candidate.<sup>43</sup>

The enthusiasm for the restoration of democracy in the country had reached such heights that people did not mind the candidature of a woman for the Presidency of the Islamic Republic of Pakistan.<sup>44</sup> Even the Central Council of the religious party—the Jama'at-i-Islami, a constituent member of the COP came out with a religious verdict in which the leader of the party, Maulana Maududi (1903—1979) declared: "in the present unusual situation the candidature of a woman as the Head of the State is not against the Shariat."<sup>45</sup>

The COP did not represent a new party with a complete merger of the constituent parties; rather it was a grand alliance for electoral contest. Therefore, the candidates for the National and Provincial Assembly seats

it through his friend Mashiur Rahman, a leader of the NAP and disciple of Maulana Bhashani.

In 1969, new revelations lent credence to the story. The *Daily News* published that before the 1965 election Bhutto had negotiated a deal with Mashiur Rahman, by which a sum of Rs. 5 lakhs was paid, and, in return, the NAP was to ensure Miss Jinnah's defeat. The story was revealed by Sheikh Karamatullah, General Secretary of the *Tasnim-i-Islam* (Karachi) who claimed that the information had been supplied to him by Mahmoodul Haq Usmani, General Secretary of the NAP. Karamatullah challenged President Ayub Khan and Bhutto to deny this on oath, but neither of them ventured any public comments. A few days later M. H. Saiyid, a former Secretary and biographer of M. A. Jinnah, confirmed in a statement in the same newspaper what Karamatullah had said and added more details.

It appears probable that Ayub Khan penetrated the COP Organization, and there was at least one person in the higher command of the COP who kept the President informed about his opponent's thinking and intentions during the election campaigns. It was intended to challenge Ayub Khan's candidature in the Supreme Court by reason of the fact that he was holding the rank of Field-Marshal, a challenge it might have been difficult to meet. This plan was betrayed and President Ayub Khan took the necessary steps to have Army orders issued, with retrospective effect, to regularise his position. For details see *Daily News* [Karachi] (27 November, 4 December, 1969). Herbert Feldman, *From Crisis to Crisis* (London: Oxford University Press, 1972], pp. 69—72.

43. *The Pakistan Observer* (6 October 1964).

44. According to the Laws of Islam, a woman is not generally entitled to become the Head of the State. For detail information, see *Dawn* (25 September 1964).

45. *The Pakistan Observer* (3 October 1964).



were jointly chosen on the basis of mutual agreement and exigencies of election politics.

The political adversaries—President Ayub Khan and Miss Fatima Jinnah—waged most vigorous and organized election campaigns in order to enlist support of the Basic Democrats. The government arranged ‘projection meetings’ of Basic Democrats at public expense at which the Presidential candidates were invited to address and reply to questions. While Field-Marshal Ayub preferred to concentrate on government-sponsored gatherings of the members of the electoral college, Miss Jinnah preferred to address mass rallies. Miss Jinnah in her (J.F.) Kennedy-style campaign exhibited an extraordinary capacity to rally popular support to her cause. She proved to be very popular in East Pakistan where the campaign for parliamentary democracy and the restoration of fundamental rights had turned out to be an article of faith with the people. Hundreds and thousands of people waited at the railway stations and airports for hours together to listen to her.<sup>46</sup> At first the government tried at some places to coerce the opposition in East Pakistan. Opposition party workers at Rajshahi, Khulna and other places were hunted out by the police; students were Jailed; and Farid Ahmad (1923—1971), leader of the Pak People’s group in the National Assembly, was arrested. In protest, East Pakistan observed a general strike on 29 September 1964. It was peaceful everywhere excepting in Chittagong where 150 persons were injured in a clash with the police. But the strike was total and in Dacca it was so successful that even the clocks, as *the Pakistan Observer* reported, stopped ‘ticking’.<sup>47</sup>

President Ayub in the beginning decided to appear only before his party workers and Basic Democrats—the electors. In view of the growing popularity of Miss Jinnah, Field Marshal Ayub Khan changed his mind and decided to address also public meetings in order to counteract the new style of the opposition campaign. The Governors, the Central and Provincial Ministers and the Parliamentary Secretaries were sent in the interior of the provinces to mobilize public support for President Ayub Khan.

46. The popularity of Miss Jinnah and the kind of reception she was accorded in East Pakistan can be judged from the following passage; “The welcome she received during her week-long East Pakistan tour was even more frantic; whole towns and villages came out to demonstrate their ‘smothering affection.’ The Green Arrow, East Pakistan’s fastest express train, which carried her from Dacca to Chittagong, crowded along at the rate of seven miles an hour; it took more than twenty-eight hours to cover the 196-mile journey, normally covered in seven hours. Everywhere the most characteristic feature of her receptions was their spontaneity and sincerity.” Sharif al-Mujahid, *op. cit.*, p. 285.

47. *The Pakistan Observer* (30 September 1964).



Miss Jinnah also had the support of a galaxy of opposition leaders, ex-Governors, ex-Prime and Chief Ministers, including Chaudhri Mohammad Ali (1905—1980), Nurul Amin, Aatur Rahman Khan, Mumtaz Daultana, (b.1916— ), and last but not the least, General Mohammad Azam Khan, the Governor of East Pakistan during Martial Law.

The campaign dialogues between Field Marshal Muhammad Ayub Khan and Miss Fatima Jinnah mainly focussed on the nature of the new political system.<sup>48</sup> President Ayub Khan emphasized mostly on the achievements of his regime in respect of economic development, general progress and political stability in the country.<sup>49</sup> He denounced the COP leaders as 'anti-social' elements, disruptionists, and enemies of the state and repetitiously referred to the chaos and confusion that prevailed prior to the 1958 'revolution'.<sup>50</sup> In the course of a public speech in East Pakistan earlier, he warned that the victory of the opposition parties demanding direct elections "could mean separation of the two provinces and that the country could be handed over into the slavery of aliens."<sup>51</sup> On the other hand, Miss Jinnah championed the cause of the restoration of democracy, parliamentary form of government, adult franchise and direct elections. She openly accused the President of having established a naked dictatorship in the country and indicted the regime for corruption and nepotism.<sup>52</sup>

The elections of the Basic Democrats were held in November, 1964. The COP set up their own candidates by issuing party tickets, but the Pakistan Muslim League for obvious tactical reasons decided not to put up candidates so that they might have enough scope for maneuvering to get the support of the Basic democrats elected on opposition tickets, or as

48. See Von Vorys, *op. cit.*, pp. 275—87. Also see Sharif al-Mujahid, "Pakistan's Presidential Elections", *Asian survey*, Vol. 5 (June 1965), pp. 280—294.

49. Also See President's speeches published in *Dawn*, *The Pakistan Times*, *The Pakistan Observer* between October, 1964 and April, 1965. For instance see *Dawn* (16 August, 5—7, 26 and 31 October 1964). See President's Manifesto reprinted in Mohammad Ayub Khan, *Friends Not Masters: A Political Autobiography*. (New York: Oxford University Press, 1967); *Dawn*, 26 October 1964, pp. 250—53.

50. *Dawn* (5—7 October 1964). The President compared the COP with the Jugto (United) Front of East Pakistan in 1954 which was termed as a confused jumble of heterogeneous parties of the COP's nine-point programme was compared with the Jugto Front's utopian Twenty-One-Point Manifesto.

51. *The Pakistan Observer* (16 March 1964).

52. See the speeches of Miss Jinnah in *Dawn*, *The Pakistan Observer* between September and December, 1964. Also see al-Mujahid, *op. cit.*



Louis Dupree puts it. "to move in for the kill."<sup>53</sup> After the elections, both the PML as well as the COP made claims and counter-claims to the effect that they had the overwhelming support of the Basic Democrats.<sup>54</sup> If the popular support was an appropriate index, and reports of the local newspapers and foreign observers had any validity, the claim of the COP was nearer the truth.

The Presidential elections were scheduled to be held on 2 January 1965. The newly elected 80,000 Basic Democrats, constituting the electoral college for choosing the President and the Assemblies, preferred to be non-committal and chose to remain open to persuasion, or even auction of their votes to the highest bidder.<sup>55</sup> The Basic Democracies elections, if the local newspaper reports, and comments and reports of the foreign observers have any basis despite the climate of repression in which the press worked, demonstrated that there was an overwhelming support to the struggle for the restoration of democracy. But it was to be proved beyond doubt that the verdict of the people had no bearing on the elections as the Basic Democrats, once elected, were under no obligation to vote according to the directions of the opposition which had originally nominated them. Moreover, immediately after the elections, they were integrated with administration and brought under the official control, and as such the officers were in a position to influence the Basic Democrats in respect of their electoral preferences, particularly in the rural areas. However, in urban areas the Basic Democrats for their higher level of education and political awareness were less susceptible to official pressures.

Miss Jinnah campaigned for direct elections and parliamentary democracy. Here she obviously was at a disadvantageous position. Though she had the vast popular support which the PML (conventionist) lacked, she had not the same appeal to the Basic Democrats as the President had. President's appeal to the Basic Democrats had definite connotations. It

53. Louis Dupree, "Pakistan 1964—1966, Part I; The Government and the Opposition". *American Universities Field Staff Reports Service*, South Asia Series, vol. X (5), LD—5—1966, p. 4.

54. The PML claimed that 83.1 per cent of the successful candidates in West Pakistan and 85.0 per cent in East Pakistan belonged to the party. The COP claimed 65.0 per cent in West Pakistan and 85.0 per cent in East Pakistan. *Dawn* (11, 12 and 17 November 1964).

55. For Example, Lapping cited the case of a candidate for the National Assembly who had confided to the author that he had spent approximately 25,000 sterling pounds (\$60,000.00) for bribing the Basic Democrats in a big city. Brian Lappings, "Pakistan's Half-hearted Democracy," *The Manchester Guardian Weekly* (2 March 1967), p. 5.



was he who alone was the source of their importance and prestige and for their access to huge public funds for local community works without any audit. But though Miss Jinnah emphasised that the Basic democracies would be given more local powers, she, if elected, would restrict their role to local councils' activities and deny them their opportunity to serve as the electoral college for the election of the President and National and Provincial Assemblies. Thus the result was at anybody's guess.

There were also widespread rumours that President's rule was inevitable. Because during the election campaign the President made a significant speech in which he declared that he would not hesitate to bow down before the verdict of the people if the election went against him; it, however, contained a threat of serious magnitude 'that the revolution of 1958 would be regarded quite mild compared to the one' "which would follow" if "the Basic Democrats acted in a stupid way."<sup>56</sup> Moreover, President Ayub issued a personal letter to the Basic Democrats appealing to their 'good sense' and even their 'self-interest.' They were reminded that they were the "custodians of this [Basic Democracies] system," and that it was their responsibility "to guard it against those" who were out to destroy it and their "position in it."<sup>57</sup>

It is often contended that if the election had been held on adult franchise, Miss Jinnah would have carried East Pakistan by a big margin. Miss Jinnah carried both the region's Metropolises—Karachi and Dacca and won out of the country's sixteen divisions a majority in Karachi Division in West Pakistan, and Dacca and Chittagong Division, (out of four) in East Pakistan which contained more than half of East Pakistan's total population. The tempo of Basic Democracies elections was such that had the elections been held within a fortnight and had the contest been held not with a sitting President, the outcome of the contest might have been different. As the elections neared, Louis Dupree has mentioned, President Ayub ran a little scared, and he was reported to have confided to his close associates that if Miss Jinnah won, "The nation could have her" and that he would leave Pakistan.<sup>58</sup> However, as anticipated, Field Marshal Ayub Khan won the election by a comfortable margin. He received 49,951 to Miss Jinnah's 28,691 votes—securing a majority in both the provinces—West Pakistan by 18,682 and East Pakistan by a small margin of 2,578

56. *Dawn* (9 November 1964).

57. *The Pakistan Observer* (12 November 1964); Also see *Dawn* (13 December 1964).

58. Louis Dupree. *op. cit.*, p. 18.



votes.<sup>59</sup> Similarly, the President's party swept the polls in the elections of both the National and Provincial Assemblies.

The elections to the National and Provincial Assemblies were held at an interval of about two months on 21 March and 16 May, 1965 respectively. It was found that in all subsequent elections the influence of the opposition over the Basic Democrat voters gradually declined. Government also tried to frighten the voters by arresting a number of opposition leaders before the Assembly elections. In the national Assembly elections, the Pakistan Muslim League (Conventionist) secured 115, COP 9, NDF 4 and independents 18.<sup>60</sup> Interestingly only one opposition member in West Pakistan was successful.<sup>61</sup> The explanation for this lies in the fact that when President Ayub had been elected, it was of no use to vote anybody other than Ayub's own nominees. This attitude was also reflected in the voting procedure in East Pakistan.<sup>62</sup> If the voting for the Presidential candidates was any index, then out of 75 general constituencies at least 35—40 per cent of the members should have been elected from the opposition. In Mymensingh District, which President Ayub won by 2765 to 2688 seats<sup>63</sup>, the PML secured most of the seats.

In the Provincial Assemblies, the PML made a clean sweep in the West Pakistan Assembly by capturing 96 seats (in a House of 155). 49 seats went to the independent candidates, and again only one seat was won by a COP candidate.<sup>64</sup> Most of the independent members later joined the government party. In East Pakistan, the PML secured 66 seats securing 8187 votes out of a total of 37,233 votes cast. The PML defeated candidates secured 23,089 votes.<sup>65</sup> Many constituencies had too many contestants among the opposition, in many cases encouraged and financed by the

59. *Pakistan Affairs* (16 January 1965). In West Pakistan, Ayub secured 73.3 per cent and Miss Jinnah 26.7 per cent votes; in East Pakistan 52.9 per cent and 46.5 per cent respectively.

60. Cited in Von Vory's *Political Development in Pakistan*, p. 189. For details, also see Sharif al-Mujahid, "The Assembly Elections in Pakistan," *Asian Survey*, Vol. 5 (November 1965), pp. 538—551.

61. *Dawn* (22 March, 1965).

62. The same was the case in the voting procedure in the general elections in Bangladesh in 1979.

63. *Pakistan Affairs* (16 January 1965).

64. *The Pakistan Observer* (17 May 1965).

65. *The Daily Ittefaq* (18 May 1965).

In East Pakistan, in all 39 per cent votes were cast in favour of the PML and 61 per cent in favour of the COP and independent candidates.



government party from behind the scene. This helped the government or independent candidates to win the election in some constituencies even securing about 25 per cent of the votes cast.<sup>66</sup> It may be pointed out the President's party demonstrated its ability to manage and somehow win the election through the Basic Democrats, and also because of the division in the ranks of the opposition, particularly in East Pakistan. Otherwise, the President's party, as Von Vorys has pointed out, "still has no confidence in winning a popular contest."<sup>67</sup>

The general elections in Pakistan under the 1962 constitution was not political fights among political parties based on principles and ideologies. They were reduced to a grotesque auction of votes in which the highest bidder could win. Indeed, money had replaced politics in the elections, and it appeared, politics was slipping out into the hands of the non-practitioners of politics, where there was money.<sup>68</sup>

Immediately after the elections, the opposition in East Pakistan, lost much of its force. However, the movement for the restoration of democracy and direct elections gained a new momentum after the 1965 India-Pakistan war. During the war East Pakistan was completely cut off from West Pakistan and the rest of the world. East Pakistanis felt defenceless and isolated, and they were reinforced in their belief in the futility of a centralized Presidential system. In February, 1966, Sheikh Mujibur Rahman, General Secretary of the East Pakistan Awami League, enunciated his "Six-Point Charter of Survival Programme" for East Pakistan. He proposed a federal parliamentary form of government in which all subjects except defence, foreign affairs and currency "shall vest in the federating states."<sup>69</sup> At a press conference, Sheikh Mujibur Rahman emphasised

66. In PE-104 Mymensingh 15 Constituency, there were as many as 12 candidates and an independent candidate won the election securing only 63 votes out of 232 votes cast; defeating the PML candidate by 63 : 61 votes. *The Pakistan Observer* (17 May 1965).

67. Karl Von Vorys, *Political Development in Pakistan* (Princeton; Princeton University Press. 1965). p. 295.

68. 80,000 Basic Democrats constituted the electoral college for the election of the President. There were about 550 Basic Democrat voters in a National Assembly constituency, and about 275 voters in a Provincial Assembly constituency. This limited number of voters provided a 'manageable' universe for all kinds of political bribery and corruption. Therefore, corruption, if not rigging, was inherent in the electoral system of the 1962 constitution. For details, see Brian Lapping, *op. cit.*

69. *Morning News* (12 February 1966). The six-point programme propounded by Sheikh Mujibur Rahman included: (i) parliamentary form of government, and



that the experiences during the war have convinced all East Pakistanis more than ever before that the solidarity and integrity of the country could be maintained only by guaranteeing full regional autonomy to East Pakistan on the basis of the Lahore Resolution and thereby making East Pakistan self-sufficient and self-contained in all respects.<sup>70</sup> Sheikh Mujib also contented that a strong centre does not necessarily imply a strong country; on the contrary, it is the strong federating units which can lend strength to the nation. Hence, under the circumstances, he termed the six-point programme as "the only programme" which would "be able to maintain the oneness and solidarity of the country."<sup>71</sup>

The demands for parliamentary system, provincial autonomy and direct elections as articulated by the East Pakistani elites were not the demands of East Pakistan Awami League 'autonomists' or 'separatists' alone; as mentioned, these were the common goals of all of the political parties in East Pakistan excepting the PML Conventionist Party, and all opposition parties in West Pakistan. An analysis of the demands of some prominent East Pakistani leaders who were even opposed to Sheikh Mujibur Rahman's ideas will clearly bring out that all of them stood, more or less, for the same objectives.

Nurul Amin (1897—1974), a former Muslim League Chief Minister of East Pakistan (1948—54) and the Leader of Opposition in the National Assembly (1965—69) maintained that national integration could be

legislature elected on the basis of adult franchise; (ii) federal government with powers limited to defence, foreign affairs and currency leaving the federating provinces with complete autonomy; (iii) either a single currency with separate banking reserves for each province, or two separate but freely convertible currencies for the two regions; (iv) the provinces with exclusive authority to levy taxes and collect revenues, and the federal government to have a fixed share of all taxes; (v) the independence of the two provinces in international trade and their exclusive control over foreign exchange earnings; the foreign exchange needs of the federal government are to be provided by the two provinces either equally, or at a mutually agreed ratio; and free movement of domestic products between the two provinces; and (vi) the development of a militia, or a para-military force under the control of the government of East Pakistan. Sheikh Mujibur Rahman, *Six-Point Formula: Our Right to Live* (Dacca 23 March 1966), pp. 2—13. At a Dacca Paltan meeting the six-point was termed as the "demand of our heart and blood, of the 55 million people of East Pakistan." *The Dacca Times* (25 March 1966).

70. *The Daily Ittefaq* (11 February 1966).

71. *Morning News* (18 February 1966). The same was the theme of Sheikh Mujibur Rahman's speeches everywhere. A month later he reiterated at Dacca "Pakistan will be strong only when both the wings of Pakistan are equally strong." *The Dacca Times* (25 March 1966).



achieved only under a parliamentary system based on the principle of regional parity within the framework of the 1956 Constitution. He was convinced that the provisions of regional parity under the presidential system would not bring about national integration. Elaborating his argument, Nurul Amin observed:

Is there any sense in incorporating this [parity] principle in a Constitution [1962] where neither the ministers are members of, nor are responsible to the House, nor is the budget subject to their vote. This eliminates the very foundation of parity. .... Parity was agreed to under parliamentary system and will be honoured on the revival of the 1956 Constitution. If the East had to earn the goodwill of the West by sacrificing its majority in the Assembly which was the fountain of power for running the government under the 1956 Constitution, may I know how the goodwill of the East can be earned under the present system when all the power is concentrated in one man of the West.<sup>72</sup>

In order to achieve national unity, Nurul Amin pleaded for a "political solution" to solve the outstanding problems between the two regions. He recalled that Pakistan with its two far-flung regions was created by a political decision, and so her problems also could be solved only through political decisions.<sup>73</sup> In the course of a speech on the national budget, Nurul Amin strongly argued for amendments of the constitution, sovereignty of the Parliament, adult franchise and direct elections for the purpose of achieving national unity and maintaining the solidarity of Pakistan.<sup>74</sup>

Ataur Rahman Khan (b. 1907), another former Chief Minister of East Pakistan (1956—58), believed that in view of the geographical bifurcation of Pakistan, a federal parliamentary form of government with full regional autonomy and direct elections on the basis of universal adult franchise were the only prerequisites for achieving national unity. According to him, defence, foreign affairs and currency should vest in the centre, and the country should be modelled into a 'two-economy' state.<sup>75</sup> He believed that in the existing geographical, economic, political and cultural environment of Pakistan, it was unrealistic to adopt unitary government. He asserted that in view of the tragic isolation of East Pakistan during the course of the war in 1965, 'one man rule', however, intelligent and meaningful, could never be a substitute for representative government which alone could be in a position to achieve national integration in Pakistan.<sup>76</sup> Shah Azizur Rahman (b. 1925), Deputy Leader of

72. *The Pakistan Observer* (20 December 1967).

73. *The Daily Ittefaq* (23 June 1965) : *The Pakistan Observer* (24 June 1965).

74. *Ibid.*

75. *The Pakistan Observer* (11 March 1966).

76. *The Pakistan Observer* (21 February 1966).



the Opposition in the National Assembly (1965—69), and later Prime Minister of Bangladesh (1979—1982), maintained in the course of his speech on the National budget of 1965—66, that regional autonomy and removal of economic disparity were the crucial factors of nation-building in Pakistan.<sup>77</sup> It will, therefore, appear from the foregoing discussion that the political parties and leaders of East Pakistan differed among themselves not on substantive but peripheral issues.

Of all the ideas projected at the time for the restoration of parliamentary system of government, direct elections, and regional autonomy, the six-point formula of Sheikh Mujibur Rahman generated a nation-wide commotion. The intelligentsia and the press in East Pakistan had hailed the formula as a sound basis for meaningful discussion on all constitutional problems which constituted the crux of regionalism in East Pakistan.<sup>78</sup> But the press and the vested interests in West Pakistan twisted the formula in interpreting it as a step towards secession.<sup>79</sup> Even the Awami League leaders in West Pakistan were reluctant to lend support to the six-point programme, and the demand for regional autonomy by the East Pakistani leaders had been opposed by all opposition parties in West Pakistan.<sup>80</sup>

The Central Government leaders read in the six points the seeds of secession of East Pakistan. The government, therefore, immediately arrested the author of the six-points and his colleagues under the Defence

77 *The Daily Ittefaq* (18 June 1966).

78. The public response in East Pakistan to the six-point programme, described by Maniruzzaman in an article accordingly: "The urban centers in East Pakistan seemed to be in the grip of a 'mass revolution' ... The 'six-point revolution' is in essence the revolution of the petty bourgeoisie of East Pakistan, who are disturbed by the competition for 'income, safety and deference' in the continuously modernizing Pakistani society and are prone to place the responsibility for their sense of frustration on to the Central Government and West Pakistan," Talukdar Maniruzzaman, "National Integration and Political Development in Pakistan," *Asian Survey* (December 1967), p. 881,

79. *The Pakistan Times*, an important daily of West Pakistan wrote: "The main threat to national unity at the moment springs from the six-point programme of the East Pakistan Awami League. This, in fact, is a programme for secession ... Those who wilfully try to divide the nation are traitors and enemy agents. They are playing India's game ... they have coated it with the sugar of regional autonomy ... To subscribe to the six-point programme is to subscribe to Pakistan's eventual dismemberment," Editorial, "A Year of Perils, A Year of Triumphs," *The Pakistan Times* (14 August 1966).

80. *Dawn* (12 and 18 February 1966).



of Pakistan Rules (DPR).<sup>81</sup> President Ayub Khan reacted sharply. Addressing a public meeting at Chittagong he denounced the authors of the six-point plan and other advocates of regional autonomy as disruptionists, traitors and enemies of the state. He considered their demand for more power for East Pakistan as a prelude to disintegration of Pakistan.<sup>82</sup> Addressing the opening session of the PML (Conventionist) President Ayub described the six-point programme merely as a "redrafting of a not too old demand for Greater Bengal."<sup>83</sup> In the concluding session of the PML meeting, President Ayub sternly warned that in order to preserve the integrity and solidarity of the country the nation should be prepared to face even 'a civil war' if thrust upon her by the disruptionists. He also declared in unequivocal terms that the government would not tolerate any attempt to tamper with the unity and solidarity of the nation at any time and threatened that "if necessary we would use the language of weapon."<sup>84</sup>

These denunciations and name-callings lashed out by the President against the East Pakistani leaders evoked consternation and resentment in East Pakistan. Almost all East Pakistani leaders with the exception of the East Pakistan Muslim League (Conventionist) described President's accusations as unwarranted and dangerous, and boldly reaffirmed their demand for regional autonomy.<sup>85</sup> Maulana Bhashani addressing a public meeting regretted the remarks made by the President and declared that his party demands "full autonomy for East Pakistan and the former Provinces of West Pakistan" on the basis of the Lahore Resolution.<sup>86</sup> The leaders of East Pakistan Council Muslim League in a joint statement regretted the

81. On 1 June 1966, hundreds of Awami League workers all over East Pakistan were arrested. To protest against these wholesale arrests, the Awami League called a provincewide observance of general strike. The police opened fire on the Procession of strikers, and more than a dozen persons were killed in Dacca and Narayanganj. *The Daily Ittefaq* (7-10 June 1966), *The Denver Post* (16 June 1966).

82. *The Pakistan Observer* (15 March 1966).

83. *The Pakistan Observer* (20 March, 1966).

84. *The Pakistan Observer* (21 March 1966).

85. See *Ibid* (11, 13, 16, 23, 26, 27 March and 4 May 1966) for the speeches of Nurul Amin, Ataur Rahman Khan, Justice Mohammad Ibrahim (1896-1966), Maulana Bhashani, Independent and opposition groups in the East Pakistan Assembly; the resolution of the National Democratic Front (NDF) and East Pakistan Councilist Muslim League.

86. *The Pakistan Observer* (26 March 1966).



threat of civil war by the President and accused him of exciting one section of the people to fight against another section instead of referring the constitutional matter as a whole to the people.<sup>87</sup> Addressing a mammoth public meeting at Dacca, Zahiruddin Ahmad (1917—19), General Secretary of all Pakistan Awami League, cautioned President Ayub against injecting 'dangerous' ideas into the brains of the people. He regretted that the President was making a serious mistake by repeating the same allegations that there was an intention to achieve independence and form 'greater Bengal'.<sup>88</sup>

Strangely enough, with the exception of the President and some of the East Pakistani members of the Presidential Cabinet, invariably all other East Pakistani members of the Presidential Party both in the Central as well as Provincial Assemblies did not utter even a word against the six-point plan. *The Pakistan Times* took notice of this, and accused the Pakistan Muslim League (conventionist—the Party supporting President Ayub Khan) leaders of East Pakistan of remaining "strangely silent, and inactive."<sup>89</sup> Of the opposition leaders in East Pakistan, only Maulana Abdul Hamid Khan Bhashani denounced the six-point formula. Though he had consistently advocated regional autonomy ever since he founded the Awami League in 1949, he dismissed the six-point on the ground that it did not include the plank of 'anti-imperialism' and branded Sheikh Mujibur Rahman and his supporters as the "puppets of American Imperialism."<sup>90</sup>

The six-point programme obviously appealed to the people in East Pakistan because it represented a concrete aggregation of all regional demands. Therefore, for many in East Pakistan condemning Sheikh Mujibur Rahman and other advocates of regional autonomy as traitors preaching 'treason' and 'civil war' was to catch hold of the wrong end of the stick. The 1965 India-Pakistan War, if anything, had proved beyond doubt that there were no traitors in the country. The same editorial of *the Pakistan Times* which denounced Sheikh Mujibur Rahman as a traitor also wrote that with the outbreak of the war almost overnight all differences melted away, personal considerations were cast aside, and a do-or-die spirit seized one and all.<sup>91</sup>

In the face of extreme repressive measures, the six-point programme

87. *Typescript Statement* (23 March 1966).

88. *The Dacca Times* (25 March 1966).

89. *The Pakistan Times* (14 August 1966).

90. *The Daily Ittefaq* (22 April 1966).

91. *The Pakistan Times* (14 August 1966).



lost its initial momentum no doubt, but a smouldering resentment persisted. Within a year, the common urge for a fundamental change in the structure of the political system provided a rallying point for the diverse opposition groups. In a meeting at Dacca on 30 April 1967, the leaders of the various opposition parties—the Council Muslim League, the Awami League, the Jama'at-i Islami, the Nizam-i-Islam, and the National Democratic Front—under the Chairmanship of Nurul Amin formally signed an agreement establishing a grand alliance under the name of the Pakistan Democratic Movement (PDM) for waging struggle for the restoration of people's rights.<sup>92</sup> An eight-point programme was adopted unanimously as the blue-print of the PDM. The programme envisaged : (i) federal parliamentary form of government, supremacy of the legislature elected on the basis of direct adult franchise, freedom of the press and independence of the judiciary, (ii) federal government to deal with defence, foreign affairs and currency, inter-wing communications and trade ; (iii) regional autonomy with residuary powers vested in the provinces ; (iv) removal of economic disparity between the two provinces, and the control of every province over its foreign exchange earnings ; (v) currency, foreign exchange, central banking, inter-wing trade, foreign trade, and inter-wing communications to be managed by a separate Board for each to be constituted on the basis of parity ; (vi) parity of regional representation to be achieved in the central institutions and public services within a period of ten years ; (vii) to achieve parity in the defence services and to establish Military Academies and Ordnance Factories in East Pakistan and to transfer the head quarters of the Pakistan Navy to East Pakistan ; and (viii) a Defence Council (constituted on the basis of parity) to ensure implementation of the above programme.<sup>93</sup> The formation of the PDM and its programme of action also provided a common basis for the opposition elements to fight the general elections scheduled to be held in 1969–70.

The eight-point programme of the Pakistan Democratic Movement was substantially a radical elaboration of the six-point programme of the East Pakistan Awami League. Under the PDM agreement a time-limit of ten years had been set for bringing about parity in all public services. It also stipulated to achieve parity in the defence forces. The six-point programme, however, did neither set any time-limit for achieving parity in public services, nor demand equality in matters of defence.

It may be of some interest to note that the opposition forces in the

92. *The Pakistan Observer* (1 May 1967),

93. *Ibid.* (2 May 1967).



process of forging a common front for the restoration of Democratic processes, had been successful in generating a broad-based consensus on all important national issues, including the crucial demands of the East Pakistani autonomists or regionalists. In comparison to the earlier Combined Opposition Parties, the Pakistan Democratic Movement was more integrated in respect of ideology, political issues, and programmes of action. Therefore, this time the opposition forces provided a more formidable challenge to the Presidential party. President Ayub, therefore, revived his stock allegations against the PDM, describing it as an alliance of the disgruntled and discredited politicians who wanted to destroy the very fabric of the state.<sup>94</sup> The government apparatus moved immediately to suppress the opposition forces in order to clear the deck for an easy electoral victory for the Pakistan Muslim League (Conventionist). The PML, like its earlier counterpart, the Republican Party formed at the behest of Major-General Iskandar Mirza (1899—1969) when he was the President of Pakistan during 1956—58, however, did not provide any substantial political support to the President; rather, it was the President himself who gave strength to the PML. Consequently, the capacity of the PML to aggregate the interests of diverse groups of the Pakistani society was dependent on the initiatives from the executive and the bureaucracy. In the course of a few years of its existence, its character, as Presidential entourage, stood thoroughly exposed before the people.<sup>95</sup> For another important reason, the PML did not prove to be a successful instrument of interest aggregation. The PML under the lea-

94. *The Pakistan Observer* (11 May 1967).

95. By far the best evaluation of the PML has been given by one of the staunch supporters of President Ayub Khan, Z. A. Suleri, an important journalist of West Pakistan. Suleri observes: "The Conventionist Muslim League, the split part of the old Muslim League, of which Ayub is President, essentially is a fissiparous body and most of its adherents are—with honourable exceptions here and there—rank opportunists, who have made a life time habit of becoming hangers-on of the powers to be. Far from providing material and substance to the build-up of the party to which they happen to belong at any given time, they prove a veritable drain on the government for while their demands for self-aggrandisement are constant, their ill reputation only brings the party discredit. Since an organization which enjoys government patronage is always in a position to command some sort of audience, the Conventionist Muslim League does appear active and contrives to remain in the public eye. But there is nothing beyond the appearance. The organization is *sans soul* and *sans appeal*." Z. A. Suleri, *Politicians & Ayub* (Lahore: The Lion Press, 1965), p. 176. The same situation existed in Bangladesh Political scene, during the regime of the President Ziaur Rahman (1936—1981) during 1977—81. For details, see *The New Nation* (Dacca) and *Hollyday* (Dacca).



dership of President Ayub Khan followed a deliberate policy of alienating the urban intelligentsia in national politics, and therefore, lost all their sympathies. As a result, the urban elites in Pakistan threw in their support to the opposition.

The growing popularity of the six-point programme among the people was causing concern to the President; consequently, the government sought to suppress the opposition by intensifying the degree of persecution. It became particularly severe towards the supporters of the six-point plan and arrested a large number of leaders and workers under the Defence of Pakistan Rules.<sup>96</sup> The situation that then existed and the crux of the problem—sterile and gloomy political climate—had been aptly described by one of the most articulate Judges of Pakistan, the late Justice M. R. Kayani (who in his life's farewell address prepared to be delivered at citizen's party at Cittagong) in the following words: "The human mind is in the gravest danger when it cannot express itself without thinking of the consequences which his expressions may have on his personal liberty".<sup>97</sup>

The hate campaign against the protagonists of the six-point plan, and a constant threat of fire and brimstone had a boomerang effect on the government itself, and isolated it from the intelligentsia and the masses more than ever before. The regime instead of trying to respond politically and reach some settlement with Sheikh Mujib, embarked on a course of head-on confrontation. It was in this situation that the 'Agartala Conspiracy Case' was hatched in December 1967 and January 1968. The Agartala Conspiracy Case, in a nutshell, charged thirty-three persons, including Sheikh Mujibur Rahman, a few other Awami Leaguers, three Bengali high ranking civil servants, and a few lower ranking Bengali officers from the Pakistan Army, Navy and Air Force with conspiracy to bring about East Pakistan's secession from the centre in collusion with India.<sup>98</sup> This case, according to a civil servant "a brainchild of Ayub Khan",<sup>99</sup> was intended to terrorise the radical autonomists into silence and win over the

96. Under the DPR more than 400 Opposition Politicians were held in detention in East Pakistan alone without trial for more than two years. *The Pakistan Times* (28 August 1967).

97. Cited in Anwar S. Dil (ed., *Perspectives on Pakistan*) (Abbotabad: Book Service, 1965), p. 224.

98. *The Pakistan Observer* (7 and 19 January 1968).

99. A. M. A. Muhit, *Bangladesh: Emergence of a Nation*. (Dacca: Bangladesh Books International Limited, 1978). p. 135.



masses by maligning the popular leaders. According to Tariq Ali, the intentions of the government to frame up this fake conspiracy case were threefold : (i) "to discredit the national movement in East Pakistan ; (ii) to convince the army that Bengalis could not be trusted in the armed forces ; and (iii) to drive a further wedge between the West and East Pakistani masses."<sup>100</sup> But this attempt on the part of the government did not work. People were not convinced and the open trial, instead of succeeding in establishing the guilt of the accused, could only expose the evil design behind the move. The open trial did actually take the lid off Pandora's box and invested the movement with a kind of martyrdom.<sup>101</sup> Sheikh Mujib under detention since 1966 became more of a hero and his popularity at the end of the case reached such a height that he became, according to a political scientist, "the veritable symbol of Bengali nationalism".<sup>102</sup> The indignation of East Pakistan came almost to a boiling point and the six-point programme became the slogan of East Pakistan.

West Pakistan, in the mean time, had also been passing through a slow process of transformation. Education, industrialisation and urbanisation had been creating a class of people who started feeling more and more dissatisfied with the existing system of power controlled by the landlords, bureaucrats, capitalists and the army. Zulfikar Ali Bhutto (1928—1979), one of the trusted lieutenants of Ayub Khan and Foreign Minister until early 1966, became the most vocal critic of the Ayub regime. Air Marshal Asghar Khan (b.1915) the Commander-in-Chief of the Pakistan Air Force until 1965, entered politics against Ayub Khan and his political system. Both acted as a catalyst to ignite the anti-Ayub elements and the hitherto neglected classes of people in West Pakistan in their explosion against the Ayub regime. The demands expressed in this movement for the dismantling of one-unit in West Pakistan, direct elections, free press and a more democratic political system clearly indicated the weight of the emerging middle class, the students and the regional groups even within West Pakistan.<sup>103</sup>

100. Tariq Ali, *Pakistan : Military Rule or People's Power* : ( London : Jonathan Cape Ltd., 1970 ), p. 182.

101. For the written statements before the special tribunal by the accused Sheikh Mujibur Rahman, the Chief accused, Ruhul Quddus, CSP ; Ahmad Fazlur Rahman, CSP ; K. M. Shamsur Rahman, CSP ; Lt. Commander Moazzem Hossain and others, see *The Pakistan Observer* ( 8—12, 17—18, 23, 28-30 January ; 1—3, 6—10 February 1969 ). For details, see A. M. A. Muhith, *op. cit.*, pp. 131—138.

102. Talukdar Maniruzzaman, *Radical Politics and the Emergence of Bangladesh* (Dacca ; Bangladesh Books International Ltd, 1975), p. 37.

103. For the details about the movement for democracy see the newspapers—*The Pakis-*



The movement in East Pakistan started nearly a month after that in West Pakistan, and in both the regions they were initially led by the students.<sup>104</sup> Gradually the student movement had penetrated the political structure of the country. In West Pakistan it had gradually become part and parcel of a much broader movement and had incited other social strata to take action. This was the beginning of the struggle in West Pakistan.

The opposition political parties had been in doldrums since the 1965 elections. The political parties which really counted in East Pakistan were the six-point Awami League (a group of Awami Leaguers headed by Nawabzada Nasrullah Khan had joined the PDM in 1967) led by Sheikh Mujibur Rahman and Maulana Bhashani's National Awami Party (Pro-Peking group). This pro-Peking group because of Pakistan-China rapport had virtually ceased opposing the government. It was only the advocates of the autonomy demand—the six-point Awami League, and the pro-Moscow NAP led by Muzaffar Ahmed (b. 1922) which did not join the PDM—carried on some sort of movements against Ayub's political system. Therefore, the leadership of the Bengali nationalist movement fell upon the students as Sheikh Mujibur Rahman and other prominent Awami League leaders had been in detention since the beginning of the six-point revolution in 1966. In December 1968, the leaders of the various student groups, particularly the East Pakistan Students League and the Students Union forged a United Front known as the All Parties Students Action Committee (SAC). The SAC, under the leadership of Tofael Ahmed (b. 1943), Vice-President of the Dacca University Central Students Union (DUCSU), drew up an 11 point charter of demands which, incorporating in addition to the six-points of the Awami League, some popular demands, broadened its appeal to the peasants, workers and the left.<sup>105</sup>

*tan Observer. The Dawn* (Nov. 1968, February 1969). Also see A. M. A. Muhith, *op. cit.*, pp. 141—156; Rounaq Jahan, *Pakistan: Failure in National Integration* (Dacca: Oxford University Press, 1973, pp. 172—183. Tariq Ali, *op. cit.*, pp. 156—185

104. The origin of the student movement in West Pakistan in November 1968 was rather from an insignificant incident. Students of Gordon College, Rawalpindi while returning from a picnic on the Afghan border bought some smuggled goods in the free market of Landi Kotal, a smugglers' haven. Their purchases were seized by the customs authorities and on return they brought out protest demonstrations in which one was killed. For details, see Tariq Ali, *op. cit.*, pp. 156—85.
105. The 11-points of the Students Action Committee were :  
 (1) (a) Restoration of the original status of the provincialized colleges ; (b) increase in number of schools and colleges ; (c) night shift arrangements in pro-



The year 1969 opened on an ominous note for the Ayub regime. In the first place important developments began to happen in quick succession. Before the trial of the Conspiracy Case could be completed an anti-Ayub movement commenced in November, 1968 in Rawalpindi by the students of the Gordon College and by March 1969 the anti-Ayub movement engulfed the whole country. Secondly, emboldened by the success of the students in both East and West Pakistan and the general trend of anti-Ayub movement the politicians came to assert themselves. At first the East Pakistan Committee of the Pakistan Democratic Movement took a bold decision on 2 January 1969 to boycott the ensuing 1969—70 Elections. The National Committee of the PDM then endorsed it on 6 January and reiterated its determination to "continue the struggle for regaining the sovereignty of the people".<sup>107</sup> Thirdly, East Pakistan again served as the political sanctuary where the opposition leaders met to forge

vincial colleges; (d) tuition fees to be reduced by half; (e) hostel charges to be subsidized by 50 per cent; (f) Bengali as medium of instruction as well as of work in all offices; (g) increase in salaries of teachers; (h) free and compulsory education up to class VIII; (i) medical university to be set up and Medical Council Ordinance to be withdrawn; (j) facilities of condensed course for polytechnic students; (k) train and bus fare Concessions for students; (l) job opportunity guarantees; (m) repeal of University Ordinance and full autonomy for universities; and (n) repeal of National Education Commission and Hamoodur Rahman report.

(2) Parliamentary democracy on basis of universal adult franchise.

(3) (a) Federal form of government and sovereign legislature; and (b) federal government's powers to be confined to defence policy and currency.

(4) Sub-federation of Baluchistan N. W. F. P., and Sind with regional autonomy for each unit.

(5) Nationalization of banks, insurance companies, and all big industries.

(6) Reduction in rates of taxes and revenues on peasants.

(7) Fair wages and bonus for workers.

(8) Flood control measures for East Pakistan.

(9) Withdrawal of all emergency laws, security acts, and other prohibitive orders.

(10) Quit SEATO, CENTO, and Pakistan-U. S. military pacts.

(11) Release of all detenus and political prisoners including those of Agartala Conspiracy Case. (Dawn, 19 February 1969).

106. *The Pakistan Observer* (8 January 1969).

107. The eight points of the DAC were: (1) A federal parliamentary system of government; (2) direct election on the basis of universal adult franchise; (3) immediate withdrawal of the state of emergency; (4) full restoration of civil liberties and the repeal of laws providing for detention without trial, and of the



a unity among themselves on the basis of an agreed list of demands. On 8 January, they succeeded in forming a new front named the Democratic Action Committee (DAC) with the object of establishing "full and complete democracy" and restoring "complete sovereignty of the people of Pakistan". The DAC comprised, in addition to the five components of the PDM (Jamat-i-Islam, Nizam-i-Islam, NDF, Awami League of Nawabzada Nasrullah Khan and the Council Muslim League), the six-point Awami League, the National Awami Party (Requisitionist) led by Muzaffar Ahmed and Jamiatul-Ulema-i-Islam. It is significant that the announcement of the formation of the DAC was made by Nazrul Islam (1925-1975), Acting President of the six-point East Pakistan Awami League from the residence of Sheikh Mujibur Rahman. The eight-point programme of the DAC was essentially a compromise formula of the various demands of its constituent units.<sup>208</sup> The DAC pledged to wage a "relentless, non-violent, organised, and disciplined mass movement." But this unity of the opposition parties was not complete; there were two dissenting parties—the NAP of Maulana Bhashani, and Pakistan People's Party of Bhutto continued to agitate separately.

Meanwhile, violent incidents continued in both the regions of Pakistan. Student riots and anti-Ayub demonstrations were frequent and widespread. On 18 January, the students of the Dacca University fought with the riot-police, and on 24 January, life in Dacca was paralysed by a hartal called by the DAC. The law and order situation was fast deteriorating. The army was called in and curfew was imposed in several cities in East Pakistan.

In this situation, President Ayub Khan ultimately gave in, and in his first-of-the month broadcast on 1 February 1969, he offered to talk with "responsible political leaders to solve the political crisis in Pakistan."<sup>109</sup> He

University Ordinance; (5) release of all political detenus and prisoners—students, workers and journalists—including Sheikh Mujibur Rahman, Khan Wali Khan, and Zulfikar Ali Bhutto and the withdrawal of all political cases pending before courts and tribunals, as well as of warrants issued in political cases; (6) withdrawal of all prohibitory orders under Section 144 Cr. P. C.; (7) restoration of the right of labour to strike; and (9) withdrawal of all curbs on the press, including those on the grant of new declarations, and the restoration of all presses, papers and periodicals, which have been cancelled, including *Ittefaq* and *Chattan*.

108. *Ibid.*, (2 February 1969).

109. President Ayub Khan announced on February 1, 1969, that he would invite representatives of political parties for talks to improve the present constitution in the light of public opinion. On February 6, the President requested Nawab-



invited the principal opposition leaders representing various political parties from both East and West Pakistan to a Round Table Conference (RTC) to discuss their demands and the nature of the constitution to be framed.<sup>110</sup> Sheikh Mujibur Rahman, the principal accused in the so-called 'Agartala conspiracy Case', and the sole nominee of the Awami League for the RTC, refused to join the RTC unless he was a free man.<sup>111</sup> The popular movement continued unabated and took a serious turn in East Pakistan by the middle of February when an accused in the Agartala Conspiracy case, Sgt. Zahurul Huq was killed by the security guards. In protest on 17 February 1969, the Bengalis defied the curfew order and faced bullets on the Dacca streets.

It was in a situation like this that Dr. Shamsuzzoha, Proctor of Rajshahi University was killed by the army in Rajshahi on 18 February. Things then began to happen fast and at a velocity beyond the control of the authority. When the anti-West Pakistani feeling reached the highest pitch of intensity, President Ayub in a broadcast over the Radio Pakistan on 21 February, 1969, announced his "final and irrevocable" decision that he would not seek reelection and urged upon the opposition leaders to join him in working out a formula for a new constitution.<sup>112</sup> On 22 February, Sheikh Mujibur Rahman and others were released from the military custody unconditionally and the alleged conspiracy case was withdrawn.<sup>113</sup> On 23 February, Sheikh Mujib was given a tumultuous reception at Dacca's Ramna Race Course by more than one million people chanting the new slogan of *Joy Bangla* (long live Bengal). It was on this occasion that the SAC and DUCSU Chief, Tofael Ahmed conferred on Sheikh Mujibur Rahman the honorific title of *Bangabandhu* (the friend of Bengal). Sheikh Mujib in his address declared that his party would work for the realisation of six-point and 11 point programmes. He also demanded proportional re-

zada Nasrullah Khan, the Convenor of the Democratic Action Committee (consisting of all the opposition parties which started a movement to boycott elections) to invite any body. Later he declared that he was agreeable to adjustment of the constitution, franchise and sharing of powers with the people. *The Pakistan Observer* (February 2, 6, 8 and 9, 1969).

110. *The Pakistan Observer*. (11 February 1969).

111. *Ibid.*, (23 February 1969).

112. *Ibid.* Emergency, which was imposed at the time of the war in 1965, was lifted on 20 February 1969 and next day the Defence of Pakistan Rules Ordinance was withdrawn. *Ibid* (20-21 February 1969).

113. *Ibid.* [23 February 1969].



presentation for East Pakistan, division of West Pakistan into former provinces of Sind, the Punjab, the NWF Province and Baluchistan and removal of the capital from West to East Pakistan, in addition to such popular demands as parliamentary government, regional autonomy and direct election by adult franchise.<sup>114</sup>

The Round Table Conference started on 26 February 1969. The DAC comprising the opposition parties joined the RTC at Islamabad. The pro-China NAP led by Maulana Bhashani and the PPP led by Bhutto, however, refused to attend the conference as they believed that nothing positive would be gained by it.

The RTC proved useless excepting the unanimity achieved about the restoration of parliamentary system of democracy based on adult franchise and direct elections. On the issues of regional autonomy and dismantling of one-unit in West Pakistan there was no unanimity; moreover, the views expressed by the leaders, even within the opposition, were so inflexible and opposed to each other that no meeting point could be reached. Sheikh Mujibur Rahman submitted detailed amendments to the constitution which provided for federal parliamentary government with full regional autonomy. The regime and most of the West Pakistani leaders were opposed to Sheikh Mujib's amendments on the basis of six point programme.<sup>115</sup> In the midst of these circumstances, the conference ended. President Ayub Khan then announced that if the opposition leaders could not come to an understanding among themselves, he would himself suggest a framework of the constitution unilaterally and place it before the people for approval.<sup>116</sup>

President Ayub Khan, however, did not get time to act according to his plan. The character of the five-month old movement was fast changing. No more was it a merely middle class bourgeoisie movement concentrated in the urban centres. The have-nots from every direction—be it landless labourers, small farmers, industrial workers or unemployed multitude localised in cities as well as villages—all rose in unison to hit at the very basis

114. *Ibid.* [1–14 March 1969].

115. *Ibid.*

116. See *The Pakistan Observer* [2–25] March 1969).



of the structure of the existing pattern of society and the political system. The industrial workers started the 'Gherao' movement (encirclement of the factories) and forcibly made the employers accept their demands. The villagers took law in their own hands and started taking retributive measures with all vengeance against the Basic Democrats and their henchmen.<sup>117</sup> The movement was highly indisciplined and lacked direction. The opposition leaders never had any control even at the initial stages.

It was in such a situation that President Field Marshal Mohammad Ayub Khan decided to step down from power. He realised that within the existing system it was no longer possible for him or for any one else to change the tide of events. He took the decision to resign and hand over the administration of the country to the army. Thus for the second time within a period of eleven years, the country was put under the Martial Law. The constitution of 1962 was abrogated and General Agha Mohammad Yahya Khan (1917–1980), the Commander-in-Chief of the Pakistan Army, became the Chief Martial Law Administrator and assumed the powers of the President. The history of Pakistan had thus come round the circle in just over a decade.<sup>118</sup>

In conclusion, it may be observed that there were certain basic facts of Pakistan's national existence which cannot be ignored. Pakistan or later Bangladesh was created to enable the people to regulate their lives according to their free will. This implied the establishment of a truly democratic system which provided channels for expressing opinion. Unfortunately, however, ever since the creation of Pakistan or Bangladesh, it had been the usual practice of the ruling cliques to sidetrack the popular demands and dub the opposition elements as traitors, betrayers, agents of foreign enemies and even enemies of the state and impute base motives to all their pronouncements and actions.

Power and privilege very often incapacitate one from taking lessons from history, and, therefore, any system which is not based on the democratic will of the people is liable in no time to degenerate into one of

117. *Ibid.*

118. For details, subsequent developments and circumstances leading to the emergence of Bangladesh see G. W. Choudhury, *The Last Days of United Pakistan*. [London: C. Hurst & Company, 1974], and A. M. A. Muhith, *op cit.*; and Anthony Mascarenhas, *The Rape of Bangladesh* [Delhi, Vikas Publications, 1971].



vested interests. The French Revolutions took place because the Bourbons entrenched in their despotic privileges learnt nothing and forgot nothing from history. The Bismarckian policy of 'blood and iron' may avert for the time being the precipitation of a calamitous 'integration crisis',<sup>119</sup> but it has been the lesson of history that it cannot hold it forever. In this respect, the history of United Pakistan and her neighbour Iran are possibly the best examples in our generation.

In the long run, therefore, only true democratic institutions can serve as the basis of national unit in any country. History has undoubtedly taught us that concentration of powers in one hand and totalitarianism only rouse forces that spell disaster for a people groping for a higher future.

119. Karl W. Dentsch and W. J. Faltz (eds.), *Nation-Building* ( New York : Atherton Press, 1963 ).



# Elite Conflict and Co-operation in a Town in Bangladesh

Fazlur Rashid Khan

## Introduction

In Bangladesh there is very scanty literature on the problems of elite conflict and co-operation. Some available historical materials deal mainly with factionalism and alliance formations among or between the elite members of certain occupational groups, such as bureaucracy, politics, military and business.<sup>1</sup> There is hardly any literature on this problem in other occupational groups. Broomfield's study of *Elite Conflict in a*

<sup>1</sup> For the purpose of our study of elites of a town, the following criteria are suggested for defining the concept of 'elite': (i) persons of importance who have high access to economic resources; (ii) who have high degree of corporateness or group character and are bound up in a network of relationship with each other; (iii) some consciousness of position they occupy within the community; and (iv) who enjoy high status and privileges.

In identifying the elite members we have adopted two procedures: First, we have taken those persons as elite members whose status are high in various occupational or functional groups and who hold high positions of authority and have high access to socio-economic or political power, of course, assuming the existence of hierarchical ordering of these persons in their respective occupational or functional groups. Secondly, those persons who have reputation as powerful and influential leaders in the community. These persons are so well reputed in the community that they are easily recognizable. This second criterion has been found to be in conformity with the first criterion in the sense that most of those who are well known in the community as powerful and influential men have also high occupational status with the exception of a very few political elite members who though they do not occupy an important formal political position, are widely known to be influential informal political leaders.

For a detailed discussion on the concept of 'elite' and the procedures for identifying the elite members, see:

T.B. Bottomore, *Elites and Society*, London, Penguin Books, 1966;

G.D.H. Cole, *Studies in Class Structure*, London, 1955;

A. Giddens, *The Class Structure of the Advanced Societies*, London, 1973;

A.K.N. Karim, "The Modern Muslim Political Elite in Bengal"—Ph. D. Thesis, University of London, 1964, now published with the title *The Dynamics of Bangladesh Society*, New Delhi: Vikas Publishing Co., 1980;

H.D. Lesswell and A. Kaplan, *Power and Society: A Frame of Political Inquiry*, 1950;

S.K. Lal, *The Urban Elite*, Delhi, Thomson Press (India) Ltd. 1974;

K. Mannheim, *Man and Society in an Age of Reconstruction*, London, 1946;

V. Paerto, *The Mind and Society*, London, Jonathan Cape, 1935;

P. Stanworth, and A. Giddens, (eds.) *Elites and Power in British Society*, Cambridge University Press, 1974.



*Plural Society : Twentieth Century Bengal* mainly deals with the problem of conflict among the political elites of Bengal during the later part of the British rule in India. The author has very aptly shown the nature of conflicts among the political elites drawn from various communities, such as the British, the Hindus and the Muslims.<sup>2</sup> He has also analysed how and why conflicts developed between the Bengali moderate and extremist or radical political leaders of the same broad social category, commonly known as the *bhadralok* (gentleman).<sup>3</sup> However, in dealing with the problem of elite conflict he also discussed, in detail, the problem of the emergence of co-operative relationships and the formation of alliances among some Muslim political elites against their Hindu counterparts and vice-versa. He has also made some references to the growth of co-operation and alliance between a section of the Hindu political elites and a section of the Muslim political elites under the leadership of C.R. Das and A.K. Fazlul Haque respectively.<sup>4</sup> He has also talked about the co-operative alliance between the Muslim League, such as Nawab Sir Salimullah, Nawab Khan Bahadur Syed Nawabaly Choudhuri and Nawab Syed Shamsul Huda, and some British administrators in Bengal, such as Lord Carmichael, the Governor of Bengal and some high-ranking British civil servants in Bengal.<sup>5</sup>

Talukder Moniruzzaman in his article on "Bangladesh, 1974 : Economic crisis and political Polarization" has referred to conflict among the leaders of the ruling Awami League without making any serious effort to analyse the causes of such conflicts.<sup>6</sup>

Similarly in her discussion of the management of factional politics in Bangladesh, Rounaq Jahan has talked about the problem of conflict among the political leaders, especially the political leaders of the Awami League and made some casual references to factionalism among the bureaucratic and military elites in Bangladesh.<sup>7</sup>

Recently, Hamza Alavi has discussed the pattern of co-operation and alliance formation between the bureaucratic, military and political elites in Pakistan during the Ayub regime. In his analysis he has tried to show how the bureaucratic-military oligarchy retained its control over the effective state power and managed to secure the support of

<sup>2</sup> J.H. Broomfield. *Elite Conflict in a Plural Society : Twentieth Century Bengal*, Berkeley : University of California Press, 1968), pp. 25-31, 157, 254. Mention may also be made of a recent study, Bazlur Rahman Khan "Some Aspects of Society and Politics in Bengal, 1927 to 1936", unpublished Ph. D. Thesis, SOAS, London University, 1979, pp. 1-170.

<sup>3</sup> Broomfield, pp. 34, 161-66.

<sup>4</sup> *Ibid.*, pp. 245-47, 263 ; Khan, *op. cit.*

<sup>5</sup> *Ibid.*, pp. 50-52, 117 ; for biographies Hindu and Muslim Elites, see Khan, *op. cit.*

<sup>6</sup> T. Moniruzzaman. "Bangladesh 1974 : Economic Crisis and Political Polarization", *Asian Survey*, Vol. XV, No. 2, February, 1975, p. 125.

<sup>7</sup> R. Jahan. "Bangladesh in 1973 : Management of Factional Politics", *Asian Survey*, Vol. XV, No. 2, February 1974, pp. 129-30.



the puppet politicians of the Muslim League by distributing patronage to them and to their relations.<sup>8</sup> He has also made a few remarks about the nature of co-operative relationship between the bureaucratic and business elites based on cash nexus.<sup>9</sup> He also mentioned the nature of the co-operative relationship between the ruling Awami League leaders and the bureaucratic elites as well as other privileged groups in the society but has not made any detailed analysis of the problem.<sup>10</sup>

Badrudin Umar in his analysis of the alliance formation between the ruling elites and the Basic Democrats (leaders of local self-government institutions and members of the electoral College for the election of the President and National and Provincial Assemblies) during the Ayub regime has tried to show how the coincidence of the interest of the ruling elites and the Basic Democrats induced them to develop high degree of co-operation in a patron-client network to maintain their mutual interests of enjoyment of privileges and the perpetuation of their politico-economic power.<sup>11</sup>

However, no empirical study has yet been made on the problem of elite conflict and co-operation in Bangladesh. Our discussion of this problem in Rajshahi town is a modest attempt to analyse the problem at the empirical level, based on the data collected in the field through participant observation method.

The study of elite conflict and co-operation is highly important in understanding the interactive process in the community because this problem of conflict and co-operation among the elite members of the community is intimately connected with the overall functioning of the community. Elite conflict and co-operation in one form or the other are present in all societies. But the nature of the problem is not the same in all societies.

### **Nature of Elite Conflict and Co-operation**

In Rajshahi town, elite conflict and co-operation have become a common phenomenon in all spheres of the community where the elite members function and interact with each other. The processes of elite conflict and co-operation have been found to be functioning simultaneously. Thus, there are both conflict and co-operation among the elite members of the community in social, economic, political and other arenas. And conflict and co-operation among the elite members in one arena generally extend to other arenas of their activities. For exam-

<sup>8</sup> H. Alavi. "The State in Post-colonial Societies : Pakistan and Bangladesh", *New Left Review*, No. 74, September, 1972, pp. 65-66.

<sup>9</sup> *Ibid.*, p. 69.

<sup>10</sup> *Ibid.*, p. 81.

<sup>11</sup> B. Umar. *Politics and Society in East Pakistan and Bangladesh*, Dacca, 1973, p. 26.



ple, if two or more elite members are in conflict or co-operation with one another in the economic sphere they are very commonly seen to develop conflicting or co-operative relationship in other spheres of their interactions. Even the emergence of conflict or co-operation among the elite members at family level, centering on certain private affairs, such as marriage, inheritance of property, etc. comes to mould their relationships in other spheres of their activities. Because the elite members of the community are generally affiliated to different occupational or professional groups. We shall analyse the problem both at intra-and inter-group levels.

### Intra-group Elite Conflict and Co-operation

When two or more than two elite members of the same occupational group become antagonistic or co-operative to each other the type of relationship that develops between them can be termed as intra-group elite conflict or co-operation because in the first place the elite initiators of conflict or co-operation belong to the same occupational group ; and secondly, when this type of conflict or co-operation arises between two or more elite members of the same occupational group it can hardly remain confined to the elite initiators of conflict or co-operation because each of them tries to recruit their supporters from their occupational groups. Thus, when two or more elite members of a particular occupational group develop conflict amongst themselves each of them can be seen to form his *dal* (quasi-group) by establishing an exchange relationship with the members and supporters of this *dal* as well as by activating the pre-existing patron-client networks and horizontal ties in order to gain supremacy and domination over his rival or rivals. This creates a situation in which the personal conflict between two or more elite members often turns into *daladali* (factional conflict) because each involved elite member's supporters generally become directly or indirectly involved in the conflict. But generally both elite and non-elite members of a *dal* from the same occupational group develop co-operative relationships with the elite initiator of the conflict as well as amongst themselves. Thus, in the process of *daladali* both the process of conflict and co-operation can be seen to emerge side by side. This means that the elite *dalapatis* (leaders of the quasi-group) along with members and supporters of their respective *dals* become involved in conflict with each other. But the elite and non-elite members and supporters of these *dals* develop co-operative relationship with their respective *dalapatis*. In addition to this, the members and supporters of each *dal* develop co-operative relationship amongst themselves. Both elite and non-elite members and supporters of a *dal* co-operate with their *dalapati* against the rival *dalapatis* and their supporters and *dal*-members in their *dalapati's* bid to gain advantage over his rivals because the *dalapati* has formed an alliance with them



(i.e., *dal*-members and supporters) based on a high degree of co-operation and an effective network of exchange relationship in which a *dalapati* distributes patronage or promise to distribute the same to the members and supporters of his *dal* in exchange for their support and services. In this situation a *dalapati* is generally accepted as a patron by the members and supporters of his *dal* who are relegated to the position of clients; and the effected alliance takes the vertical form of patron-client network. But the problem is not so simple because there may be some supporters of a *dalapati* who have higher politico-economic status than him (*dalapati*) and have come to support a *dalapati* and his *dal* as his patrons. The nature of alliance remains a vertical one but a *dalapati* and through him his *dal* members who have lower status than him become clients to the higher status (i.e., higher than a *dalapati*) supporters of his *dal*. Again the problem becomes complicated when some elite members and supporters of his *dal* are in comparable socio-economic and political standing with him. They come to support a *dalapati* as more or less equal partners. Because these elite members and supporters of a *dal* are not willing to accept its *dalapati* as their patrons, and a *dalapati* has obvious difficulty in treating them as his clients. The co-operative relationship that develops between these elite members and a *dalapati* assumes the form of a horizontal alliance based on the principle of "give and take" in which both the parties are in a position to distribute patronage to each other because both of them have more or less comparable access to resource-bases of patronage even though some minor differential in access to resources and power is likely to be present between them and a *dalapati*.<sup>12</sup> When the members and supporters of a *dal* have developed co-operative relationship with its *dalapati* either in a vertical network of a patron clientage or in a horizontal alliance or in both, they are generally seen to develop co-operative relationship amongst themselves because the prevalence of harmonious relationship among the members and supporters of a *dal* is highly valued by a *dalapati*. This is why a *dalapati* becomes very active and prompt to intervene directly or indirectly through his patrons in the conflict which sometimes arises between some of his *dal*-members or supporters to avert the danger of non-cooperation among the members and supporters of his *dal*. However, the same process of alliance formation and exchange relationship are effected by his rival *dalapati* or *dalapatis*. The process of elite conflict and co-operation discussed above can be better shown with the help of the following diagram :

<sup>12</sup> When the influential elite members of a particular occupational group are in co-operative relationship with each other they also recruit their supporters to form their respective *dals* which provide them support in their enjoyment of privileges or the accruing of more privileges. Thus the formation of *dal* may take place both in conflicting and co-operating situations.



In diagram I the broken lines indicate that four elite *dalapatis* i.e.,  $E_1$ ,  $E_2$ ,  $E_3$  and  $E_4$  in an occupational group (OG) are in conflict with each other. The arrows pointed to each of these four conflicting elite members are showing the members and supporters of the *dals*, i.e., A, B, C and D which have been formed centering around  $E_1$ ,  $E_2$ ,  $E_3$ , and  $E_4$

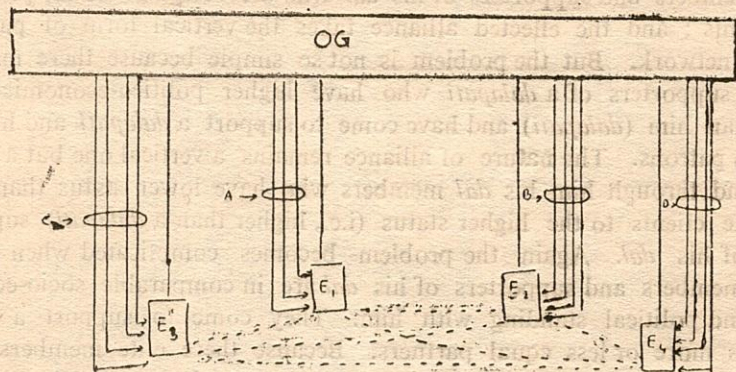


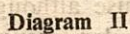
Diagram I

respectively. The diagram also shows that the members and supporters in each of the four *dals* have been exclusively drawn from the same occupational group, i.e., OG from which these four conflicting *dalapatis* have come. However, all the members and supporters of A, B, C, and D are involved in an exchange relationship with  $E_1$ ,  $E_2$ ,  $E_3$  and  $E_4$  respectively within the framework of either vertical or horizontal alliance or both implying the presence of co-operative relationship between them and their respective *dalapatis* as well as amongst themselves, but at the same time implying the existence of conflict between them and the rival *dalapatis* and their *dal* members and supporters.

The pattern of intra-group elite conflict and co-operation discussed above is not the only pattern. So far we have discussed the formation of *dal* centring around the conflicting elite *dalapati* of a particular occupational group. But all the *dalapatis* may not be in conflicting relationship with each other. There may be coalition between two or more elite *dalapatis* against their rival *dalapati* or *dalapatis*. The pattern of coalition or alliance may take various forms. Here we shall try to discuss another important pattern of conflict and co-operation among the elite *dalapatis*. But it is necessary to point out that this pattern of elite conflict and co-operation is different from the one we have already tried to show with the help of diagram I in that in this network all the *dalapati* along with their *dal*-members and supporters are not in conflict with each other. On the contrary, some of the *dalapatis* are in co-operation with each other against their rivals who have formed a coalition amongst themselves along with their *dals*. This pattern



the pattern would be the same. Sometimes it so happens that in



Although in this particular example it has been seen that two *dalapatis* along with their respective *dal* have formed a coalition or alliance

<sup>13</sup> The number of *dalapatis* could be more or less than four. But to avoid complexity we have kept the number limited to four.



against the other two *dalapatis* and their respective *dals* who have formed their own alliance it is not necessarily true that in other cases the pattern would be the same. Sometimes, it so happens that in a four-*dalapati* network, two *dalapatis* along with their *dals* form an alliance to fight with their two rival *dalapatis* who along with their *dals* have not formed any alliance between them. This process leads to a triangular fight between four *dalapatis*. Another possibility is that three elite *dalapatis* along with their respective *dals* would form an alliance against the fourth one and his *dal*. Now a question may arise, is it possible for all the elite members of a particular occupational group to develop co-operative relationship amongst themselves? The answer to the question is positive because although the elite members especially the elite *dalapatis* of a particular occupational group are generally involved in both conflict and co-operation at the same time mostly on issues effecting their personal interests they are often seen to reconcile their conflicts to make an united front to protect their common interest when the non-elite members of the group pose a threat to it.

However, it has been observed that in some cases in an intra-group elite conflict and co-operation the *dals* of the conflicting or co-operating elite *dalapatis* include members and supporters from outside their own occupational group. These outside members and supporters may be in elitist or non-elitist positions. But it would be interesting to point out that when some of these outside members and supporters are in elitist positions, the involvement of some non-elite members becomes common because these outside elite members' elite and non-elite supporters from their own occupational group as well as from other occupational groups become involved in the network of co-operative and conflicting relationship of a particular occupational group in which their elite *dalapatis* have become involved. But when some clients of a patron, belonging to another occupational group are recruited as supporters of one or the other *dal* of a particular occupational group the patrons have their option to enter the network of conflict and co-operation or to remain outside such a network. However, the participation of some clients of a patron belonging to an outside occupational group depends largely on the will of the patron because the clients are generally required to consult their patron before they can extend their support to one or the other *dalapati* of a particular occupational group other than their own. It is their patron who decides whether they should or should not provide support to one or the other *dalapati*. Thus, the securing of the support of the elite and non-elite members of outside occupational groups depends upon the nature of relationship that exists between the *dalapatis* of a particular occupational group and the patrons or *dalapatis* of other occupational groups. The number of supporters recruited or secured by the *dalapatis* from outside their own occupational group depends upon the extensivity of their exchange



relationship with the elite members, especially the elite patrons of other occupational groups. Thus, if a *dalapati* of a particular occupational group has larger network of exchange relationship and co-operative ties with the elite members, especially elite patrons of other occupational groups he is likely to be able to secure a larger number of members or supporters for his *dal* to meet the challenge of his opponent *dalapati* or *dalapatis* as well as to gain advantage over him or them. This is one of the reasons why the *dalapatis* of a particular occupational group are so eager to secure the support and co-operation of elite and non-elite members and supporters of other occupational groups when they are involved in conflict with each other.

Even when these *dalapatis* form an alliance amongst themselves to resist a threat to their common interest or to enhance their power and privileges they feel the necessity of securing the support of the elite and non-elite members from outside their own occupational group. Thus, the *dalapatis* of a particular occupational group have been seen to form some sort of alliance as well as to reactivate their pre-existing vertical and horizontal ties with the elite members of other occupational groups. It is not uncommon for some elite *dalapatis* of a particular occupational group to accept patronage from a political super-elite such as a cabinet Minister in order to gather more strength and power. Those who are successful in getting this minister as their patron surely acquire more strength to fight with their opponents. But in a situation where all the *dalapatis* of a particular occupational group are involved in a network of patron-client tie with the minister the probability for a compromise and the subsequent growth of co-operation among the *dalapatis* increase because their common patron i.e., the minister generally tries to bring about some sort of compromise among the *dalapatis* when they become interlocked in a conflicting type of relationship because this political super-patron i.e., the minister is highly motivated to maintain his patron-client ties with these elite *dalapatis* so that he can have effective control over these clients who will not only show their allegiance to him but also bring their own clients into the chain of patron-client network of the minister. Moreover, if the conflicting *dalapatis* have common patron from their own occupational group the chance for a compromise between the initiators of conflict goes up because this common patron wants to see his clients in harmonious relationship with each other. In other words, this means that when two or more than two elite *dalapatis* of the same occupational group, having a common patron develop conflicting relationship with each other the intervention of a third party i.e., the common patron as a mediator becomes quite common because of the simple reason that the prevalence of conflict among his clients especially the elite clients weakens the solidarity of his network of patron-clientage which is impor-



tant to a patron to maintain his privileged position or to acquire more privileges and power. However, it is not necessarily true that a common patron or a super-patron would always come from within the community. He may as well come from outside the community. Similarly, some clients and friends of these *dalapatis* may come from other occupational groups, often transcending the community boundary.

### Inter-group Elite Conflict and Co-operation

In course of our field study it has been found that in addition to elite conflict and co-operation at intra-group level, there develops both conflicting and co-operative types of relationships among the elite *dalapatis* from different occupational groups. This means that the networks of conflict and co-operation revolve around the elite *dalapatis* belonging to different occupational groups. This process of conflict and co-operation has been termed as the inter-group elite conflict and co-operation because the initiators of conflict or co-operation belong to two or more than two occupational groups.

It is interesting to point out that at the inter-group level the elite conflict and co-operation can be seen to function simultaneously. Thus when two *dalapatis* affiliated to two different occupational groups become involved in conflict with each other, the other *dalapatis* along with their *dal*-members and supporters extend their co-operation to the involved *dalapatis* from their occupational group provided that this involved *dalapati* (i.e., the initiator of conflict) is in harmonious relationship with other *dalapatis* of his occupational group. In this situation there is intra-group elite conflict. In other words, all the *dalapatis* would extend their co-operation to their fellow *dalapati* of the same occupational group who has become involved in a conflict with a *dalapati* from another occupational group who will have similar support and co-operation of the *dalapatis* belonging to his occupational group. This process leads to the emergence of an interesting pattern of interaction in which the inter-group elite conflict which starts at individual level between two *dalapatis* (i.e. initiators of conflict) belonging to two different occupational groups becomes a conflict between the elite members of these two occupational groups in view of the fact that the elite members of a particular occupational group who are in co-operative relationship with the involved *dalapatis* of their occupational group become involved in conflict with the rival *dalapatis*, and other elite members of another occupational group. This rival *dalapati* and other elite members of his occupational group become united and develop co-operative relationship amongst themselves to meet the challenge of their rivals in another occupational group.

However, in the process of this conflict and co-operation the non-elite members of each conflicting *dalapati's* occupational group become involved in co-operation at intra-group level and in conflict at inter-



group level. This means that they develop co-operation with the involved *dalapatis* of their respective occupational groups ; but at the same time they become involved in conflict with the elite and non-elite members of another occupational group to which the rival of their *dalapati* belongs. But the involvement of all the elite and non-elite members of two occupational groups in a conflict between two *dalapatis* from two different occupational groups can be generally observed in two situations. First, when there are internal harmony, cohesion and high degree of co-operation among the *dalapatis* of each occupational group who activated their patron-client network as well as horizontal ties in order to help each other when one *dalapati* or the other of an occupational group becomes involved in a conflict with a rival *dalapati* of another occupational group. Secondly, when a conflict between two rival *dalapatis* belonging to two different occupational groups affect the interest of all the elite members of their respective occupational groups co-operation among the *dalapatis* in each occupational group reaches the highest level because the loss or gain of a *dalapati* of a particular occupational group means the loss or gain of all the elite members of that occupational group. Although we have talked about the conflict between two *dalapatis* belonging to two different occupational groups there may be more than two initiators of conflict, affiliated to more than two occupational groups. But for the convenience of analysis we have taken two *dalapatis* from two different occupational groups. The following diagram (III) may help us to understand the process discussed above :

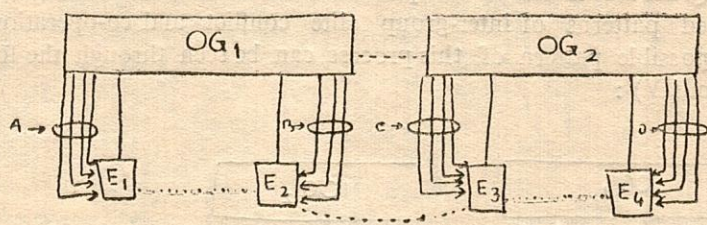


Diagram III

In the above diagram  $OG_1$  and  $OG_2$  are two occupational groups. Each of these occupational groups has two elite *dalapatis* i.e., in  $OG_1$   $E_1$  and  $E_2$  are two *dalapatis* who are in co-operative relationship with each other as has been shown by the dotted line between them. Because of this co-operative alliance between  $E_1$  and  $E_2$  the members and supporters of their *dals* A and B respectively have been brought into the network of their co-operative alliance. Similarly, in  $OG_2$  there are only two *dalapatis* i.e.,  $E_3$  and  $E_4$  who along with their *dals* C and D respectively are in co-operative relationship with each other as has been shown by the dotted line between them. The broken line between  $E_2$  and  $E_3$



indicates conflict between them. This type of conflict has been termed as inter-group elite conflict because the initiators of conflict i.e.,  $E_2$  and  $E_3$  belong to two different occupational groups i.e.,  $OG_1$  and  $OG_2$  respectively. As *dalapati*  $E_1$  along with his *dal* A is in alliance with  $E_2$  and his *dal* B in  $OG_1$  all the elite and non-elite members of this occupational group have become involved in conflict with  $E_3$  and his *dal* C as well as his ally  $E_4$  and his *dal* D (i.e., all the elite and non-elite members of  $OG_2$ ). This has been shown by a broken line between  $OG_1$  and  $OG_2$ . This pattern can be seen to work when the conflict remains restricted to the members of these two occupational groups. But the fact remains that members and supporters from other occupational groups transcending the community boundary often become involved in the process of inter-group elite conflict and co-operation. Thus some elite and non-elite members from other occupational groups may come to support one party against the other and thus pick a quarrel with the rival party. The involvement of outside members from other occupational groups also shows the process how conflict and co-operation develop side by side in the inter-group elite conflict and co-operation. It must, however, be admitted here that all the outside elite members may not be involved as parties in the conflict between the elite members of two occupational groups siding with the one or the other. Some of these outside elite members, especially the common patrons of the conflicting elite members appearing the scene as mediators to try for a reconciliation between the conflicting parties with whom they are in co-operative relationship.

But the pattern of inter-group elite conflict and co-operation shown in diagram III is one of the patterns. There are some other commonly observed patterns of inter-group elite conflict and co-operation. One more possible pattern of this process can be seen through the following diagram (IV) :

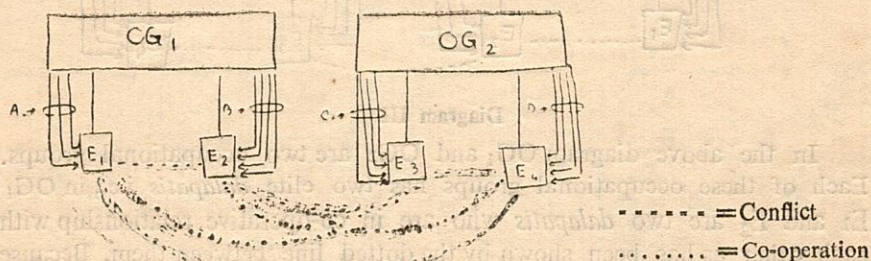


Diagram IV

The above diagram shows that  $E_2$  from  $OG_1$  and  $E_3$  from  $OG_2$  are in conflict with each other ; and hence B is in conflict with C and  $E_3$ . Similarly, C is in conflict with B and  $E_2$  because B and C have



co-operative relationship with  $E_2$  and  $E_3$  respectively. In  $OG_1$  *dalapati*  $E_1$  along with his *dal* A is in conflict with  $E_2$  and his *dal* B. This conflict has led  $E_1$  to extend his co-operation to  $E_3$  so that his rival  $E_2$ 's position becomes weak. Similarly, in  $OG_2$   $E_4$  along with his *dal* D is in conflict with  $E_3$  and his *dal* C. Thus, to weaken the position of his rival (i.e.  $E_3$ )  $E_4$  along with his *dal* D has developed co-operative relationship with  $E_2$  and his *dal* B. In the process  $E_1$  along with his *Dal* A has become involved in conflict with  $E_4$  and his *dal* D and vice-versa. But this pattern of inter-group elite conflict and co-operation develops only when the gain or loss in a conflict between  $E_2$  and  $E_3$  remains as their personal loss or gain without posing any threat to the interest of other elite members of their respective occupational groups. However, it should be noted that sometimes, some members from other occupational group become involved in this process of inter-group elite conflict and co-operation.

There is another important pattern of inter-group elite conflict and co-operation which can be seen through the following diagram (V). The

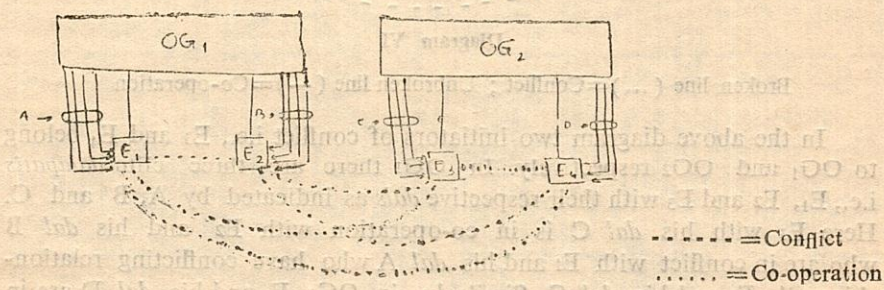


Diagram V

diagram shows that  $E_2$  from  $OG_1$  and  $E_3$  from  $OG_2$  are in conflict with each other and hence B is in conflict with  $E_3$  and C; and similarly C is in conflict with  $E_2$  and B. But  $E_1$  along with his *dal* A is in conflict with  $E_2$  and his *dal* B, but in co-operation with  $E_3$  and his *dal* C.  $E_1$  has established co-operative relationship with  $E_3$  in order to weaken the position of his opponent  $E_2$  and his *dal* B. But  $E_3$  along with his *dal* C is in co-operative relationship with  $E_4$  and his *dal* D. Thus,  $E_4$  and D have become involved in conflict with  $E_2$  and his *dal* B, but have established co-operative relationship with  $E_1$  and his *dal* A because  $E_1$  and A are in co-operative alliance with their allies  $E_3$  and C. The above diagram clearly shows that in  $OG_1$  there is internal conflict centring around two elite *dalapatitis*, while in  $OG_2$  two elite *dalapatitis* are in co-operative relationship with each other. This means that in  $OG_2$  all the elite and non-elite members have extended their co-operation to  $E_3$  in his fight against  $E_2$  belonging to  $OG_1$ . Moreover,  $E_3$  has been



able to secure the co-operation of  $E_1$  and  $A$  who are antagonistic to  $E_2$  and  $B$ .

There is yet another commonly observable pattern of inter-group elite conflict and co-operation which can be seen from the following diagram (VI) :

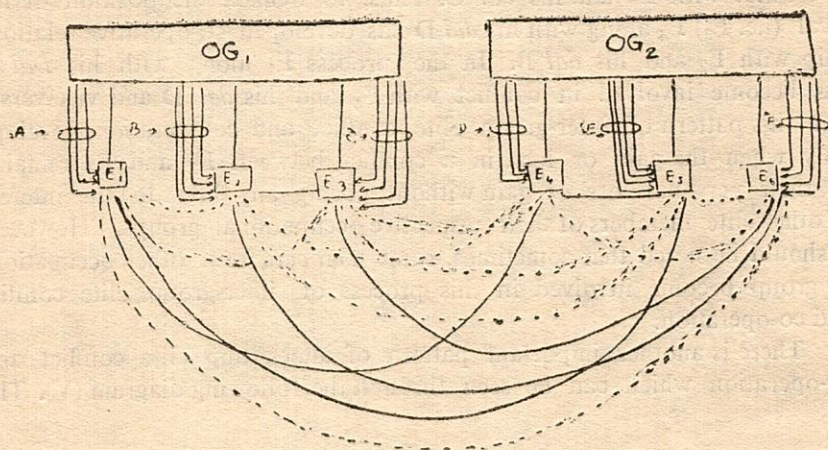


Diagram VI

Broken line (...) = Conflict ; Unbroken line (—) = Co-operation

In the above diagram two initiators of conflict i.e.,  $E_3$  and  $E_4$  belong to  $OG_1$  and  $OG_2$  respectively. In  $OG_1$  there are three elite *dalapatis* i.e.,  $E_1$ ,  $E_2$  and  $E_3$  with their respective *dals* as indicated by  $A$ ,  $B$  and  $C$ . Here  $E_3$  with his *dal*  $C$  is in co-operation with  $E_2$  and his *dal*  $B$  who are in conflict with  $E_1$  and his *dal*  $A$  who have conflicting relationship with  $E_3$  and his *dal*  $C$ . Similarly, in  $OG_2$   $E_4$  and his *dal*  $D$  are in co-operative relationship with  $E_5$  and his *dal*  $E$  who are in conflict with  $E_6$  and his *dal*  $F$  who have in turn developed conflict with  $E_4$  and his *dal*  $D$ . Thus when  $E_3$  and his *dal*  $C$  from  $OG_1$  have become involved in conflict with  $E_4$  and his *dal*  $D$  from  $OG_2$  they (i.e.  $E_3$  and  $C$ ) have developed conflict with  $E_5$  and his *dal*  $E$  but co-operation with  $E_6$  and his *dal*  $F$ . Similarly,  $E_2$  and his *dal*  $B$  have developed conflict with  $E_4$  and his *dal*  $D$  as well as  $E_5$  and his *dal*  $E$  but co-operative relationship with  $E_6$  and his *dal*  $F$ . Because  $E_1$  and his *dal*  $A$  have developed conflict with  $E_3$  and his *dal*  $C$  they have developed co-operation with  $E_1$  and his *dal*  $D$  as well as  $E_5$  and his *dal*  $E$  but conflict with  $E_6$  and his *dal*  $F$ .

In diagram VI we have shown three *dalapatis* in each occupational group of which two *dalapatis* have formed an alliance against the third one. But the pattern projected in the diagram VI would change with the change of relationship between the initiators of conflict from two occupational group as well as with the change of the pattern of alliance formation within each occupational group. This can be seen from the following diagram (VII).



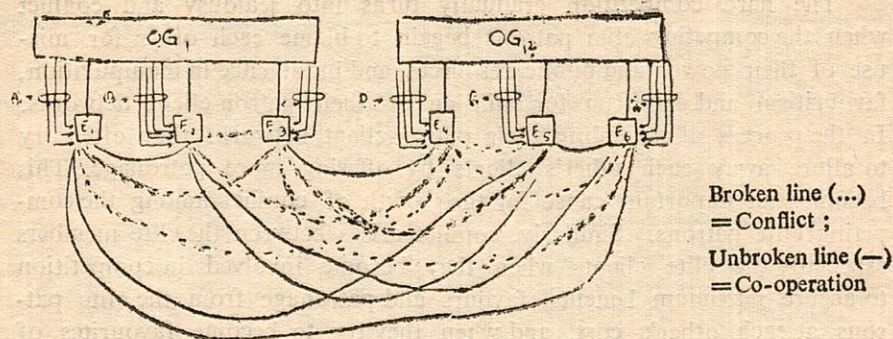


Diagram VII

In diagram VII  $E_3$  and his *dal* C from  $OG_1$  are in co-operative relationship with  $E_4$  and his *dal* D in  $OG_2$ . But in  $OG_1$   $E_1$  and his *dal* A are in co-operation with  $E_2$  and his *dal* B who are in conflict with  $E_3$  and his *dal* C. Hence  $E_1$  and his *dal* A are in conflict with  $E_3$  and his *dal* C. In  $OG_2$   $E_4$  and his *dal* D are in conflict with  $E_5$  and his *dal* E who are in co-operation with  $E_6$  and his *dal* F who have, in turn, developed conflict with  $E_4$  and his *dal* D. Thus when  $E_3$  and his *dal* C have co-operative relationship with  $E_4$  and his *dal* D,  $E_2$  and his *dal* B develop conflict with  $E_4$  and his *dal* D but co-operation with  $E_5$  and his *dal* E as well as with  $E_6$  and his *dal* F.  $E_1$  and his *dal* A also develop conflict with  $E_4$  and his *dal* D but co-operation with  $E_5$  and his *dal* E as well as with  $E_6$  and his *dal* F.  $E_5$  and his *dal* F develop conflict with  $E_3$  and his *dal* C.

So far we have tried to show the model of the nature of elite conflict and co-operation and have not given much attention to the factors responsible for conflict and co-operation among the elite members of the community. In the following section we shall try to discuss those general factors.

### Factors Responsible for the Emergence of Elite Conflict

1. Competition among the elite patrons for recruitment of clients is one of the important causes for the emergence of elite conflict. The elite members especially the elite patrons are seen to be in tough competition to defeat each other in their race for recruitment of clients mainly by distributing patronage or by promising to distribute the same in exchange for the latter's services and support. This happens because a patron-client network is very important for the elite members, especially the influential and powerful elite members in various occupational groups for it helps the elite members to gain, maintain and perpetuate their privileged positions as well as to maintain their differential control over and access to politico-economic power and influence on the decision-making process in the community.



The hard competition gradually turns into jealousy and conflict when the competing elite patrons begin to blame each other for misuse of their power and public resources and indulgence in manipulation, favouritism and nepotism for building up their patron-client networks. In the process of expanding their patron-client networks they often try to allure away each other's clients by offering more patronage. This becomes an important cause for the growth of conflict among the competing elite patrons. Similarly, conflict arises between the elite members especially the elite clients when they become involved in competition to accrue maximum benefits, favours and patronage from the elite patrons at each other's cost, and when they try to become favourites of their patrons by discrediting each other. Sometimes, open clashes start when an elite client challenges his fellow elite client or clients for blocking his upward mobility. But in this situation their common patron generally intervenes and tries to bring about some sort of compromise between his conflicting elite clients because the prevalence of co-operative relationship among the clients is important to a patron for the maintenance of internal solidarity of his patron-client network.

2. Status consciousness among various categories of elites such as the super-elite, the primary elite, the middle elite and the lower elite is often responsible for elite conflict. Although these categories of elites are bound up in the patron-client networks they are highly conscious about their status in relation to each other. Thus, when a higher status elite member is offended by a lower status one the former tries to rectify the behaviour of the latter by directly or indirectly asking him to show respect to his superior. But when the former's rectification efforts do not work and the latter can find a patron in the person of the former's rival the offended higher status elite member and the lower status elite member become involved in a conflict which brings their elite and non-elite supporters directly or indirectly into the process. This does not, however, mean that the conflict would continue indefinitely because in this type of situation a powerful third party as a common patron to the involved parties may appear in the scene to try for a reconciliation between the conflicting parties. Moreover, when a lower status elite member tries to ignore his higher status elite patron especially in his occupational group in his move to approach a super-elite patron for favours his patron cannot take the matter easy and becomes highly antagonistic to his lower status elite client provided that he (the lower status elite client) has not been invited by the super-elite patron to contact him directly.

3. Competition for upward occupational and social mobility, and the subsequent growth of intolerant attitudes toward the rivals give rise to conflict among the elite members. Each elite member is highly motivated to advance his own position at the cost of his rival or rivals with the help of his patron client network in which if he is a client his patron



would manipulate the case in his favour, and if he is a patron his clients would provide him with services and support.

An elite aspirant to a higher position generally considers his rival as a block on his way to fulfil his aspiration by gaining a higher position. His rival also thinks in the same way. Sometimes, this gives rise to an intolerant attitude toward each other; and from this attitude bitter conflict often arises between them. Each one of them tries to gather his support or secure favours through his patron-client network as well as horizontal ties, and thereby brings many elite and non-elite members into their personal conflict for higher occupational and social mobility.

4. Conflict between the elite members of two or more than two occupational groups develops when the elite members, especially the higher elite members of one occupational category try to interfere in the activities of their counterparts in the other and antagonize them by criticizing their roles. These antagonized elite members in other occupational groups, in turn, begin to interfere in the activities of their rival counterparts and often accuse them of malpractices. The main reason for this interference and counter-interference and criticism and counter-criticism of rival elite members from two or more occupational groups is that they want to gain higher access to the power structure of the community as well as higher control over the decision-making process which would facilitate their further upward mobility and the accruing of more privileges at each other's cost.

5. Sometimes conflict between the members of an elite member's family and those of another elite member's family becomes an important factor for the emergence of conflict between these two elite members who are seen to abuse each other by taking the side of the members of their respective families. For example, when the wife of an elite member becomes involved in conflict with the wife of another elite member mainly on personal issues such back-biting, fighting between each other's children, alluring away of each other's servants or maid servants etc. each elite member supports the cause of his wife and becomes involved in conflict with the other. They bring this conflict to other spheres of their activities and get their supporters directly or indirectly involved in the conflict. However, in most of these cases a compromise or a reconciliation is tried with varying success by a common patron or a common friend or by the conflicting elite members' patrons who are in harmonious relationship with each other.

6. Feeling of relative deprivation among the elite members of various elite categories is yet another cause for the growth of conflict among the elite members. This factor of relative deprivation can be found to cause both intra-and inter-group elite conflict in the community. At intra-group level the elite members are often hierarchically stratified with differential access to politico-economic power and control over the



decision-making process. The higher the position of an elite member along the hierarchical scale the higher would be his politico-economic power and control over the decision-making process in the community. Although the elite members of these hierarchical orders can be seen to be bound up in patron-client networks some elite members in comparatively lower positions develop the feeling of deprivation when adequate opportunities are not available or created for them to move to higher positions and when some of their fellow elite members are promoted to higher positions, while they remain more or less stagnant in their lower positions. Although the patrons of these frustrated elite members often assure them of distribution of patronage and favours in future some of these frustrated elite members are seen to form a clique and to pick a quarrel with the patrons in higher positions by serving their patron client ties with their former patrons. When they begin to create troubles for their former patrons the latter try to take retaliation against their break-away clients. This often leads to the rise of conflict between the higher status elite patrons and their break-away lower status elite client. Both parties try to secure support from other occupational groups and thus get more elite and non-elite members involved in the conflict. Moreover, sometimes in a particular occupational group the second most powerful and influential man may try to become the most powerful and influential man by displacing the top man in the group. This often creates jealousy and conflict between the boss and the second man. Both the boss and the second man begin to exploit their patron-client networks as well as horizontal ties to achieve their goals. Generally, the man whose patron-client network and horizontal ties are more effective both at local and national levels wins the race. But the conflict continues unless a common patron of the two involved elite members comes forward to find out a solution to their dispute. But when they have already developed antagonism toward each other it often becomes very difficult even for a common patron to find out a lasting solutions to the dispute. However, because of the intervention of a a common patron the conflict often assumes a latent form and continues as a cold war between the two initiators of conflict as long as they remain and function together.

At inter-group level the feeling of relative deprivation of an elite member of a particular occupational group vis-a-vis his counterpart in another occupational group often gives rise to conflict between the two because the less privileged elite member of one occupational group often becomes jealous of the accruing of more privileges by an elite member of another occupational group.

7. One of the fundamental reasons for elite conflict is the cut-throat competition among the elite members of the community for having access to economic resources and the sharing of the same amongst themselves. Even the competition for political power and control over the decision-making process in the community is intimately related to the question



of access to economic resources and the accruing of material benefits. It has been observed that maximum economic resources are appropriated by the elite members of the community generally by indulging in economic exploitation and social domination over the general mass of the population. But because the elite members themselves are hierarchically stratified having differential access to economic resources the elite members with relatively lower access to those resources often try to increase their share in such resources. But sometimes, their efforts in this direction are resisted by the elite members with higher access to such resources because they want to retain their politico-economic supremacy over the less privileged elite members.

8. When there is no real threat or apprehension of a threat to the common interest of the elite members of the community they generally become highly individualistic and selfish in accruing power, prestige and material benefits. They think more in terms of their selfish interest than in terms of their group interest. This individualistic and selfish attitude in appropriating privileges often brings one elite member to clash with another because both of them want to maximize their privileges often at each other's cost.

9. Difference of opinion on decision-making and policy process also leads to the emergence of conflict among the elite members. The influential and powerful elite members who take or make the decision often become divided amongst themselves differing in their opinions on certain issues and develop antagonism to each other.

### **Factors Responsible for the Emergence of Co-operative Relationship Among the Elite Members**

1. One of the most important reasons for the emergence of elite co-operation is the concern of the elite members for the protection of their common interest i.e., their privileged position. Although privileges, power and prestige of the elite members are differentially distributed amongst them, all the elite members vis-a-vis the non-elite members enjoying varying degrees of privileges, power and prestige form a privileged group. And hence the maintenance of this privileged position becomes a common concern for all the elite members. Thus, any challenge to the privileged position of the elite members provides them with a common basis to co-operate with each other in order to protect their common interest. But the challenge to the privileged position of the elite members generally comes in a fragmented way in which the privileges, power and prestige of the elite members of an occupational group are challenged by their counterparts in another occupational group. In this situation the elite members in each occupational group are seen to co-operate with each other to protect or to enhance their common interest even though power, prestige and privileges of the elite members in each occu-



pational group differ from each other because of the existence of the hierarchical ordering of the elite members.

2. Establishment of an exchange relationship either in a vertical or a horizontal form based on the principle of patronage transaction in one form or the other has become the most effective basis for the emergence of elite co-operation. Unless the elite members can see the prospect of fulfilment of their mutual interests they hardly find any incentive to develop co-operative relationships amongst themselves. The basis of co-operation between the elite members of comparable standing is created in an exchange relationship in a horizontal type of alliance based on mutual distribution of patronage. They provide support to each other in each other's needs. This process largely helps the horizontally allied elite members to increase their scope for manipulation of things which are essential for building up their patron-client networks in which the basis for the co-operative relationship between the elite patrons and their elite and non-elite clients is created through the distribution of patronage and favours by the former to the latter in exchange for the latter's allegiance support and services. This type of exchange relationship within the framework of a vertical alliance continues as long as both the parties co-operate with each other in achieving their respective purposes.

3. Conflict between two or more elite members both at intra-and inter-group levels also becomes an important cause for the emergence of co-operation between the initiators of conflict and the elite and non-elite members and supporters of their respective *dals*. But in this situation also the basis of co-operation is created through the establishment of an exchange relationship either in a vertical or a horizontal type of alliance. The group feeling among the elite members of a particular occupational group creates a basis for the growth of co-operative relationships amongst themselves. But it must be pointed out here that the basis of the emergence of group feeling is created only when the elite members of a particular occupational group are faced with a common threat to their privileged position or are after achieving certain goal which would help all the elite members in accruing some more privileges.

4. When the elite members of the community are in varying degrees involved in a exploitation of the general mass of the population they find it necessary to co-operate with each other to keep their process of exploitation more or less undisturbed because if their exploitation strategy cannot function smoothly they are likely to lose many of their privileges which they are enjoying now. And if their privileges are reduced their power of social domination is also likely to become low. Thus when the question of exploitation of the elite members of the community is raised they are seen to act unitedly with a high degree of internal co-operation amongst themselves to maintain their strategy of exploitation.



In fact, one of the important reasons for the emergence of both horizontal and vertical alliances among the elite members of the community can be found in their endeavour to maintain the strategy of their exploitation and social domination.

5. Friendship also provides a basis for the growth of co-operative type of relationship between two or more elite members of the community. But the fact remains that in most cases friendship is a product of an exchange relationship, and is generally motivated, materialistic and instrumental in nature. Except in a few cases, friendship hardly develops if they would-be friends do not see any possibility of direct and indirect benefits from each other. However when the friendship has already developed through an exchange relationship the elite friends are generally seen to show a high degree of co-operation with each other in order to protect their common interest of enjoyment of privileges as well as to increase the same.

6. Another important reason for the growth of co-operative ties of relationship among the elite members can be found in their indulgence in corrupt practices. It has been observed that when the elite members are motivated to enhance their power and increase their material benefits through some illegal means they find it essential to develop co-operative relationship amongst themselves to help each other in their corrupt practices. From the above statement one should not assume that all the elite members from various occupational groups co-operate with each other to indulge in corrupt practices because co-operation on an illegal transaction generally takes place at individual level between two or more elite members from the different occupational groups.

7. Some elite members co-operate with each other because of their common ideological belief which they want to propagate in the community. Thus, an elite socialist co-operates with another elite socialist because both of them believe in socialist ideology and want it to be popularized in the community. But the role of common ideology as a basis for co-operation among some elite members is highly doubtful proposition in Rajshahi and elsewhere in Bangladesh because most of the elite members of the community are generally guided by pragmatic considerations in which ideology as such possibly cannot play any major part. In fact, it is the mutual material interest which becomes more important in the growth of co-operative relationship between two or more elite members who believe in a common ideology.

### **Impact of Elite Conflict and Co-operation on Community Affairs**

The elite members, especially the influential and powerful elite members are the persons who are directly or indirectly responsible for the decision making on community affairs. In fact, they are in charge of managing the community affairs, and their activities and actions affect



the community life in various ways. They decide what should and what should not be done in the community. Consequently, the whole interactive process in the community largely depends upon the mode of their actions. Thus, it may be argued that the overall administration of the community is run by the elite members because they are the people who are entrenched in the power structure of the community, and have full access to the community resources. The mode of distribution of these resources are decided by the elite members, especially the powerful and influential elite members of the community. As the elite members' activities and actions are important and vital for the functioning of the community, the type of relationship prevailing amongst the elite members themselves significantly affects the community as a whole.

When the elite members especially the influential and powerful elite members of the community become involved in conflicts there is delay in making decisions on community affairs because if the decision-makers are themselves divided and in conflicting relationship with each other they begin to oppose each other's opinion no matter whether their arguments are rational and logical or not. In this situation conflict and jealousy get the upper hand; and the rational approach to a problem is relegated to a secondary position. As a result, before reaching any decision on an issue the conflicting decision making elite members are required to find out ways and means to reconcile their conflicts. The process of reconciliation often takes a long time because in order to settle the conflict it is, sometimes, necessary to hold informal nightly *darbar* (meeting) inviting an arbiter to deal with the problem. This creates delay in making decisions on various issues in the community. But the problem becomes more complicated when the decision-makers are in conflict with the decision-implementing elite members who are seen to create all sorts of problems so that the decisions are implemented very slowly and improperly.

Sometimes, because of elite conflict the communication process between some elite members who are supposed to work in co-ordination with each other reaches the lowest level at least temporarily. This lack of co-ordination and communication among the elite members creates a serious problem for the smooth functioning of the community. When these conflicting elite members are formally responsible for the developmental works in the community, the community suffers most because the community development programmes are generally sacrificed at the altar of conflict and jealousy of these elite members. And they are seen to blame each other for the stagnation in community development works. Thus, the emergence of conflict among the elite members often adversely affects the community development works which, to some extent, help the general mass of the people to enjoy some benefits because the developmental works create or increase the resource-bases of patronage which facilitate the smooth functioning of the process of exchange rela-



tionship between the elite patrons and their clients. But the elite conflict often reaches such a dimension and magnitude that the conflicting elite members have little time to see their greater advantage and benefit in the developmental works. This does not, however, mean that there is no scope for compromise among the conflicting elite members. In fact, compromise or reconciliation is always possible and can often be seen to take place. But because a compromise or reconciliation is a time-consuming affair and often the intervention of an arbiter is necessary the community development works get a set-back and are delayed. On the other hand, when the elite members develop co-operative relationship with each other there is maximum understanding amongst themselves in making decisions on community affairs. This makes the decision-making process relatively easier and less time-consuming. Moreover, when harmonious relationship prevails among the elite members community development projects can be taken up and completed without much delay. Conflict among the elite members often creates a serious problem for the maintenance of law and order in the community because when an elite member becomes involved in a conflict with another elite member the politico-economically more powerful one tries to take retaliation against his rival often in violation of the laws of the country. Moreover, he also tries to implicate his rival and his (rival's) supporters in false cases with the help of the law-administering machinery. This creates a problem for the security of life of the people of the community; and violence in one form or the other becomes the order of the day. On the other hand, the growth of a high degree of co-operation among the elite members pave the way for the rise of corrupt practices, exploitation and social domination of the elite members over the general mass of the population of the community because the elite members form short-term as well as long term vertical and horizontal alliances amongst themselves to help each other in achieving their goals. The formation of co-operative alliances also increase the power of manipulation of the elite patrons because they help each other in getting things done by making their resources or patronage available to each other. This increase in power of manipulation, in turn, helps them to expand their patron-client networks which are important for the maintenance or enhancement of their power, prestige and privileges in the community. And these patron-client networks give a dynamism in the functioning of the community.

### Conclusion

The article deals with the problem of elite conflict and co-operation in a town in Bangladesh. The participant observation method has been used for the collection of data. Our data demonstrate that elite conflict and co-operation develop at both intra—and inter-group levels centring around two or more than two *dalapatis* (leaders of quasi-group)



who are, in fact, the initiators of conflict or co-operation. The pattern of this conflict and co-operation, and the subsequent alliance formation and factionalism have been shown with the help of a number of model diagrams.

In a section of this article we have tried to find out the factors responsible for elite conflict and co-operation. The following factors are responsible for elite conflict : (a) Competition among the elite patrons for recruitment of clients ; (b) Status consciousness among various categories of elite, such as the super elite, the primary elite, the middle elite, and the lower elite ; (c) Competition for upward occupational and social mobility, and the subsequent growth of intolerant attitudes toward the rivals ; (d) Interference of elite members in each other's activities ; (e) Conflict between the members of an elite member's family and those of another elite members's family ; (f) Feeling of relative deprivation among the elite members of various elite categories ; (g) Cut-throat competition among the elite members for having access to economic resources, and the sharing of the same amongst themselves ; (h) Individualistic and selfish attitude in appropriating privileges often brings one elite member to clash with another ; and (i) Difference of opinion on decision-making process.

The following factors are responsible for elite co-operation : (a) Concern of the elite members for the protection of their common interest i.e., their privileged positions ; (b) Establishment of an exchange relationship in a vertical or a horizontal form based on the principle of patronage transaction ; (c) Group-feeling among the elite members of a particular occupational group creates a basis for the growth of co-operative relationships ; (d) To perpetuate their exploitation of the general mass, the elite members co-operate amongst themselves ; (e) Friendship also provides a basis for co-operation among the elite members ; (f) Growth of co-operative relationship among the elite members can be found in their indulgence in corrupt practices ; and (g) Some elite members' common ideology, guided by pragmatism creates a basis for co-operation amongst themselves.

The last section of the article deals with the impact of elite conflict and cooperation on community affairs. As the elite members are responsible for the decision-making and development strategy in the community, the prevalence of elite conflict adversely affect the community ; whereas the existence of elite co-operation often facilitate the process of decision-making and development works in the community.



# Dealing with Vagrancy in Bangladesh

M.A. Halim

Vagrancy\* seems to be an age old social problem in Bangladesh. Poverty and frequent natural calamities largely contribute towards creating destitutes and vagrants. The problem of vagrancy has so far been considered not in its totality but only as an urban problem. There is a legislative framework within which some services were developed to deal with the problem. There is, therefore, a need to review the situation of this social problem vis-a-vis the measures taken to tackle it. This paper, thus, reviews the available data about vagrancy and beggary especially the operation of the Vagrancy Act (1943). An attempt is also made here to examine the relevance of the policies and programmes of the Five-Year Plans designed to reduce mass poverty and meet the basic needs of the vagrants.

The application of the Vagrancy Act at the present time not only shows the eagerness of the Government to clear the urban areas of the destitutes, but also introduces a new element in the management of famines and scarcities. In the medieval time it was an accepted state policy to regulate supplies and control of food grains during famine. In the early stages of the British rule, the East India Company continued the policies of the native rulers as it imported food grains into the famine districts prohibited exports and controlled prices. This policy gradually underwent a change. The control of prices and the regulation of supplies were abandoned in favour of a policy of non-interference. The Government generally offered employment through relief works and gave gratuitous relief. In 1943 the Bengal Government for the first time introduced control of prices and regulation of food grains along with other measures such as test work relief, the opening of gruel kitchens and the sale of food grains at a subsidised rate. But these measures were too inadequate to stop the distressed people rushing to Calcutta and other towns for help. The improved means of communications particularly the railway, which changed the character of the famine helped them go to the cities.

Both in 1943 and in 1974 the authorities used The Bengal Vagrancy Act of 1943 as a punitive measure. In fact, since 1953 all Governments in power made use of this act. When there was no famine, scarcity persisted in the form of food shortage. As a result of this and the imperatives of the economy, rural masses have been becoming paupers.

\*Vagrancy and beggary are synonymous.



When they come to cities the Government puts them behind bars for safeguarding the interest of the urbanites. As the capital and other cities remain mostly free of the annoying people of this kind, there is a tendency to assume that the economy is managed well.

### Some Relevant Statistics

An early attempt to describe this problem was undertaken by the Institute of Social Welfare, Dacca University in 1963.<sup>1</sup> It was followed by another study by the same University in 1975.<sup>2</sup> These studies indicate that the majority of the beggars are able-bodied. In Dacca the percentage of able-bodied beggars increased from 51% in 1963 to 81% in 1975. In the mid 1960s four surveys were conducted by the Government department of Social Welfare. All these revealed that about 72% of beggars were able-bodied and employable.<sup>3</sup> Recent reports also reveal that the percentage of female beggars is greater than that of males.<sup>4</sup> Although there is no nation-wide survey of beggars, it can be presumed that their numbers are increasing rapidly.

The majority of the male beggar population are married and a significant per cent of female beggars are widows. The 1976 Census recorded a higher percentage of both widowed and divorced among females than among males. The joint family system and local charity appear to meagre to ensure their maintenance even at subsistence level.

The beggars belong mostly to a potentially economically active group. In 1963-64 about 70% of the beggars of Dacca city were between the 21-50 age group, while it was 90% in 1975. Thus, the table below (Table 1) indicates the general trend that the number of young beggars has been increasing with the passage of time. This means that the infirmities of old age are not a major cause of beggary.

**Table 1**  
**Frequency Distribution of Beggars according to Age**

Age in Years	Dacca University Study 1963	Dacca University Study 1975
Up to 20	8%	18.5%
21-30	18%	31.5%
31-40	23%	26.5%
41-50	21%	14%
51-60	15%	3%
61 and above	15%	6.5%

<sup>1</sup> *They live on charity*, Dacca University : Institute of Social Welfare and Research Centre, 1963 (mimeo).

<sup>2</sup> *The Vagrants of Dacca City*, Dacca University : Bureau of Economic Research, 1976.

<sup>3</sup> Project Digest, Training and Rehabilitation of Beggars, Dacca : Directorate of Social Welfare, n.d. (U.N.)

<sup>4</sup> "Bangladesher Samaj Chitra-4", The Daily *Banglar Bani*, Monday, 17 January, 1983.



The factors which cause beggary are complex and a product of particular socio-economic condition. The Dacca University Study (1975) identifies the causes quite palpably. In this study 40% of the beggars stated that they had neither any land nor any family capital back at home, or that some kind of disaster like crop failure or river erosion or loss of jobs had rendered them vagrants. 30% could not adduce any reason other than that they were making a very poor living. Another 8% said that they came to Dacca city for charity. The case histories compiled in this study give telling insight into the problem. There are a large number of persons in Bangladesh for whom employments are so uncertain and their belongings and savings are so little that they wait for opportunities of coming to the cities/towns where their condition would not be much worse than their present plight in the village homes.

For the female beggars the causes were somewhat different. 13% of the women said that they left their village homes along with neighbouring women on the information that relief, charity or work were available in Dacca city. 41% of the women reported that the death or inability of the breadwinner or family disruption or rape made them vagrants. Thus, if women in rural areas became helpless for any reason, they could not find work nor could they beg in their own locality out of shy.

The causes of beggary are rooted in the socio-economic condition of the country, especially in rural areas. In fact the vast number of agrarian people who were unemployed or underemployed fled to the cities for some kind of livelihood. As the volume of unemployment increases with the increase of population the agrarian economy ejects a portion of them towards the cities. These people are described as beggars.

While acknowledging the difficulties of estimating the volume of unemployment in subsistence agriculture, we may refer to some facts.<sup>5</sup> Agricultural unemployment as a portion of agricultural labour force was 31.29% in 1950. It showed no sign of improvement during the two decades from 1950 to 1970. 32% of agricultural labourers remained unemployed in 1969-70. The Planning Commission of Bangladesh computed in 1972-73 that the agricultural labour force was 19.82 million and the

<sup>5</sup> Percentage of Unemployment in Agricultural Sector

1950-51	1954-55	1960-61	1964-65	1969-70
31.29	33.60	34.02	30.80	32.42

Source : Ahmed, Iftikhar, "Employment in Bangladesh ; Problems & Prospects" in the *Economic Development of Bangladesh within a Socialist Framework* edited by E.A.G Robinson *et al* Table 9.8, p. 246. The survey beggars in Dacca city conducted by the Department of Social Welfare, Government of Bangladesh, records that 77.8% of females and 70% of males left their villages for Dacca city in search of work, Sept. 1975, Table 9 (mimeo).



rate of unemployment and underemployment was 36.8%.<sup>6</sup> The situation was further aggravated by the continued food scarcity.<sup>7</sup>

There is no system of support of those who are unable to earn their living. The unemployed are either looked after by their friends and relations or they survive by begging or die.<sup>8</sup> The possibilities of improvement in the future are also very bleak.<sup>9</sup> The number of beggars is likely to increase in coming years. Thus when the rural community cannot provide livelihood, the poor people often come to the urban areas to find some means of subsistence and thereby transforming rural poverty into urban poverty.

The public policy towards the beggars as a disadvantaged group can hardly be traced in Bangladesh until 1943. There were some measures in the Calcutta Police Act of 1866 but a definite policy measure was not taken until the enactment of the Bengal Vagrancy Act of 1943. After the partition of India in 1947 additional policy measures were taken in order to tackle the problem. This reflects the attitude of the Government towards the group whose basic needs remain unfulfilled.

### The Vagrancy Act of 1943

This Act provided for the detention and institutional placement of beggars. The Act defines a vagrant as a "person who is found asking for alms in any public place, or wandering about or remaining in any public place in a such condition or manner as makes it likely that such a person exists by asking for alms."<sup>10</sup>

A Police Officer may require an apparent vagrant to appear before a special Magistrate who will make a summary inquiry into his character and circumstances. If he is satisfied that the person is vagrant, he may pass the necessary orders for his detention in a Vagrant Home. If such a person is not a resident of the area where the provision of the Act is in operation, the Magistrate may expel him. He is then prohibited to

<sup>6</sup> Bangladesh, The Government of, *The First Five Year Plan (1973-78)*. Dacca : The Planning Commission, p. 187.

<sup>7</sup> Although during the 1960's production of rice rose by 2.45% yearly, Bangladesh had to import larger amounts than the previous period. During 1960-65 8.5 lakh tons on an average which increased to 11 lakh tons in 1965-70 (*The First Five Year Plan*, p. 84).

Also see *Food Policy Issues in Low-Income Countries* ; World Bank Staff Working Paper, No. 473, Aug. 1981, p. 54.

<sup>8</sup> J. Faaland, and J.R. Parkinson, *Bangladesh : The Test Case of Development*, ( 1st Impression in Bangladesh ) London, C. Hurst & Company, 1976, p. 146.

<sup>9</sup> The available evidence points to the unambiguous conclusion that the agricultural situation has been deteriorating and a production oriented strategy even with the present large scale non-mechanized technology will not improve the situation in the foreseeable future. *Agricultural employment and unemployment in Bangladesh : The Next Decade*, by Edward J. Clay and Md. Sikander Khan, Working Paper II, as part of the Government of Bangladesh-UNDP/FAO Agricultural Mission Activities, Dacca, June, 1977, p. 36.

<sup>10</sup> The Vagrancy Act, 1943.



return without the written permission of the Controller of Vagrancy. If a beggar violates such an order, he may be arrested by the police without a warrant and sentenced by a Magistrate to rigorous imprisonment. The Act provides for the detention of beggars in a Vagrant Home which may include provisions for the teaching of agricultural, industrial or other pursuits and for the general education for the inmates.

A vagrant may be released if the Manager of the Home certifies that the vagrant has satisfactory employment; possesses an income sufficient to enable him to support himself; if he is on a bond executed by a relative or a person interested in looking after or maintaining him; or if there is sufficient or good reason recorded by the Controller of Vagrancy.

Although the Act requires the appointment of an Advisory Board to advise the Government on all matters relating to control of vagrancy and in particular on the administration of the Act, the Board seldom meets and seems to be inaffective.

### The Operation of the Act

The operation of the Act shows the true nature of the policy. It has been applied for nearly thirty five years in a changing socio-economic and political context of the country.

The Act was conceived against the grim background of the famine in Bengal in 1943. It was passed in October that year when the famine reached its climax and thousands of persons had been leaving their village homes for towns and cities, including Calcutta, for food. The contemporary evidence presents us with an awful picture. The Famine inquiry commission opined that death from famine totalled 1.5 million.<sup>11</sup> In the pavements of Calcutta a large number of people died from starvation, but not a single person belong to Greater Calcutta.<sup>12</sup> Among the destitutes\* of 590,000 in January, 1943<sup>13</sup> (as calculated from the rate of increase of destitutes at the rate of 1.67% from the 1931 Census), a considerable number was likely to start for Calcutta and other towns for food.

The reasons for passing such an Act may be attributed to the result of conflict of interest between rural and urban areas.<sup>14</sup> The readiness of the Government to give preference to the needs of Calcutta over the millions in rural areas can also be seen from the contemporary documents.

<sup>11</sup> B. M. Bhatia, *Famines in India*, London, Asia Publishing House, 1967 (2nd Ed.), p. 324.

<sup>12</sup> *Ibid.*

\*Proportion of persons living on charity.

<sup>13</sup> P. C. Mahalanobis, 'The Bengal Famine', *The Imperial and Asiatic Quarterly Review*, Vol. XLXI, No. 149, January, 1944, p. 314.

<sup>14</sup> The Famine Commission Report, Chapter X, pp. 101-102, quoted in B. M. Bhatia, *op cit*, p. 324.



The Revenue Minister who was looking after the Relief Administration wrote to one of his contemporaries asking him to set up food kitchens outside Calcutta to prevent people entering the City.<sup>15</sup> Even before the enactment, the Bengal Relief Commissioner argued that it was essential for the health of Calcutta that the destitutes should be sent back to villages even if nothing more than gruel could be given to them there.<sup>16</sup> In pursuance of this policy the Government introduced a residentship test for the destitute to be fed by the free kitchens,<sup>17</sup> and declared its intentions to clear Calcutta of the destitutes from outside as soon as possible.<sup>18</sup>

After the partition of India in 1947, the Act was adopted by the East Bengal (now Bangladesh) Legislative Assembly with little modification. In 1951 the metropolitan areas of Dacca and Chittagong and in 1952 Narayanganj and Chandpur towns came under this Act. During the 1960's it became effective in certain other urban areas.

The Act has been constantly applied since 1954 (Table 2). It became necessary on the part of Governments, whatever character they had, to use it since the number of beggars had been increasing with the deterioration of the economy. The grim employment situation, an increasing agricultural labour force,<sup>19</sup> the failure of agricultural development programmes to generate sufficient employment and the failure of the works programme to increase agricultural production or to prevent floods<sup>20</sup> contributed, among other factors, to the steady growth of urban floating population. The growth of urban squatter population of Dacca city could be cited as an example. The squatting rate was approximately 2% from 1947 to 1958, 4% from 1958 to 1968, and 6% from 1969 to 1973.<sup>21</sup> During the 1950s and 1960s the Act was applied in the capital city and in some other big urban areas. There were some other programmes, along with the operation of the law, to rehabilitate the able-bodied beggars. These programmes sought to mobilize public opinion,

<sup>15</sup> The Bengal Relief Committee Correspondence, 1943-47.

<sup>16</sup> Proceeding of a conference of some leading representatives of the non-official relief organisations working in Calcutta, and of officials held on Tuesday, 20th September, 1943, The Bengal Relief Committee Correspondence.

<sup>17</sup> Bengal, The Government of, Additional Deputy Control Officer, Pollock House, Memo. No. 22 5552 (225) R. C. 20th November, 1943.

<sup>18</sup> Bengal, the Government of, Relief Control Officer, Pollock House, Memo. No. 5446—225/R. C. 16th November 1943.

<sup>19</sup> Census year	No. of Agricultural Labour Force
1951	83.15
1961	85.26

<sup>20</sup> Badruddin Omar, "Peasants of Bangladesh during Ayub Khan's Regime", *Bichitra*, Special Id. Supplement, 1978, p. 277

<sup>21</sup> Sayeda Rowshan Qadir, *Bastees of Dacca: A Study of Squatter Settlement*, Dacca: Local Government Institute, 1975, p. 23.



community resources and administrative support in favour of the beggar population in important urban areas.

### The 1974 Famine and the Vagrancy Act

After the liberation on the 16th December, 1971, Bangladesh continued to experience acute scarcity of the basic necessities of life. The situation which started worsening from the middle of 1974 reflected in

**Table 2**  
**Number of New Admission in Vagrant Homes in Different Years**

Years	New Admissions	No. of Vagrants Remained at the beginning of the Year
1947-48 (From Aug. 15th)	742	742
1948-49	Nil	400
1949-50	Nil	400
1950-51	Nil	354
1951-52	Nil	350
1952-53	Nil	343
1953-54	45	337
1954-55	208	337
1955-56	212	378
1956-57	251	440
1957-58	250	460
1958-59	—	470
1959-60	313	442
1960-61	409	383
1961-62	284	385
1962-63	496	422
1963-64	305	533
1964-65	526	615
1965-66	354	642
1966-67	575	646
1967-68	669	420
1968-69	475	670
1969-70	515	472
1970-74	718	1385
1974-75	865	1538
1975-76	1077	1603
1976-77	941	1714
1977-78	437	1486

Source : East Pakistan, *Agricultural Department*, 1958, *A Report on the Working of Vagrancy Organization in East Pakistan—from 1947 to 1958* ; Office of the Controller of Vagrancy, Dacca.



the sharp rise in the prices of food grain. In some parts of the country where crops failed due to natural calamities, the agriculturalist belonging to the landless and small propertied classes was unable to procure food. Thus arose a famine situation when large section of people could not obtained minimum required food on account of high price or scarcity causing mass starvation and death.<sup>22</sup> It was estimated that about 10,000,000 needed "full support" for their survival from August till December, 1974.<sup>23</sup>

Again thousands of desperate people left village homes for cities and towns seeking food for sheer survival.<sup>24</sup> Many of them died and those who escaped death joined the already swelling floating population of the towns.

In the midst of the chronic scarcity, the Government took several measures to keep the urban areas particularly the capital city 'clean'. It applied the Bengal Vagrancy Act, and forcibly evicted the 'Bastuhara'\* from the urban areas. Both these measures were taken ostensibly to rehabilitate the beggars and *Bastuhara*. During the height of the famine a large number of gruel kitchens were opened in cities as in other parts of the country.

The eviction of the *Bastuhara* was stopped by January, 1975 when the cities, particularly the capital seemed clean and safe. Although it was repeatedly announced that the *Bastuhara* were removed from the urban areas for the sake of rehabilitation, there were other reasons also. They became a source of embarrassment to the ruling party. From early 1972, they were organising themselves into different 'samity'\*\* (organisations) which were affiliated to various political parties. Under the leadership of politicians they staged a mass rally on May 27, 1972. A demand list was handed over to the Prime Minister of Bangladesh.<sup>25</sup> Moreover, a section of people who had powerful link with the ruling party had interests in the precious land which the *Bastuhara* were occupying.

The gruel kitchens were shut down by the end of 1974. But the arrest of beggars under the Vagrancy Act has been continuing. The Act supplies a legal framework through which poor persons defined as

<sup>22</sup> See for various definition of famine, Bhatia, *op. cit.*, pp. 1-15.

<sup>23</sup> *Bangladesh Bank Bulletin*, Vol. 18-19, Dacca, January, 1975, pp. 14, 16.

<sup>24</sup> Atiar Rahman, Hasan Siddiqui, "1974 Famine", *Bichitra*, 23 May, 1978, 2nd year, 2nd No. p. 50. See for details, Ali Akbar, "1974 Famine" in Bangladesh, Department of Social Work, 1975 (mimeo) Mohiuddin Alamgir, *The Political Economy of Mass Starvation*, Dacca: The Bangladesh Institute of Dev. Studies.

\*Homeless who occupied land in the urban areas.

\*\*Bangladesh Bastuhara Samity, Awarmi Bastuhara Samity, Purana Paltan Bastuhara Samity.

<sup>25</sup> *The daily Ittefaq*, May 27, 1972.



beggars are detained. The rural poor coming to the urban areas in normal times for livelihood and in abnormal time for succour were arrested by the police as beggars along with the already existing urban poor.

If the news contents of the *Ittefaq*, a widely circulated daily, are analysed, it can be seen that the Act was applied with more severity as the scarcity aggravated to famine condition.<sup>26</sup> This becomes more apparent when the yearly number of new admissions to the Vagrant Homes is considered. It should also be noted that new admissions involve new arrests. In a country where the majority of the people are poor, the policy of arresting beggars during famine or scarcity conditions is particularly harsh. The able-bodied beggars are robbed of their freedom on the dubious assumption that their detention in a Vagrant Home will help them find a livelihood. The succeeding regimes continued to make use of the Bengal Vagrancy Act.<sup>27</sup>

### The Vagrant Homes

On the 9th August, 1947, just on the eve of the partition of India, about 700 vagrants originally belonging to Bangladesh were shifted from Calcutta to the new Vagrant Home at Chandpur. In 1961 these Homes were removed to Pubail, not far from the capital, and to Dacca, Mymensingh. Four more Homes were established in 1977. Apart from administrative conveniences, the location of the Homes around the capital helps easy transportation of vagrants from the capital. There were 29062 thousand inmates in those Homes till 1977-78. They were distributed to the six Homes according to age groups. They received training in weaving, tailoring, agriculture, carpentry, hair cutting, cooking, jute and cane work. Besides, there was a provision for medical treatment and general education.

An examination of vocational training of the inmates from 1950 till now reveals that there was little change in the mode of training. It is claimed that the vagrants are kept in detention for reform and re-

<sup>26</sup> The Daily *Ittefaq*, 17.9.74, 23.9.74, 25.9.74, 26.9.74, 27.9.74, 28.9.74, 29.10.74, 30.10.74, 4.11.74, 5.11.74, 6.11.74, 22.1.75, 24.1.75.

<sup>27</sup> No. of Vagrants Arrested by the police from 5.2.78 to 11.2.78 :

Dates	Male	Female	Children
5.2.78	32	50	22
6.2.78	30	50	25
7.2.78	29	17	8
8.2.78	31	20	7
9.2.78	25	33	9
10.2.78	43	44	17
11.2.78	20	33	17

Source : Nur-e-Alam, Ahmed, *Beggars, Bichitra*, 7th year, No. 9, July 14, 1978, p. 25.



habilitation, but until now a very negligible number of vagrants has so far been rehabilitated through employment.

A report<sup>28</sup> states that the inmates do not like to stay in the homes and are generally unhappy. They complain seriously of inadequate diet (Tk. 2.00 per day) and express great anxiety over the condition of their families. These vagrants, in many cases, are the only earning members of their families. There is no study to assess the effect of their separation from their families. But it can very well be guessed that the families face serious economic problems. There is also evidence of physical torture by the guards. For the disabled beggars it is assumed that institutional care may help them. But how far it is useful to the able-bodied beggars is a matter of serious consideration. Because in the Vagrant Homes the majority of the inmates are able-bodied male, female and children. However, the Vagrant Homes shelter the needy disabled beggars, some poor children and women and possibly rehabilitate some able-bodied beggars and keep the important places of the cities pleasant. Considered in this way, all social provisions perform some useful purposes. Even the unreformed work houses of England fulfilled some needs.<sup>29</sup>

### Policies in the Five Year Plans

The First Five Year Plan while recognising 'begging as a melancholy fact' lamented that 'it is unlikely that any substantial Government grant can be profitably spent on the reformation of Beggars'.<sup>30</sup> It proposed to establish pilot projects and encourage private agencies and it recommended extensive research on the problem. The Second Five Year Plan,<sup>31</sup> besides establishing model institutions and augmenting private agencies, suggested that beggars were socially handicapped. The Third Five Year Plan<sup>32</sup> elaborated the concept of 'socially handicapped' to include vagrants and beggars among the 'socially and economically handicapped' categories. These terminologies were not precisely defined in the Five Year Plans. But it could be taken to mean that this change was made in partial recognition of the greater part played by the economic factors in the causation of the problems. However, it did not change the basic approach of the two previous plans, the recognition remaining theoretical. The private agencies and the local bodies were

<sup>28</sup> Beggars Rehabilitation Problem, *Bichitra*, 7th Year, No. 9, July 14, 1978, pp. 28-33.

<sup>29</sup> James, S. Taylor, "The Unreformed Work House, 1776-1834", in E.W. Martin (ed) *Comparative Development in Social Welfare*, London, George Allen and Unwin Ltd. 1972, p. 74.

<sup>30</sup> Pakistan, Govt. of, *The First Five Year Plan, 1955-60*, The Planning Board, p. 629.

<sup>31</sup> Pakistan, Govt. of, *The Second Five Year Plan, 1960-65*, The Planning Commission, pp. 381-387.

<sup>32</sup> Pakistan, Govt. of, *The Third Five Year Plan, 1965-70*, The Planning Commission, p. 278.



to provide the country with wide services and set up model institutions with Government help. The First Five Year Plan of Bangladesh<sup>33</sup> acknowledged the value of the causative factors, but it emphasised the importance of the rehabilitative programmes based on vocational training. The previous policy of organising rehabilitative services outside the legal provisions was discarded in favour of strengthening the existing Vagrant Homes on the plea that the 'Palliative has produced good result'.<sup>34</sup>

Thus, during the period between 1960 and 1970 the Department of Social Welfare tried to develop programmes in order to find a solution of the problem in the urban areas. Although limited in coverage and effect, these exemplified the Government's attempt to involve the local people in the planning and execution of a programme designed to help one of the most needy section of the community.

The two vagrant homes were found inadequate in early 1960 to deal with the problem of beggary. So, the Department of Social Welfare moved to mobilize voluntary efforts to supplement the Government efforts and pool available resources on a wider scale.<sup>35</sup> With this end in view Self-Help Centres were established in the districts of Rangpur, Comilla, Faridpur and Khulna. These Centres gave vocational training to the able-bodied beggars in tailoring, carpentry, masonry, weaving, bamboo and cane work. The Khulna Centre which was designed a residential training and rehabilitation institution, was found to be a failure. The inmates worked only reluctantly and the income of the institution was very low which rendered it economically unviable. The other centres also met with very limited success. So, no more Self-Help Centres were established after 1965, although as will be shown, similar developments but with greater public involvement and administrative support—at least theoretically—took place.

With the launching of the Third Five Year Plan in 1965, the Department of Social Welfare drew up a new programme to implement its policy, the name of which was the Programme for the Training and Rehabilitation of Beggars. It rested on the strategy that 'the real solution of the problem of beggary lay in (i) mobilizing public opinion in a concrete manner against indiscriminate charity, (ii) mobilizing local charities for maintaining the indigent and infirm beggars, (iii) and making arrangements for imparting vocational training to the able bodied beggars in their respective localities'.<sup>36</sup> Six urban centres were initially chosen to start the programme which was to be expanded eventually in all the

<sup>33</sup> Bangladesh, Government of, *The First Five Year Plan, 1973-78*, The Planning Commission, Dacca, p. 534.

<sup>34</sup> *Ibid.*

<sup>35</sup> Scheme for the Eradication of Beggary, Divisional Social Welfare Office, Rajshahi, Bangladesh.

<sup>36</sup> Project Digest, *op. cit.*



fifty two towns covered by the Urban Community Development Projects (Table 3).

**Table 3**  
**Self-Help Centres Established During the Period 1968-71**

Year	No. of Centres	No. of Beggars
1968-69	10	500
1969-70	10+14=24	1200
1970-71	24+24=48	2600

Source : Project Digest, Department of Social Welfare.

It made provisions for the urban resident beggars and the non-residents of the locality were expelled to earn their livelihood in their respective localities.<sup>37</sup> The main approach of the programme was based on the rehabilitation of beggars by giving vocational training which differs little from the method of training of Vagrants Homes and Self-Help Centres. The only innovation was the establishment of a Creche near each non-residential-type vocational centre.

The speciality of the programme lies in its efforts involving a cross section of the local people and creating an organisational set up from the local to the national level. A Central Committee was formed with the Joint Director of Social Welfare Department as the Chairman to Plan and Co-ordinate. In each programme area an Area Committee was constituted with the head of civil administration as its Chairman. It also included *Imams*,\* educationists and voluntary social workers. The Area Committee was entrusted with the responsibility of undertaking surveys to categorise beggars, mobilise public charity and arrange training rehabilitation.<sup>38</sup> But the area Committee, headed by the Deputy Commissioner or the Sub-divisional Officer could hardly function effectively. The Deputy Commissioners or the Sub-Divisional Officers used to remain very busy in looking after the general and developmental administration of their respective areas. In the 1960's the Deputy Commissioners who represented the colonial district officers became central figures around whom development activities used to revolve. So, all Departments wanted to involve him to get his support for their programmes. In fact, without his co-operation and blessing no programme of social development could be successful. He was very busy and over-worked. So, he used to deputise one of his deputies to chair the Area Committee. Such officer had little interest in the success of the programme.

<sup>37</sup> Special Supplement on Social Welfare, *The Bangladesh Observer*, March, 2, 1973.

\* One who leads prayer.

<sup>38</sup> Minutes of the East Pakistan Council of Social Welfare, December 3, 1966.



The resource flow of the programme was also very uncertain. A number of factors contributed to this. The District Boards and the Municipal Committees provided some money initially. The '*Baitul Mal*' which was organised in the mosques to raise and channel public charity, particularly the religious, could not gain much mass support. In Bangladesh people generally prefer to give charity individually. The Bengali Muslims lack any experience in pooling religious charities on a large scale. Previously there was no example of religious charity mobilized under Government sponsorship. Finally, Government officials may not always possess reputation for their honesty. Under the circumstances, the effort to mobilise *Baitul Mal* as a symbol of community responsibility towards the indigent was likely to be unsuccessful. So, after some initial success, the programme failed to attract any substantial resources. The Government, through the Urban Community Development Projects, continuously harped on the religious duty of the community to take responsibility of the local indigents. But instances can hardly be cited where local communities (even urban) have taken the responsibility of maintaining their indigent in the absence of legal measures. In fact, local charity was a poor substitute to justice withheld.

The programme for the rehabilitation of beggars envisaged rehabilitation of beggars through employment by giving them training in some trade. But the unemployment situation in cities in the 1960's (and now) was very grave. Although it was claimed that a few hundred beggars were given employment, it could be assumed that the number was negligible in comparison with the total number of beggars.

Another factor that rendered the scheme unrealistic was the mode of payment to the trainee beggars. Each beggar was paid Tk. 1.25 as a daily allowance which was inadequate for a beggar to maintain his family and which was also much less an amount than could be earned through begging. This fact worked as a disincentive for the beggar to attend work homes—a good example of the principle of less eligibility. So, the whole programme collapsed and was withdrawn after 1970.

### Conclusion

Thus, the policy so far pursued by the public authorities towards beggars was based on the assumption that the problem was essentially urban. We have seen that the origin of the problem does not lie in the urban areas. It is essentially agrarian and fundamentally related to the structure of the economy. The problem was too great to be solved through the arrest of beggars by the police or delineated through a few surveys conducted in the urban areas. Again, if even it is accepted, the beggars who were arrested by the police were rehabilitated, this policy did not change the situation of the vast number of resourceless and incomeless people who were held back in the rural economy. This policy of arresting beggars from the urban areas is seriously limited in that it carries out a section of the poor as beggars and leaves the other same category of people to their fate or unorganised charity.



# Persian Writings in Bengali : Their Impact on Socio-Cultural Life

M. Kalim

Persian is not only a living language but also it bears the testimony of our old culture and tradition. Dr. Hadi Hasan of Aligarh Muslim University, a renowned scholar of Persia, gives an account of Bengal's commercial contact with Persia since the Pre-Islamic days.<sup>1</sup> The establishment of a colony of Persian merchants in Bengal was due mainly to the maritime activity of the Persians which extended from Persia to Bengal. Most of the early Muslim saints and preachers of Islam, such as, Mir Sayyid Sultan Mahi-Sawar (d. 1047 A.D.), Shah Muhammad Sultan Rumi (d. 1053 A.D.), Baba Adam Shahid (d. 1119 A.D.), Shah Ni'mat Allah But Shikan and others were Persian speaking. They started their missionary activities and picked up the language of the soil. Their converts and disciples, in their turn, took up the language of their spiritual guide and as such our spiritual heritage is also indebted to Persian. The decline of Persian is nothing but the decline of Islamic mysticism which has been the fountainhead of moral values of humanity. Our relationship with Persian language and literature goes back to seven centuries and a half.

With the conquest of Bengal in (1204 A.D.) by Muhammad Ikhtiyar al-Din bin Bakhtiyar Khalji who was a Turk, Persian held dominant position as official language of the state. The Turks ruled over Bengal for about one century and a half. According to Minhaj-i Siraj, the Turkish and other Muslim scholars, administrators and jurists who came to Bengal were almost Persian in terms of culture through whom the Persian culture infiltrated among the general public of Bengal.<sup>2</sup>

*Haud al-Hayat* by Qadi Rukn al-Din Samarqandi, a famous theologian and judge of Lukhnawti, is the first Persian book compiled in Bengal during the rule of Ali Mardan Khalji (1209-1216 A.D.). This is a translation<sup>3</sup> of Amritkunda, a Sanskrit work on the Philosophy of Yoga written by Bhojar Brahmin who came from Kamrup (Assam). In view of the wide popularity at that time Persian Language had rightly been called the French of India and chosen as the language of the courts

<sup>1</sup> Hadi Hasan ; *History of Persian Navigation* (London), p. 35.

<sup>2</sup> Abu Umar Minhaj al-Din Uthman Juzjani. *Tabaqat-i Nasiri* (Kabul, 1964 ), p. 432.

<sup>3</sup> For details see, M. Kalim, "On translation of Amritkunda, *Journal of the Asiatic Society of Bangladesh*, Vol. April 1973, pp. 75-81.



and government offices. It was also the vehicle of expression in the domain of culture throughout the Muslim rule in Bengal. For several centuries it flourished in the court of the Muslim rulers at Luckhnawti and Sonargaon. In this connection reference may be made to the court of Nasir-al-Din Baghra Khan (1280 A.D.), son of Ghiyath al-Din Balbun, where Shams Dabir, Amir Khusrau and Qadi Athir served as the important luminaries of Persian Literature.<sup>4</sup> Another renowned traditionist and an authority on jurisprudence, Maulana Sharaf al-Din Abu Tawwama (d. 1300 A.D.) of Bukhara who settled at Sonargaon wrote two small treatises in Persian namely, *Maqamat* and *Nam-i-Haq* which are regarded as the first works in Persian verse, the first on mysticism and the second on Islamic jurisprudence.

The reign of Ghiyath al-Din Azam Shah (1389-1400 A.D.) son of Iskandar Shah of Ilyas Shahi dynasty, and independent Sultan of Bengal, is regarded as the golden age of Persian Literature. Ghiyath al-Din himself being a composer of Persian verses, invited the famous lyricist of Shiraz, Khwaja Shamsuddin Muhammad Hafiz, to his court at Sonargaon.<sup>5</sup> Hafiz expressed his inability due to his old age and sent beautiful lyric in reply to the king of Bengal, the opening lines of which run thus :

Saqi Hadith-i-Sarv-o-Gul-o-Laleh Mirawad.

Win Bahth Ba Thalatha-i-Ghassaleh Mirawad.

His contemporary Sufi saint, Nur Qutb-i Alam of Chishti order (d.1415 A.D.) was not only a poet but also an author of *Anis al-Ghuraba* as well as a collection of<sup>6</sup> unpublished letters in Persian. According to Shah Qutb al-Din Haqqani, a Chishti saint, Shaikh Nur Qutb-i Alam also wrote *Munis al-Fuqara* and *Khanawadah-i-Chishtia*. Other mafuzat of Nur Qutb-i Alam namely *Anis al-Ashiqin* and *Rafiq al-Arifin* were compiled by his spiritual disciple, Husam al-Din Manikpuri (d. 1477 A.D.). From a cursory glance of these mafuzat, apart from *Munis al-Fuqara* and unpublished letters of Nur Qutb-i Alam, we may have some idea about the personality of the saint. Shah Qutb al-Din Haqqani himself wrote a book on mysticism entitled 'Masayl al-Mashaykh in about 900 A.H.<sup>7</sup> Ibrahim Qawwam Faruqi was a learned Persian scholar who compiled (sometime after 867 A.H.) his *Farhang-i Ibrahimi* better known as *Sharafnamah-i Maneri* which is considered as the first Persian book on lexicography in Bengal, a manuscript of which is till pre-

<sup>4</sup> Pakistan Historical Board, Karachi, *A short history of Hind-Pakistan* (Karachi, 1963), pp. 132-133.

<sup>5</sup> Ghulam Husain Salim, *Riyaz al-Salatin*, (Calcutta, 1898 A.D.) pp. 105-106.

<sup>6</sup> Muhammad Ali Hasan Khan, *Subh-i Gulshan* (Bhaupal Estate : 1295 A.H.), p. 557.

<sup>7</sup> Zuhur al-Din Ahmad : *Pakistan Mein Farsi Adab* (Lahore, 1964), pp. 622-623.



served in the library of Madrasah-i Aliya at Dhaka.<sup>8</sup> It furnishes valuable information about his contemporary learned personalities like Poet-Laureate Amir Zain al-Din Hirati, Iftikhar al-Hukama Amir Shihab al-Din Hakim Kirmani, author of *Farhang-i Amir Shihab al-Din Kirmani*, Shaikh Wahid, author of *Habl al-Matin* and poets Mansur Shirazi and Malik Yusuf Ibn-i Hamid.

During the Husain Shahi period (1494-1538 A.D.) Persian also enjoyed the status of official language, but Sultan Ala al-Din Husain Shah and his successors were also great patrons of Bengali Language. It is during this time that an epic poem of Sanskrit was rendered into Persian. The buildings constructed during Husain Shahi Sultans bear inscriptions in Persian and Arabic. Mir Sayyid Alavi compiled the book entitled 'Hidayat al-Rami' (between 1493-1518 A.D.) which deals with the art and strategy of warfare from Islamic point of view.<sup>9</sup>

During the Pathan period, though short, Abd al-Rahman Sufi of Fathpur compiled his book under the title of *Mathnavi-yi Ganj-i Raz* (966 A.H), for the first time traced by the present writer.

During the pre-Mughal period the wide popularity of Persian in Bengal and its impact on the society in general was so such. So that a sixteenth century Hindu poet, Jayananda lamented in the following manner :—

The Brahmins keep beard and read Persian  
They wear socks and hold club in one hand  
And arrow in another  
The Brahmin also recites Mathnavi.<sup>10</sup>

The conquest of Bengal by Akbar the Great in the year (1576 A.D.) from the hands of Pathans, ushered in a new era for the development of Persian language and literature. The Mughals ruled over this province from 1576-1757 A.D. Throughout this period Persian language and culture influenced the general life of the public. Besides being the language of conversation among the educated class, Persian also dominated the literary and cultural life. Similarly, apart from the official language of the state, Persian was also introduced as the medium of instruction in the Islamic institutions. Akbar's high ranking officials in Bengal such as Khan-i-Khanan Munim Khan, Khan-i-Jahan and Raja Man Singh patronised the Persian scholars and poets.

During the time of Jahangir an army officer Ala al-Din Isphani commonly known as Mirza Nathan described his experience and observation of Bengal in '*Baharistan-i Ghaibi*' which is considered as an

<sup>8</sup> For details see, M. Kalim, "An Early Persian Dictionary of Bengal, *The Ma'arif*, Shibli Academy, Azamgarh, (March, 1983 A.D.), pp. 188-202.

<sup>9</sup> Zuhur al-Din Ahmad, *op. cit.*, p. 630.

<sup>10</sup> R. C. D. *Seminar on Common Cultural Heritage* (Tehran, 1965), p. 59.



authentic source material of history. The poets have recorded the details of battle fields in verses which is known as *Jang Nama*. The *Jang Nama*<sup>11</sup> of Maulana Lugman, Maulana Mir Qasim and Malik Mubarak are important from historical point of view. Abd al-Latif, an employee of Dewan of Bengal, Abu al-Hasan, compiled his account of travels of Bengal under the title of *Haft Iqlim* in the year 1608 A.D. It also supplies the source materials on social and historical aspects of Bengal.

During the time of Shah Jahan, his son Prince Shuja (1639-1660 A.D.) was appointed Governor of Bengal. His court also marks a milestone of progress in the Persian language and literature. According to Muhammad Sadiq Mina Ispahani, author of two Persian works viz ; *Subh-i Sadiq* and *Shahid-i Sadiq*, Jahangir Nagar (the present Dhaka) was the centre of learning and art. Scholars like Mir'Ala al-Mulk (teacher of prince Shuja) and his brother, Mr Abul Ma'ali and a host of other poets used to compose Persian verses.<sup>12</sup> Another scholar Mir Muhammad Ma'sum compiled his '*Tarikh-i-Ma'sumi*' which records the events of that period. This book was written under the patronage of Prince Shuja and as such it is commonly known as *Tarikh-i Shuja*. Sir Jadunath Sarkar, a noted historian, observes, "Most of the administrative pillars of the Government machinery were Iranian scholars as it apperas from their names and it is believed that they belonged to the shi'a sect and came to Bengal directly through the sea rout."<sup>13</sup> The glory of Dhaka also attracted the writers and poets from other parts of the sub-continent. The Mughal court was open to the brilliant and qualified personalities. Among those Abul Barakat Munir Lahori was famous who wrote beautiful narrative verses under the title of *Mathnavi Dar Sifat-i Bangala* which later on was published by the Pakistan Publications, Karachi. It gives photographic pictures of the land, sea, and season of Bengal.

During the governorship of Islam Khan Mashhadi in Bengal (1635-39 A.D.) under Shahjahan, the Mughal navy played an important role in the second Ahom-Mughal war. Muhammad Quli Salim Tehrani, a noted Iranian poet composed a narrative poem under the title of *Jang-i-Islam Khan* better known as *Mathnawi Dar Fath-i Bangala* giving a vivid description of the battle of boats fought in his time.

The rule of Aurangzeb Alamgir marks a landmark in the history of Persian language and literature. His representatives in Bengal such as Mir Jumia, Shaista Khan, Prince Muhammad Azam and Azim al-

<sup>11</sup> Mirza Nathan, [Ala al-Din Ispahani] *Baharistan-i Ghaibi* (English translation by M. I. Borah), (Govt. of Assam, 1936 A. D.) pp. 70, 85, 96, 206, 208 & 263.

<sup>12</sup> Pir Husam al-Din Rashidi, "Mirza Muhammad Sadiq Mina Ispahani", *Pars* (Karachi : Journal of Pakistan-Iran Cultural Association, Octobar 1967 ) pp. 33-80.

<sup>13</sup> Cited in S. M. Ikram. *Thaqafat-i Pakistan* (Karachi : Pakistan Publications Division, n.d.), p. 203.



shan played a dominant role in the development of Persian. They also patronised the men of letters. It is during this period that Shihab al-Din Talish compiled a voluminous history of Assam which is better known as '*Fathiya-Ibriya*'. Another book on history during this period was written by 'Ahmad' 'Ali Safavi which is called '*Tarikh-i-Alamgiri*'.

After the later Mughals, when the capital of Dhaka was shifted to Murshidabad by Murshid Quli Khan in 1704 A.D. and an independent 'Nizamat' was established, even then the progress in the sphere of Persian language and literature is manifest. Persian books on different subjects were compiled, a detail of which is given below :—

Books on history :—(1) *Ahwal-i Mahabat Jang* by Yusuf Ali (2) *Siyar al-Muta 'Khhirin* by Ghulam Husain Tabatabai (3) *Muzaffar Nameh* by Karam Ali (4) *Waqiat-i Fath-i Bangala* by Muhammad Wafa (5) *Tarikh-i Ibrahim Khani* by Ali Ibrahim Khan (6) *Naubahar-i Murshid Quli* by Azad Husain Bilgiram (7) *Chihar Gulshan* by Chitarman Kaith.

Books on poets biography and romantic tale may be mentioned as *Hadiqat al-Safa* and *Majmu'a-i Yusufi* by Yusuf Ali (miscellaneous) and *Gul Bakauli* by Izzat-ullah respectively. In 18th century after the battle of Plassey (1757 A.D.) the Nizamat-i-Bangala came to an end and the English took over the full administrative control of the country. This period is also very rich so far the compilation of history is concerned. The *Tarikh-i Bangala* of Munshi Salim Allah, *Riyazzal-Salation* of Ghulam Husain Salim, *Hadiqat al-Iqlim* of Murtaza Husain Uthmani, *Khurshid-i Jaham Numa* of Ilahi Bakhsh, *Khulasat al-Tawarikh* by Kalleyan Sing (son of Raja Shitab Rai) and its second part under the title of *Wqridat-i Qasimi* is worth mentioning. An important biography of about three hundred Urdu poets entitled *Gulzar-i Ibrahim* was also compiled in Persian language. In 1211 A.H. (1796-1797 A.D.) a Persian Dictionary *Zurur al-Mubtadi* was compiled by Saif Allah Ibn-i Qaim Allah Azimabadi who settled in Sylhet.

It may be mentioned that Persian language has influenced Medieval Bengali literature. Bengali translation of *Haft Paikar* and *Sikandar Nameh* of Nizami Ganjavi by Alaol, the famous Bengali poet of the 17th century can be cited in this regard. Puthi literature written in Persian Script is also an example of the influence of Persian on Bengali language. Khan Bahadur Hamid Allah, a Persian poet and historian of Chittagong, writes in his *Ahadith al-Khawanin* that 'Alaol' was also Persian poet (although records are not available) as it appears from his styles, subjects and similies.<sup>14</sup> Besides that, contributions of Persian language to Bengali literature can be summarised as follows : (1) inclusion of thousands of Persian words into Bengali language (2) introduction of Persian themes of popular tales and romances into Bengali

<sup>14</sup> Khan Bahadur Hamid Allah : *Ahadith al-Khawanin* (Calcutta, 1871 A.D.) pp.54-55. (cited in *Thaqafat-i-Pakistan*, Karachi, undated), p. 204.



(3) use of 'Ghazal', a Persian literary form in Bengali by Nazrul Islam and (4) Persian metres and metaphors in Nazrul poetry.

The influence of Persian on the religious belief and custom may also be seen. The Persian words such as Roza, Namaz, Wazu, Khuda, Paighambar, Behisht and Dozakh are still in circulation among the Bengalees.

Similarly Persian words and their corrupt forms are also found in Bengali language relating to culture and education e.g. Majlis, Munshi, Akhunji (Akhund Zadeh), Khundkar (Khanindeh kar), Majumdar (Majmu'adar), pertaining to trade and commerce as Barf, Atash Bazi, concerning warfare and kingly state such as Fauj, Bahadur Badsha (Badshah), Amir Omara, relating to revenue administration e.g., Piyada, Khazana, Gumashta, Dastkhat, Zami (Zamin) and things of common interest as, Khurak, Karkhana, Ab-Hawa (Ab-o-Hawa) and Awaz.

The grammatical construction also crept into Bengali language as a result of that there are some Persian compounds which are common to both Persian and Bengali language as noted below :—

Namak-Haram, Nigah-Ban, Dar-Ban, Parwardi Gar and Pardah-Nashin. On the other hand there are certain compounds in Bengali which may be called Perso-Bengali compounds such as, Ghal-Baz, Dayalu, Ganja-Khor, Nidalu, Shikhhka-Nabis (Nawis) and Sonta-Bardar etc.

A considerable number of compounds are to be found coined by Persian knowing Bengalees which are not available in Persian e.g. Adam-Shumari, Chasham-Khor, Elem-Dar and Elem-Baz.

Moreover, certain Bengali compounds appear to be the exact translation of Persian compounds as, Gaman-Sparshi (Falak sal), Gagan-chumbi (Falak Bos), Chand-Badan (Mah-Ru), Pushpoguchcha (Gul Barg).

There are various idioms which also apparently seem to be translation of Persian idioms as for example, Achhar Khawa (Zamin Khurdan), Lathi Khawa (Lakad-Khurdan), Nimak Khawa (Namak Khurdan) and Pani Khawa (Ab Khurdan) etc.

Both in Persian and Bengali order of words (sequence) in a sentence is the same as.

- |                   |                      |
|-------------------|----------------------|
| (1) Tu Rafti      | Tu Geli              |
| (2) Man Khurdam   | Ami Khailam          |
| (3) Man Ura dedum | Ami Tahake Dekhilam. |

The impact of the sub-continental tradition and environment on Persian is also evident when we come across such words as Barshi-gal, Ghusal Khana, Salgirah, Khushdaman, Rawadari, Baramada, Rishtadar, Zamindar, Majumdar (Majmu'adar) and Khundkar (Khanindehkar) and so on. These words are the product of our local Persian and as such the Iranian do not understand their meanings. Our society has given a new shape to Persian language and literature. The Indian



style of Persian poetry known as, 'Sabk-i-Hindi' in Iran is an example of it. Even the great Iranian poets, such as Urfi, Naziri, Sa'ib and Qa'ani' adopted this style in their poems.

Such was the state of affairs of Persian language and literature in Bangladesh up to the end of eighteenth century.

From the forgoing pages it is quite evident that Persian not only played a vital role in depicting and shaping the cultural life of the people but also in smooth administration of Government and moulding the destiny of the country. It had struck deep roots about 750 years ago in the soil of Bengal which is now called Bangladesh. Without proper knowledge of Persian, it is difficult, to go through the past history and to understand the culture of Bangladesh. One has to learn Persian if he wants to know the past glory and grandeur of Bangladesh.



**THE INSTITUTE OF BANGLADESH STUDIES**

Rajshahi University

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## Note to Contributors

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The technical style (e.g. footnoting, bibliography, etc.) should be methodical and conform to the accepted standards such as outlined in K.L. Turabian, **A Manual for Writers of Term Papers and Dissertations** (Chicago : The University of Chicago Press, 1955).

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