IQBAL'S VIEW OF IJTIHAD AND A MODERN ISLAMIC STATE

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Pakistan was established as a homeland for the Muslims of this region. Therefore, its pre-Islamic history is not definitive in determining their national identity. The only binding force among the inhabitants of this country is their common spiritual aspiration. Consequently, the problem of their national identity and statehood has to be resolved in the context of Islamic values.

It is against this backdrop that I have discussed the present topic. The basic question that needs to be asked in this regard is: which interpretation of Islam, conventional or "reconstructive", provides an answer to the issues of nationality, law and statehood of the Pakistani Muslims? It may be pointed out that my approach is that of a "re-constructionist", so aptly described by the late Professor Eqbal Ahmed as "one who seeks to blend tradition with modernity in an effort to reform society".[194] This is precisely the foundation on which Pakistan was established. I have explained in my works that the real reason underlying the objections of the religious stakeholders to the Pakistan movement was their fear that this movement was based on a "reconstructive" rather than a "conventional" interpretation of Islam.

It is therefore necessary to preserve and protect this idealism from religious extremists who do not have a clear idea of a modern nation-state, and who would not let a chance pass by to transform it into a country in which their own traditional version of Islam would prevail. Ideologically speaking, the Muslims of Pakistan do not accept the Turkish, the Saudi, the Iranian, or the Taliban paradigms of nationality and state. On the contrary, they aspire to unify the Islamic world with the projection and propagation of their own reconstructive and progressive model. The stand taken by Pakistan

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[194] Eqbal Ahmed, *Islam and Politics, "The Islamic Impact"* Syracuse University, 1984.

in supporting the international community to eradicate terrorism from the world can be considered as a test of the durability of Pakistan's ideology.

In Iqbal's opinion, Islam can succeed in establishing such a society in the form of a Muslim community (Ummah). His ideas with respect to the Individual and Collective Ego are based on the Qur'anic conceptions of a perfect Muslim individual and the Islamic society.

The ethical values which can be derived from his metaphysics are such attributes as love, freedom, courage, high ambition, and supreme indifference towards the acquisition of material comforts. The cultivation of these attributes is likely to result in the fortification of man's personality. The acts of such a person would be creative and everlasting. The factors which destroy man's personality arise from stagnation, the opposite of creative activity. Stagnation gives birth to passive virtues like humility, submission or obedience as well as to fear, corruption, cowardice, begging or asking not only for the means of livelihood but also for ideas from others, imitation and finally servitude. Servitude debilitates individuals and societies, and the blind and cynically indifferent rolling on of time obliterates even their trace in history.

With his philosophy, Iqbal desired the rebirth of the spirit of inquisitiveness and defiance among the Muslims so that they, as individuals and as a society, rediscovered their lost position in the fields of creativity and innovation. He demonstrated through an analysis of history, that in the sphere of human knowledge the Western civilization was an extension of the Islamic civilization. Everything in Western thought that led to human progress was an elaboration of those very ideas, theories, and debates which were initiated by Muslim thinkers and scientists. Iqbal's vision of new Muslim individuals constituting a new Muslim society, created a bridge between Islam and the West. But this dream of bringing into being a 'new world' (*Jehan-i-Nau*) could not be realized unless the mode of religious instruction was altered and a generation of new Ulema appeared; and a modern Islamic state was established.

Iqbal perceived that Muslim society was suffering from numerous maladjustments. He drew its portrait in one of his Urdu articles, '*Quami Zindagi*' which appeared in the journal *Makhzan* in 1904. He observed:

This unfortunate community has been deprived of political, industrial as well as commercial power. Now unconcerned with the demands of times and smitten by stark poverty, it is trying to survive with the help of the useless staff of contentment. Leaving aside other matters, it has so far not been able to settle its religious disputes. Every other day a new sect is brought into being which considers itself exclusively as the heir of paradise, declaring the rest of mankind as fuel for hell. This form of sectarianism has scattered the Muslims in such a manner that there is no hope for unifying them as a single community. The condition of our Maulvis is such that if two of them happen to be present in one city, they send messages to each other for holding a discussion on some controversial religious issue, and in case the discussion starts, which usually does, then it ends up in a deplorable brawl. The width of knowledge and comprehension which was a characteristic of the early Ulema of Islam does not exist any more… The situation is quite serious, and there is no solution of the problem except that the entire community should direct its mind and soul completely towards reforming itself. God does not change the condition of a community unless it changes itself.[195]

According to Iqbal one of the most important factors for the establishment of a new Muslim society is to accomplish a reform in Islamic culture. For this purpose he felt the need for educating and training the Ulema. He argued:

The question of cultural reform among the Muslims is in fact a religious question, because there is no aspect of our cultural life which can be separated from religion. However, because of the occurrence of a magnificent revolution in the conditions of modern living, certain new cultural needs have emerged. It has therefore become necessary that the decisions made by the old jurists, the collection of which is generally

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[195] *Oriental College Magazine,* Jashn-i-Iqbal Number, ed, by Dr. Ibadat Bareilvi, pp. 19-39.

known as the Islamic Shari'ah, requires a review. The decisions delivered by the former jurists from time to time on the basis of the broad principles of the Qur'an and the Traditions, were indeed appropriate and practical for those specific times, but these are not completely applicable to the needs and requirements of the present times. If one reflects deeply on the conditions of modern life, one is forced to arrive at the conclusion that just as we need the elaboration of a new *'Ilm-i-Kalam* for providing a fresh religious motivation, we likewise need the services of a jurist who could by the width of his vision stretch the principle so widely as to cover all the possible situations of the present cultural needs. As far as I am aware, the Muslim world has not yet produced any such great jurist, and if one were to consider the magnitude of this enterprise, it would appear that perhaps it is a job for more than one mind to accomplish, and it may require at least a century to complete the work.[196]

Iqbal wanted to establish an Islamic university for the education of the new Ulema. This was necessary for the realization of many objectives, and one of them, as explained by Iqbal was:

Who does not know that the moral training of the Muslim masses is in the hands of such Ulema and preachers who are not really competent to perform this duty. Their knowledge of Islamic history and sciences is extremely limited. In order to persuade the people to adopt in their lives the moral and religious values of Islam, it is necessary for a preacher of today to be not only familiar with subjects like history, economics and sociology, but he must also have complete knowledge of the literature and modes of thinking of the community.[197]

In the thirties the Aligarh Muslim University thought of introducing a new faculty of Islamic studies. Aftab Ahmad Khan, Chancellor of the University wrote to Iqbal seeking his advice. Iqbal wrote a long letter to him which is a very important document. Some of the extracts are:

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[196] *Ibid.*, pp. 19-39.

[197] *Zinda Rud*, p. 308.

Our first and foremost object should be to create Ulema of proper qualities who could fulfil the spiritual needs of the community. Please note that along with the change in the outlook of the people their spiritual requirements also undergo a change. The change in the status of the individual, his freedom of thought and expression, and the unimaginable advancement made by the physical sciences, have completely revolutionized modern life. As a result the kind of *'Ilm-i-Kalam* and the theological understanding which was considered sufficient to satisfy the heart of a Muslim of the Middle Ages, does not satisfy him any more. This is not being stated with the intention to injure the spirit of religion; but in order to rediscover the depths of creative and original thinking (*Ijtihad*), and to emphasize that it is essential to reconstruct our religious thought… Like many other matters, Sir Syed Ahmad Khan's far-sightedness made him also look into this problem. As you may know, he laid the foundations of his rationalism on the philosophical doctrines of an ancient and bygone age for the resolution of this problem… I am afraid, I do not agree with your proposed curriculum of Islamic studies. In my view the revival of the faculty of Islamic studies on the old lines would be totally useless. As for the spiritual value of the ancient theology, one can say that it is based on antiquated ideas, and as for its educational significance, it is irrelevant in the face of the emerging new problems or the new presentation of the old problems. What is needed today is to apply one's mind in a new direction and to exert for the construction of a new theology and a new *'Ilm-i-Kalam*. It is evident that this job can be accomplished only by those who are competent to do it. But how to create such Ulema? My suggestion is that if you desire to keep the conservative element of our society satisfied, then you may start with the faculty of Islamic studies on the old lines. But your ultimate objective should be to gradually bring forward a group of such Ulema who are themselves capable of independent and creative thinking (*Ijtihad-i-Fikr*) in accordance with my proposed scheme… In my view the dissemination of modern religious ideas is necessary for the modern Muslim nations. A struggle has already commenced in the Islamic world between the old and new methods of education as well as between the upholders of spiritual freedom and those monopolizing religious power. This movement of independence of human thought is even influencing a conservative country like Afghanistan. You may have read the speech of the Amir of

Afghanistan in which he has attempted to control the powers of the Ulema. The emergence of numerous such movements in the other parts of the Muslim world makes one arrive at the same conclusion. Therefore in your capacity as the Head of a Muslim university, it is your duty to step forward in this new field with courage.[198]

Iqbal's Vision of Modern Islam

Iqbal does not define Islam as a theologian but as a philosopher. Thus, in his perception, Islam as a religion and as a culture, is humanistic and egalitarian. Any interpretation of Islam which sanctifies feudalism and discriminates between man and man, is not acceptable to Iqbal. He claimed that humanism was a product of Islamic culture and was a gift of Islam to the West. Iqbal realised that modern Islam requires 'emancipation' from the medieval fancies of theologians and jurists, and proclaimed: "Spiritually we are living in a prison-house of thoughts and emotions which during the course of centuries we have weaved round ourselves".[199] For this reason he rejected the dynastic/hereditary Caliphate, Imamate or Sultanate as the outmoded forms of government which the Muslims evolved.

Iqbal's View of the "Public Sphere"

For assessing Iqbal's views on managing the "Public Sphere" it may be useful to discuss the two varieties of secularism which the Western civilization has developed as an essential part of its political ideology. Irrespective of historical background of the development of this concept, secularism adopted by capitalistic democracies is based on the principle of the state being neutral in matters of religion. It is also stated to be a guarantee of equality of all citizens regardless of their spiritual background as the state is governed exclusively under man-made laws (not connected with any religion) and these laws are uniformly applicable to all citizens. Also, it is a guarantee of acceptance not just tolerance of minorities, religions and

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[198] *Ibid.*, pp. 318-320.

[199] *The Indian Annual Register 1932*, Vol. 1. p. 306.

cultures. The other variety of secularism was evolved by socialist countries, which meant a 'state without religion' or the 'imposition of atheism on citizens as a state policy'. After the collapse of the Soviet Union this form of secularism has ceased to exist, and at present the Russian Federation and the other former socialist countries have adopted the capitalist version of this doctrine.

Iqbal, as a deeply religious man, advanced the argument that the discoveries of modern physics, particularly regarding matter and nature, are very revealing for the materialists and the secularists. His argument proceeds like this:

> The ultimate reality, according to the Qur'an, is spiritual and its life consists in its temporal activities. The spirit finds its opportunities in the natural, material and the secular. All that is secular is therefore sacred in the roots of its being. The greatest service that modern thought has rendered to Islam and as a matter of fact to all religions, consists in its criticism of what we call material or natural, a criticism which discloses that the merely material has no substance until we discover it rooted in the spirit. There is no such thing as a profane world. All this immensity of matter constitutes a scope for the self-realization of the spirit. All is holy ground.[200]

In Iqbalian terms, secularism is rooted in the spirit. Therefore, there is no justification in regarding secularism as anti-God. If secularism means guaranteeing the rights of "religious freedom" and "equality of all citizens" by the state, then certainly it cannot be opposed to Islam. Iqbal's Islamic state is expected to have "mixed" laws. Islamic laws would apply only to the Muslim citizens whereas the minorities would have the freedom to be governed under their own personal religious or customary codes of law. As for the third category i.e. man-made laws, these would be applicable uniformly to all the citizens in the best interests of the state. In this background the discussion of accepting or rejecting secularism is not at all relevant to the state in Islam, which is admittedly not a theocracy.

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[200] *The Reconstruction of Religious Thought in Islam*, pp. 155.

However, it would be useful in this regard to examine the "settlements" that have been experimented during the last century or so. Before the fall of Soviet Communism both the capitalist and communist worlds tended to write religion out of their scenarios of the future. Today, projections of a simply secular future seem less persuasive. The shift in perception is probably mainly due to what is called militant Islam, beginning with the Iranian Revolution and climaxing in the destruction of the World Trade Centre in 2001. But one might argue that this perception is just catching up with the reality obscured by the expansion of Communism earlier in the twentieth century and by the influence, especially in the media and education, of a largely secularized Western-educated elite throughout that period. Probably between 4 and 5 billion of the world's more than 6 billion people are directly involved with a religion today, and this picture seems unlikely to change a great deal during the rest of the twenty-first century. So during the lifetimes of all of us now alive we would do well to reckon seriously with religions as shapers of our world, for better or for worse. This does not mean that we have a purely religious world to deal with; rather *it is simultaneously both religious and secular in complex ways.* There are important issues between the religions; but there are also further, overlapping issues between each of the religions and the various secular understandings and forces.

Here it would be wise to take account of the ways such relationships have been handled in the recent past, by referring to the three major "settlements" made in this regard, namely, the British, the French and the American. I would refer to one of the sessions of the Clinton Global Initiative in the section on "Religious and Ethnic Conflict" to make my point. It had a panel with an Englishman, a Frenchman and an American. As they spoke about religion and politics the Frenchman resisted any suggestion that religions should be taken seriously as religions within the political sphere: problems were traced mainly to economic causes, and he was confident that if poverty were dealt with effectively the unrest in French cities would disappear. The American (who was also a Muslim) insisted that the religions needed to contribute to public discourse but that the American separation of Church and state was a healthy thing. The Englishman, John Battle MP (Prime Minister Tony Blair's special adviser on religion), told stories of his own involvement with religious communities in his Leeds constituency, and evoked a complex settlement in which religious bodies were seen as

stakeholders in society with whom the government and other public bodies were in constant communication and negotiation and whose identities could be affirmed by such means as state-supported faith schools. It was as if each was representing his own nation's settlement, developed over centuries. Making judgments on such complex achievements, each worked out in special circumstances, is dangerous, but I will risk it in summary form.

I think that in the current world situation the French secularist solution is the least satisfactory. It, like the others, is understandable in historical terms– working out the epochal, often bloody confrontation between the French Revolution and Roman Catholicism– but its practical exclusion of religions from the public sphere (including state schools and universities) is in effect the establishment of a state ideology that is not neutral in relation to religion but is suspicious, critical and often hostile. It envisages a secular public sphere. It is not well suited to a religious and secular world.

The American separation of church and state is far more benign with regard to the religions, and in fact religion plays a major role in American politics. But there has been a tendency to try to use the separation to create a neutral public space, where it is illegitimate to draw explicitly on religious sources. This 'lowest common denominator' public square (expressed, for example, in banning official recognition of any particular religious symbols, holidays or practices and refusing to let state schools teach religious education or state universities teach theology as well as religious studies) is increasingly being criticized, even by secular thinkers such as Jeffrey Stout of Princeton University, who see it as an impoverishment of public life. Both religious and secular traditions should be able to contribute in their distinctive ways to public debate rather than reducing all discourse to a secularized lowest common denominator.[201]

That, at its best, is what happens in Britain also. Its particular history has kept religion involved in its public life, sometimes controversially, usually resisting pressures from those quarters that have more sympathy with secularist, often atheistic ideologies and would favour a French-style

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[201] Jeffrey Stout, *Democracy and Tradition* (Princeton University Press, Princeton 2004).

settlement. Britain also comes out rather poorly from comparative studies of the relative alienation of the Muslim minority from the rest of society. In global terms, Britain has the conditions for pioneering work in shaping a religious and secular society that draws on the resources within each of the traditions for peaceful living and working together. They have an extraordinary range of religious communities in a society that has also experienced intense secularization.

The British settlement *works within what one might call a minimal secular and religious framework that enables mutual public space*. This has been shaped over many centuries and is constantly open to renegotiation. The framework is minimal in that it refuses to impose either a particular religious solution or a particular secular solution and so lives by ongoing negotiation rather than by appeal to a fixed constitution or principles. It, therefore, helps to create a mutual public space with possibilities for shared discussion, dialogue, education, deliberation, and collaboration– in contrast to the French tendency towards strictly secular public space and the American tendency towards neutral public space. But for all practical purposes this constant, ongoing negotiation leaves the British settlement little better than the others, oscillating between secular pluralism and religious exclusivism.

As for Islamic legislation in Iqbal's proposed Islamic state, he urges that *Ijtihad* must be adopted as a legislative process in the elected assemblies. This is the only form, which *Ijma'* (Consensus of the Community) can take in a modern democratic Islamic state. It may be interesting to note that Allama Shibli believed that decisions in *'Ijma'* on the majority basis were recognized as correct in Caliph Umar's times.

Iqbal also held that the modern Muslim liberals' claim to re-interpret the Shari'ah (or the foundational legal principles of Islam), in the light of their own experience and the altered conditions of modern life, is perfectly justified. He is convinced that the Islamic world is confronted by new intellectual forces, which were unleashed by the extraordinary development of human knowledge. He suggests that every generation of Muslims, guided but unhampered by the work of its predecessors, should be permitted to solve their own problems. He maintains:

The growth of a republican spirit and the gradual formation of legislative assemblies in Muslim lands constitutes a great step forward to transfer the power of *Ijtihad* from individual representatives of Schools to a Muslim legislative assembly. This is the only possible form which *Ijma'* can take in modern times. It will secure contributions to legal discussion from laymen who happen to possess a keen insight into affairs. In this way alone we can stir into activity the dormant spirit of life in our legal system and give it an evolutionary outlook.[202]

Although Imam Abu Ishaq Shatibi (whom Iqbal mentions in his *Reconstruction* Lectures) accepts the possibility of *Ijtihad* in *Ijma'* by a non-believer, Iqbal does not touch the question whether or not the Non-Muslim members of a modern Muslim legislative assembly (*Ijma'*) could participate in *Ijtihad* on Islamic law-making. So far as the practicing of *Ijtihad* on individual basis is concerned, in British India in the course of the development of Anglo-Muhammadan Law, a Non-Muslim judge decided matters involving Muslim Personal Law without any objection on the part of the Ulema.

Evidently in emphasizing equality, solidarity, and freedom, Iqbal desires to incorporate in his Islamic democracy, the principles of supremacy of the rule of law, guarantee of human rights, realization of social and economic justice, as laid down in the Qur'an and Sunnah. He is reluctant to discuss some aspects of the Shari'ah, especially the problems of civil and criminal legislation, which require re-interpretation. The reason for his hesitation is the conservative character of the Muslim community, which, because of sectarian differences, is not yet emotionally prepared to accept that the Shari'ah in its spirit is cohesive and not divisive, and Muslims need to restore its original spirit.[203] Despite his caution in this matter, his scattered views indicate the trends of his progressive thought.

One important qualification of a legislator, in Iqbal's eyes, is that he should be a lawyer who has studied conventional Islamic Fiqh in the light of modern

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[202] *The Reconstruction of Religious Thought in Islam*, pp. 138.

[203] *The Reconstruction of Religious Thought in Islam*, pp. 164, 165.

jurisprudence. He desires that a new syllabus, integrating both disciplines should be introduced in the schools of legal instruction. He explained this approach in answer to a question as to how present Muslim legislators, with no knowledge of Islamic law, would interpret and make laws without committing grave mistakes. Iqbal recommends that in the absence of qualified legislators, a Board of Ulema be nominated as a part of the legislative assembly. They should have no right to vote, but should only help and guide free discussion on questions of interpreting Islamic law. This improvisation should be merely a temporary arrangement as a safeguard against erroneous interpretations. In the process of Islamic law-making in modern times, Iqbal is aware of the sectarian and intellectual limitations of traditional Ulema who are inclined to differ from one another on trivial matters and are unlikely to provide proper guidance. Therefore, he appreciates the importance of the 'non-Ulema' experts in specific fields, and the general contribution which laymen can make, especially if they possess keen insight into affairs.[204]

Iqbal was the first Muslim thinker in South Asia to define the state in Islam as a spiritual democracy. He argued that:

In view of the basic idea of Islam that there can be no further revelation binding on man, we ought to be spiritually one of the most emancipated people on earth. Early Muslims emerging out of the spiritual slavery of pre-Islamic Asia were not in a position to realize the true significance of this basic idea. Let the Muslim of today appreciate his position, reconstruct his social life in the light of ultimate principles and evolve out of the hitherto partially revealed purpose of Islam that spiritual democracy which is the ultimate aim of Islam.[205]

This passage is rather unconventional. From where did Iqbal derive this idea? He does not explain. He may have picked up the idea of "spiritual democracy as the ultimate aim of Islam" from the principle on which

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[204] *Ibid.*, pp. 175, 176.

[205] *Ibid.*, pp. 179, 180.

'Mithaq-i-Medina' was fashioned. In a verse from the Qur'an the principle is enunciated in the following manner. Allah addressing mankind commands:

> For each of you We have given a law and a way (of life) and if Allah hath willed He would have made you one religious community. But (He hath willed it otherwise) so that He may put you to the test in what He hath given you. Therefore compete with one another in good works. To Allah will ye be brought back. And He will inform you about that wherein ye differed.[206]

Iqbalian idealism is an appropriate example of the fusion of some new Western ideas with Islam. Clearly he was ahead of his time as the Muslim community was not ready to accept his views. Iqbal's Western critics or Western–oriented Muslim critics may find his concept of a modern Islamic state as anchored in 'secular humanism' or 'liberal unitarian humanism'. To Iqbal, the spirit of Islam is inclusive and limitless. As established by its past history, it is capable of assimilating all the new ideas of other civilizations, giving them its own synthesized direction. He was convinced that:

> The inner catholicity of the spirit of Islam is bound to work itself out in spite of the rigorous conservatism of our doctors. And I have no doubt that a deeper study of the enormous legal literature of Islam is sure to rid the modern critic of the superficial opinion that the Law of Islam (Shari'ah) is stationary and incapable of development.[207]

Main features of Iqbal's modern Islamic state

1. It is a democratic state.
2. Parliament should adopt '*Ijtihad*' as the guiding principle of particularly Islamic legislation to cope with the requirements of modern times.
3. The separation between the religious establishment and state organs

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[206] Qur'an, sura 5: verse 58.

[207] *The Reconstruction of Religious Thought in Islam*, p. 164.

is strictly functional. It is not identical to the separation of church and state.
4. The Criminal Law of Islam need not be enforced dogmatically.
5. Interest-free banking need not be enforced in order to promote the free-market economy.
6. The state must protect the economic rights of landless tenants and workers, and impose tax on agricultural produce.
7. The state is also under an obligation to protect and determine the minimum wages of industrial workers and to provide them medical care and assure compensation upon their retirement.
8. To strengthen national integration in a Muslim majority state the principle of joint electorates can be adopted.
9. While spiritual democracy remains undefined, it seems to stand for equality of all citizens regardless of their race, religion or creed.