

**Politics of Exclusion: Muslim Nationalism, State Formation and Legal  
Representations of the Ahmadiyya Community in Pakistan**

by

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A dissertation submitted in partial fulfillment  
of the requirements for the degree of  
Doctor of Philosophy  
(Sociology)  
in The University of Michigan  
2010

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## **Dedication**

This dissertation is dedicated to my parents with my deepest love, respect and gratitude for the innumerable ways they have supported my work and choices.

## **Acknowledgements**

I would like to begin by acknowledging the immense support my parents have given me every step of the way during my (near) decade in graduate school. I have dedicated this dissertation to them. My ammi and baba have always believed in my capabilities to accomplish not only this dissertation but much more in life and their words of love and encouragement have continuously given me the strength and the will to give my research my very best. My father's great enthusiasm for this project, his intellectual input and his practical help and advice during the fieldwork of this project have been formative to this project.

I would like to thank my dissertation advisor George Steinmetz for the many engaged conversations about theory and methods, for always pushing me to take my work to the next level and above all for teaching me to recognize and avoid sloppiness, caricatures and short-cuts. It is to him that I owe my greatest intellectual debt.

I would also like to thank my dissertation committee members Fatma Muge Gocek, Genevieve Zubrzycki, Mamadou Diouf and Howard Kimeldorf. Muge has constantly reminded me to critically appraise my own subject position in relation to the choices I have made in my intellectual endeavors. Her advice to delve fully into the lives, motivations and experiences of the "subjects" of my study before arriving at theoretical conclusions has been pivotal to this project. In addition to the many and amazing ways that she has provided intellectual feedback as well as impress on me the importance of

making my work accessible to a larger audience, Genevieve has been a role model with regard to balancing being a parent, teacher and scholar. Her dedication to all of these varied pursuits has been a constant source of hope and inspiration for me. From Professor Diouf, I have learnt the importance of critically considering “general” theory and the ways in which trajectories of global historical inequalities make their ways – often silently – into the world of academic discourses. Professor Diouf has always been there for me with advice in spite of his relocation to New York and his many responsibilities and engagements. Last, even though he joined my dissertation committee very near the end, Howard has been reading my work almost throughout. I would like to thank him for always having his office doors open to me, for his warmth, kindness and continuous support. I could not have wished for a better Chair of the Sociology Department! I would also like to thank other professors at Michigan who have engaged with, read and commented on my work, in particular Julia Adams, Peggy Somers, Jeff Paige, Robert Jansen, Barbara Metcalf and Fernando Coronil.

My research would not have been possible without the help of a great number of people who have spoken to me about my research, answered my questions and provided me with invaluable resources for carrying out this project. First, I would like to thank all the Ahmadis who have trusted me enough to speak candidly with me and for their support as a community in carrying out my research. By giving me access to their homes, their libraries and their community, they have enriched me. I would particularly like to mention Mujeebur Rehman for the many hours of interviews that he has granted me. Equally, I would like to thank all the individuals who have allowed me to question them on the sensitive political and religious issues central to my project. I admire the

candidness and integrity of all the people I have spoken to and hope that by bringing all of their stories together in my narrative, we can undertake a collective reappraisal of our present. It has been my privilege to know all of my interviewees.

This dissertation would not have been possible without the immense help and patience I have received from the personnel at various archives and other research sites I have visited. I would like to begin by thanking the staff at National Archives of Pakistan, National Library of Pakistan and the National Documentation Center. The help I received from them throughout the arduous process of digging old newspapers and archives and photocopying and scanning them cannot be adequately expressed in words. I would also like to thank the personnel at the *Aalmi Majlis-e-Tahaffuz-e-Khatam-e-Nabuwwat*'s head offices in Multan, the Khilafat Library at Rabwah and the Ahmadiyya Community Center in Islamabad for facilitating my research.

The research for this dissertation was funded by a number of sources. A fellowship from the American Institute of Pakistan Studies allowed me to spend considerable time in the British Library in U.K. I have also received various grants and fellowships from various University of Michigan sources including the Department of Sociology, Rackham Graduate School and the International Institute.

At Michigan, I was surrounded by a large group of friends and colleagues who have made the experience of grad school infinitely more fulfilling and fun. My deepest gratitude and appreciation go to my friends Jennifer Ailshire, Baris Buyukokutan, Dave Dobbie, Besnik Pula, Salik Farooqi, Alex Gerber, Atef Said, Laura Hirshfield, Amie Emens, Camilo Leslie, Mariana Craciun, Eric Eide, Avi Astor, Hiro Saito, Bashar Tarabieh, Mike Bader and Byungho Lee. A group of friends unconnected to Michigan

have lent their support from afar. The solitude of grad school in America would not have been possible without my friends Anita Chaudhry, Iffat Sajjad, Sarah Shafiq and Shireen Meer.

My family has always provided the utmost support to me and has ensured that I stay sane throughout the process. Many thanks to my siblings Aliya and Adnan for their encouragement but above all for always keeping it light, their humor and for bringing things in perspective. My mother-in-law Maria-Magdolna provided uncompromising support to me by devoting her time to being almost the sole caregiver to her granddaughter while I undertook the most intensive writing of this dissertation. I could not have wished for a more loving, caring and kinder mother-in-law.

My partner in life and my very best friend, my husband Zoltan Dezso has been with me every step of the way of this dissertation, giving me unconditional love, support, strength and patience. You have made it all immensely more meaningful. I cannot imagine having done this, or undertaking anything else in life, without you right by my side.

Finally, my daughter Alina, my biggest source of joy and my greatest love of all. Your twinkling eyes and your sweetest smile have given me the motivation to take the final huge leaps towards completing this dissertation. I want to make this world a better place for you. Everything I write is for you.

Throughout the writing of this dissertation, the thousands of Pakistanis who have been victims of religious intolerance, misguided laws and corruption have been silent companions, reminding me of the gravity of the issues on which I have chosen to write. I have tried my best to do justice to an issue that is an extremely sensitive one to the hearts

and minds of most Pakistanis. If I have erred in my analysis, the fault lies entirely with me and not with any of the people named above.

## Table of Contents

Dedication .....	ii
Acknowledgements .....	iii
List of Figures .....	x
List of Appendices .....	xi
List of Abbreviations .....	xii
Glossary .....	xiv
Abstract .....	xvi

### Chapters

<b>1. Introduction</b> .....	1
1.1. Religion, State Formation and the Ahmadiyya Community in Modern Pakistan .....	3
1.2. Setting the Agenda: The ‘Ahmadi Question’, National Identity and the Pakistani State .....	9
1.3. Theoretical Framework: Explaining Shifts in Nationalist Policy Outcomes .....	14
1.4. Methodology and Data Sources .....	20
1.5. Outline of Chapters .....	36
<b>2. National Identity and the State Field in Modern Pakistan</b> .....	40
2.1. Explaining Shifts in Nationalist Policy Outcomes: Existing Approaches .....	40
2.2. State Field, Nationalist Policy and Ethno-national Capital .....	55
2.3. Conceptualizing the State Field in Pakistan .....	68
2.4. Explaining Shifts in Nationalist Policy Outcomes in Pakistan .....	92
2.5. Visual Representation of Theoretical Framework .....	107
<b>3. The Ahmadiyya Movement: Origins, Beliefs &amp; Controversies under     British Colonial rule</b> .....	111
3.1. Mirza Ghulam Ahmad: Beliefs and Controversies .....	112
3.2. The Origins and Development of the Ahmadiyya Movement .....	121

3.3. Ahmadiyya Community and the Colonial State: Accommodation and Negotiation .....	127
3.4. In Search of a Political Community: Ahmadis, Orthodox Muslims and Resistance to Colonial Rule .....	141
3.5. The March towards Independence: Ahmadiyya Community, Pakistan Movement and the Partition of India .....	153
3.6. Conclusions .....	161
<b>4. Defining the Boundaries of ‘Muslim Citizenship’: State Field, Nationalism and the Socio-legal Construction of the Ahmadiyya Community, 1947-1974 .....</b>	<b>162</b>
4.1. Politics of Accommodation of Ahmadis in 1953 .....	163
4.2. Between Accommodation and Exclusion, 1958-1973 .....	192
4.3. Politics of Exclusion: State field, Muslim Citizenship and the National community in 1974 .....	202
<b>5. From Muslim Nationalism to ‘Islamic’ Statehood: Examining the Conjunctures between Statist Imperatives and Socio-symbolic Struggles .....</b>	<b>232</b>
5.1. The Redistribution of Statist Capital: 1977-1988 .....	236
5.2. Quest for Legitimacy: the Institutional-Discursive terrain of Zia-Ul-Haq’s program of Islamization.....	243
5.3. The Aftermath of the 1974 Amendment: Ahmadi Response and the Counter-initiatives of the Religious Right .....	249
5.4. Explaining the Emergence of 1984 Ordinance .....	257
5.5. Debating 1984 Ordinance: The Struggle for Ethno-national Capital ....	269
5.6. Conclusions .....	278
<b>6. Towards a Sociology of Normative Legal Repertoires: The Criminalization of Ahmadis inside Pakistan’s Juridical Field in the Long 1980s.....</b>	<b>281</b>
6.1. Theorizing the Juridical Field with Bourdieu .....	285
6.2. Towards a Sociology of Normative Legal Repertoires .....	293
6.3. The Juridical Field and the Introduction of Legal Pluralism in Pakistan ...	302
6.4. The Ahmadi Question inside the Juridical Field in the 1980s .....	315
6.5. Conclusions: After <i>Zaheeruddin</i> .....	351
<b>7. Conclusions .....</b>	<b>358</b>
<b>Appendices .....</b>	<b>368</b>
<b>Bibliography .....</b>	<b>372</b>

## List of Figures

<b>Figure 2.1:</b>	State Field within the Field of Power .....	74
<b>Figure 2.2:</b>	Political Field, State Field and the Field of Power .....	82
<b>Figure 2.3:</b>	Representation of Theoretical Framework and Key Findings.....	108
<b>Figure 4.1:</b>	Map of Pakistan in 1953 .....	165
<b>Figure 4.2:</b>	Intra-state and State-society Struggle for Ethno-national Capital in the field of Power in Pakistan in 1953 .....	171
<b>Figure 4.3:</b>	Intra-state and State-Society Struggle for Ethno-national Capital in the Field of Power in Pakistan in 1974 .....	204
<b>Figure 5.1:</b>	The Distribution of Statist and Symbolic Capital in the Field of Power in Pakistan in 1985 .....	241
<b>Figure 6.1:</b>	The Juridical Field in Pakistan after the Introduction of the Federal Shariat Court .....	285

## List of Appendices

<b>Appendix 1</b> .....	368
<b>Appendix 2</b> .....	370

## **List of Abbreviations**

<b>APWA</b>	All-Pakistan Women’s Association
<b>BPC</b>	Basic Principles Committee
<b>CAPD</b>	Constituent Assembly of Pakistan Debates
<b>CML</b>	Convention Muslim League
<b>CSP</b>	Civil Services of Pakistan
<b>JI</b>	Jamaat-e-Islami
<b>JUI</b>	Jamiat-ul-Ulema-i-Islam
<b>MFLO</b>	Muslim Family Laws Ordinance, 1961
<b>MRD</b>	Movement for the Restoration of Democracy
<b>MNA</b>	Member of National Assembly
<b>MTKN</b>	<i>Aalmi Majlis-e-Tahaffuz-e-Khatam-e-Nabuwwat</i> (International Association for the Protection of the Finality of Prophethood)
<b>NAP</b>	National Awami Party
<b>NAPD</b>	National Assembly of Pakistan Debates
<b>PCO</b>	Provisional Constitutional Order
<b>PML</b>	Pakistan Muslim League
<b>PML-N</b>	Pakistan Muslim League – Nawaz Group
<b>PNA</b>	Pakistani National Alliance
<b>PPC</b>	Pakistan’s Penal Code
<b>PPP</b>	Pakistan People’s Party

**TKN**

*Tehrik-e-Khatm-e-Nabuwwat* (Movement for the Protection of Finality of Prohethood)

## Glossary

**Azaan** (Arabic): Islamic call for prayers

**Bay’at** (Arabic): Pledge/oath of allegiance to an Islamic leader, such as Sufi saint, emir etc.

**Buruzi** (Urdu): Manifestational. In the present case, it refers to a claim to prophecy on the basis that the incumbent is a manifestation of an earlier Prophet.

**Dar-ul-harb** (Arabic): Abode of war. In Muslim thought, it refers to lands that are ruled by infidels.

**Dar-ul-Islam** (Arabic): Abode of Islam. In Muslim thought, it refers to lands that are ruled by Muslims.

**Fatwa** (Arabic): Advisory, nonbinding opinions by Islamic jurisconsults

**Hadith** (Arabic): Sayings attributed to Prophet Mohammad

**Jama’at** (Urdu): Organization

**Jihad** (Arabic): Literally struggle; Holy War

**Khalifa** (Arabic): Successor; representative

**Khalifatul Masih** (Arabic): Successor of the Messiah

**Khatam al’nabiyyin** (Arabic): Seal of the prophets

**Khatam-e-nabuwaat** (Arabic): Finality of (Muhammad’s) Prophethood

**Kufr** (Arabic): Disbelief

**Madrassas** (Urdu): Islamic religious schools

**Mahdi** (Arabic): Literally, the rightly guided one. In Islamic theology, it refers to the promised personality that will appear before the Day of Judgment as a guide and redeemer.

**Masjid** (Arabic): Mosque

**Masih mawud** (Arabic): Messiah

**Mirzais** (Urdu): Literally, followers of Mirza Ghulam Ahmad; a derogatory reference to Ahmadis

**Mufti (Urdu):** Jurisconsult

**Muhaddath** (Arabic): A person spoken to, by Allah or an angel

**Mujaddid** (Arabic): Renewer of faith

**Nazir** (Urdu): Secretary

**Nazir-e-‘ala** (Urdu): Chief secretary

**Qadianis** (Urdu): Literally, from Qadian, a derogatory reference to Ahmadis

**Shaair-e-Islam** (Urdu): Characteristics considered unique to Islam

**Shari’at** (Arabic): Islamic law

**Shi’ite** (*or shi’a*) (Arabic): Denomination of Islam

**Sufi** (Urdu): Islamic mystic

**Sunnah** (Arabic): Sayings and habits of Prophet Mohammad

**Sunni** (Arabic): Denomination of Islam

**Tabligh** (Urdu): Missionary activities

**Ulama** (Arabic): Muslim legal scholars

**Ummah** (Arabic): Muslim community

**Zakat** (Arabic): A charity tax that is obligatory for Muslims

**Zilli** (Urdu): Shadowy. In the present case, it refers to a claim to prophecy on the basis that the incumbent is a shadow of an earlier Prophet.

## **Abstract**

The last few decades of the twentieth century have witnessed an increased presence of religious identities in political spaces in the Muslim world. Multifold conceptions of the nation and the state have flourished from which state actors have differentially drawn upon to define and implement nationalist policies, in the process re-defining the role of religion in constituting the nation. This dissertation accounts for this global shift by analyzing the mechanisms through which nationalist policies have shifted towards religiously-defined conceptions of the nation in Pakistan. Specifically, it explores the Pakistani state's historically shifting relationship with the heterodox Ahmadiyya community, a minority community of Islam that was rendered a 'non-Muslim minority' by the state in 1974 despite its insistence that it was Muslim and hence not a minority. Though a focus on key historical moments in this relationship – conceptualized as accommodation (1953), exclusion (1974) and criminalization (1984) – it poses the following question: why has the Pakistani state shifted from including the Ahmadiyya community into the boundaries of 'Muslim citizenship', that is who is and is not a Muslim, to forcibly evicting it from the legal category of 'Muslim'? Based on 14 months of field work conducted in Pakistan and the UK, it employs qualitative historical and ethnographic methods and draws on diverse sources of data including in-depth interviews; parliamentary debates; court cases; newspapers; and state archives.

This dissertation demonstrates that the socio-symbolic construction of the 'Muslim' nation is a highly contentious process that requires inquiring into modes of both intra-state and state-society dynamics. Specifically, it conceptualizes the

state as a social 'field' in which different state actors located within specific institutional sites or state subfields confront and contest their ideas, both with each other and with non-state social actors, about what constitutes the cultural boundaries of the nation with the end of accumulating symbolic capital (hegemony). It argues that nationalist policy outcomes are contingent on the struggles and negotiations through which specific state actors emerge as dominant in the quest to impose citizenship classifications as well as their unique matrices of opportunities, constraints and historical dispositions towards ordering legitimate authority.

## **Chapter 1**

### **Introduction**

The last few decades have witnessed a global increase in the public presence of religion in political life, both in the national and trans-national spheres (Casanova 1994). This is especially true of Muslim societies where the turn towards politicized religious identities has been more marked, making ‘Muslim politics’ – “the competition and contest over both the interpretation of [religious] symbols and control of the institutions, formal and informal, that produce and sustain them” (Eickelman and Piscatori 1996: 5) – a central feature of political activity (Esposito 1998; Jones 2007; Roy 2004; Wickham 2002). In this dissertation, I address the following question: how can we sociologically account for the increased identification with the symbolically constructed norms, practices, and ideologies of Islam in state spheres that had formerly maintained only a nominal or a marginal affinity with them?

I approach this question through examining shifts in official nationalist policies in the context of the predominantly Muslim society of Pakistan. The complex historical interaction between the Pakistani state, Islam and nationalism, despite the myth of an eternally Islamic Pakistan, provides a particularly illuminating instance for a sociological investigation of the conditions under which modern states re-articulate the basis of

national identities. An analysis of the mechanisms through which nationalist policy outcomes emerge and shift over time towards more religiously-centered understandings brings us closer to explaining one of the most significant shifts in Muslim societies in recent decades, the rise of what I term “state Islamism”. I employ state Islamism to refer to the selective and strategic appropriation and/or exploitation of Islamic law and practices by the state towards the end of fulfilling modern state functions of creating national unity and realizing state sovereignty in the context of the rise of political Islam. State Islamism is analytically distinct from Political Islam, or Islamism, which are terms used to refer to social movements that aspire towards a greater fusion of religion and the state, particularly in the sphere of law. The distinction between state and political Islamism allows me to distinguish between a wide array of practices, ranging from everyday forms of Islamism to national identity politics to explicitly Islamization programs by the state (Tugul 2009; Fuller 2003). Examining the rise of state Islamism in Pakistan through analyzing shifts in nationalist policy outcomes allows a theoretical investigation of the imbrications between the materiality of state formation, the modern imperative of the construction of national identities and the social constructedness of Islamic discourses and practices. By tracing the conjunctures between the political, institutional and discursive trajectories implicated in shifts in nationalist policy outcomes in Pakistan, I hope this dissertation will bring us to a more critical understanding of both the internal dynamics of opportunities, constraints and struggles facing state actors engaged in tasks of nationalist policy-making and the political engagements, expectations and repertoires of contention (Tilly 2006) of a largely disadvantaged citizenry divided along multiple axes including religion, ethnicity and locality.

The empirical focus of this dissertation is the Pakistani state's historically varying relationship with the heterodox Ahmadiyya community in Pakistan (in short, Ahmadis). A self-defined minority 'sect' of Islam, the Ahmadis were declared a 'non-Muslim minority' by the Pakistani state through a Constitutional Amendment in 1974 despite the insistence of Ahmadis that they were Muslim and therefore not a minority<sup>1</sup>. After exactly ten years, in 1984, the military ruler General Zia-ul-Haq promulgated an Ordinance through an executive order that made it a criminal offence for Ahmadis to refer to themselves as Muslim or publicly engage in Islamic religious practices. I argue that these moments are crucial instances in the genealogy of the Pakistani state's project of defining national identity and provide an empirical lens through which to investigate the mechanisms through which nationalist policies emerge and shift over time. Thus, the specific empirical question guiding this dissertation is: why did the Pakistani state shift from including all sections of self-identified Muslims into the boundaries of 'Muslim citizenship', that is who is and is not a Muslim, to forcibly evicting self-identifying Muslims from the legal category of 'Muslim'?

### **1.1. RELIGION, STATE FORMATION AND THE AHMADIYYA COMMUNITY IN MODERN PAKISTAN**

Pakistan is an ideal site for examining shifts in nationalist policy outcomes. The triangular relationship between the state, religion, and the nation is far from straightforward and has been the site of ongoing contestation and negotiation among key

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<sup>1</sup> The exact number of Ahmadis in Pakistan is an issue of contention. According to the 1998 census conducted by Government of Pakistan, around 96% of the population is Muslim *and* 0.22% is Ahmadis (See [http://www.statpak.gov.pk/depts/pco/statistics/other\\_tables/pop\\_by\\_religion.pdf](http://www.statpak.gov.pk/depts/pco/statistics/other_tables/pop_by_religion.pdf) for official statistics of population breakdown by religion. Accessed on 26 July 2010). Personal interviews conducted with members of the Ahmadiyya community reveal that Ahmadis maintain that their numbers are significantly under-represented by the Government.

state, political and social actors (Zubrzycki 2006). The processes leading up to the independence of Pakistan in 1947 reveal the importance of religion as one of the primary social markers of identity for Pakistan (Abbott 1968; Gilmartin 1988). However, the political leaders who founded the state of Pakistan turned away from the proposition of an Islamic nation-state and instead adopted a conception of a secular, multi-religious Pakistan (Ahmed 1997). Despite this, questions about the relationship between Islam and the state remained paramount in public space and it has been aptly noted that “the most important conflict in Pakistan is not a civilizational clash between Muslims and non-Muslims but a clash between different concepts of Islam, particularly how the Pakistani state should implement its Islamic identity” (Cohen 2002: 113). The Pakistani state’s relationship with Ahmadis is one of the clearest manifestations of this ‘identity crisis’ and presents an exciting empirical opportunity for inquiring both into politics of nationalism and nationalism in politics. No work to date has examined this shift as a means of inquiring into the ways intra-state and state-society dynamics in Pakistan have been constitutive in generating official ‘truths’ about legitimate social divisions within the body politic.

The controversy over the Ahmadi version of Islam arises from a fundamental doctrinal difference between Ahmadis and orthodox Muslims regarding the status of the founder of the Ahmadiyya sect, Mirza Ghulam Ahmad (1835-1908) who lived in the city of Qadian in the province of Punjab under British colonial rule in India. Traditionally, Muslims believe that the Prophet Muhammad is the last prophet to be sent on Earth by God, thereby holding the seal of prophecy, and any suggestion to the contrary is perceived to be blasphemous. The majority of ordinary Muslims in Pakistan believe that

Mirza Ghulam Ahmad was an apostate who claimed for himself *khatam-e-nabuwaat*, or the status of the last divine Prophet. The opinion among the Ahmadis on the status of Mirza Ahmad differs. While one prominent group believes Ghulam Mirza to be a divine Prophet who had heard and responded to divine revelation, the other denies this charge and claims that Ghulam Mirza was merely a sacred and holy man of God without having Prophetic status. In popular mainstream narratives, however, such internal distinctions are overlooked and all Ahmadis collectively referred to as *mirzais* (followers of Mirza) or *qadianis* (from Qadian), words that have over time taken on intensely derogatory connotations.

The Ahmadi interpretation of Islam presents a fundamental challenge to the religious practices of orthodox Muslims by claiming that alternative readings or reinterpretations of the classical texts of Islam are not only legitimate but constitute the truth when issued by individuals such as Mirza Ghulam Ahmad who are in direct communication with God. Second, since the inception of the religion in 1889 in colonial India, the Ahmadis have been highly controversial because of the intensity of their missionary activities in the Indian sub-continent and abroad. Furthermore, the Ahmadi conception of the meaning of *jihad* (Holy War) as conducted through the pen (that is, through arguments and proofs) and not through warfare is viewed suspiciously by orthodox Muslims<sup>2</sup>.

The 1974 Constitutional Amendment was a departure from the Pakistani state's earlier stance towards the state's role in the definition of the boundaries of Muslim citizenship. Anti-Ahmadi movements have a long history in Pakistan since even before the creation of Pakistan, right-wing religious groups were agitating against the Ahmadis,

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<sup>2</sup> I will discuss these elements of Ahmadiyya religious thought in detail in chapter 3.

portraying them as heretics<sup>3</sup>. However, when Muhammad Ali Jinnah, considered the founder of Pakistan and who later became the country's first Governor-General, was asked to comment on the religious status of Ahmadis by a journalist during a press conference in 1944, three years prior to the independence of Pakistan, Mr. Jinnah observed, 'Who am I to declare a person non-Muslim who calls himself a Muslim?'<sup>4</sup> By popular Ahmadi accounts, Jinnah invited the community to migrate to Pakistan at the time of the partition and assured the Ahmadis that their rights as full citizens of Pakistan would be fully protected. Jinnah appointed his close aide Zafrullah Khan, a well-known practicing Ahmadi, to the prestigious post of Pakistan's (first) Foreign Minister.

Following the independence of Pakistan, I identify three crucial moments with regard to the Pakistani state's relationship with the Ahmadis – accommodation, exclusion, and criminalization. Below, I first give a brief account of these and then state key questions and the research agenda for my dissertation.

### **The First Moment: Accommodation**

In independent Pakistan, the demand that the Ahmadis be declared non-Muslim was first publicly made in 1949 by *Majlis-i-Ahrar-i-Islam* (in short *Ahrar*), a militant organization of Muslims that was founded in 1931. With the support of numerous religious organizations, the *Ahrar* organized public meetings and congregations throughout the province of Punjab, demanding that the Ahmadis be declared non-Muslim. However, despite the state's nominal affiliation with the symbols of Islam in the

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<sup>3</sup> I also discuss the relationship between Ahmadis, orthodox Muslims and the colonial state in detail in chapter 3.

<sup>4</sup> Quoted in Rashid Tasir, *Tāḥrīk-i ḥurriyat-i Kashmīr*. Vol. 2. Srinagar: Muhafiz Publications, 1973, p. 291 (translation mine).

newly framed preamble of Pakistan's constitution termed the Objectives Resolution earlier that year, the state remained committed to protecting the fundamental rights of all religious minorities and deemed the anti-Ahmadi campaign of the *Ahrar* unlawful (Lahore High Court 1954).

An anti-Ahmadi campaign was re-launched in 1953 in the province of Punjab, again led by the *Ahrar* but this time with the active and public support of key actors of the ruling party, the Muslim League (ML), and major religious parties such as the prominent *Jamaat-e-Islami* (JI). In the wake of widespread agitation and violence that ensued, the state authorized the arrest of prominent religious members and ultimately declared Pakistan's first Martial Law over the city of Lahore. In 1954, the committee set up by the state to inquire into the disturbances noted in its final report the importance of the question of Muslim identity for the newly formed Pakistani state but concluded that question of who was and was not a Muslim was almost impossible to decide, further noting that the *ulama* (Muslim legal scholars) themselves "hopelessly disagreed among themselves" on this "fundamental" question (Lahore High Court 1954: 205). The report forcefully upheld the importance of individual conscience in religious matters along with that of full citizenship rights and held that the riots had been instigated by radical Islamic groups in conjunction with the ruling party in Punjab to deliberately cause disturbances. I term this moment in the genealogy of the relationship between the Ahmadiyya community and Pakistani state as the moment of accommodation.

### **The Second Moment: Exclusion**

The “Ahmadi question” emerged on the national scene again in May of 1974 following a clash between Ahmadi and non-Ahmadi students in Rabwah, a predominantly Ahmadi populated city. In response to the incident, acts of violence started immediately against the Ahmadis, especially in the province of Punjab. At various university campuses, Ahmadi students were forcibly thrown out of their hostel rooms, their belongings collected and set on fire. Ahmadi shopkeepers started receiving threatening phone calls while enraged crowds stoned and burnt Ahmadi shops, gas stations and factories. Incidents of beatings of Ahmadis were also reported that led to the murder of 27 Ahmadis (*Dawn*, Karachi: 23 June 1974). While violence against the Ahmadis came to an end within a week, largely because of willingness on the part of the state to use force to curb violence, a nation-wide campaign was launched with major Islamist political parties, religious organizations, student and trade unions; Members of opposition parties in the national and provincial assemblies, and public intellectuals publicly demanding that the government declare the Ahmadis a non-Muslim minority. Eventually, Prime Minister Zulfikar Ali Bhutto placed the issue of the determination of the religious status of Ahmadis before the National Assembly. The proceedings took place under camera and have not been made public to this day. As a result of the deliberations, the Ahmadis were declared a non-Muslim minority through a Constitutional Amendment. I refer to this as the moment of exclusion of Ahmadis from Muslim citizenship.

### **The Third Moment: Criminalization**

In 1984, a group of religious leaders issued an ultimatum to the government of military General Zia-ul-Haq, who had acceded to power through a military coup in 1977, demanding the immediate removal of all Ahmadis from key posts in the state, the arrest of the spiritual head of Ahmadiyya community in Pakistan, identification of Ahmadis as ‘non-Muslims’ on identity cards and passports and demolition of all Ahmadi places of worship (Kaushik 1996). The Zia regime, needing no further ammunition, immediately promulgated an ordinance that prohibited Ahmadis from ‘posing as Muslims’ by using Islamic symbols and nomenclature in describing their religion or places of worship, making it a crime punishable by imprisonment and heavy fines<sup>5</sup>. This repressive legislation had the effect of making the Ahmadis a target of continued harassment as a result of which the community has retreated almost completely from public life in Pakistan<sup>6</sup>. I call this moment the moment of criminalization of the Ahmadiyya community.

### **1.2. SETTING THE AGENDA: THE ‘AHMADI QUESTION’, NATIONAL IDENTITY AND THE PAKISTANI STATE**

The three moments under consideration in this dissertation indicate a number of paradoxes. First, it remains far from clear why the Pakistani state felt itself fundamentally threatened by the religious beliefs of an already marginalized minority group that constitutes such a small number in Pakistani population. In the absence of formal

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<sup>5</sup> See appendix 2 for the text of this ordinance.

<sup>6</sup> A number of NGOS have been documenting the severe breach of human rights with regard to the Ahmadiyya community in Pakistan. These include the Human Rights Watch, Amnesty International, and the Human Rights Commission of Pakistan. The Ahmadi-run website [www.thepersecuton.org](http://www.thepersecuton.org) is an excellent source for examining the human rights abuses levied on the Ahmadiyya community.

statistics on the social make-up of the Ahmadiyya community, my informal interviews conducted with Ahmadiyya community leaders suggests a diversity of socio-economic backgrounds which do not differ markedly from the social make-up of the Pakistani society at large (Alavi 1983), thereby ruling out purely class-based and materialist explanations for their marginalization. Second, the timing of 1974 Constitutional Amendment – and the larger context of the state adopting a new Constitution in 1973 that declared Pakistan an “Islamic State” for the first time in its history – itself requires an explanation given that the re-articulation of national identity contained therein constituted a shift from the Pakistani state’s earlier stance towards the relationship between Islam, nation and the state. Third, the 1984 Ordinance also requires an explanation in light of the fact that the 1974 Constitutional Amendment constituted an acceptance of the demands made by the orthodox religious establishment towards the state.

While much emphasis has been laid on aspects of Ahmadiyya religious thought in theory and practice (Lavan 1974; Friedmann 1989; Gualtieri 2004) and the documentation of marginalization of the community by the Pakistani state through both legal-constitutional and extra-legal means (Gualtieri 1989; Kaushik 1996; Khan 2003), there is no study of the mechanisms that have given rise at different times to different responses by the Pakistani state towards the religious and citizenship status of the Ahmadis. Scholarship on Pakistani state’s negotiations with its Islamic identity has tended to gloss over this issue, implicitly regarding it as a by-product of the state’s attempts at using Islam as a political tool for its own ends. However, dismissing the complex relationship between Islam, nationalism and the state implicated in the issue of the religious status of Ahmadis occludes the particular modalities of rule through which

the boundaries between the center and periphery, public and private, lawful and unlawful, are drawn. A focus on the historical constitution of such boundaries, especially through a focus on the “margins” both lends credence to Veena Das and Deborah Poole’s observation that “such margins are a necessary entailment of the state, much as the exception is a necessary component of the rule” (Das and Poole 2004: 4) while begging the question of the mechanisms through which novel margins and social boundaries are created and re-defined. Thus, this dissertation is premised on the idea that the genealogy of the “Ahmadi question” in Pakistan provides an important window for looking into both the institutional and discursive aspects of intra-state and state-society interactions and the ways shifts in these bring about processes of social change with regard to nationalist policy outcomes.

1974 constituted a moment in Pakistan’s history in which the identity of the Pakistani nation was symbolically reconstructed to exclude the Ahmadis from the boundaries of Muslim citizenship. This moment was anchored not only within competing narratives about the Pakistani national identity and religious discourses about the interpretation of Islamic texts but also, and fundamentally, within narratives about the nature of the post-colonial state and of its perceived, imagined, and actual functions, ideologies, and administrative apparatuses. In fact, in all the above defined moments, different political and religious figures, state actors, public intellectuals and the citizens came together to contest not only discursive claims about the nation but also issues of what constitutes legitimate authority and how relations among states and citizens ought to be managed.

Some scholars may find the shift from accommodation to exclusion hardly surprising since the exclusion of Ahmadis from the newly legalized category of Muslim in 1974 can be simply viewed as an instance of mass democratic politics in which politicians catered to popular religious demands, even though the demands were illiberal and represented a historical reversal of the Pakistani state's earlier stance towards Muslim citizenship. However, a closer look at this shift in the relationship between Ahmadis and the Pakistani state raises a number of intriguing theoretical issues in need of clarification. First, it is far from clear why the Pakistani state did *not* declare Ahmadis non-Muslim in 1953. Such a rendering of the issue is suggested by traditional theories of nationalism that regard non-Western nations as prone to particularistic identifications centered on religion and ethnicity and opposed to universal ones defined by a commitment to liberal values (Ignatieff 1994; Kohn 1944; Plamenatz 1976); by theorists of nationalism who equate nationalisms with singular and unchanging but socially constructed 'cultural idioms' (Brubaker 1992) or cultural cores (Greenfeld 1992; Lipset 1963; Spillman 1997); and by prevalent and 'common sense' understandings about the incompatibility between Islam and democratic and liberal values<sup>7</sup>.

Second, for more recent theorists of nationalism that approach historical moments of national claims-making as events in the social processes of reification of politicized national identities, all the three moments of accommodation, exclusion and criminalization present sites of critical inquiry since the production of seemingly

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<sup>7</sup> With regard to nationalisms in Muslim societies, this discourse is manifested through discussions about the (in)compatibility between Islam and democracy, modernity, human rights, secularism etc (Langman & Morris 2002; Lewis 1991, 1998). From this perspective, the shift of Pakistani state towards a regime of citizenship rights that privileges a Muslim religious identity is a 'natural' occurrence, especially when viewed through the lens of the spread of global Islamism or world society approaches that posit the diffusion of global cultural forms onto the national level (Roy 2004).

traditional and common-sense understandings of nation emerge through complex interactions between institutions, cognitive frames of social actors, public nationalist discourses and contingent events (Brubaker 2002, 2004; Spillman and Faeges 2005). In other words, neither the accommodation of Ahmadis by the Pakistani state in 1953 nor the community's subsequent marginalization can be assumed *a priori*, or explained away by teleological accounts of rise of religious identities or through recourse to essentialist attributes of the nation. Taken together, these moments attest to the significance of treating nationness (as a particular form of groupness) "as a contextually fluctuating conceptual variable" (Brubaker 2002: 167-8). Thus, for cultural sociologists of nationalism interested in studying the constitutive role of meaning-making processes in social and political life (e.g. Berezin 1991; Spillman 2002; Zubrzycki 2006), the 'Ahmadi question' – as it is popularly referred to in Pakistan – poses questions about the historically fluid ways in which the Pakistani state has constructed its national identity through re-significations of practical categories of 'Muslim' and 'non-Muslim', and more generally through changing interpretations of the functions of the state in a Muslim society and what being a Muslim means and entails in political and juridical life of the "imagined political community" of the nation (Anderson 1991).

Finally, for historical sociologists interested in exploring the role of cultural mechanisms in processes of socio-political change, the shift in Pakistani state's policy towards the Ahmadis will undoubtedly evoke questions about the state/culture nexus (Steinmetz 1999), especially about the role of contingency and "temporally heterogeneous causalities" for examining the relationship between institutional structures and cultural structures (Sewell 2005: 102). For these historical sociologists (e.g. Adams,

Clemens and Orloff 2005; Clemens 2007), the central issues revolve around theorizing the cultural determinants of state policies and the mechanisms through which intra-state competition for resources gets transposed onto the social space or vice versa (Charrad 2001; Go 2000; Orloff 2005; Steinmetz 2003, 2007).

Through an empirical study of Pakistani state's historically shifting relationship with the Ahmadis, this dissertation builds on these concerns and insights to present a broad theoretical framework for exploring the content of, and changes in, nationalist policy outcomes. I define nationalist policy as the set of institutional practices through which states attempt to normalize, stabilize, and hegemonize a particular nationalist discourse by reifying specific practical categories of classification<sup>8</sup>. This process of reification can take many forms ranging from explicitly legal or constitutional means for defining and institutionalizing particular citizenship regimes of inclusion or exclusion to less formal means such as legitimation through judicial discourses in public courtrooms or public speeches and utterances by state actors. One of the central issues this dissertation addresses is the question of why certain representations of the nation by the state take precedence over others at particular historical moments<sup>9</sup>.

### **1.3. THEORETICAL FRAMEWORK: EXPLAINING SHIFTS IN NATIONALIST POLICY OUTCOMES**

My theoretical framework rests on Philip Abrams observation that the state-system is constituted by a set of institutions – prisons, the police, the army, etc. – all

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<sup>8</sup> I define nationalist discourse as any representation of the imagined community of the nation espoused by specific groups and/or individuals that seeks to obliterate the 'fuzziness of communities' (Chatterjee 1993: 227) by discursively demarcating a 'discrete, sharply differentiated, internally homogenous and externally bounded' (Brubaker 2002: 164) group as the fundamental constituent of the nation.

<sup>9</sup> Rogers Brubaker critiques the tendency by academics to treat ethnic groups, nations and races as units of social analysis as "groupism", cautioning that the formation of these groups "is a key part of what we want to explain, not what we want to explain things with" (Brubaker 2002: 165).

operating within a loose set of ideas and practices towards an attempt to establish authority and legitimacy. By acting in the name of the state, these sub-state institutions are able to take on an appearance of being part of a unified whole. Abrams propose that we study the state both as a system – “a palpable nexus of practice and institutional structure”, and as an idea – a historically constructed and contested “exercise in legitimation, in moral regulation” (Abrams 1988: 82, 81). Thus, while insisting that the state cannot be treated as a concrete object, Abrams maintains that what does exist is the idea of the state as an objective reality, the appearance of which emerges from the state-system itself. Bob Jessop has similarly conceptualized the state as an ensemble of sub-state institutions: “the core of the state apparatus comprises a distinct ensemble of institutions and organizations whose socially accepted function is to define and enforce collectively binding decisions on the members of a society in the name of their common interest or general will” (Jessop 1990: 341). The anthropologist of the state Michel-Rolph Trouillot argues that the “state has no institutional or geographical fixity” and can only be studied through a “focus on the multiple sites in which state processes and practices are recognizable through their effects” (Trouillot 2001: 126).

This de-centralization of the state – both in its institutional aspect (multiplicity of sub-state sites) and in its functional aspects (multiplicity of ‘state effects’) – is significant for theorizing nationalist policy formation because it draws attention to both intra-state dynamics of interaction and the multiplicity of the ways in which the state impinges on its citizens and nationals. In short, it brings into sociological vision both the spaces of intra-state and state-society interactions. Thus, I suggest that the state can neither be approached as just a coercion-wielding entity, characterized by its continual attempts to

maintain a monopoly over the use of violence; or as just a cultural institution of moral regulation; or even only as a sociological institution wherein groups and individuals with particular class, religious, and social interests vie with each other and with actors outside the state field for power, authority, and/or legitimacy (Weber 1978; Corrigan and Sayer 1985). A focus on just one of these aspects of modern states occludes the ways in which the state is constituted by multiple logics – territorial, coercive, bureaucratic, juridical, regulative – and that depending on the political and structural context, certain logics may emerge as, or appear to be, dominant; one logic may oftentimes be at odds with another; and that the state may or may not have the space and autonomy to choose which logic it will draw upon. In other words, studying states-in-action requires that while scholars should not lose sight of ideal-typical constructs of the state, they should be willing to explore historically the conditions under which these constructs differ from reality.

In order to systematically capture the complexity within the domain of the state, I draw on Bourdieu's field theory. As I will discuss in detail in chapter 2 which lays out the theoretical framework on which this dissertation rests, the modern post-colonial state of Pakistan follows the mechanisms of a Bourdieusian field. In particular, I argue that Bourdieu's field theory is particularly useful for analyzing both intra-state and state-society dynamics of nationalist policy outcomes. The field is the structured space of objective positions occupied by individuals or institutions and each position is defined by the distribution of the different forms of resources or capital – social, economic, cultural, symbolic (Bourdieu 1993a; Bourdieu and Wacquant 1992). Within a field, individuals or institutions vie with each other for maximizing these capitals, generally through the accumulation and conversion of the field-specific capital. Bourdieu likens fields to a

gaming space in that fields are constituted through a set of implicit and explicit rules through which modes of entry, exit and play in the field are regulated and which are specific to that particular field.

As I will discuss in detail in the next chapter, the modern state encompasses all of these elements. Here, I would like to note that the Pakistani state can be characterized as a social field in which state actors occupying specific institutional sites, or state subfields, engage in competitive struggle or strategic negotiations with one another for accumulating symbolic power (legitimacy) and for giving the hegemonic response to the question of the cultural boundaries of the national community. Nationalist policy outcomes are crucially contingent upon which state subfield/s will emerge as victorious in the struggle for giving response to official policies.

This conceptualization is especially useful for examining shifts in nationalist policies in post-colonial contexts. Recently, a growing body of literature has convincingly revealed how identities, attachments, and minorities are culturally and politically created, changing in time and place (e.g. Chatterjee 1993; Alonso 1994; Burguiere and Grew 2001; Kemper 1991; Van der Veer 1994). However, in contrast to Western European countries where understandings of citizenship and nationhood and processes of state-building have developed organically and culturally over the course of centuries (Brubaker 1992; Corrigan and Sayer 1985), similar processes in postcolonial countries have spanned much shorter time periods and have entailed, on the one hand, construction of new “citizens” that were formerly relegated to the status of “subjects” under colonial rule (Mamdani 1996), and on the other, continuation of colonial idioms of rule, often premised on the routinization of violence (Chatterjee 2005; Pandey 2006).

These states have, in other words, actively undertaken the task of the construction of the ‘nation form’.

However, which state subfield will undertake the task of nation formation is not a settled issue in post-colonial states. The bureaucratic and coercion-yielding institutions of the post-colonial states often have an interest in keeping alive and well their own institutional bases which requires the legitimation of a discourse of maintaining security and law and order. The political parties spearheading nationalist movements, on the other hand, have an interest in expanding the arena of fundamental rights and political activity to consolidate their own basis of power. I contend that this re-negotiation of the distribution of various statist and political resources forms the context within which nationalist policy outcomes are formed are framed. Thus, the Pakistani state’s historically shifting relationship with the Ahmadis was fundamentally constituted by dynamics of intra-state competition.

In short, I argue that state actors forming nationalist policies themselves have to be situated within the larger state field, by which I mean that we have to account for why these, and not other state actors, have been assigned the task of nationalist policy formation and what is at stake for these state actors both with respect to intra-state competition for statist and political resources and the quest for hegemony in the public space at large. Shifts in these over time point to the centrality of processes of state formation for an analysis of the contingencies implicated in any process of formation and consolidation of specific and historical nation forms.

Second, Bourdieu’s concept of the habitus as the structured and structuring dispositions of the members of a field that organize practices and representations within

that field is immensely useful for understanding the institutional, discursive and cognitive dimensions of the meaning-making work done by state actors (Bourdieu 1990). Different state subfields have their own specific dispositions towards legitimate authority, stateness, and management of populations that have been learnt through processes of socialization. In post-colonial contexts, the experiences of colonial rule and anti-colonial nationalist struggles have been crucial for shaping these dispositions. In chapter 2, I draw on intervention in post-colonial theories of the state to conceptualize different logics of action and dispositions within the Pakistani state field. An examination of these in conjunction with other political, discursive and institutional mechanisms is central to explaining shifts in nationalist policy outcomes.

Third, I approach the discursive space of nationalist as a space in which different social and political actors make contesting claims about the nation and the state. Representing a terrain of symbolic struggles that are carried out in courtrooms, constitutional debates, newspapers and other public spaces, this space may be characterized by vibrancy and multiplicity of ideological and discursive positions or alternately, may be significantly constricted at certain historical moments. I argue that intervening events such as wars, experiences of certain types of rule etc. are central to shaping the universe of what is conceivable and sayable and form central explanans of shifts in nationalist policy outcomes.

My theoretical framework also draws on Charles Tilly's work on social movements to examine how repertoires of contention of social actors *vis-à-vis* the state impact nationalist policy outcomes (Tilly 2006). I conceptualize contentious repertoires as moments of state-society interaction and argue that legibility between these and the

dispositions of state actors framing nationalist policy is a key variable in determining policy outcomes. While some movements' success is premised on their bypassing the state altogether (Davis and Robinson 2009), other movements, especially those making claims on the state, have to explicitly address issues of state authority (Tugal 2009). All of these movements can be differentiated along a number of dimensions, ranging from organizational capacities, resource mobilization, communication networks, political alliances, presence of political opportunities etc. (McAdam, Tarrow and Tilly 2001). To these, I add the centrality of the notion of relationality among relevant state and social actors, by which I mean that any of these 'fixed' characteristics of a social movement or organized claims-making initiatives by social groups are not sufficient in themselves to generate an outcome of success or failure. Rather, we have to be mindful of how the repertoires employed by social groups articulate the state, nation, rights and so forth and how these accord with the habitus of relevant state actors.

## **1.4. METHODOLOGY AND DATA SOURCES**

### **1.4.1. Case Studies, Historical Reversals and Narrative Method**

This dissertation is organized chronologically and begins with an analysis of the British colonial state's management of religious difference in the Indian sub-continent with particular reference to the Ahmadiyya community (chapter 3) and concludes with the Pakistani judiciary's treatment of the Ahmadiyya community (following the promulgation of the 1984 Ordinance) during the second half of 1980s and early 1990s (chapters 6). Because these key moments (following the formation of Pakistan in 1947) are situated within successive historical time periods in which state, political and judicial

actors are dealing with the same practical issues related to the management of religious difference and in which they either draw upon or diverge from policies of the earlier pivotal moment, I am simultaneously interested in treating any two successive periods as loose comparative cases as well as analyzing how they form a part of a larger sequence of social transformation. Such an approach moves away both from a teleological understanding of social change as well as from Millian approaches that treat time periods as independent comparative cases, emphasizing instead contingency, emergence and process (Burawoy 1989; Paige 1999; Sewell 2005).

The increasing legitimacy of narrative, relational and eventful modes of inquiry into single and small-N case studies<sup>10</sup> within historical and cultural sociology has resulted in novel methodological approaches and insights (Sewell 2005; Somers 1992; Steinmetz 1992). Jeffrey Haydu's approach towards the treatment of two successive historical time periods within what has traditionally been understood as a single case (most often a geographic region) provides a most useful point of entry for discussing this dissertation's methodological approach (Haydu 1992, 2010). Simply put, the central methodological issue posed by this dissertation is this: because the key moments under investigation here are three successive historical time periods in which state actors are dealing with the same problematic of the management of religious difference through nationalist policies, how do we treat these moments *both* as loose comparative cases *and* analyze how they form a part of a larger sequence of a process of social change? The former is desirable

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<sup>10</sup> The single case and small N studies have found renewed support within historical sociology. Earlier critiques of single to small N studies, organized around charges of inductivism, unscientificity and unfeasibility (e.g. King, Keohane, and Verba 1994; Kiser and Hechter 1991; Lieberson 1991) have given way to new approaches that have highlighted their theorizing potential. For example, Steinmetz argues that "case studies and small N-comparisons should be seen as privileged forms of sociological analysis" and constitute "essential parts of any social science" (Steinmetz 2004: 372, 373; Paige 1999).

because both moments form individual cases to which I can apply the general theory of formation of nationalist policies being proposed in this dissertation (chapter 2) while the latter is desirable for understanding the conjunctures and long-term changes in institutional, discursive and cultural factors that lead to shifts in the state's relationship with the Ahmadis.

Drawing on Haydu, I argue for the usefulness of treating successive time periods characterized by “historical reversals” as providing “contrasting solutions to recurrent problems” (Haydu 2010: 26). Such an approach requires placing concrete social actors at the center stage of the analysis so as to invoke “the image of reiterated problem solving” to address the question of why social actors have adopted different solutions to the question of the religious status of the Ahmadis at different time periods. Treating successive periods as loose, *but not independent*, comparative cases of “problem-solving regimes” allows an exploration of, first, changes across time with regard to how state actors themselves conceptualize the empirical and theoretical questions under consideration<sup>11</sup>. In fact, shifts in the ways in which state actors have differentially articulated the issue of the religious status of Ahmadis provide important directions for exploring the large-scale shift towards state Islamism in Pakistan. At the same time, they beg the question of why certain ways of posing the issue have appeared as hegemonic within the state field, thereby allowing a scrutiny of socio-political struggles over the authority to define social situations.

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<sup>11</sup> Clearly, the social problems that academics define as being worthy of scholarly investigation are not always similar to how concrete social actors define the social problems with which they are faced. However finding points of contact between these two ways of posing social problems is a worthy endeavor. As Haydu puts it, “Insisting on this correspondence checks sociologists’ theoretical flights of fancy and directs our attention to points for which we need to gather evidence.” (Haydu 2010: 33).

Second, my methodological approach establishes linkages between “historically distinct periods (regimes of problem solving) and larger trajectories spanning those periods (tied together by recurrent dilemmas of action)” and between “multiple causal trajectories producing change” (Haydu 2010: 33). In other words, my comparative and historical approach requires an exploration of trajectories of long-term change as well as an examination of the conjunctures among these trajectories at specific historical moments.

My methodological approach is entirely consistent with the field-theoretic approach proposed above. A description of the structure of any social field including the field of power only captures a given moment as is explicitly stated by Bourdieu’s assertion that “fields present themselves *synchronically* as structured spaces of positions” (Bourdieu 1993a: 72, *italics mine*). By comparing the structure of the social field such as the state at two theoretically relevant time periods, we can begin to theorize the constitutive role of changes in the distribution of various capitals within the state field and the field of power for explaining shifts in nationalist policy. Because the structure of the state field at an moment encapsulates within itself the whole history of that field, we can compare two successive social fields as loose comparative cases along the field-theoretical dimensions described above as means of looking for “some combination of changes in challenges, resources, understandings, and opportunities that lead actors to take new approaches to recurrent dilemmas” (Haydu 2010: 32). An examination of shifts in the distribution of state-specific capitals provides the context within which we can examine other causal mechanisms describe above (and discussed in detail in chapter 2) such as shifts in dominant state actors, and concomitantly the logic of governance within

the state field, the discursive space of nationalist strategies, and the repertoires of contention of relevant social actors vis-à-vis the state.

#### **1.4.2. Data Sources**

The field work for this dissertation was conducted in Pakistan and Britain between February 2007 and April 2008. My research design incorporates a range of data sources, including official published reports of the British colonial government in India and Government of Pakistan; colonial and Pakistani state archives; newspapers; personal interviews; published proceedings of court cases; minutes of constitutional debates; Urdu language books and pamphlets published by religious organizations; and finally, secondary academic work on state and religion in Pakistan. I discuss these below, noting the limitations and strengths of particular sources of data.

##### **Government Publications and Archives**

Official state publications and archives provide an invaluable source for examining statist practices and discourses about governance and management of populations. First, I spent time in the British Library at U.K. and the National Documentation Center in Islamabad, Pakistan to collect data on the colonial state's relationship with the Ahmadiyya community. Specifically, I looked at the India Office Records to gain information on the colonial state's attitude towards the Ahmadiyya community. I found files that dealt with a range of mutual interactions, including how the colonial state dealt with Ahmadiyya community's requests to aide the latter with its missionary activities abroad; the colonial state's management of conflicts between the

Ahmadiyya community and orthodox Muslim groups; the colonial state's interventions in instances of persecution of Ahmadis in neighboring Afghan territory; and the colonial state's internal policies with regard to employment of Ahmadis within the British administration. I analyze all of these in chapter 3, which deals with an examination of the origins and rise of the Ahmadiyya religious movement and the triangular relationship between the colonial state, orthodox Muslims and the Ahmadiyya community. Within these archives, I also found a large number of pamphlets and newspaper cuttings by local Indians on these issues as well as official published reports by the Government of Punjab on "riots" involving Ahmadis.

Recent scholarship on colonial state has increasingly emphasized that colonial conquest in India (and elsewhere) was premised not only on territorial and coercive conquest but also on the colonization of knowledge (Cohn 1996; Dirks 2001; Guha 1997). The British colonial state in India has aptly been characterized as an "empire of knowledge" characterized by the creation of a "total archive" (Richards 1996), including census records, ethnographies, revenue records and, after the consolidation of a public arena characterized by a mushrooming of local language journals, newspapers and publishing presses by the end of the nineteenth century, local news and views. However, neither this obsession with documentation, classification, and codification, nor the colonial archive itself, can be regarded as transparent "facts" from which we can glean in a straightforward manner the mechanisms of control and governance (Spivak 1988; Mani 1998). As I will show in chapter 2, the colonial archive was itself a site of contestation and negotiation as local communities sought to impress upon the state how it wanted itself to be represented therein. For example, the Ahmadiyya community drew on the

colonial state's classificatory schemes to impress upon the state its desire to be enumerated as a separate Muslim community for census and other purposes. Furthermore, the colonial state archives reveal that state officials were often in disagreement with each other over what constituted an appropriate policy towards local communities. I give an account of the colonial state's symbolic representations and practical policies towards the Ahmadiyya community through a close reading of these colonial archives.

For the period following the independence of Pakistan, I look at a number of archival and official government collections placed in the National Archives of Pakistan, Islamabad; the Library of the National Assembly of Pakistan; and the National Documentation Center. At the National Archives of Pakistan and the Library of the National Assembly of Pakistan, I collected the minutes of constitutional debates for the years 1947 (debates on the future flag and other constitutional issues), 1949 (debates on the preamble of the Constitution) and 1974 (debates on the religious status of Ahmadiyya community). These provide an invaluable resource for looking at the ways in which actors within the political subfield contested and negotiated different understandings of the Pakistani nation and the place of Ahmadis within. At the National Archives of Pakistan and National Documentation Center, I also collected official archives on correspondences among Jinnah and Indian Muslims on constitutional and religious issues. These provide a clue to the multiplicity of stances being taken by the Muslims of South Asia on issues that are central to this dissertation, most notably the relationship between law, state and religion in Pakistan.

A key government publication used is the report of the Inquiry Commission formed in 1953 for inquiring into the circumstances leading to the declaration of Martial Law in Lahore. The result of the inquiry was a 387 page published report titled “Report of The Court of Inquiry constituted under Punjab Act II OF 1954 to enquire into the Punjab Disturbances of 1953”. This document serves both as a source material for the proceedings of the Inquiry Commission as well as an important cultural document for examining the hegemonic state response to the Ahmadi question in 1953.

### **Personal Interviews**

This dissertation draws on twenty-two interviews conducted with key religious, political and state actors who were involved with the events surrounding the exclusion of Ahmadis from Muslim citizenship in 1974 and the promulgation and legal sanctioning of anti-Ahmadi legislations in the 1980s and early 1990s. These interviews took place in the cities of Islamabad, Rawalpindi, Karachi, Multan and Rabwah and all interviewees freely consented to having their identities disclosed. Interviewees include Members of the National Assembly (MNAs) in 1974; state officials involved in the promulgation of the 1984 Ordinance; leaders and representatives of religious groups, both Ahmadis and non-Ahmadis; lawyers, judges and other legal professionals involved in court cases involving Ahmadis; bureaucrats and public intellectuals. These categories are not mutually exclusive as for example, bureaucrats upon retirement may launch social initiatives such as book clubs, associations etc. engaged in political debates and civil society initiatives or for example, politicians may be legal professionals or religious leaders.

Most of the interviews were conducted in English and Urdu languages and no interpreters were needed for any of these interviews. All interviews were recorded with the consent of the interviewees although a number of interviewees asked me to turn off the recorder at certain points and asked me to not use certain bits of information or to keep the source of information confidential. Such requests have been duly complied with throughout the dissertation. The interviews were open-ended, conducted mostly in the homes and offices of the interviewees, and on average lasted two hours, with an occasional follow-up phone or personal interview.

I was unable to interview anyone involved directly in the events of 1953 since the key actors from that time period have passed away. With regard to state officials involved in the enactment of the second Constitutional Amendment in 1974, I procured a list of all the MNAs in the National Assembly during 1974. At the time interviews were being conducted, most of these MNAs had either passed way, left the country or were untraceable. Out of those that I was able to contact, a few chose not to be interviewed and some were too busy at that time since my interviews were being conducted during the 2008 elections campaign. At the end, I was able to interview eight Members of National Assembly and state Ministers. Interviews with these MNAs took me from Karachi (where two interviews were conducted) to Multan where I conducted an interview with the Speaker of the National Assembly of Pakistan in 1974. Similarly, I was able to interview three senior Ministers involved in the promulgation of the 1984 Ordinance. Overall, I believe that taken together, these interviews are an invaluable source for throwing light on the shifts under scrutiny on this study.

During my interviews, I questioned these politicians and state officials about the events surrounding anti-Ahmadi legislations of 1974 and 1984; their role in these legislations; their personal views about these legislations and the religious status of Ahmadis; the opportunities and constraints they perceived during these moments; and their current assessment of the situation of Ahmadis in Pakistan. These interviews were also immensely helpful in conceptualizing the state field in Pakistan at different moments as the interviewees often spoke candidly about what I refer to as logics and modes of state action and intra-state competition for resources. Furthermore, they were invaluable in allowing an analysis of the multiplicity of dispositions within the state field towards issues of nation formation, citizenship rights and governance.

I believe that on the whole, the interviewees were candid about their views and involvement in the processes leading up to the events under investigation in this dissertation. However, I also have reasons to believe that a few state officials under-represented their involvement in anti-Ahmadi legislations. I arrive at this conclusion because one person's account of a particular event sometimes negated that of another person's. In my analysis, I have noted these discrepancies and have attempted to give a narrative account that critically engages with them. Not surprisingly, the under-emphasis on one's participation in anti-Ahmadi legislations was most prominent in accounts by those politicians and state officials who self-define as secularists (understood in this dissertation as proponents of separation between religion and state) but had – because of practical contingencies, or the logic of electoral politics, or to placate their party leaders – found themselves in the awkward position of officially condoning and/or participating in anti-Ahmadi legislations. Their distancing from these anti-Ahmadi legislations is

especially understandable given the extremely problematic nature of these legislations on ethical, moral and religious grounds. In fact, nearly every person I interviewed was keenly aware of the violation of the accepted “international” norms, as for example encapsulated in the Universal Declaration of Human Rights, implicated in these legislations. Furthermore, I was often perceived as a modern and secularist human rights activist because of my non-Ahmadi status. While Ahmadi activists and individuals routinely investigate anti-Ahmadi legislations, *academic* work by Pakistanis, and especially who identify with mainstream *Sunni* Islam<sup>12</sup>, a subject position that often had to be explicitly stated, is rare. Furthermore, being a woman seeking higher education in the United States meant that I was also perceived as being steeped in Western, secular values, and it is reasonable to assume that in some cases, responses were tailored to appeal to me. On the other hand, there were politicians who sought to take credit for the anti-Ahmadi legislations either on religious grounds (under the understanding that such legislations were a requirement of *shari'at*) or on nationalist grounds (they represent the wishes of the Pakistani Muslims).

I also interviewed a number of lawyers, judges and Islamic legal scholars who have been involved in either upholding or resisting anti-Ahmadi legislations in Pakistan’s courtrooms. These individuals participated in my interviews to emphasize and re-iterate their already public views on issues being discussed. Because of the high profile of this group of individuals on the whole – in their capacity as judges, well-known and respected lawyers, Islamic scholars routinely appearing on radio and television religious programs

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<sup>12</sup> *Sunni* and *Shi'a* are the two major denominations, or ‘sects’, of Islam today. Pakistan is predominantly *Sunni*, with 10-20% of its population belonging to the *Shi'a* denomination. See U.S. Department of State’s report titled “Pakistan: International Religious Freedom Report 2008” at <http://www.state.gov/g/drl/rls/irf/2008/108505.htm>. Retrieved on 26 July 2010.

– I have reasons to accept their ideological stances as a true representation of their identity and politics.

Amongst these individuals, those who resisted or supported the legislations on secular or constitutional grounds regarded me as a like-minded colleague and were friendly and congenial in imparting their views and responding to my questions. However, this was not always the case with the traditional and orthodox *ulama* and Islamists, who sometimes began with the assumption that my questioning them on events and legislations leading to what I have termed the criminalization of the Ahmadiyya community constituted an attack on their ideological frontiers. In such cases, I sometimes perceived hostility and at other times defensiveness, which I sought to dispel by reiterating my position as a disinterested scholar whose primary task was to record events. Of course, such a position is neither wholly accurate nor a defensible one when the issues under scrutiny are highly controversial ones that have been the subject of debate and passion in the public space for over 100 years in the South Asian context. Thus, oftentimes I had to submit my own personal views in which I took a human rights perspective that has been influenced by the works of Hannah Arendt, Etienne Balibar, and Abdullahi An’Naim, among others.

Next, I spent a few days in the city of Rabwah, the headquarters of the Ahmadiyya community in Pakistan, to interview the Ahmadi leadership there. I was able to interview two senior representatives of the Ahmadiyya community. Lastly, I interviewed two bureaucrats and a few public intellectuals on the relationship between religion, law and politics in Pakistan. I did not perceive any “biases” in any of these interviews.

### *Newspapers and Journals*

I canvassed all major national level newspapers for the three historical “moments” under consideration, paying close attention to capturing the spectrum of ideological viewpoints in these time periods. Newspaper are used here both as providing a resource for the critical (re)construction of key historical events as well as a site of debates about constitutional issues and nationalist policy. For the period surrounding the accommodation of Ahmadis in 1953 (December 1952 – April 1954), I look at *Civil and Military Gazette* (Karachi) and *Pakistan Times* (Lahore), English language liberal-secular dailies with leftist leanings; *Dawn* (Karachi), English language liberal-secular and pro-government daily; *Nawa-e-Waqt* (Lahore) and *Jang* (Rawalpindi), center-conservative Urdu language dailies; and *Zamindar*, an ultra-conservative Urdu language daily. For the events of 1974 that led to the exclusion of Ahmadis (specifically May-September 1974), I look at *Dawn* (Karachi) which in 1974 occupied a more centrist-conservative position; *Nawa-e-Waqt* (Lahore) which had shifted towards the extreme right and represented the religious orthodoxy, and *Mashriq* (Lahore), another Urdu daily occupying the same ideological position as *Nawa-e-Waqt* (Lahore). I also look at *Chattan*, an Urdu language weekly magazine published from Lahore and known for its extreme anti-Ahmadi rhetoric. For the 1980s (specifically April-June, 1984), in addition to the above newspapers, I look at *Imroze* (Lahore), another conservative Urdu-language daily, and the provocatively titled *The Muslim* (Islamabad), a secular English language daily.

Newspapers from the 1950s are archived at National Archives of Pakistan while the ones from 1974 and 1980s were accessed from the National Library of Pakistan, Islamabad (NLP). My newspaper archives amount to thousands of pages and include

news items, editorials, opinion columns and letter to editors. In addition to a systematic scrutiny of these major newspapers, I have also drawn on other newspaper articles that I have seen referenced at other sources.

### **Books and Pamphlets by Religious Organizations**

The India Office Records at the British Library contains a huge reservoir of Urdu and English language books that were published by local printing and publishing presses under colonial rule. Here, I was able to find a number of pamphlets and books that had been published by the Ahmadiyya organization in Qadian, India that were primarily geared towards a British audience. Through a content analysis of these, and in conjunction with an analysis of Ahmadi practices of alternating between resistance and negotiation with the British colonial rule, I was able to arrive at an understanding of the complex relationship between the British colonial state and the Ahmadiyya community which I detail in chapter 3.

At the Khilafat Library in Rabwah, NLP and the Library of MTKN which I visited in the society's main office in Multan, I was able to find Urdu and English language books and short pamphlets by both Ahmadiyya community and orthodox religious organizations and political parties that provide a view of the ideological stances taken with regard to constitutional issues facing Pakistan as well as the religious status of the Ahmadis. MTKN has been dedicated to the cause of getting the Ahmadis declared legally non-Muslim almost since the establishment of Pakistan in 1947 and its library contains a large amount of published material, most of it by its own publishing press, dedicated to disseminating its views. Anti-Ahmadi pamphlets, numbering in hundreds

and containing the same narrative that has become so entrenched over the years as to become an orthodoxy in itself, provided a means for investigating the socio-symbolic construction of the Ahmadiyya community as both religious heretics and traitors to the country.

### **Court Cases**

A major source of data for an investigation of the Pakistani judiciary's treatment of the religious and citizenship status of Ahmadis in Pakistan is the officially published judgments of various court cases of Pakistan Supreme Court, the High Courts and the Federal Shariat Court that was established by President Zia-ul-Haq in 1980. The judgments of the court cases within these are publicly available and contain the main outlines of the charges, petitions etc., the arguments of the state and other parties (in criminal cases), and finally the officially delivered judgment by the senior most judge as well as occasional notes added by the agreeing and dissenting judges. These judgments are an extremely useful source for analyzing the judiciary's official stances towards constitutional issues involving religious rights, a task that I undertake in chapter 6. However, they cannot be relied on to give accurate descriptions of the proceedings of the cases itself since they do not contain the minutes of the proceedings. In fact, the recording of minutes of judicial proceedings is not undertaken by Pakistan's courts. The complete case files contain more information such as the actual arguments, petitions and supporting documents and materials presented by or used by the contesting parties. However, red tape measures in the superior courts of Pakistan make access to these case files a needlessly lengthy and difficult process. Methods routinely used by Pakistanis in

need of these case files include establishing contacts with influential persons within the courts or bribing the lower staff. After initial unsuccessful attempts and requests to the Registrar of the Supreme Court to aid with acquisition of case files, I gave up on getting access to these files and concentrated on conducting interviews with legal actors as a way of theorizing the juridical field in Pakistan.

However, I was able to find a number of judgments as well as case files dealing with various charges against the Ahmadiyya community in the lower district and civil courts at the Library of MTKN in Multan. The MTKN has an interest in building an archive of court cases in which decisions have been rendered against the Ahmadiyya community. These judgments are in turn published and analyzed by members of MTKN. I analyze these cases as reflections of juridical reasoning in chapter 6.

### **Secondary Works on Pakistan and Ahmadiyya Community**

This dissertation has benefited enormously from secondary works on the Ahmadiyya community and religion and politics in Pakistan. With regard to the former, I would specifically like to mention Yohanan Friedmann's *Prophecy Continuous: Aspects of Ahmadi Religious Thought and Its Medieval Background* (1989), Spencer Lavan's *The Ahmadiyah Movement: A History and Perspective* (1974) and Surendra Nath Kaushik's *Ahmadiya Community in Pakistan: Discrimination, Travail and Alienation* (1996). Friedmann deals with the theological aspects of Ahmadiyya religious thought, showing the continuities and discontinuities between it and medieval Islamic jurisprudence. Lavan details the social aspects of the rise and development of Ahmadiyya religious movement under colonial rule, and Kaushik details the social and legal discrimination of Ahmadis in

independent Pakistan. I draw on all of these works (among others on the Ahmadiyya community) in my analyses.

The list of secondary works on Pakistani state and politics is incredibly large and this dissertation draws on a significant portion of these. However, some of the works that I have drawn upon more than others and which are crucial to the arguments presented include those by the historian of the Pakistani nation-state Ayesha Jalal; Ian Talbot's *Pakistan, A Modern History* (1998), and Lawrence Ziring's *Pakistan: Enigma of Political Development* (1980). Specifically, the analysis of the Pakistani state field undertaken in this dissertation is crucially based on these seminal works on Pakistani politics.

## **1.5. OUTLINE OF CHAPTERS**

In chapter 2, I first discuss existing approaches within sociological literature that can be employed to account for shifts in nationalist policy outcomes. Specifically, I review neo-Weberian theories of state formation, rational choice theories, social constructivist approaches to nationalism and cultural theories of state formation. I note the strengths and weaknesses of each approach and argue that a field-theoretic approach for examining dynamics of intra-state and state-society interactions captures the strengths of each of these approaches while overcoming their weaknesses. Next, I present the theoretical framework of this dissertation in this chapter and conclude with a visual representation of my main findings.

Chapter 3 provides empirical details of the rise and development of the Ahmadiyya movement under British colonial rule in India. My aim is to describe the religious tenets of the movement as well as the key moments in the triangular relationship

between the colonial state, Ahmadiyya community, and political Muslim groups. My aim is twofold. First, I want to give a somewhat comprehensive account of the community that stands at the center of this dissertation through addressing the issues of its religious beliefs, social organization, modes of engagement and interaction with other social entities such as the state, and the Ahmadiyya community's involvement in the political movements characterizing the last decades of colonial rule in India, eventually culminating in the independence of Pakistan. Second, the key moments described in this chapter have been central to how the Ahmadiyya community has been socially constructed and discursively inscribed by the religious right, and eventually the state, in Pakistan. I subsequently discuss the discrepancies between the (what I hope are the somewhat unbiased and critical) accounts that I give in chapter 3 and the narrativization of these same events by groups seeking the ouster of Ahmadiyya community from the official citizenship regime. Thus, I seek to both set the historical record straight as well as point to the processes through which certain renderings of the nation (and its 'heretics') are constituted as truths.

In chapter 4, I begin my analysis of the shift from the accommodation of the Ahmadiyya community by the Pakistani state in 1953 to its exclusion in 1974. I examine the conjunctures among a number of mechanisms of social change at these two moments. First, I examine the structure of the state field in the immediate post-colonial period and trace the shifting balance of power between the political and the bureaucratic fields, and argue that this shift has been central to how the state has variably conceptualized and addressed social and religious demands that Ahmadis be officially declared non-Muslim. Next, I analyze the discursive terrain of nationalist discourses in the two time periods

with special emphasis on intervening events that have been central to consolidating a Muslim nationalist discourse in the public arena. Last, I engage in a discussion of the repertoires of contention employed by religious groups in the two time periods, showing how these have been central to shaping nationalist policy outcomes. As mentioned above, my aim is to analyze both moments as loose comparative cases as well as to treat them as a part of a larger sequence of social change.

In chapter 5, I undertake an analysis of the emergence and reception of the 1984 Ordinance that made it a criminal offense for Ahmadis to refer to themselves as Muslim and to practice Islam in the public space. I examine the shifts within the state field brought out by military-general Zia-ul-Haq's coup and examine the ways in which re-distribution of state and political resources implicated therein set the context for the the program of Islamization undertaken by Zia-ul-Haq. Next, I analyze the specific interactions among state and social actors through which the 1984 Ordinance was implemented, paying close attention to shifts in the structure of opportunities and constraints felt by these actors under the new political regime. I conclude this chapter by examining the debates generated in the public space by this Ordinance over the issues of the symbolic, constitutional and political role of Islam in the nation space and the state's role in mediating the relationship between Islam and the nation.

Following the promulgation of the 1984 Ordinance, the Ahmadiyya community launched their resistance by questioning the constitutional legality of the Ordinance in the Supreme Court of Pakistan as well as maintaining that the Ordinance represented a violation of the *shari'at* in the Federal Shariat Court of Pakistan. In Chapter 6, the last substantive chapter of this dissertation, I analyze these debates inside Pakistan's

courtrooms and draw on Bourdieu's conceptualization of the juridical field to situate these debates within the institutional, political and discursive space of the juridical field in Pakistan. Specifically, I address the institutional transformations affected in the juridical field by Zia-ul-Haq and examine the ways in which legal professionals reconstituted their judicial discourses to accommodate these shifts within their legal normative repertoires.

## **Chapter 2**

### **National Identity and the State Field in Modern Pakistan**

In this chapter, I first examine existing sociological approaches that address shifts in nationalist policy outcomes. Next, I discuss Bourdieu's field theory and present a field-theoretic conceptualization of modern states which I contend is a particularly useful and much-needed approach for bridging the gap between state theory and theories of nationalism. Such a rendering of modern states, and in particular, of post-colonial states, allows greater specification of the relations among the institutional, political and discursive mechanisms of intra-state and state-society interactions through which nationalist policy outcomes are both constituted and shift over time. Next, I outline the structure of the state field in Pakistan. I conclude this chapter with presenting a systematic framework for examining shifts in nationalist policy outcomes that combines a field-theoretic approach with relevant literatures in nationalism theory, post-colonial theory and social movements.

#### **2.1. EXPLAINING SHIFTS IN NATIONALIST POLICY OUTCOMES: EXISTING APPROACHES**

A number of approaches within state theory and nationalism theory have dealt with explaining rise of nationalisms and nationalist policies. In this section, I engage with

a number of these approaches that I have found useful for developing my own theoretical framework.

### **Neo-Weberian Theories of State Formation**

Employing a comparative historical perspective, neo-Weberian theorists have traditionally conceptualized the state as a coercion-yielding entity. The link between sovereignty and the state has been emphasized mainly through the Weberian lens, which grounds state sovereignty in territoriality, legitimate authority, monopoly over use of violence, and external recognition by other sovereign states (Mann 1986; Tilly 1985; Skocpol 1979; Weber 1978). The historical emergence and evolution of nationalism is explained through studying long periods of time in the context of state formation in the European context. According to this perspective, which emerged in the 1980s in an attempt to ‘bring the state back in’ (Evans et al. 1985) as a central and autonomous unit within sociological analyses<sup>13</sup>, processes of nation formation emerged as a corollary of more fundamental practices of state formation, such as inter-state competition (Tilly 1990); war-making and militarization (Howard 1991; Tilly 1975); the consolidation of administrative sovereign power within a clearly demarcated territory (Giddens 1985); the political economy of the statist drive towards democracy (Mann 1995); and/or the transition from indirect to direct rule (Hechter 2000).

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<sup>13</sup> These neo-Weberian theorizations emerged during the 1980s and provided a challenge to orthodox Marxist theories of the state which had trenchantly questioned the “autonomy” of the state, in effect relegating state institutions and their “ideological state apparatuses” to the maintenance and reproduction of fundamental (capitalist) class relations in society (Althusser 1971; Poulantzas 1969, Miliband 1973).

Because the consolidation of national identity is conceptually treated as peripheral to statist practices of taxation, militarism and coercion<sup>14</sup>, the specific *content* of nationalist policies – which groups are included and which are excluded, the role of cultural frames in defining policy etc. – remain outside the scope of analysis. As Spillman and Faeges (2005: 428) put it, “these comparative-historical sociologists may have brought the state back in, but they pushed nations out of focus” through neglecting “culturally grounded questions about nations as forms of collective identity”.

However, even though meaning-making processes of nation-state formation are either explicitly under-theorized or subsumed under theories of ideology, neo-Weberian theories are helpful for explaining shifts in nationalist policies in two ways. First, they point to the importance of considering the ways in which historically significant moments of war-making may constrain or provide the contexts for institutionalizing particular nationalist policies. As I will discuss in Chapter 4, the break-up of Pakistan in 1971 with the formation of the independent state of Bangladesh (formerly East Pakistan) and Pakistan’s war with India in 1971 were pivotal in bringing Pakistan People’s Party (PPP) to power through Pakistan’s first general elections. The experience of democracy meant that institutional and discursive norms governing state-society relations had to be redefined while the experience of civil war and the loss of Bangladesh meant that Pakistani nationalism had to be officially re-articulated by the ruling regime. An analysis of these events and mechanism is crucial for explaining nationalist policy outcome towards Ahmadis in 1974.

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<sup>14</sup> Charles Tilly in his introduction to the important edited volume *The Formation of National States in Western Europe* explained this marginalization of processes of “building of notions” by noting that the concept of nation “remains one of the most puzzling and tendentious items in the political lexicon” and because of the contributors’ bias towards “the extractive and repressive activities of states” (Tilly 1975:6).

Second, state practices of extraction, administration, and policing are couched within discursive cultural frames through which they are continually (re)-legitimated and deemed essential. While the state is indeed a military, economic, and a political institution, it is also a symbolic and an ideological formation involved in historical struggles over the accumulation and use of symbolic power in order to carry out its political and administrative functions. As Mara Loveman notes,

The problem...is not just that conventional approaches privilege the military, political, and economic power of modern states, paying only secondary attention to their ideological power. More fundamentally, such approaches fail to recognize explicitly that the state's capacity to carry out its ideological, economic, political, and military functions hinges in crucial respects on the exercise of symbolic power. Even the most material aspects of modern state formation have a cultural dimension that has been largely neglected by existing accounts. (Loveman 2005: 1652)

As I will discuss in chapter 4, a specifically *administrative-bureaucratic* logic of physical repression of 'un-civil' and unruly orthodox religious elements was crucial for defining the symbolic terrain from which the Pakistani state's policy of accommodation of the Ahmadis in 1953 emerged. However, these two mechanisms – war-making and cultural legitimations of exercise of state power – do not capture all the dimensions or the complexity of the process of social change under investigation and need to be integrated within a more robust framework.

### **Rational Choice Theories**

One strand of comparative-historical sociology that has explicitly dealt with the question of group formation, in particular the construction and treatment of national minorities is the rational choice perspective of Michael Hechter's *Internal Colonialism: The Celtic Fringe in British National Development, 1536-1966* (1975). Written in response to modernization theorists who predicted the assimilation of ethnic minorities

within the nation-state space with the rise of industrialization, Hechter showed that processes of industrialization in fact created cleavages among groups, especially when group with shared traits (e.g. ethnicity) engaged in specific types of occupations and other social roles. This cultural 'division of labor' was invoked by the majority-ethnicity to maximize its material resources and exploit the minority while the same division of labor opened the space for minority groups to make separatist nationalist claims. In his later work, Hechter argues that the creation of nationalist group boundaries is an attempt by individuals to control governance units at times when benefits of exerting such control are high while the costs of carrying out collective action to achieve this control are low (Hechter 2000: 7). Hechter's work points to the inter-group dynamics that lead to minority group making separatist claims and majority groups engaging in exclusionary practices.

Thinner versions of rational choice theories are helpful in pointing to the historically specific and variable ways in which social actors may be disposed to act as rational and resource-maximizing actors. In this version, the notion of rationality is understood as institutionally and culturally grounded and resources are not limited to material goods that accrue from having central space in governance (Adams 1999). Undoubtedly, the supporters of anti-Ahmadi demands, both inside and outside the state, repeatedly pointed to the number of influential Ahmadi in key state posts who, it was claimed, were using their official resources to further their economic wealth and proselytizing activities. The campaign of 'social boycotting' of Ahmadi in 1974 benefited the economic activities of orthodox Muslims as they found their Ahmadi counterparts shunned from pursuing their economic activities. Similarly, exclusion of

Ahmadis from Muslim citizenship consolidated the political powers of the ruling elite, allowing them to continue reaping the economic benefits that invariably accrue from holding politically powerful positions in the state. However, an exclusive focus on this dimension occludes how specific social and state actors may not be driven by concerns of maximizing wealth and the ways in which the legitimacy of claims to economic resources is inevitably governed by prior claims about the symbolic boundaries of the nation. As I will argue below using a Bourdieusian framework, a consideration of other types of resources or ‘capitals’ – such as political capital and symbolic capital (legitimacy) – and the historically contingent ways in which one type of resource is converted into another crucially governs the formation of group boundaries. In short, rational choice theories provide a useful but incomplete account of how modern states govern the formation and management of group boundaries.

### **Social Constructivist Approaches to Nationalism/National Identities**

Traditionally, theories of nationalism have given primacy to deep-seated and ahistorical ethnocultural and religious identifications as determinants of state policies, oftentimes maintaining a strict separation between ‘liberal’ and ‘illiberal’, ‘civic’ and ‘ethnic’, and ‘Western’ and ‘non-Western’ nationalisms (Ignatieff 1994; Kohn 1944; Plamenatz 1976). From this perspective, the first moment of accommodation of the Ahmadis by the Pakistani state emerges as a puzzle since it predicts that in the immediate aftermath of the creation of the Muslim state of Pakistan, the Pakistani state will institutionalize its identity through a citizenship regime that privileges a Muslim national identity. The shift of Pakistani state towards an exclusionary Muslim nationalism in 1974,

however, would emerge as a 'natural' occurrence, especially when viewed through the lens of the spread of global Islamism or world society approaches that posit the diffusion of global cultural forms onto the national level (Roy 2004).

The civic/ethnic distinction has been critiqued on a number of fronts, including calls for abandoning the distinction (Brubaker 1998); ridding the distinction of its ideological underpinnings and moving it towards a sociological-scientific ideal-typical distinction (Zubrzycki 2001); highlighting the constitutive tension between *demos* and *ethnos* in all modern polities (Balibar 2004); and incorporating cultural idioms of the nation in conjunction with structural and geopolitical factors (Joppke and Rosenhek 2002). However, the supposition that ethnocultural, and by extension religious conceptions, are deep-rooted and relatively fixed creeps even into studies that historicize the emergence of these conceptions by treating subsequent developments in nation formation as determined by earlier formulations (Brubaker 1992). The latter tendency has been critiqued by scholars who have identified and rigorously analyzed changes in nation formation and nationalist policies, oftentimes noting the tension between ethnic and liberal conceptions of nationhood in most modern polities (Joppke and Rosenhek 2002; Zubrzycki 2006).

The most influential study that has most directly dealt with the formation of nationalist policies is Roger Brubaker's *Citizenship and Nationhood in France and Germany* (1992). Focusing on the causal impact of deep-seated understandings of national identities embedded within cultural idioms that re-invent and re-inscribe them, Brubaker shows how specific citizenship policies emerged in France and Germany, civic-assimilationist in France and differentialist ethno-nationalist in Germany. According to

Brubaker, these cultural idioms form sites of contentious political claim-making and can potentially accommodate both inclusionary and exclusionary claims to nationhood. However, Brubaker's point is that at least in France and Germany, these cultural idioms have constrained the discursive field within which nationhood is contested and have produced remarkably consistent (i.e. hegemonic) nationalist self-understandings that the state has incorporated in its citizenship policies.

A number of other studies have also emphasized 'core' attributes of nationhood that correspond with individual nation-states (Greenfeld 1992, 2001; Lipset 1963; Spillman 1997). In all of these studies, the formation of distinct cores is derived from cultural or societal mechanisms as, for example, search for dignity and *resentiment* in Greenfeld (1992) and society-centered discursive fields and cultural production in Spillman (1997). While making appearances in these accounts and forming the silent backdrop against which meaning-making work is done by social actors and collectivities, the state remains under-theorized precisely because the conceptual problems driving these works revolve around the emergence and persistence, as opposed to variability within, socio-political constructions of national identity 'cores'.

A focus on discursive shifts within a single case with regard to state policies throws into question the resilience of national cultural idioms and necessitates a move beyond purely cultural explanations. The most vocal proponent of a revised approach is Brubaker himself who in his essay *Ethnicity without Groups* has forcefully argued that the 'nation' is a "contextually fluctuating conceptual variable" whose various historical manifestations should be analyzed in "relational, processual, dynamic, eventful and disaggregated terms" (Brubaker 2002: 167-8). In other words, boundaries of signifiers of

the nation – race, class, religion, ethnicity etc. – are fluid and open to multiple and contested definitions, necessitating an understanding of the processes through which state and social actors make competing claims to determine the authoritative meaning of contentious sites and symbols that capture the national imagination of social actors within the ‘discursive field’ of the nation (Spillman and Faeges 2005: 435). However, while Brubaker provides a strong starting point for inquiring into the formation of groups, the routine processes of state formation and the socially and politically meaningful events through which imperatives of nation formation are historically perceived, practiced, and ultimately institutionalized by *specific* state actors remain under-theorized. A greater degree of specificity is needed for identifying starting points that specifically address the question of how and why states institutionalize certain nationalist policies over others. This under-emphasis on the state is especially visible in studies of religious nationalism in the non-West, which have most often focused on extreme instances of inter-religious violence (Juergensmeyer 1993; Perica 2002; Van der Veer 1994). I argue that in order to provide historical explanations that both incorporate and move beyond calls for contingency, fluidity, relationality and disaggregation, we need a systematic articulation of both intra-state and state-society mechanisms that bridge the gap between state theory and nationalism theory.

### **Cultural Theories of State Formation**

In response to neo-Weberian (and rational choice) theories of state formation, a new generation of theorists have highlighted the importance of considering the cultural and symbolic meanings held by state actors in determining state action and policies

(Hansen and Stepputat 2001; Krohn-Hansen and Nustad 2005; Steinmetz 1999). One of the major strengths of this approach is that it has highlighted the mutually constitutive tension between the existence of state as an idea and the state as an empirical reality, thus pointing to the importance of keeping in forefront how the image and practices of modern states “can be overlapping and reinforcing, or contradictory and mutually destructive” (Migdal 2001: 16; Abrams 1988; Gupta 1995). Discursive conceptions of ‘state’ and ‘statehood’ thus emerge as sites of contention, akin to the nation, that require that contesting claim-makers draw upon a rich cultural tool kit (Swidler 1986) to make hegemonic claims about the history, nature, and functions of the state (Abrams 1988; Jessop 1990; Kapferer 2005; Mitchell 1999, 1991; Trouillot 2001). We need a theoretical framework that incorporates the causal work done by both the notions of statehood implicated in particular nationalist discourses and the nationalist narratives contained in the citizenship regimes upheld by the state.

Another strength of this approach is that it has questioned the coercive/militaristic and bureaucratic logics privileged by neo-Weberian theorists of the state, emphasizing instead the cultural autonomy and ideological powers of the state (Bourdieu 1999; Gorski 1999; Loveman 2005). Foucault’s notion of modern disciplinary power developed in conjunction with a critique of sovereign power has been significant in shaping cultural theories of the state. Foucault acknowledges the existence of a power that is locatable within a central source of political power such as the sovereign king or the state and which has the authority to command or enforce obedience (Foucault 1991). However, in addition to sovereign power, or the “juridical” mode of power that asserts its own exclusivity by maintaining that power is exercised from a determinate point, Foucault

maintains the existence of two other forms of modern power: disciplinary power and bio-power, none of which can be said to emerge from any central point (Foucault 1990 [1976]; 1995). Philip Gorski's work represents one way in which sociologists have incorporated Foucault's ideas to study concretely the historical emergence of the state's disciplinary power. Gorski draws a distinction between extensive and intensive state power. Intensive state power includes "ideological infrastructure", or "the availability of symbols and identities through which rulers can mobilize the energies and harness the loyalties of their staffs and subjects", and "administrative infrastructure", defined as the "the existence of networks and organizations through which state administrators can penetrate into everyday life and regulate individual conduct" (Gorski 1999: 157). Gorski's work focuses on early modern state formation in Calvinist Europe and shows how development of institutions of confessionalization created a social infrastructure of social and moral control which allowed the state to engage in "social disciplining" and moral regulation of its subjects.

Philip Corrigan and Derek Sayer's work of English state formation is perhaps the most influential study of how states appropriate cultural meanings in the course of their self-constitution. State formation is always akin to a cultural revolution, and everyday state routines, rituals, activities, and policies are crucial in constituting and regulating the social making of meanings and of subjects (Corrigan and Sayer 1985). Corrigan and Sayer's work draws attention to how constructions of 'national identity' can only be understood by considering this dimension of state formation, such that the state is always seen as engaged in producing a genuinely collective conscience "in a struggle against other ways of seeing, other moralities" (ibid.: 6). Thus, the task of state formation often

results in the exclusion of those who do not follow the cultural project of the state. Corrigan and Sayer draw attention to how “imagined political communities” (Anderson 1991: 6) are constituted through an exercise of power by a singular and autonomous state having immense capacities for dictating hegemonic cultural formations. Thus, state power rests not so much on consent of subjects as with regulative and coercive state agencies that privilege certain forms of identities over others.

However, while providing important cues and clues for study of ideological transformation of the state, I argue that these state theorists have replaced the coercive/militaristic and bureaucratic logics privileged by neo-Weberian theorists of the state with cultural and ideological powers, thereby under-theorizing the ways in which the latter are historically re-produced to give novel responses to questions of national identity. In other words, states appear as bodies that are all-powerful and internally coherent in defining nationalist policies and yielding answers to the pressing cultural and ideological questions that permeate society at any given time. Furthermore, state action appears as constituted by an already pre-determined set of state functions and autonomous from discursive and institutional interactions with the non-state arena. This tendency of reification of the ideological and cultural powers of the state is visible both in state theorists of culture and cultural sociologists of the state.

For example, in his essay “The Concept(s) of Culture”, Sewell conceptualizes the state as a distinct cultural realm. According to Sewell, “much cultural practice is concentrated in and around powerful institutional nodes – including religions, communications media, business corporations, *and, most particularly, states*” ” (Sewell 2005: 172, italics mine). What makes institutions like the state special is that being

relatively large in scale, centralized, and wealthy, these are all the primary “cultural actors” in society, with “their agents make continuous use of their considerable resources in efforts to order meanings”. Furthermore, states are not interested in establishing “anything approaching cultural uniformity”:

“...the typical cultural strategy of dominant actors and institutions is not so much to establish uniformity as it is to organize difference. They are constantly engaged in efforts not only to normalize or homogenize but also to hierarchize, encapsulate, exclude, criminalize, hegemonize, or marginalize practices and populations that diverge from the sanctioned ideal. By such means, authoritative actors attempt, with varying degrees of success, to impose a certain coherence onto the field of cultural practice.” (ibid.: 172)

Sewell’s account of the state as a socially elevated or primary node of cultural production, especially with regard to having the cultural power and autonomy to give hegemonic answers to national questions of hierarchy, exclusion, and difference, has close affinities with Bourdieu’s conceptualization of modern states. In his essay “Rethinking the State: Genesis and Structure of the Bureaucratic Field”, Bourdieu develops, in his own words, “a model of the emergence of the state designed to offer a systematic account of the properly historical logic of the processes which have led to the institution” that we call the state (Bourdieu 1999: 57). According to Bourdieu, the state emerged as a historical institution through the culmination of a process of concentration of different species of capital (and their corresponding fields) – physical coercive capital, economic, informational/cultural, and symbolic – which in turn lead to the “emergence of a specific, properly statist capital...which enables the state to exercise power over the different fields and over the different particular species of capital, and especially over the rates of conversion between them...” (ibid.: 58). Furthermore, once established, “we may posit that, in differentiated societies, the state has the ability to impose and inculcate in a universal manner, within a given territorial expanse, a *nomos* (from *nemo*: to share,

divide, constitute separate parts), a shared principle of vision and division, identical or similar cognitive and evaluative structures. The state would then be the foundation of a “logical conformism” and of a “moral conformism”..., of a tacit, prereflexive agreement over the meaning of the world which itself lies at the basis of the experience of the world as “commonsense world” (ibid: 68). Bourdieu elaborates: “Through the framing it imposes upon practices, the state establishes and inculcates common forms and categories of perception and appreciation, social frameworks of perceptions, of understanding of memory, in short state forms of classification” (ibid).

Sewell and Bourdieu’s accounts immediately beg the following questions: do all agents of the state have the same agency, capability, and resources to order meanings? If the end result of state intervention is the imposition of a cultural coherence, how can we theorize the meaning making processes both *within* states and in their interaction with society in ways that bring us closer to a clearer understanding of why states privilege certain classificatory schemes over others? Can and under what conditions are non-state actors able to influence or pressure the state into imposing their understandings of nationalist exclusions and inclusions? The inability of cultural theories discussed above to address these questions can be explained by noting that while the works of these theorists are deeply historical about the emergence of early and modern states, “state formation” implicitly ends up appearing as a phenomenon bounded by historical time rather than a work-in-progress or a perpetual process of self-continuation and renewal. Paradoxically then, subsequent state capacities and logics appear as already-always determined since the state acquires system-like, fixed and ahistorical qualities or attributes that are generalizable across states, such as governmentality and social

disciplining in the works of Foucault, Gorski, and Mitchell, or cultural autonomy in the works of Bourdieu and Sewell. Charles Tilly characterizes this tendency within cultural theories of state formation as falling into “system realism” in that they take for granted “the prior existence, self-maintaining logic, and lawful operation” of social structures like the state (Tilly 1999: 409). Tilly elaborates his objection of this body of literature thus: “while locating culture in the aggregate as an organ of system-wide communication, control, or adaptation, it offers no credible account of cultural variability, multiplicity, conflict, and change, much less of how culture affects individual performance” (ibid: 410).

These theoretical interventions present a further difficulty in that they draw on the historical experiences of Western European states to formulate general theories of modern statehood. The crucial difference between these states and post-colonial states is that while in the former, the formation of state institutions of control developed prior to the rise of nationalisms, thus giving these states powerful instruments of both ideological and moral regulation (Gorski 1999; Mann 1995, 1993; Hobsbawm 1992; Gellner 1983, Weber 1976), the latter had to develop new statist instruments of ideological and moral regulation corresponding with the ideological requirements of the anti-colonial and nationalist movements that preceded tasks of formal state formation (Weeden 2008, 1999; Chatterjee 1993). Post-colonial states inherited instruments for the exercise of what Gorski terms extensive state power but had to develop means of imposing social and moral regulation that would appear as legitimate to the highly expectant and vocal subjects-turned-citizens. Furthermore, the capacity of the post-colonial state to give

hegemonic responses to the pressing cultural questions is itself historically variable and depends on the interplay between a range of cultural and political factors.

In short, viewing the state as the singular and ultimate source of the upholder of ‘principles of vision and division’ on the basis of the fact that all modern states are the ultimate *institutionalizers* of these principles occludes the socio-political mechanisms through which some hierarchical configurations (to which nationalist conceptions and concomitant regimes of citizenship belong) triumph over others. However, as I will discuss next, these theoretical interventions are immensely useful for theorizing the role of ideological capacities of the state and the cultural meanings held by state actors in determining state policies *if and only if* we recognize that the issue is not a theoretical one about the constitutive role of culture *or* the political-institutional, or about agency *or* structure but about the complex historical interrelationships between cultural, political and institutional mechanisms.

## **2.2. STATE FIELD, NATIONALIST POLICY AND ETHNO-NATIONAL CAPITAL**

Above, I have engaged with a number of existing approaches within sociological literature that provide cues for developing a framework for examining shifts in nationalist policy outcomes. Specifically, I have highlighted the strengths and weaknesses of four approaches: neo-Weberian theories of state formation, rational choice theories, social constructivist approaches to nationalism/national identity and cultural theories of state formation. The upshot of my discussion thus far is that we need a robust framework of state action that incorporates both the discursive and narrative constructions of national identity in social space and the institutional, political and structural contexts within which

state actors give hegemonic responses to question of national identity through policy formations. Drawing on Bourdieu's field theory and key interventions in the literatures discussed above, I next present the theoretical framework on which this dissertation rests.

### **2.2.1. Bourdieu and Field Theory: Key Concepts**

Bourdieu's most cogent articulation of field theory can be found in an essay titled "Some Properties of Fields" which begins by defining social fields "as structured spaces of positions (or posts) whose properties depend on their position within these spaces and which can be analysed independently of the characteristics of their occupants (which are partly determined by them)" (Bourdieu 1993a: 72). The various positions in the field, held by individuals, groups, or institutions are determined by "the structure of the distribution of species of power (or capital) whose possession commands access to the specific profits that are at stake in the field, as well as by their objective relation to other positions" (Bourdieu and Wacquant 1992: 97). How individual actors act in this framework is understood by locating the objective configurations and combinations of various capitals – economic, political, cultural, and symbolic – and the subjectively held meanings and orientations, or the habitus, determined by the "historically constituted, institutionally grounded, and thus socially variable" rules of the game (Bourdieu and Wacquant 1992: 19). Thus, all members of the field, or people prepared to play the game, have some degree of "knowledge and recognition of the immanent laws of the field, the stakes, and so on" (Bourdieu 1993a: 72). Each field is defined by its own specific stakes and interests that are irreducible to those in other fields and which are not necessarily perceivable by those outside the field. Finally, each field is the site of "a more or less

overt struggle over the definition of the legitimate principles of the division of the field” (Bourdieu 1985: 734), a struggle defined by competition for different species of capital or resources that are potentially convertible to each other. In short, the social space consists of multiple fields – field of politics, field of religion etc. – that have invariant properties by virtue of which they are recognizable as fields including (i) a structuration defined by the relative weight of different forms of capital – economic, cultural, symbolic etc. – accruing to each position, (ii) struggle among the different positions for specific form of capital that forms the primary kind of resource at stake in that particular field; (iii) barriers to entry by which is meant clearly defined rules understood by both participants in, and newcomers into, that field; and (iv) a knowledge set consisting of the rules and laws that govern that field, including the hierarchy among different types of capitals and the legitimate means by which to convert one type of capital into another.

Each field is defined by a continuum ranging from the defenders of the existing form and distribution of capital, or the orthodoxy, to those that are oriented towards re-defining this orthodoxy through attempts to legitimate an alternative heterodoxy. The orthodox discourses are usually upheld by those individuals, groups or institutions that monopolize the field-specific capital while newcomers generally posit alternative discourses in an attempt to re-distribute the field-specific capital to their advantage. One of the most important aspects of fields, however, is that all members of the field share a belief and an interest in upholding the value of the field-specific capital on which is premised the very existence of the field. Thus, Bourdieu likens the field to a gaming space such that even when the game takes a highly antagonistic turn, players remain wedded to the game itself which is implicit in their very engagement in the game.

However, this does not mean that changes do not occur within the field, as ‘partial revolutions’ do occur but within limits and in ways that do not question the fundamental beliefs and premises on which the entire game rests. In fact, Bourdieu argues, attempts at subversion and at introducing heterodoxy often invoke these very fundamentals, arguing for a return to their purity and original form – “heretical subversion claims to be returning to the sources, the origin, the spirit, the authentic essence of the game, in opposition to the banalization and degradation which it has suffered” (Bourdieu 1993b: 74). Bourdieu refers to these fundamentals as the *doxa*.

Within the limits set by the *doxa*, what is at stake is the monopoly to name and institute what Bourdieu repeatedly refers to as ‘the principles of vision and division’, the organizing principles and antinomies of social, cultural or political life, or the principles of classification, through which the dominant actors attempt to perpetrate symbolic violence, that is, create mis-recognition whereby symbolic orders privileging certain forms of domination are rendered legitimate and natural to the people. In this sense, all field-specific capitals are forms of symbolic capital – “symbolic capital...is nothing other than capital, of whatever kind, when it is perceived by an agent endowed with categories of perception arising from the incorporation of the structure of its distribution, i.e. when it is known and recognized as self-evident” (Bourdieu 1991: 238). The most successful operation of symbolic violence occurs when the dominant actors within a field are able to reproduce the objective relations of power into a symbolic order, or *nomos*, which is then incorporated by social actors at large.

A core concept in field theory is that of the field of power defined as the “gaming space in which those agents and institutions possessing enough specific capital...to be

able to occupy the dominant positions within their respective fields confront each other using strategies aimed at preserving or transforming ...relations of power” (Bourdieu 1996: 264-5). At stake in this struggle, which can be carried out both by brute force or symbolic confrontations, is the “power to dictate the dominant principle of domination”. Actors within the field of power aim “to maintain or better their position in social space [and] inevitably include symbolic strategies aimed at legitimating the social foundation of their domination, that is, the form of capital sustaining both their power and the mode of reproduction that is inseparable from it” (ibid.: 265). Thus, to anticipate the present empirical case, actors belonging to religion associations and parties in Pakistan employed the Ahmadi issue in an attempt to enhance the power of religious sources of authority – and their own socio-symbolic domination – in the field of power. Politicians, on the other hand, attempted to organize socio-symbolic space on the basis of democratic values and a discourse of equal citizenship rights, that is, by privileging *demos* over *ethnos*. This discourse was the orthodox position within the discursive space of constitutional politics until 1974 when the re-emergence of the Ahmadi issue led to its marginalization. The exclusion of Ahmadis in 1974 therefore constituted an inversion of hitherto orthodox and heterodox positions within constitutional politics and strengthened the symbolic valence of religious capital – the authority to legitimately claim knowledge of Islamic laws and practices – amongst other forms of cultural capital.

These linkages between symbolic, mental and institutional structures articulated by Bourdieu via concepts of habitus, field, and capital provide a rich theoretical mine for providing an account of modern forms of power. Political sociologists have increasingly begun to highlight the relevance of Bourdieu’s sociology for exploring political processes

(Eyal 2005; Go 2008; Lee 1998; Martin 2003; Steinmetz 2007, 2008; Topper 2001; Wacquant 2005). In particular, theorists have pointed out the relevance of Bourdieu's work for studying democratic theory and practices in advanced Western societies. However, no theorist in the English language has drawn upon Bourdieu to formulate a theory of modern post-colonial states in non-Western contexts that investigate how and why states renegotiate their relations with citizens and subjects at particular historical moments<sup>15</sup>. While the relevance of Bourdieu's core concepts for studying nationhood and nationality as institutionalized forms that organize and hierarchize the social classifications premised on nationalist discourses has been noted by a number of theorist of nationalism (e.g. Brubaker 1994), a systematic effort that draws upon Bourdieu's conceptualization of modern states and his field theoretic approach to explore the origin, institutionalization, and shifts in nationalist policies remains to be carried out. I undertake this task towards the end of examining nationalist policy outcomes in modern Pakistan.

In what follows, I first draw on Bourdieu to conceptualize the state field in Pakistan. I also point out how my own approach towards the state differs from Bourdieu's conceptualization of the modern state. Thus, I draw an analytical distinction between Bourdieu's larger field-theoretic approach and Bourdieu's work on the state, drawing on the former to revise the latter. I also note the strengths and drawbacks of adopting Bourdieu's field-theoretic approach. Next, I integrate this Bourdieusian framework with some key interventions in nationalism theory, state theory and social movements theory to provide a framework for explaining nationalist policy outcomes.

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<sup>15</sup> Steinmetz (2007, 2008) has drawn on Bourdieu's field theory to conceptualize the German colonial state in non-Western contexts.

### 2.2.2. Bourdieu, Field Theory and the State Field

One of the biggest advantages of drawing on Bourdieu's work for studying changes in nationalist policy lies in his transcendence of traditional binaries of subjectivism/objectivism, agency/structure which, as John Levi Martin argues, moves beyond 'facile solutions' that "seem to allow the instantaneous dissolving of what for centuries have been understood as profound antinomies" through simple appendages of words such as 'and' and 'both' (Martin 2003: 2). As noted above, the challenge for both state theory and nationalism theory lies precisely in moving beyond these binaries to explore how nationalist discourses emerge, get appropriated, and institutionalized at the state level.

Bourdieu defines the emergence of modern states as "the culmination of the process of concentration of different species of capital: capital of physical force or instruments of coercion (army, police), economic capital, cultural or (better) informational capital, and symbolic capital" (Bourdieu 1999: 57). The monopolization of these different sources of capital proceeded in tandem with the "emergence of a specific, properly statist capital...which enables the state to exercise power over the different fields and over the different particular species of capital, and especially over the rates of conversion between them..." (ibid.: 58). This account is useful for understanding the constitution and the distinctive characteristics of all modern states:

"The state is the *culmination of the process of concentration of different species of capital*: capital of physical force or instruments of coercion (army, police), economic capital, cultural or (better) informational capital, and symbolic capital. It is this concentration as such which constitutes the state as the holder of a sort of meta-capital granting power over other species of capital and over their holders. Concentration of the different species of capital (which proceeds hand in hand with the construction of the corresponding fields) leads indeed to the emergence of a specific, properly *statist capital* (*capital étatique*) which enables the state to exercise power over the different fields and over the different particular species of capital, and especially over the rates of conversion

between them [...] It follows that the construction of the state proceeds apace with the construction of a *field of power*, defined as the space of play within which the holders of capital (of different species) struggle *in particular* for power over the state, i.e., over the statist capital granting power over the different species of capital and over their reproduction...” (Bourdieu 1999: 57-8)

Bourdieu’s account of the emergence of modern states through processes of the concentration of different types of capitals and alongside the formation of modern fields of power is an excellent theoretical exposition of modern states. I suggest that this exposition is more aptly treated as a Weberian ideal-typical construct: most states at most times have the capacity, authority and autonomy to dictate the distribution and hierarchy of capitals among the citizenry. However, before we can proceed towards understanding the conditions under which states are or are not able to act autonomously, we have to first address an important issue, namely how do we theorize, in practical and historical terms, the ways in which the distribution and hierarchy of various state-specific capitals gets decided within the state field. I argue that this issue is crucial for an understanding how modern states manage relations with society, including citizenship rights and nationalist classifications, as it casts the state as a sociological, de-centered and relational entity whose intra-institutional dynamics need to be brought under scrutiny.

While Bourdieu recognizes the state consists of different institutional centers and types of capital, he does not theorize the mechanisms of struggle and negotiation among different state sites over the hegemonic distribution of statist resources. Because field theory forces analysts to think relationally and because it is centrally defined by processes of struggle, it can be drawn upon to conceptualize the institutional and discursive relations between different parts of the state. I contend that modern post-colonial state possesses many of the properties of fields that are explicated in Bourdieu’s works. This state can be characterized a social field in which state actors occupying

specific historically constituted institutional spaces – military, bureaucracy, space of constitutional politics – engage in competitive struggles or strategic negotiations with each other for accumulating statist capital and converting it into symbolic capital (hegemony) or vice versa. Thus, akin to any Bourdieusian social field, the properties of which I have described above, the state field too is a gaming space in which different state actors located within institutionalized sites engage in competitive struggle for determining the distribution, quantities and hierarchies of state-specific capitals. When a particular institution or group (or even an individual under certain conditions) within the state is able to successfully monopolize statist capital and impose their own qualitative and quantitative orderings as the only legitimate ones, they perpetrate symbolic violence. Thus, I expand Bourdieu’s definition of statist capital to include the monopolization of power to decide, manage and hierarchize the distribution of various state specific resources and capitals among state actors and institutions.

This emphasis on the dynamic inter-play between different institutional centers of the state, or what I will henceforth refer to as state subfields, avoids us from falling into the pitfall of treating the state as a centralized, supra-natural body with a unified set of already-determined “mental structures and categories of perception and thought” (Bourdieu 1999: 56), allowing instead a consideration of the multiple and often mutually contradictory “position-takings” and “dispositions” of state actors (Bourdieu 1990, 1993b).

### **2.2.3. Ethno-national Capital**

One of Bourdieu's biggest contributions to sociological theory is his theorization of the relationality between the concepts of field, habitus and capital. With regard to capital, Bourdieu argues for the importance of considering the multiple sources of power that exist in society and how one source of capital may be convertible into another, most notably economic capital. For example, Bourdieu emphasizes the central significance of cultural and social capital. Cultural capital refers to the cultural goods one possesses – in their embodied, objectified or institutionalized forms – and includes educational credentials, aesthetic styles and tastes and cognitive practices etc. (Bourdieu 1986). In the context of France, as in *Distinction* (1984) and *The State Nobility* (1996), Bourdieu has emphasized the importance of the formal educational route as the institutionalized means through which cultural capital is acquired. Overall, the concept of cultural capital may be regarded as a theoretical construct, the specific entailments of which vary across societies and places. However, it may be reasonably stated that in most cultural contexts, the acquisition of cultural capital is premised on some at least some partial or quasi-institutional arrangement of cultural transmission as in, for example, religious schools outside the state-controlled educational system in Muslim societies such as Pakistan for the acquisition of religious capital. Different types of cultural capital are differentially distributed in society and this distribution is significant for structuring dispositions and orienting social practices. Holders of these capitals compete with each other for domination in the field of power.

Another type of capital Bourdieu theorizes is social capital, which refers to the resources that are accrued through less institutional forms such as membership in

particular groups through which social networks, acquaintances and recognition are constituted (Bourdieu 1986).

Perhaps the most useful concept for the purposes of the current dissertation is symbolic capital, the authority to establish social distinctions, hierarchies and classifications as the legitimate ones. Bourdieu's concept of symbolic power incorporates both the Durkheimian emphasis on symbolic representations (as instruments of social integration and the means through which social consensus on what constitutes reality is produced) and the Marxist focus on the production of 'false consciousness' by dominant classes through the notion of symbolic violence (Bourdieu 1991: 167). Symbolic violence refers to "the violence which is exercised upon a social agent with his or her complicity" (Bourdieu and Wacquant 1992: 167). Complicity is given through what Bourdieu calls 'misrecognition' or an acceptance of "the set of fundamental, prereflexive assumptions that social agents engage by the mere fact of taking the word for granted, of accepting the world as it is, and of finding it natural because *their mind is constructed according to cognitive structures that are issued out of the very structures of the world*" (Bourdieu and Wacquant 1992: 168).

The most successful operation of symbolic violence occurs in the realm of gender domination about which Bourdieu has written extensively (e.g. Bourdieu 2002; Bourdieu and Wacquant 1992: 170-4). However, I am more interested in the routine ways in which attempts to establish symbolic and ideological domination in the realm of the state field take place. State field is the site in which different social groups having aspirations to at least some degree of statist resources vie with each other for imposing their definitions of the social world that best suit their interests. A symbolic act of naming that is crucial for

ideological domination is the rendering of the citizen/alien, national/non-national, insider/outsider distinctions. Given the close imbrication between state formation and nation formation in modern political life, I argue that the symbolic activity implicated in the modern state function of framing national identities affords state and political actors with a crucial arena of contentious, creative and symbolic activity within which to render these distinctions. I term this arena the discursive space of nationalist strategies.

I will show below that state subfields, akin to fields at large in the field of power, define and develop their own “self-referential struggles and specific forms[s] of symbolic capital” that may contribute to processes of state formation (Steinmetz 2008: 606, Steinmetz 2010). Despite the existence of subfield specific capitals which I will discuss below, there exist forms of capital over whose accumulation different social fields have an interest. According to Bourdieu:

“‘Symbolic systems’ are fundamentally distinguishable according to whether they are produced and thereby appropriated by the group as a whole or, on the contrary, produced by a body of specialists and, more precisely, by a relatively autonomous field of production and circulation.” (Bourdieu 1991: 168)

One example of the former type of symbolic system is the discursive space of nationalist discourses in which struggle for what I term *ethno-national capital*, a particular form of symbolic capital characterized by the “reciprocally recognized talent” for articulating nationalist discourses (Steinmetz 2008: 596), takes place. The struggle for ethno-national capital is not contained within a particular specialized field but instead takes place within the shifting space of the national group. However, not all members of the ‘imagined political community’ of the nation are involved in this struggle. Bourdieu’s rendering of all symbolic struggles as taking place among the dominant class – “the

dominant class is the site of a struggle over the hierarchy of the principles of hierarchization” (Bourdieu 1991: 168) – is particularly apt here.

Ethno-national capital is actively sought because of the huge advantages it confers to dominant groups within a range of social fields – who, taken together, comprise the dominant class – in the successful accumulation of other capitals. Ethno-national capital may become a state-specific capital at certain moments since despite competition between state and non-state actors over ethno-national ‘truths’, only states by their very composition have the sole authority to convert nationalist discourse into nationalist policy. However, moments of explicit nationalist policy formation are few and modern political life is more often characterized by a continuous engagement on parts of both state and non-state groups to re-define or defend the orthodox position with regard to nationalist policy. Thus, it is more apt to theorize the continuous struggle for symbolic domination in the discursive space of nationalist strategies as an always incomplete process characterized by a continual attempt at the successful imposition of symbolic violence. When a crucial moment of nationalist policy making arrives, state actors possessing some degree of ethno-national capital struggle to legitimately employ and institute their own nationalist *nomos*, securing more statist capital for themselves in the process, while groups within the field of power attempt to accumulate ethno-national discourses to increase the power and prestige of their specific brands of capital and to enter the state field and secure statist capital.

In short then, state actors vie with each other not only for the possession of statist capital but also for converting it into ethno-national capital through which legitimate social divisions are constituted and made real through social acts of naming and

classifying. A military regime with high statist capital may find it impossible to legitimate its own *nomos* over the social space (although it may enforce or legalize it through authoritative or extra-judicial means) while a non-state actor may posit a nationalist discourse that highly resonates with the people. By amassing ethno-national capital and successfully shaping the contours of nationalist policy, state actors can increase their prestige within the social space as well as acquire more statist capital. However, it is important to note that all nationalist discourses privilege some form of social classifications over others and contain within them principles for the distribution of various types of citizenship rights – economic, social, civic and political (Marshall and Bottomore 1987).

### **2.3. CONCEPTUALIZING THE STATE FIELD IN PAKISTAN**

I draw on Bourdieu’s various writings on state, politics and law to identify three state subfields that have been centrally involved in defining nationalist policy in Pakistan: bureaucratic field, political and the juridical. My understanding of a Bourdieusian subfield draws on Steinmetz’s work on academic subfields within the discipline of sociology. Steinmetz notes:

“Like any field, a subfield is typically characterized by two axes: One is defined by the volume of subfield-specific symbolic capital; the second is defined by the degree of autonomy from external forces. All of the subfield’s members also participate in the enviroing field and have to pass through the same gate-keeping procedures as all of its members. But the subfield may revise or invert the values placed on different sorts of activities in the broader field.” (Steinmetz 2010: 6)

That is, akin to the field, the subfield too can be described along two dimensions: dominant/dominated, which relates to the volume of field-specific capital, and

autonomous/heteronomous, which relates to the degree of freedom from external forces. The correspondence between these two dimensions is an empirical question.

I want to note that neither this chapter nor the dissertation on the whole attempt to depict the state field – or any of its constituent parts that I discuss below – in their totality. Rather, my discussion of the state field is limited to those characteristics and mechanisms that are central to explaining the Pakistani state’s shifting relationship with the Ahmadis. In other words, this is a thoroughly empirically driven dissertation and the theoretical interventions I make emerge from the specific research question guiding this study. An implication of this is that I am interested in those parts of the state field that are occupied by the state elite having stakes in the struggle for ethno-national capital. Issues such as the ways in which individuals are recruited into the bureaucracy or the judiciary, the formation of specific political parties and the dispositions of state actors not occupying dominant positions within their respective state subfields are only addressed when they have a bearing on the empirical case.

### **Bureaucratic State Subfield**

In Bourdieu’s writings, the term ‘state’ is used interchangeably with the term ‘bureaucratic state’. This can be gleaned most clearly in the following description of the rise of the modern field of power:

“The growing differentiation of the field of power takes shape at the same time as the constitution of the bureaucratic field – the state – as a meta-field that determines the rules governing the various fields and that is for this reason the stake of struggles among the dominant in the different fields.” (Bourdieu 2005: 50)

In referring to the state as the ‘bureaucratic field’ possessing a ‘bureaucratic logic’, he is referring to the overall composition of the modern state whose primary

defining feature in contrast to the previously existing ‘dynastic state’ in Western Europe is the modern ‘reason of state’ captured by the logic of the process of bureaucratization (Bourdieu 2005). The bureaucratic field – the state – is thus conceptually and empirically different from the institution of modern bureaucracy, the “relatively autonomous administrative field, independent of politics (denegation) and of the economy (disinterestedness) and obeying the specific logic of the ‘public’” (Bourdieu 2005: 48). Bourdieu therefore refers to modern institutions of bureaucracy as the administrative field.

In this dissertation, I depart from Bourdieu’s nomenclature and refer to the social space consisting of the institutions of modern bureaucracy in Pakistan – police, district management, postal services, etc. – as the bureaucratic state subfield and the totality of the state as the state field. This revision is important for my reformulation which conceives of the institutions of the bureaucracy as a subfield of the larger state field. To avoid the awkwardness in referring continuously to the state field and the bureaucratic state subfield in the same sentence, I will refer to the bureaucratic state subfield as the bureaucratic field.

I concur with Bourdieu’s Weberian formulation of modern bureaucracies as the rational field *par excellence* consisting of specific techniques of government invented for this purpose (the bureau, signature, stamp, certificate, register, circular etc.), reproduced through modern forms of education, and foundationally concerned with defining and maintaining the divisions between lawful and unlawful (Bourdieu 2005: 50-1; Bourdieu 1996: 374-77). The bureaucratic field-specific capital may be termed public capital to denote the bureaucratic field’s control of public resources, both material and tangible

(such as electricity and water) as well as abstract ones (security, law and order etc.) (Bourdieu 2005: 51).

The Pakistani state inherited an over-inflated bureaucratic apparatus at the time of its independence from British rule in 1947. This was a result of the fact that the bureaucratic field in Pakistan was in almost all respects a continuation of its colonial predecessor (Indian Civil Services) in which British district officials and political agents combined revenue, executive and judicial functions, oftentimes working in collusion with local authorities (Guha 1997; Alavi 1983). Indigenous members of the colonial bureaucracy who opted to join Pakistan upon independence occupied key posts in the bureaucratic field and continued to enjoy considerable discretionary, arbitrary powers (Ibid.: 31-2; Sayeed 1968). The dominant pole of the bureaucratic field in Pakistan is occupied by, what is known as ‘CSS officers’ in the Civil Services of Pakistan (CSP) who are recruited through a highly competitive examination and interview process conducted annually. Successful candidates go on to one year ‘common training’ in Civil Services Academy Lahore before joining one of twelve occupational groups for professional training in their respective professional training institutes, the most prestigious of which are the Foreign Services, Police, District Management and Customs & Excise groups (Customs and Excise Group is undergoing structural changes aimed at improving revenue collection). A highly elite group within the state field, this upper cadre of the bureaucratic field enjoys considerable social and public capitals which are easily convertible into economic capital. Thus, despite low official salaries, one of the reasons a position in the Civil Services of Pakistan is highly sought is because of the high potential for amassing economic wealth through an informal but widely recognized

system of imparting ‘favors’ (by way of decisions and policies which are beneficial) to the wealthy business classes. Horizontal linkages between these different occupational groups as well as vertical linkages among the different officer “grades” (ranging from grade 17 to grade 21) ensure that the internal interests of this social class are protected. Charges of corruption against the bureaucracy are not only publicly levied but are commonplace, with new political regimes routinely promising “accountability” and choosing some bureaucrats as scapegoats. However, a large-scale overhaul of the bureaucratic field has yet to take place. Interviews conducted with state and political actors reveal that one of the reasons that a serious attempt at accountability is not undertaken by any political regime is that it needs the support of the bureaucracy to implement its developmental programs. Furthermore, bureaucrats are often related to the politicians (and army generals) by way of either blood relationships or through inter-marriages.

A number of attempts have been made to curb the excessive powers of the bureaucratic field vis-à-vis other state subfields. The most significant of these was made by Zulfikar Ali Bhutto during his tenure as first President and the Prime Minister (December 1971–July 1977) when he introduced the system of ‘lateral entry’ whereby persons not recruited through the Civil Services examinations could be appointed to senior positions in the government<sup>16</sup>. This had the effect of breaking “the caste-like

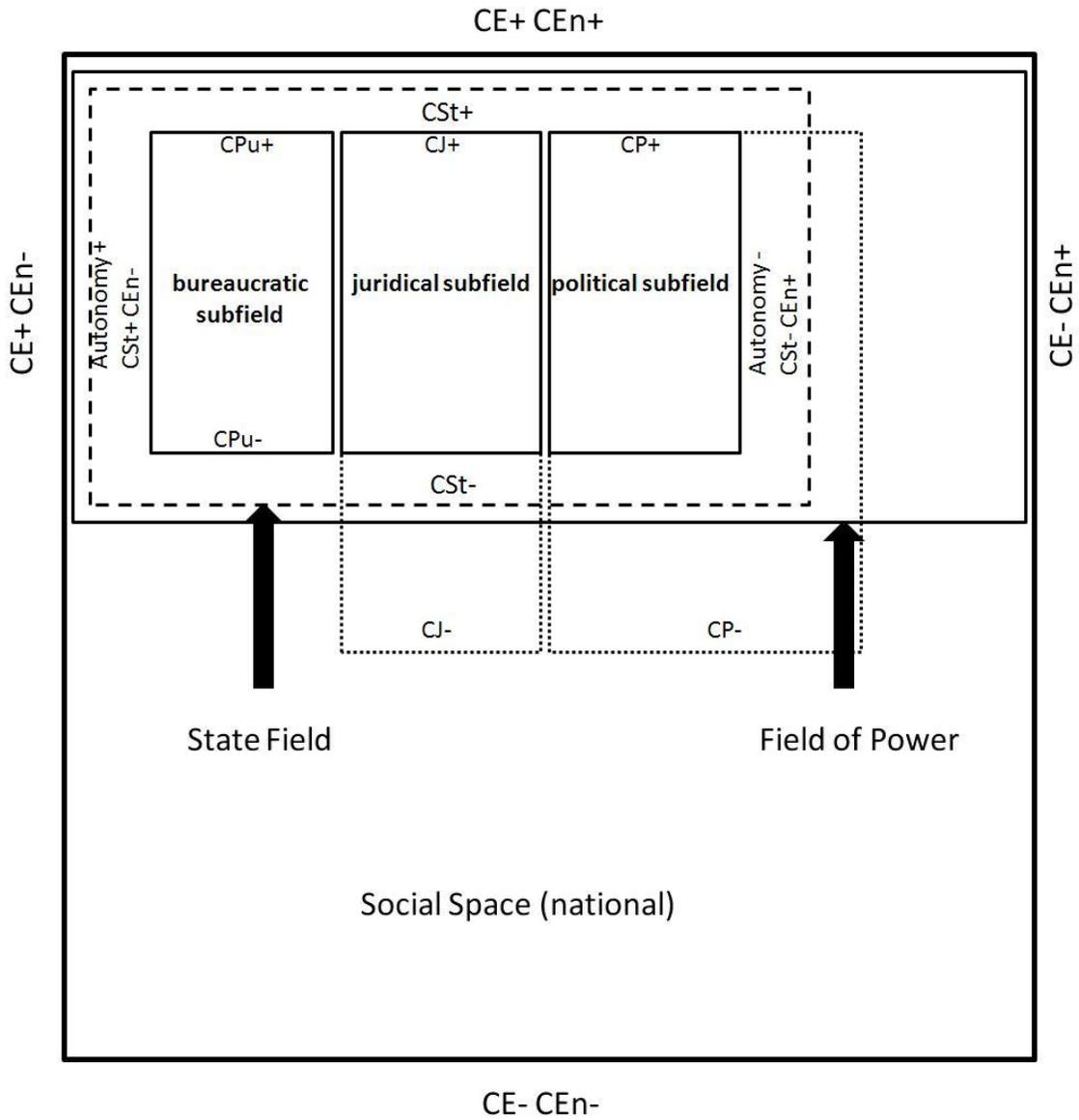
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<sup>16</sup> The term ‘lateral entry’ was used to refer to the recruitment of officials in the bureaucratic field not through Federal Public Service Commission (FPSC), a constitutional body responsible for overseeing such recruitments, but directly by the ruling government through advertisements in newspapers, short listing of candidates, a minor written examination and a routine 5-10 minutes interview conducted by a panel of ministers or Establishment Secretary. Bhutto initially wanted the system of lateral entry formalized through FPSC but FPSC refused to do so on the grounds that it was violation of FPSC procedures and rules. In practice, the lateral entry officials were recruited on regional, political and party considerations and were therefore not regarded by officials recruited through CSS examinations as legitimate holders of the position. (Interview with Mohammad Saeed, a senior retired bureaucrat, Islamabad: 2 February 2008).

structure of the C.S.P.-dominated bureaucracy” (Alavi 1983: 76) as well as leading to “the politicization of the bureaucracy” (Ziring 1980: 105). Such a measure did not decrease the power of the bureaucratic field within the state apparatus. Rather, it restructured rules of entry into this field, thereby ensuring a degree of political control over who would enjoy the considerable powers that being a member of this field conferred. Thus, under General Zia-ul-Haq’s regime (July 1977 to August 1988), a huge number of Army officers entered the bureaucratic field both on a permanent and contractual basis (Talbot 1988: 247-8).

Furthermore, it is often possible for influential and prominent bureaucrats to convert their social, economic and public capitals into political capital. This was most clearly visible in the first decade of Pakistan’s independence in the figure of Malik Ghulam Muhammad who served as Pakistan’s first Finance Minister (August 1947-October 1951) and then as the Governor-General of Pakistan (October 1951-October 1955). It was during Muhammad’s tenure as Governor-General that the anti-Ahmadi movement by the religious establishment was launched. I will show in chapter 4 that implicated in the Ahmadi issue was the intra-state struggles for statist capital, and eventually the Ahmadi issue became the means through which a bureaucratic-military alliance was consolidated at the expense of the political field.

Figure 2.1 (next page) depicts the general structure of the state field in Pakistan. As Bourdieu states, “the boundaries of the field can only be determined by an empirical investigation” (Bourdieu and Wacquant 1992: 100) and in the subsequent chapters, I will depict in detail the various positions within the boundaries of the state field. For the purposes of this chapter, I want to give a general depiction of the state field in Pakistan



**Note:** CE: economic capital; CEn: ethno-national capital; CSt: statist capital; CPu: public capital; CJ: juridical capital; CP: political capital  
**Figure 2.1:** State Field within the Field of Power

and show one possible configuration of this field characterized by high intra-state conflict. It is important to note that although empirically informed, Figure 2.1 is presently being employed as an explanatory device and not as a representation of an empirical and synchronic moment (although it does represent the structure of the state field in 1953 as I will discuss in Chapter 4).

The outermost box represents the entire social space, which is characterized by positions defined by relative weights of ethno-national capital (CEn) and economic capital (CE). Within this larger space, the primary arena in which struggle for ethno-national capital takes place is the field of power, which is depicted by the largest solid rectangle. By definition, the state field is located within the field of power. Positions within the state field are defined by relative weights of statist capital (CSt) and ethno-national capital. The left side of the state field denotes high statist capital and low ethno-national capital and the right-most side within it high ethno-national capital and low statist capital. Next, the figure depicts three subfields relevant to the present analysis. First, the figure depicts the bureaucratic field. The capital specific to this field, public capital (CPu), is distributed vertically, with the upper-most location depicting the concentration of highest Cpu. The figure also depicts this state subfield as entirely nestled inside the state field. Its location on the left side denotes its dominant position within the state field, characterized by a monopoly over statist capital as well as high degree of autonomy both *vis-à-vis* other state subfields and social actors. The political and juridical subfields (to be discussed next) are situated at the center and the right-most side respectively.

### *Political State Subfield*

Next I turn to what I term the political subfield. Bourdieu uses the term ‘political’ to refer to the realm of electoral democratic politics and ‘political field’ to the social space in which political parties vie with each other for influence within, and future votes from, the electorate (Bourdieu 1991). Bourdieu defines the political field thus:

“The political field is the site in which, through the competition between the agents involved in it, political products, issues, programmes, analyses, commentaries, concepts and events are created – products between which ordinary citizens, reduced to the status of ‘consumers’, have to choose, thereby running a risk of misunderstanding that is all the greater the further they are from the place of production.” (Bourdieu 1991: 172).

Individuals within the political field vie with each other to garner political capital i.e. the “specific social skills, the capacity to mobilize individuals around a common goal, to formulate collective policies, or to win seats for one’s party (Kauppi 2003). Politics and political activity is understood in the narrow sense of organized, ordered and institutionalized political activity. It is revealing that Bourdieu’s most explicit theorization of political field (in English language) is found in an edited volume titled *Language & Symbolic Power* (1991), a third of which is devoted to his essays on politics. This is because for Bourdieu, the political field is the social field *par excellence* in which symbolic struggles over the legitimate principles of vision and division in society take place (Bourdieu 1991: 181). At stake in this struggle is, first, the mobilization of groups and second, “the monopoly of the use of objectified instruments of power”. Bourdieu draws on Weber’s notion of “charisma” to define personal, political capital, which is “the product of an inaugural action , performed in a crisis situation, in the vacuum and silence left by institutions and apparatuses” (Bourdieu 1991: 194).

This latter point is worth elaborating upon because it is here that Bourdieu comes closest to addressing the relationality between what I have termed the bureaucratic field

and the political field. According to Bourdieu, the acquisition of political capital and the production of legitimate ideas about the social world confers the power “to maintain or subvert *the distribution of power over public powers* (or, in other words, a struggle for the monopoly of the legitimate use of objectified political resources – law, the army, police, public finances, etc.)” (Bourdieu 1991: 181). The ultimate form of political power is the power to determine the very character of the state by deciding the relative weights of the different types of state-specific capitals such as juridical capital, financial capital, military capital etc. It is the relative weight or the hierarchies among the different types of state-specific capitals that determines whether, for example, the state will be a military regime, a developmental state or a socialist one. The struggle for political power is the struggle to determine, among other things, the prestige of the bureaucratic field within the state field by ascertaining its functions and limits. However, this struggle is not limited to the political field alone but may extend across the state field so that the bureaucratic or the military fields may be engaged in competitive struggle with the political field for the definition and use of these “objectified political resources”. As mentioned above, the bureaucratic field in Pakistan was an active contestant for statist power in the first decade after independence.

I distinguish between the political field at large, composed of the sum total of political parties including the professional politicians, their institutional apparatuses, the party workers, volunteers etc., and that part of the political field that enjoys formal, constitutionally defined legislative power within the state. I refer to the latter as the political state subfield. While the bureaucratic field lies firmly within the state field, the political field extends outside the state field through being constituted by political parties

that may not be elected (or that may strategically choose to withdraw) from national elections, thereby remaining inside the field of power. Figure 2.1 depicts the political field as extending outside the state field, both inside and outside the field of power. Like the bureaucratic field, the capital specific to the political subfield, political capital (CP), is also distributed vertically. Thus, the upper-most location within this field will be occupied by those political parties enjoying most legitimacy in the eyes of the electorate, i.e. holding the most CP. Furthermore, the figure depicts the political field as possessing the least degree of statist capital (as may be the case under authoritarian systems) and as the least autonomous of the various subfields by virtue of being oriented to those outside it as it is “the site of a competition for power which is carried out by means of a competition for the control of non-professionals or, more precisely, for the monopoly of the right to speak and act in the name of some or all of the non-professionals” (Bourdieu 1991: 190). Political field is also depicted as holding more ethno-national capital than the bureaucratic and juridical fields.

In the current multi-party parliamentary system in Pakistan, the political state subfield includes the Parliament of Pakistan, which is the supreme legislative body and consists of two sub-legislative bodies. The first of these is the National Assembly of Pakistan consisting of the coalition of ruling parties (led by the Prime Minister) and the opposition parties (led by the leader of the opposition) at the Federal level. The second sub-legislative body is the Senate, consisting of equal representatives from each of the four Provinces of Pakistan and those from the Federally Administered Tribal Areas and from Islamabad Capital Territory. Other important participants in the political state subfield in Pakistan are the President who was initially deemed to be a figurehead but has

acquired considerable legislative and executive powers over Pakistan's history and the provincial National Assemblies.

The current system is not the only one Pakistan has seen. In the immediate era after independence in 1947, both Pakistan and India were styled dominions to be led by the figure head of the Governor-General (in Pakistan, the Governor-Generals continued to enjoy considerable executive and legislative powers). From 1956 to 1973, Pakistani state was constituted as a Presidential system during which it had four presidents. The 1973 Constitution of Pakistan instituted a parliamentary system which has continued to this day but with significant interruptions, including the military regimes of Zia-ul-Haq (1977-88) and Pervez Musharraf (1999-2008). Shifts in the structure of the state have inevitably been coterminous with shifts in the distribution of statist and public capitals. Elongated periods of authoritarian and military rule have translated into periods of highly diminished formal political activity and shrunken political state subfields, such as under the Zia-ul-Haq regime when elections were finally held in 1985 but on a non-party basis and which were boycotted by most political parties.

The restrictions in formal political activity within the state field do not mean that activity in the political field outside the state is insignificant for shaping policy outcomes. The very logic of the political field – the competition for the acquisition of political power – means that unless the authoritarian ruler restricts political activity through banning it completely, he has to engage in the political game of legitimating his own representations of the social world and through them the distribution of public powers. This is what Bourdieu means when he refers to the “initial collusion”, i.e., the “fundamental adherence to the game itself, illusion, involvement, commitment,

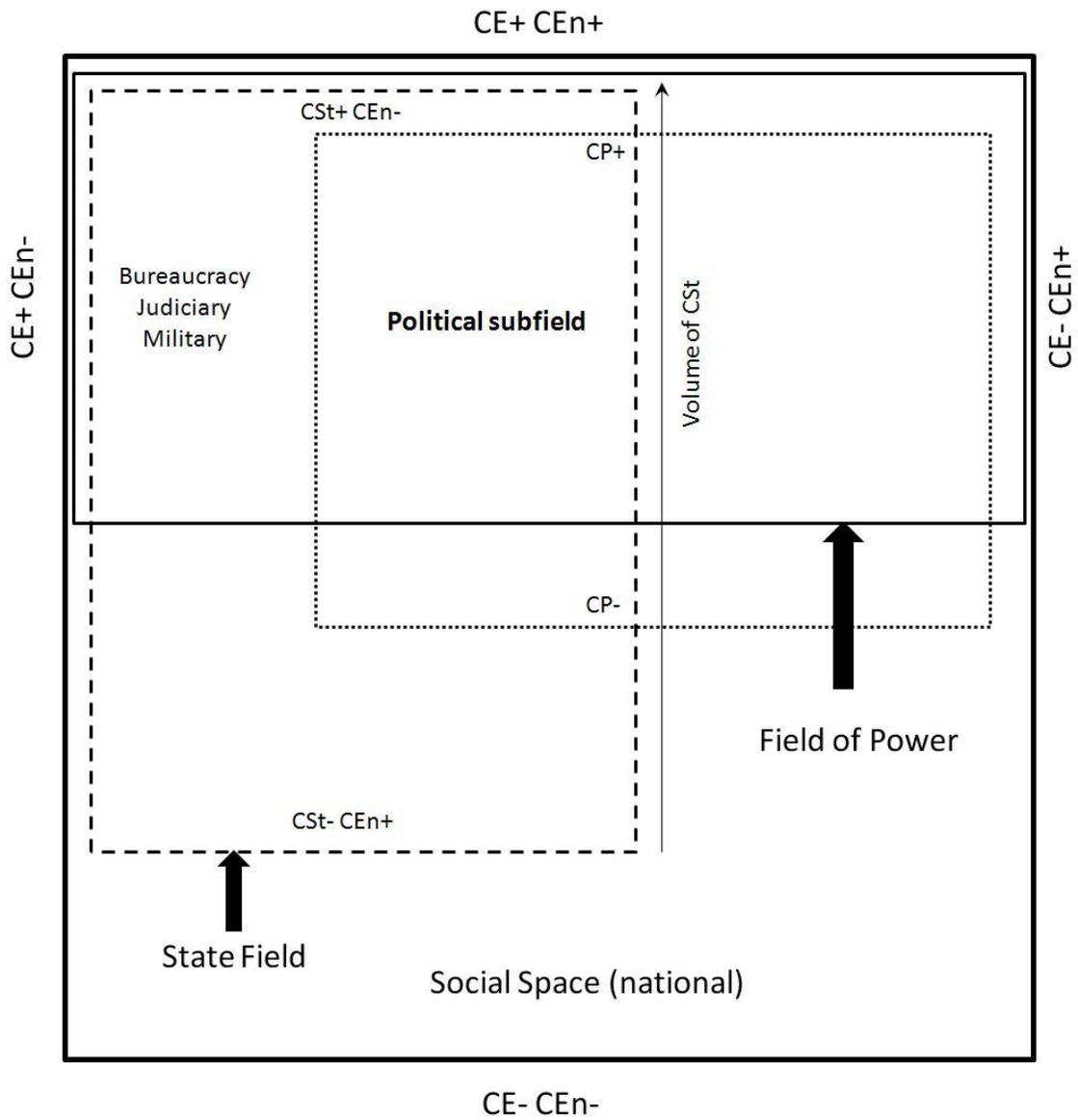
investment in the game which is the product of the game at the same time as it is the condition of the game being played” (Bourdieu 1991: 180). Thus, while there have been many instances of authoritarian and military rule in Pakistan, periods of complete restriction of political activity, either through executive decrees or extra-legal repressive state measures, have been extremely rare. For example, upon assuming power in 1958, President Ayub Khan banned all political activity but was forced to retract the ban, eventually forming a sham “legislature” made-up of pro-government politicians to organize as a political party called the Convention Muslim League (CML) to give some legitimacy to his undemocratic regime.

It is indicative of the legitimacy of the political game in the Pakistani socio-political context that all military rulers have formed sham political parties or have sought the endorsement of political parties to legitimate their rule. Thus, the political field on the whole has thrived in Pakistan despite existence of military rules which may be one reason why it was able to successfully oust President Pervez Musharraf on the threat of impeachment in 2008.

The distinction between the political field inside the state – the political state subfield – and the one outside the state is helpful for considering nationalist policy outcomes. If the task of forming nationalist policy falls to the political state subfield – as is often the case when the political field enjoys supremacy within the state field and when elected representatives are called on to frame preambles to the constitution or to determine certain citizenship policies etc. – then the logic of nationalist policy formation follows the logic of the political field. In such a scenario, political parties with different quantities of political capital inside the state field vie with each other for accumulating

ethno-national capital. Such a situation may be depicted by Figure 2.2 (next page) which isolates the political field within the state field. Political Capital (CP) is again distributed vertically. In this figure, Statist Capital (CSt) too is distributed along the vertical axis and various state subfields are positioned vertically alongside the political subfield. In such situations where the political state subfield is the locus of struggles over nationalist policy outcomes, ethno-national capital becomes the means through which the “newcomers” in the political field attempt to institute what have previously been regarded as heresies or heterodoxies. Their success or failure depends on a number of contingent factors which I will discuss below when I lay out a systematic framework for explaining shifts in nationalist policy outcomes but would like to note here that this scenario was the case in 1974 when the National Assembly of Pakistan enacted the Constitutional Amendment that legally defined the category of “Muslim” that explicitly rendered Ahmadis non-Muslim.

However, it may be the case that various state subfields may vie with each other for determining nationalist policy outcomes. Bourdieu’s overall sociological vision is described by his attempts at uncovering the principles or the *doxa* underlying the various differentiated and relatively autonomous social fields that interact with and shape each other in complex relational ways. With regards to nationalist policy, it is useful to note that this arena of policy-making falls in a fuzzy space of legislation that is not always as clearly defined as say the formation of national budgets or educational policy. In fact, what I have termed “nationalist policies” are oftentimes not even recognized as such by state actors as they may be perceived or depicted as wholly natural classifications. The fuzziness of the space of nationalist policy formation, by which I mean that nationalist



**Note:** CE: economic capital; CEn: ethno-national capital; CSt: statist capital;  
 CP: political capital  
**Figure 2.2:** Political Field, State Field and the Field of Power.

policies can potentially be instituted at different state spaces by different state actors through different means, as well as the huge symbolic power at stake in the monopolization of ethno-national capital, means that intra-state struggles for public and statist capital may be crucially implicated in those for ethno-national capital. This was the case in both 1953 (the moment of accommodation) and 1984 (moment of criminalization) as I will elaborate later in my dissertation.

### **Juridical State Subfield**

The juridical field refers to the semi-autonomous structured space consisting of trained professionals possessing a technical competence consisting of “the socially recognized capacity to *interpret* a corpus of texts sanctifying a correct or legitimized vision of the social world” (Bourdieu 1987: 817). Through the practice of interpretation of legal texts (couched in rhetoric of autonomy, neutrality, and universality), actors and institutions within the juridical field engage in structurally organized competition for monopoly over the right to determine the law. There is a ‘misrecognition’ surrounding the juridical field which results from the illusion that the legal field is autonomous from external pressures. In reality however, the legal field is a space of power relations, both between professionals possessing unequal technical skills and social influence and as they correspond to power relations in the social space between the parties being represented. It is thus the site of symbolic struggle between antagonistic rights and world-views amongst which the courts must choose. At stake in this struggle is monopoly of the power to impose universally recognized principles of knowledge of the social world through acts of *naming* and *instituting* (ibid.: 837-8). Juridical capital refers to the ability

to successfully employ legal acumen to give the hegemonic legal solutions within the juridical field.

According to Bourdieu, the juridical field is intricately linked to the state. Since “the State alone holds the monopoly of legitimized symbolic violence”, “law consecrates the established order by consecrating the vision of that order which is held by the State” (ibid.). One of the aims of my dissertation is to show the complex ways in which the juridical field consecrates the order privileged by the dominant state actors. First, I would like to highlight the institutional relationship between the state and the juridical field. Rather than situating “the state” and the “juridical field” as two distinct social spaces, I argue that a part of the juridical field – constituted by judges, state lawyers, attorney-generals etc. – lies within the state field. This is depicted in Figure 2.1 which shows parts of the juridical field as lying inside the state field. I have characterized this part of the juridical field as a state subfield with the understanding that the dispositions of actors in this overlapping space may be subject to various contradictory pulls and pushes. Whether the judge will pass his judgment in his capacity as a state official upholding official orthodoxy or as a executor of a transcendental “truth” that may be at odds with the state’s symbolic order is an empirical question and can be determined only by taking into account the larger field of power and historical trajectories of dynamics between the juridical state subfield and other state subfields and social fields.

The difficulty with Bourdieu’s tight imbrication between the juridical field and the state is that it does not capture the complexity inherent in the relative autonomy of all social fields which is something that Bourdieu himself repeatedly emphasizes. In the context of the juridical field, this relative autonomy means that the very *illusio* of modern

juridical fields rests on their partial autonomy from fields of legislative and executive power. The practices within a particular juridical field are governed by the historical dispositions of juridical actors towards state power and even acts consecrating the state's symbolic order have to be couched in a language of juridical discourse that draws on legal precedents. Conversely, even an authoritarian state that allows the juridical field to function and seeks legitimacy through it has to delicately balance its own demands with overt encroachment into its relative autonomy.

In Pakistan, this was brought to light most clearly in the highly public and judicial protests following the suspension of the Chief Justice of Pakistan, Iftikhar Muhammad Chaudhry, by President Pervez Musharraf in March of 2007. This was the first time in Pakistan's history that a President had encroached so blatantly into the autonomy of the juridical field, in particular through a direct undermining of the highest judicial authority. Musharraf's act was subsequently challenged in the Supreme Court which deemed the suspension un-lawful and reinstated Justice Chaudhry in July 2007. During the months between March and July of 2007, a large-scale popular movement protesting the suspension and demanding reinstatement of Justice Chaudhry emerged which was led by lawyers throughout the country and which enjoyed the vocal support of nearly every major political party in Pakistan. The challenge posed to the authoritarian executive by the alliance of the juridical and the political fields was not just about the legality of a political act by Musharraf but the very re-distribution of public powers that was implicated in the act. Crucially, it was a challenge to the legality of the Musharraf regime itself and constituted an explicit demand by the political field that monopolization of statist capital be vested in it.

In October of 2007, Musharraf was re-elected as the President after indirect elections that were boycotted by major political parties. Subsequently in November, Musharraf declared a state of emergency and suspended the Constitution. Justice Chaudhry deemed the act unlawful and ordered the judges not to take oath under the new extra-legal Provisional Constitutional Order, a provisional constitution that has served military rulers in Pakistan. Musharraf responded by placing Justice Chaudhry under house arrest. Eventually, general elections were held in February of 2008 which brought an end to Musharraf's regime and brought the political field back into the central position within the state field. However, the dominant actors within the political state subfield, belonging to the by the then-deposed Benazir Bhutto's PPP refused to restore the judges, including Justice Chaudhry, to their former positions within the juridical field. This entire episode as well as the ensuing rifts created within the political state subfield, the eventual restoration of Justice Chaudhry, and the struggle among the juridical and political subfield for determining the hierarchy and scope of juridical versus the legislative capital are beyond the scope of this dissertation. However, these events (taking place during the time the fieldwork for this dissertation was conducted) are significant for highlighting the extremely delicate balance that exists between the different state subfields in Pakistan.

More significantly for the purposes of this dissertation, all of the issues that crystallized in events recounted above are implicated in the Pakistani state's shifting relationship with the Ahmadis. In none of the three moments of this relationship did the juridical field form the *dominant* or *primary* state actor deciding upon nationalist policy outcomes. However, judicial actors or the juridical field at large was involved in all the three moments. In the first moment of accommodation, two judges from the Lahore High

Court gave juridical sanction to the bureaucratic subfield's policy towards the Ahmadis. In the second moment of exclusion, a Lahore High Court judge expressed his disapproval of the political state subfield's enactment of the second Constitutional Amendment that gave a legal definition of "Muslim" but his official report was hidden from the public view, internally marginalized and remains undisclosed. Following the third moment of criminalization, the juridical field explicitly upheld the 1984 Ordinance promulgated by military ruler General Zia-ul-Haq that made it an offense for Ahmadis to publicly refer to themselves as Muslims or to practice Islam. I make the juridical field the primary topic of analysis in chapter 6 in which I analyze the interconnections among the social and symbolic construction of a range of signifiers inside Pakistan's juridical field, including Islam, heretics, Pakistan, Ahmadis, nation, minorities and rights. Specifically, I analyze and explain crucial shifts that took place in the normative legal repertoires within the juridical field as a result of the re-distribution of statist capital and introduction of Islamization measures by Zia-ul-Haq.

### **Military Field**

Even though the military has repeatedly intervened in Pakistan's politics and a number of these interventions are central to the account that this dissertation gives, an analysis of the military field is not undertaken in this dissertation. There are a number of reasons for this. Firstly, whenever the military has intervened (mostly through bloodless coups), the military rulers have attempted to entrench themselves in the political system or to rule as authoritarian leaders who came to power by virtue of their military positions but then took on civilian titles. As a result of these repeated interventions, the economic

capital of the military establishment (including the Air force and Naval Services) has considerably expanded. Ayesha Siddiqa, a historian of Pakistani army, has documented how the Pakistani military has used its “military capital” to become one of the country’s biggest commercial and landed enterprises. She has given evidence of the large tracts of land owned by the military which, because of its financial and budgetary autonomy, gets freely distributed to military personnel without state interference. Even during times of civilian rule, Siddiqa argues, the military continues to exert considerable power by virtue of enjoying a huge (and unaccounted) portion of the national budget on grounds of ‘national interest’ (Siddiqa 2007).

However, the conversion of military capital into large-scale economic capital has not led to the militarization of the state. When military men have been placed inside the state apparatus, they have acted in civilian capacities and by adhering to the tacit rules of the fields in which they were positioned. Second, the military does not have an interest in acquiring ethno-national capital. While Pakistan’s historic enmity with India has increased the prestige of the Pakistani armed forces and consolidated a nationalist discourse (through official history books) in which the armed forces are presented as Pakistan’s protectors from an evil outside force (Jalal 1995), the armed forces have not engaged in competitive struggles with other state subfields over representing the national identity of Pakistan, in particular its relationship with Islam. Overall, the higher echelons of the military establishment are populated by secular elite while the lower cadres are populated by soldiers and other members who are routinely ingrained with anti-India and *Jihadi* sentiments. With regard to the Pakistani state’s relationship with the Ahmadis, the military intervened in 1953 to impose Martial law over the city of Lahore to curb anti-

Ahmadi riots but refrained from engaging in the struggle for ethno-national capital. Military rulers who have entered the political state subfield have, however, engaged in these discourses but on the basis of the logic of the political field. Because of these reasons, I have not attempted to penetrate the highly mystified and perhaps impenetrable military field in Pakistan.

### **Limitations of the Field-Theoretic Approach**

Theorists have questioned the applicability of Bourdieu's concepts in non-Western settings (Calhoun 1993). It remains to be shown if the relations of structural homology between objective structures – the distribution of various capitals in the social space – and the subjective structures of perception that Bourdieu has theorized in the national context of France, especially in *Distinction* (1984) and *The State Nobility* (1996), are generalizable to non-Western contexts such as Pakistan.

Structural homologies are explicated by Bourdieu to address the issues of social reproduction and the ways in which hegemonic power is produced and sustained. However, this account is not transposable to empirical cases like the Pakistani state where the central issues that have engaged scholars are not one of social reproduction and hegemonic domination but of continuous social change within, or more aptly the unsettled nature of, the state field. As argued above, fundamental issues of legitimate power and national identity remain contested and societal challenges to the symbolic order privileged by the state continue to abound. Social groups in Pakistani society are, like elsewhere, characterized along class dimensions and it can be reasonably assumed that different classes possess different cultural tastes and preferences. However, the

crucial issue is if differences in tastes and social and cultural resources structure mental representations and position-takings on a class basis, in turn having a causal impact on the ways in which power and domination are exerted and maintained.

One of the most salient characteristics of developing countries like Pakistan is that people are divided along multiple lines including class, ethnicity, locality and religious orientations, to name a few, and none of these forms of social division are sufficient in themselves for explaining dispositions towards national identity and religion. The savvy politician may be an Oxford-educated and English-speaking liberal woman (Benazir Bhutto), a conservative male without a college degree whose claim to legitimacy is his feudal background (Mustafa Khar), or a thoroughly urbanized human rights activist (Aitazaz Ahsan), with all of them belonging to the same political party. The military man may be defined by a deeply steeped secular outlook and an intense distrust of the religious *ulama* (Ayub Khan) or he may be defined by a sense of public piety (Zia-ul-Haq). Internal patterns of alliances and friendships may more aptly reflect a disposition towards alcohol and less towards social and political issues. In short, neither class divisions, nor other forms of social divisions such as religion or ethnicity, alone reflect *in a sustained manner* the dispositions of social actors towards the central issues under study such as the relationship between state and religion, national identity, Muslimness etc., although they may at certain historical moments. Thus, the conditions under which (socially constructed) classes, religions, ethnicities etc. become salient categories that shape action and correspond to particular ideological stances need to be explained.

Does the absence of these structural homologies mean that we should abandon a field-theoretic approach? I argue that the answer is no and Bourdieu's field theory

provides conceptual resources for studying the present empirical problem as long as we modify this approach by drawing on other theoretical and conceptual resources. I approach structural homologies between different fields that Bourdieu documents in France as *one empirical way* in which different social spaces relate to each other and produce social outcomes. This is contrary to Bourdieu's own assertions about the objective correspondence and adjustment between social structures and systems of classification and mental representations as a condition for exercise of power (1991: 69). I argue that there are multiple complex ways in which different social spaces *that do exhibit the properties of fields explicated by Bourdieu* interact with each other. In order to account for these, we need a more robust account that is less structural and more amenable to incorporating the subjective experiences and normative dispositions of actors that may not be captured by the notion of structural homologies. Thus, our account needs to incorporate agency of social actors (and institutions) as encapsulated in the shifting and strategic ways in which social actors act when faced with unprecedented events or political imperatives. As I will show throughout this dissertation through discussion of personal interviews I have conducted, when faced with novel situations and political exigencies, state and political actors continually found themselves having to act in ways that were contrary to their deeply ingrained dispositions (clearly outcomes of long processes of socialization) in order to stay in the field and play the game.

Second, I argue that the state field in Pakistan should be understood as a social entity engaged in a *continuous* struggle to exercise symbolic violence on society. I conceptualize this process as an always-incomplete one since the notion of the successful exercise of symbolic power assumes a closure of signification that an empirical study of

the historical shifts in symbolic orders of national identities does not bear out. This is especially the case when we pay attention to the practical content of social classifications (in the present case, the competing definitions of Muslim or Pakistani citizen) and not just the forms that these classifications take (Muslim/non-Muslim; citizen/alien). This is not to suggest that rendering the Muslim/non-Muslim distinction as a legitimate one is not a crucial moment in the exercise of symbolic violence. Rather, I want to suggest that an analysis of the historical emergence of these antinomies and the state's role in constituting them do not *a priori* tell us the practical meanings these signifiers (Muslims and non-Muslim) will take and re-take over time. We may have moments of closure of signification but in our modern life characterized by the constitutive tension between the discourse of citizenship rights on the one hand and the exercise of sovereign violence on the other, such moments are often unstable, fleeting, conceal within them histories of struggle and are therefore prone to shifts. Crucially, we have to be mindful of the ways in which certain significations may subvert the originary operation of symbolic violence and bring us closer to ideals of social justice.

#### **2.4. EXPLAINING SHIFTS IN NATIONALIST POLICY OUTCOMES IN PAKISTAN**

In this section, I draw on my above discussion to provide a systematic framework for conceptualizing intra-state and state-society relations that shape nationalist policy outcomes in Pakistan. Specifically, I draw attention to four explanatory mechanisms that I loosely term dynamics of intra-state competition; discursive space of nationalist strategies; languages of stateness and habitus of dominant state actors; and repertoires of contention of social actors. Below, I discuss each in turn.

### *Dynamics of Intra-State Competition*

The state field is a space of relations structured by the accumulation over time of different weights of different types of capital that accrue to specific positions. In fully consolidated democratic systems, this distribution is relatively fixed and the content of nationalist policies is determined through struggles within the political field. Issue-based political parties that tend to be organized around two opposite poles (progressives/conservatives, left/right etc.) and which usually reflect social classes in a direct or inverse manner (Bourdieu 1991: 185-6; Eyal 2005) produces and limit the universe of political discourse, or ‘what is politically thinkable’, from which the consumers, the citizens, have to choose (Bourdieu 1991: 172). In such contexts in which the political subfield holds the dominant position within the state field, it is the competitive struggle among political parties that eventually determines the outcome of ideological struggles<sup>17</sup>.

Theoretically, the heteronomous pole of the state field is occupied by the political subfield since the voting public or the potential electorate (if regular and free elections with universal adult franchise have not been yet instituted) significantly constrain the political field’s autonomy as political parties engage in mass politics and cater to large and anonymous body of citizens (Bourdieu 1991; Steinmetz 2008). The juridical field is the more (relatively) autonomous in the sense that it has its own internal legalistic norms and discourses to which all engaging with it must adopt. The bureaucratic field too is more relatively autonomous and has its own internal mechanisms of functioning

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<sup>17</sup> According to Bourdieu, “The most important agents of this struggle [for public power] are the political parties, combative organizations specially adapted so as to engage in this sublimated form of civil war by mobilizing in an enduring way, through prescriptive predictions, the greatest possible number of agents endowed with the same vision of the social world and its future” (Bourdieu 1991: 181).

constituted by a language of administration. In practice however, structural autonomy may not translate into agentic autonomy since state actors located in relatively autonomous juridical subfield may feel significantly constrained in their legal judgments by their personal trajectories or moments of political crises etc. Similarly, a politician may find herself able to undertake controversial social programs by virtue of enjoying a vast majority in the Parliament or increasing popularity among the citizenry. Thus, autonomy is both a historical and a relational concept. However, all of these moments of exercise (or lack) of agency by state actors are captured by the practical and historical logics of the particular state subfields that they occupy.

While the political field corresponds to the legislative branch of government in advanced democracies and may do so in developing countries, to employ Montesquieu's famous legislature-judiciary-executive tripartite idealization, it is more apt to theorize *legislative power*, which is a core element of statist power, as a variable in post-colonial contexts in which the political field must vie with the military or the bureaucratic fields, or even authoritarian leaders, for the sole right and authority to legislate. In other words, the relative weight of different capitals accrued by particular positions (or social hierarchies within the state field) is not fixed and shifts over time as political elites experiment with different political 'systems'. In such contexts, although the political state subfield may in theory have the authority to legislate, this authority may be significantly curtailed at crucial historical moments through proclamations of state of emergencies, declaration of martial laws and decrees by authoritarian party leaders, often resulting in constitutional deadlocks and other forms of political instability. Questions of nationalist policy may therefore launch or bring to head fundamental struggles over the distribution

of statist capital. Furthermore, which agendas and issues require legislative action may itself be a source of contention within the broader state field and thereby ambiguous in certain situations.

The state field at such historical moments is more aptly described as being “unsettled” (Steinmetz 2007). At such moments, in the face events or imperatives that necessitate that ‘the state’ take action with regard to legally pronouncing the boundaries of the nation through institutionally enacted policies, the struggle for statist capital manifests itself as competition for ethno-national capital. We may think of a mini-field of power enclosed within the state in which dominant state actors within each of the state subfields vie with each other for the conversion of their specific subfield capital into statist capital and dictate nationalist policy outcomes. In short, the dynamics of intra-state competition describe the political-structural context by delimiting the relevant state actors among whom the struggle for defining nationalist policy outcomes takes place.

One of the central arguments of this dissertation is that the trajectory of mechanisms of intra-state field struggles for statist capital is central to explaining the genealogy of the Pakistani state’s relationship with the Ahmadi question in Pakistan. Chapter 4 discusses the intra-state struggles between the political and the bureaucratic fields for statist power in 1953, showing how the anti-Ahmadi riots of 1953 became the means through which the bureaucratic field established its hegemony within the state field. In chapter 4, I examine the shift from the bureaucratic and military ascendancy in the 1950s and 1960s to the consolidation of the political field inside the state field in the 1970s. I argue that the exclusion of Ahmadis from the category of ‘Muslim’ was a result of struggles within the political field for monopolization of ethno-national capital. I

discuss the structure of the political field in this time period and show that opposition religious parties forming a small minority within the National Assembly vied with Prime Minister Zulfikar Ali Bhutto's PPP in a bid to institutionalize a nationalist discourse that privileged a Muslim national identity for Pakistan. The success of religious parties elevated the prestige of holders of religious capital in the field of power and consolidated the discourse of Muslim nationalism as the orthodox position-taking within the political field. The result was the eventual criminalization of Ahmadis through a presidential promulgation by President Zia-ul-Haq in 1984. In chapter 5, I argue that this moment of criminalization was also part of Zia-ul-Haq's attempt at the monopolization of ethno-national capital in a bid to secure his position as the legitimate holder of statist capital.

### **Discursive Space of Nationalist Strategies**

Nationalism is first and foremost a 'discursive formulation' organized around rhetoric including elements such as sovereignty, boundaries, membership, culture, history, territory, and descent (Calhoun 1997). While often viewed as a political doctrine espoused and sanctioned by the state, a fuller understanding of nationalism entails a recognition of the multiplicity of discourses that exist in the social space, ranging from overt political discourses of particular state regimes to ones that are contested within the political field to those that function through everyday forms of thinking, narrating and performing nationness. As Brubaker (1992) recognizes, the dominant cultural idioms in both France and Germany that have historically shaped citizenship policies are a part of a larger cultural complex wherein different national understandings co-exist and challenge each other. I have delimited this cultural complex through the conceptual notion of the

discursive space of nationalist strategies to refer to those discourses that are articulated and debated in the public arena by claims-making actors who explicitly theorize the boundaries of the political community towards the end of achieving particular goals with regard to the implementation and institutionalization of specific understandings of the people (Spillman and Faeges 1997; Calhoun 1997; Gorski 2000; Zubrzycki 2001, 2006). Both contested and contestatory, nationalist discourses within this discursive space make practical claims about the attendant symbols of the nation, such as stateness, history, geography, culture, language, region, race, ethnicity, religion etc.

The state field is embedded within a larger social space that exerts pressure upon it in myriad ways, especially at times of national crises that render necessary the re-thinking of nation and nationhood. Although possessing resources that render it the institution *par excellence* for determining the rates of conversion among different social capitals, modern state fields are only ever *relatively* autonomous. I argue that the space of nationalist discursive strategies, especially the degree of its permeability, is a crucial contingent determinant of nationalist policy through the constraints that it sets upon the state field. A permeable discursive space refers to the openness and ease with which ‘newcomers’ can legitimately articulate and disseminate their understandings of the nation in the public arena. A permeable discursive space is primarily recognizable through the *multiplicity* of nationalist positions present and is characterized by high degree of fluidity of interaction and negotiation among multiple position-takings. Its inverse, an impermeable discursive space, is a restricted space from which ‘newcomers’ are barred and ‘undesirables’ eked out either through statist practices of censorship and legal curtailment of freedoms or through social sanctions, such as the inability to find

resources (for example, space in major newspapers) for expression of alternative position-takings. An impermeable discursive space, is usually characterised by a low number (usually one) of ‘legitimate’ expressions of the nation and holders of alternate understandings publicly censured and made object of collective suspicion through their symbolic representations as the “others” of the nation. I contend that a permeable discursive space affords greater autonomy to the dominant state actors with regard to implementing nationalist policies while periods of impermeable discursive spaces diminish this autonomy.

It remains to be explained under which conditions we may expect permeability within the discursive space of nationalist strategies and the factors that lead to its closure. This issue, I argue, is a deeply historical one and depends on conjunctures between a range of political, structural and cultural factors. In Pakistan, as I will show in chapter 4, the immediate post-colonial period was characterized by very vibrant debates about the national identity of Pakistan, the political functions of the state, and fundamental rights of citizens. Non-Muslim minorities, socialist leaders, religious groups belonging to different denominations, individuals in their personal capacity and nationalist leaders participated in these debates through voicing their opinions on the preamble of the Constitution (which was termed the Objectives Resolution and adopted in 1949), the main text of the constitution (finally drafted in 1956), and the issue of the religious status of Ahmadis. Newspaper editorials, letters to editors and the minutes of the constitutional debates in this time period attest to the permeability of the discursive space of nationalist strategies. I argue that the openness of this space was a crucial contingent factor that allowed dominant actors in the bureaucratic field to marginalize the political field, advance their

own notions of Pakistani nationalism and impose their own understandings of how relations between citizens and subjects ought to be governed.

By 1974, when the Ahmadi issue arose again on the national scene, the discursive space of nationalist strategies had been significantly constricted as a result of a number of factors, setting the stage set for the ascendancy of a Muslim nationalist discourse. Notable intervening factors were the popular equation of secularism with the undemocratic and authoritarian military regime of Ayub Khan (1958-69) and the Pakistan-India war of 1970 which gave way to the independence of East Pakistan through the formation of Bangladesh in 1971. I discuss the causal impact of these intervening mechanisms in chapter 4. As a result, political actors occupying the dominant position within the political field had to re-articulate their party position with respect to the relationship between Islam, national identity and the state, the most significant institutionalization of which was the second Constitutional Amendment that rendered Ahmadis non-Muslim in 1974.

### **Languages of Stateness as Habitus of State Subfields**

Habitus refers to the set of dispositions that orient the thoughts and perceptions of social actors and govern practice “not along the paths of a mechanical determinism, but within the constraints and limits initially set on its inventions” (Bourdieu 1990: 55). These dispositions are historically constituted, structured and durable, operating in ways that do not require conscious reflection or cognizance about the rules of the field in which they are located. Rather, these form the *doxa* or the common sensical, routine ways in which actors act and react in social situations that are *transposable* (i.e. orient practices

across social fields) and *multivocal* (orient practices in conjunction with other social habituses).

Bourdieu's most often quoted exposition of the concept of habitus appears in *The Logic of Practice* (1990) in which he famously defines habitus as

“...systems of durable, transposable dispositions, structured structures predisposed to function as structuring structures, that is, as principles which generate and organize practices and representations that can be objectively adapted to their outcomes without presupposing a conscious aiming at ends or an express mastery of the operations necessary in order to attain them.” (Bourdieu 1990: 53)

Bourdieu has emphasized that the concept of habitus overcomes the subjective/objective duality in the social sciences and has described it as escaping both “the philosophy of consciousness” and “the pure and purely intellectual operation of a calculating rational consciousness” (Bourdieu 1996: 180). Bourdieu draws a distinction between “rational” and “reasonable” action and argues that the notion of habitus has power to explain how individuals *reason*: “Habitus is what you [sociologists] have to posit to account for the fact that, without being rational, social agents are *reasonable*” (Bourdieu and Wacquant 1992: 129). Actors in particular fields are endowed with particular dispositions, that is, routine and common-sensical ways of approaching the everyday social situations that they are confronted with. These dispositions are internalized in members of any field through historical socialization (“a protracted and multisided process of conditioning”) such that actors in that field can be expected to act and think in certain ways irrespective of their distinctive personal trajectories. In such situations, there is a correspondence between the field and the habitus and this recognition is indispensable for the sociologist who wants to account for “the constancy of dispositions, tastes, preferences” (ibid.: 192) and the patterned ways in which actors in a given field respond to a set of routine situations.

In response to critics who have critiqued the concept of habitus as being overdeterministic, objectivist, and impoverishing the individual from agency and innovation, Bourdieu has responded by elaborating the notion of *hysteresis* to capture the inertia of the habitus and the “radical disjunction” or “discrepancy” between the field and habitus (ibid.: 130). There are social situations – Bourdieu gives the example of the transition from pre-capitalism to a capitalism as experienced by the Algerian peasantry and instances of revolutionary change – “in which the routine adjustment of subjective and objective structures is brutally disrupted” and at such moments some social actors may take up forms of action constituted by “rational choice” (ibid.: 130, 131). In the long run, however, new dispositions are learnt that incorporate the experiences of these historical ruptures: “Being the product of history, it [habitus] is an open system of dispositions that is constantly subjected to experiences, and therefore constantly affected by them in a way that either reinforces or modifies its structures. It is durable but not eternal!” (ibid.: 133).

As discussed above, in the wake of the seminal works of Philip Abrams (1988) and Phillip Corrigan and Derek Sayer (1985), cultural theorists of the state have conceptualized state as a decentralized site within which the idea of the state, or stateness, is continuously imagined and (re)constructed. Hansen and Stepputat employ the term “languages of stateness” to refer to the multiple discourses about the state that govern practices and symbolic acts through which different forms of governance and authority are enacted, institutionalized, and performed. I argue that implementation of nationalist policies by dominant state actors are contingent upon their historically constituted dispositions towards stateness and that the notion of the multiple “languages of stateness” captures the multiple habitus of distinct state subfields that I have theorized above.

According to Hansen and Stepputat, “each institutional field that sees itself as a part of the state must devise elaborate institutional rites, schemes of classifications, hierarchies of competence, achievement and honor to retain order and a distance between itself and “society” as well as other parts of the state” (Hansen and Stepputat 2001: 6). In other words, state actors within a particular state subfield possess structured dispositions about the functions of the state, the locus of sovereignty, and how citizens ought to be governed. These dispositions in turn structure practices not through adherence to abstract principles or set of rules encapsulated within a particular language of stateness but through the fuzzy realm of socially agreed upon “practical schemes” that can be strategically deployed, manipulated and negotiated to arrive at socially meaningful action (Bourdieu 1990: 12; King 2000).

I conceptualize three *languages of stateness* that co-exist within all modern state fields, have “distinct historical trajectories, meanings, and degrees of sophistication in every case and locality” (Hansen and Stepputat 2001: 8) and are potentially consistent with different understandings of the people (*people-as-ethnos* or *people-as-demos*)<sup>18</sup>. These three are the state-centered language of stateness, law-centered language of stateness, and nation-centered language of stateness. The *state-centered* language of stateness is characterized by continual assertions, displays and enactments of the supreme sovereignty of the state through the discourse of law and order and practices of

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<sup>18</sup> It is important to note that the dispositions of state actors with regard to the language of stateness do not *a priori* determine the content of nationalist policies. Rather, they are the mental and practical schemas used (sometimes in conjunction with each other) by dominant state actors (determined by the structure of the field) and within the constraints set by the social space of discursive nationalist strategies to determine which institutional sites, processes and mechanisms will be employed to arrive at state policies. Thus, states can either serve as the protectors of national sub-communities (the normative position most famously associated with Hannah Arendt [1979]) or explicitly engage in producing and sustaining ‘states of exception’, either external to the territory of the state or within the body politic (Schmitt 1996; Agamben 1998).

monopolization of violence by military and police forces. State-centered language of stateness incorporates a skepticism towards democratic institutions of rule and insists on the symbolic state as the supra-institution that is greater than the sum of its parts<sup>19</sup>. *The law-centered* language of stateness is characterized by “the institutionalization of law and legal discourse as the authoritative language of the state and the medium through which the state acquires discursive presence and authority to authorize” (Hansen and Stepputat 2001: 8). Deployment of juridical spaces or discourses illustrates how state-society relations are managed by the state through the translation of abstract rights into discourses of nationalist community and vice versa. Finally, the *nation-centered* language of stateness is characterized by “the nationalization of the territory and the institutions of the state through inscription of a history and a shared community on landscapes and cultural practices (Hansen and Stepputat 2001: 8). The nation-centered language of stateness gives the most explicit voice to the imagined history of the nation and discursively locates legitimate authority in the “imagined political community” of the nation.

In Pakistan, the state-centered language of stateness has structured the dispositions of the bureaucratic field and the authoritarian rules of military rulers Zia-ul-Haq and Ayub Khan. State actors within the bureaucratic field were socialized into the state-centered language of stateness through the institutions of the British colonial state bureaucracy as I will show in chapter 4. The suppression of the religious groups and

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<sup>19</sup> Perhaps the most sophisticated normative theorist of this position is Carl Schmitt who maintained that law reflected not the norms of society but the will and authority of those who decide what the law is. Schmitt argued that “[f]or a legal order to make sense, a normal situation must exist, and he is sovereign who definitely decides whether this normal situation actually exists” (Schmitt 1985: 13). As Schmitt famously put it, “Sovereign is he who decides on the exception”. The originary moment of law, or the ‘sovereign moment’, is always outside law itself: “Looked at normatively, the decision emanates from nothingness” (Schmitt 1985: 33).

parties demanding that the Ahmadis be excluded from Muslim citizenship by the bureaucracy and military in 1953 can be traced directly to the colonial governmentality of the state in British India which employed similar strategies of policing, intolerance for populism, and authoritarian techniques in attempts to produce docile and civilized subjects. By 1974, however, with the ascendancy of the political field within the state, a nation-centered language of stateness became the structuring principle of governing populations and the signifier 'nation' with its multifold significations came to occupy the dominant language of managing relations with the citizenry. A law-centered language of stateness was employed by the bureaucratic field in conjunction with the state-centered language of stateness in 1953 to accumulate ethno-national capital and to give symbolic valence to the nationalist policy of the accommodation of Ahmadis through explicitly upholding a discourse of *demos* over *ethnos*. Law-centered language of stateness also defined the habitus of the Zia-ul-Haq regime but as I will show in chapter 6, the juridical field was substantially restructured through Zia-ul-Haq's program of the Islamization of the Pakistani state and society through the introduction of the Federal Shariat Court and its appellate bench in the Supreme Court. Law-centered language of stateness was employed by General Zia-ul-Haq in the 1980s to accumulate ethno-national capital and the courts transformed to uphold a nationalist discourse of *ethnos* over *demos*.

### **Repertoires of Contention and the Legibility Effect**

Finally, a crucial contingent factor for explaining nationalist policy outcomes is the relationship between the dominant state subfield and the social actors who put forth the demand for changes in nationalist policy. Through making their demands public and

garnering enough support within the population to make the state pay heed, these social actors enter the field of power in which they vie with the state for monopolization of ethno-national capital. Social actors within the field of power exist in a precarious state since the state has immensely more resources and powers at its disposal, most significantly lawful authority and the infrastructure to categorize and discipline social actors (Gorski 2003). On the other hand, social actors are able to challenge the state by virtue of being modern citizens in the name of which states legitimate their very existence.

To the extent that nationalist policies emerge in response to nationalist demands articulated by social actors, a crucial mechanism for accounting for nationalist policy outcomes is what Charles Tilly has conceptualized as the relationship between repertoires and regimes (Tilly 2006). According to Tilly, the character of the political regime, in particular governmental capacity and degree of democracy, places limits on what is permissible, forbidden and tolerable in the public space. Low-capacity regimes tend to tolerate a range of repertoires while high-capacity regimes tend to repress overtly contentious and violent repertoires. Repertoires and performances in turn have the capacity to shape the type of political regime, especially when there is “innovation within the script” of contentious practices (ibid.: 41).

Tilly correctly points towards the bi-directional causal relationships between states and societies as determinants of political change. However, this account (which is equally useful for explaining nationalist policy outcomes) requires a few modifications to give greater specificity to the ways in which social actors impinge on the state. First, social repertoires of contention serve as sites for inquiring into the ways social actors

perceive the state – its functions, its capacity, etc<sup>20</sup>. As discussed above, the state field is constituted through configurations of relations among different state subfields that are potentially towards particular language of stateness. When social actors draw upon repertoires of collective violence through acts of rioting, they are presuming a weak state as well as attempting to produce this perception (Desai 2009). While violent repertoires may perform important work for social actors seeking legitimacy, this strategy is bound to meet with failure if the dominant state actors have a state-centered language of stateness who will likely attempt to expel these actors from the field of power, oftentimes through displays of physical force and repression. This was the case during anti-Ahmadi riots of 1953. However, when there is *mutual legibility* between social repertoires of contention and the language of stateness of dominant state actors, proponents of social change can more effectively engage in competitive struggle for imposing their own *nomos* over the social space. This was the case in 1974 when religious groups appropriated the nation-centered language of stateness and a democratic discourse as rhetorical repertoires to impose their demands on the state.

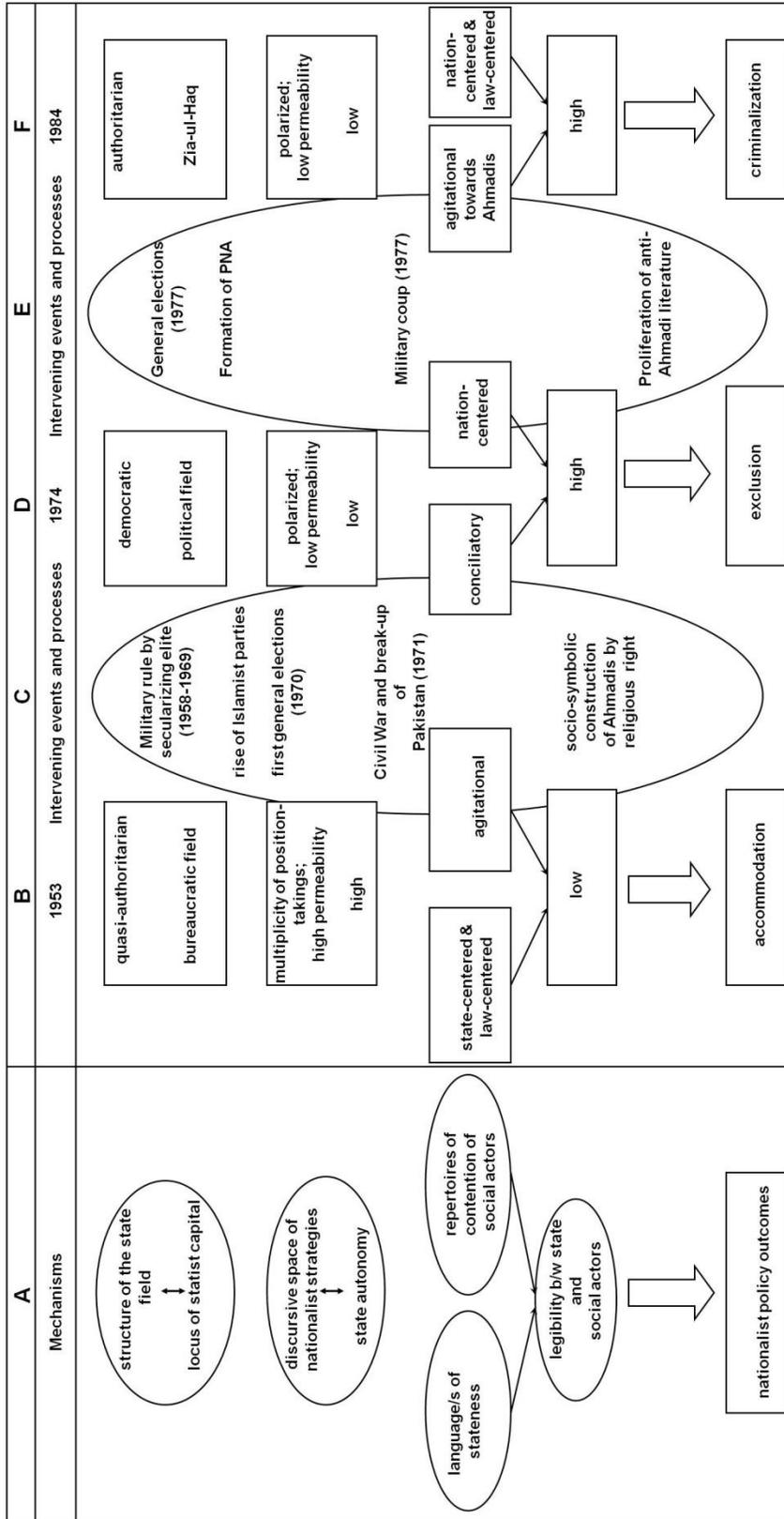
Acts of social contention may play into the internal dynamics of the state field by providing state actors with discursive and practical strategies to appropriate statist capital. For example, acts of violence on part of the citizenry may strengthen the military *vis-à-vis* the politicians while demands articulated through contentious repertoires that nonetheless invoke a language of rights may strengthen the juridical field.

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<sup>20</sup> This is suggested by “the discursive turn” within literature on contentious collective action that insists on the role of interpretation over causal interpretation (Gould 2005).

## **2.5. VISUAL REPRESENTATION OF THEORETICAL FRAMEWORK**

In order to systematically present the theoretical framework of this dissertation, I have given a visual representation to the trajectories and findings that I will present and discuss in the rest of this study. Figure 2.3 (next page) presents a synopsis of these by identifying column A as key mechanisms discussed above and arrived at through reflexive processes of going back and forth between relevant theoretical interventions and empirical data sources. Figure 2.3 shows that the accommodation of Ahmadis by the state in 1953 resulted from a conjuncture between a number of institutional, political and discursive mechanisms including the emergence of the bureaucratic field as the dominant state subfield; a highly permeable discursive space of nationalist strategies that significantly increased the bureaucratic field's autonomy with regard to framing nationalist policy; and low mutual legibility between the social actors' agitational repertoires of contention and the bureaucratic field's state- and law- centered language of stateness (see column B). In 1974, the exclusion of the Ahmadis was a result of dynamics of democratic politics within the political state subfield; a highly constricted discursive space of nationalist strategies and high mutual legibility between social actors' conciliatory repertoires of contention and the political field's nation-centered language of stateness (see column D). The criminalization of the Ahmadis in 1984 was the result of conjunctures between an authoritarian state structure with military ruler Zia-ul-Haq appropriating statist capital through extra-legal and extra-constitutional means; again, a highly restricted discursive space of nationalist strategies (which was significantly broadened during the course of Zia-ul-Haq's regime because of his gross intrusions into the fundamental rights of citizens that had the effect of re-invigorating human rights and



**Figure 2.3:** Representation of Theoretical Framework and Key Findings

feminist groups) and high mutual legibility between religious groups' agitational anti-Ahmadi contentious repertoires couched in the language of Islamic statehood and Zia-ul-Haq's nation-centered and law-centered language of stateness that invoked a similar brand of religious nationalism (see column F).

However, a full processual and mechanism-driven explanation of nationalist policy outcomes at the three moments (columns B, D and F) requires a narrative methodology that analyzes the historical relationships, contingencies and conjunctures among these synchronic elements with the recognition that their causal weight is uneven across these moments (Sewell 2005). In other words, a narrative account is needed to give an account of the conjunctures among the causal factors identified vertically in each time period.

Second, these bounded factors are embedded within larger mechanisms of social change requiring, in Sewell's words, that I sort out "the relations among [these] several nonsynchronous but overlapping and mutually implicated temporal processes" (Sewell 2005: 273). Thus, explaining the shift from accommodation to exclusion and from exclusion to criminalization of Ahmadis by the Pakistani state requires identifying key intervening events and processes and the ways in which they overlap with other historical trajectories to produce historical reversals or what Haydu terms "switchpoints" (Haydu 2010). Thus, this dissertation explains the shifts in the mechanisms identified in column A over the three time periods through a narrative account that makes timing, sequence of events and the causal impact of intervening events and mechanisms - Sewell's "eventful temporality" - central to the discussion. Column C identifies key intervening events and processes between the moments of accommodation and exclusion, which include military

rule, a civil war, experience of first general democratic elections, and rise of anti-Ahmadi rhetoric. Column E identifies key intervening events and mechanisms between the moment of exclusion and criminalization, including the rigging of the 1977 elections by Prime Minister Bhutto, which resulted in the formation of an anti-Bhutto nine-party political alliance called the Pakistan National Alliance (PNA), Zia-ul-Haq's military coup, and large-scale proliferation of anti-Ahmadi literature.

Finally, my methodology also requires looking at ways in which occurrences in earlier moments, particularly the ways in which they were remembered and discursively re-constructed and strategically narrated, were appropriated by state and social actors in the later moments to accumulate ethno-national capital. I am unable to capture this element in my visual schematic but will be integrating it in my narrative accounts.

## **Chapter 3**

### **The Ahmadiyya Movement: Origins, Beliefs & Controversies under British Colonial Rule**

In this chapter, I will give a brief account of the origins, religious beliefs and the political engagements of the Ahmadiyya community under British colonial rule in India. Two central themes that I examine in this chapter are first, the relationship between the colonial state and the Ahmadiyya community and second, the relationship between Ahmadis and other Muslim groups and individuals in India. As I will show at multiple points in this dissertation, the relationship between the Ahmadiyya community and the British colonists in India has been narrated by the orthodox religious establishment in Pakistan as defined by Ghulam Ahmad's completed acceptance of and slavish attitude towards British rule. However, a closer look at this relationship through an examination of the concrete events in which Ahmadis made claims on the British on the basis of their vocal and public support of the colonial regime indicates that it was defined at different times by the differential strategies of accommodation, negotiation and resistance by Ahmadis towards the British rule. My aim is to set the state for subsequent discussion of the post-colonial construction of the history of Ahmadi-British relations which has rendered the "Ahmadi question" as an event in bringing colonial rule to a symbolic closure.

I also examine a number of key incidents and events in the internal Muslim struggle over issues of the definition of the Muslim community in India and of who can legitimately claim to speak and act on behalf of the Indian Muslim community. The poet Mohammad Iqbal's public proclamation of Ahmadis as non-Muslim in an influential article in Calcutta's *The Statesman* and the Ahrar-Ahmadi riots of the 1930s and 1940s are examined. I conclude this chapter by examining the Ahmadiyya community's stance with regard to choosing between India and Pakistan at the time of partition of Indian sub-continent in 1947.

### **3.1. MIRZA GHULAM AHMAD: BELIEFS AND CONTROVERSIES**

Mirza Ghulam Ahmad, the founder of Ahmadiyya community, was born in the village of Qadian in Colonial Punjab in the late 1830s to a small landowning family. Ghulam Ahmad's ancestors suffered considerable economic hardships during political shifts following the decline of Mughal Empire but by the time Punjab was annexed by the British in 1849, the family had recovered some of its earlier economic prosperity. In his writings, Ghulam Ahmad has repeatedly referred to British patronage of his family which led to further improvement of the family's political and social standing and resulted in his father supporting the British during the Rebellion of 1857. This theme of the Ahmadiyya loyalty to the British is a prominent strand in Ghulam Ahmad's (as well as his successors') writings. I will return to this point below.

Ghulam Ahmad received a traditional Muslim education, consisting of study of Quran and Arabic and Persian languages, in his childhood by private tutors. His disinterest in worldly activities and his affinity for religion, contemplation and books

emerged early on, resulting in a lonely and largely undistinguished period in his early life. He came to prominence only after the publication of his voluminous book *Barahin-i-Ahmadiyya* (Proofs of Ahmadiyya), the first two volumes of which were published in 1880. Initially, the book was well-received by the Muslim community as it addressed issues that were central to the socio-political context of that time, most significantly the intense Christian missionary activities that entailed a criticism of Prophet Mohammad and Islam. In *Barahin*, Ghulam Ahmad strongly voiced criticism against attacks on Islam by both Christian missionaries and the reformist Hindu movement *Arya Samaj* founded in 1875 in Gujrat. Mirza Ahmad discoursed on the excellence of Islam, presenting it as rational, scientific and naturally superior to other religions like Hinduism and Christianity. He also wrote about the lethargy of the Indian *ulama* and spoke about the need for a divinely inspired individual who could revive and restore Islam to its natural superiority.

Following the publication of *Barahin* that generated heated responses from both *Arya Samaj* and Christian missionaries, Ghulam Ahmad made a series of claims during the next decade, presenting himself as the divinely inspired reformer invested with the holy mission of returning Islam to its pristine purity. First, Ghulam Ahmad claimed to be a *mujaddid* (renewer of faith), then a *muhaddath* (a person spoken to, by Allah or an angel), and later as the Messiah (*masih mawud*) and the *mahdi* (the rightly guided one) (van der Linder 2008: 104; Friedmann 1989: 105-18). Ghulam Ahmad's claims to being the *mujaddid* and *muhaddath* drew on various medieval Islamic traditions that had given *limited* importance to these personalities. For example, it is held by popular Muslim traditions that Prophet Mohammad had spoken of a *mujaddid* making an appearance at

the turn of every century to revive and uplift Islam and to return it to its pristine purity. Various persons in Islamic history had claimed or been awarded the title of *mujaddid* and in itself, the claim to be a *mujaddid* is not a controversial one from the perspective of Islamic theology. Although also based on traditional Islamic sources, the claim to be a *muhaddath* is a less conventional and hence more controversial one, especially since it involves divine communication, an essential element of prophethood. Ghulam Ahmad drew upon both *Sufi* (Islamic mystic) and classical *Sunni* traditions to claim both these personalities, in the processes transforming them by vesting them “with a crucial scriptural role [...] whose religious standing is hardly inferior to that of the prophets” (Friedmann 1989: 111).

Next, by claiming to be the *Messiah*, Ghulam Ahmad drew on traditions in Islamic medieval thought that hold that Jesus Christ did not die on the cross and that he will return to the Earth. By claiming in himself the figure of the (returned) Christ, Ghulam Ahmad disturbed the Christian missionary discourse that pitted the personalities of Jesus and Mohammad against each other and drew attention to the Muslim veneration of Jesus as a sacred and pious prophet. It also allowed Ghulam Ahmad to participate in Christian missionary debates, albeit through highly antagonizing Christians by questioning basic Christian beliefs of the centrality of crucifixion and the doctrine of vicarious atonement (Friedmann 1989: 111-5).

Finally, Ghulam Mirza claimed to be the *mahdi*, a figure whose appearance is foretold in both *Sunni* and *Shi'ite* traditions as the bloody leader who will appear before the day of judgment and at the same time as Christ (and the Antichrist) and will be instrumental in restoring Islam. Ghulam Ahmad claimed that the Jesus and the *mahdi*

were the same person embodying the qualities of all previous prophets and realized in him. However, Ghulam Ahmad did not believe in the bloody attributes of the *mahdi* and claimed that the *mahdi* was a peaceable person. This revision was necessary in light of Mirza Ghulam Ahmad's highly controversial rendering of the concept of *jihad* as conducted through the pen and *tabligh* (missionary activities) and not through the sword. Such an articulation of *jihad* gave legitimacy to his (and later his community's) repeated proclamations of loyalty to the British colonial government and led to a political distancing from popular Muslim and nationalist causes in the struggle for greater autonomy and self-government in India. It also created ire amongst traditional Muslims who regard *jihad* as primarily conducted through physical warfare.

Ghulam Ahmad's most controversial claim, however, is his reinterpretation of the notion of *khatam-e-nabuwwat* (or *khatam al'nabiyyin*) relating to the issue of the finality of Prophethood. *Khatam al'nabiyyin* is most often literally translated as "the seal of the prophets" and in traditional Islamic beliefs, Prophet Mohammad holds this seal. It is important to note that the mention of Prophet Mohammad as the *final* prophet appears only once in the Quran, in 33:40: "Mohammad was not the father of any man among you, but the messenger of Allah and *khatam al-nabiyyin*" (Friedmann 1989: 53). According to most translators, the meaning of the word *khatam* is "last". However, a highly authoritative source of *hadith* (sayings attributed to Prophet Mohammad), the *Sahih Al-Bukhari*, holds that Prophet Mohammad himself had said on one occasion that "I am the seal of the prophets" (ibid.: 54). This, and other sources of *hadith*, have led to the established understanding that because the Prophet Mohammad is the most superior of all the prophets, he is the last of the prophets and holds the seal of prophecy. However, as

Friedmann notes with regard to the interpretation of the word “sealing” in Islamic traditions, the equation of sealing with finality or completion is not the only interpretation available. Friedmann draws on various *hadith* commentaries and sources to persuasively argue that at least in the earlier centuries of Islam, there was no fixed interpretation of the term *khatam al'nabiyyin*. Thus, “it stands to reason [...] that the emergence of (false) prophetic claimants in the Muslim community gave an impetus to the development of the dogma concerning the finality of Muhammad’s prophethood” (ibid.: 64). While there have been a number of claimants to prophecy in Islamic history, none has ever been accepted as a true prophet in either *Sunni* or any other “sect” of Islam.

Ghulam Ahmad drew on these earlier traditions to invoke Islamic sources including the Quran, *hadith* and authoritative *hadith* commentaries by classic Islamic jurists to reinterpret the concept of *khatam-e-nabuwwat*. He argued that *khtam* in *khatam-e-nabuwaat* referred to the termination of those prophets who brought forth Allah’s legislative injunctions or the *shari’at* (Islamic law). However, non-legislative prophets, that is, prophets who were not carriers of divine books, were foretold by the Prophet Mohammad himself and would appear not as independent prophets but as extensions of Prophet Mohammad. Ghulam Ahmad used the terms *zilli*, meaning “shadowy” and *buruzi*, meaning “manifestational” to argue for continued prophecy as the completion of Prophet Mohammad’s mission (Friedmann 1989: 124-32). Ghulam Ahmad claimed that *khatam* as well as “seal of prophecy” in reference to Prophet Mohammad referred to the idea that Prophet Mohammad alone held the seal to bestowing spiritual favor upon those Muslims who strictly adhered to Islamic teachings as communicated by Allah through him. Thus, while there could be no more legislative and independent prophets like the

Prophet Mohammad, those holding Prophet Mohammad's favor would continue to appear for the upliftment and spiritual improvement of the Muslims. Ghulam Ahmad's reinterpretation thus included at its core an affirmation of the superiority of Islam and Prophet Mohammad. Ghulam Ahmad was keenly aware of the controversial nature of his claims and of the historical uncompromising resistance to, and rejection of, all claimants to prophethood by Muslim communities throughout Islam's history<sup>21</sup>.

In *Barahin*, Ghulam Ahmad attributed multiple passages of his work to divine origins. In his works between 1893 and 1891, Ghulam Ahmad denied charges that he was challenging the belief of *khatam-e-nabuwwat* through claiming prophetic status for himself. During these years, he claimed to be the *muhaddath*. In 1902, Ghulam Ahmad made the more controversial claim to be a shadowy and manifestational prophet:

“As I have explained time and again, the words which I say are certainly the words of God, like those of the Qur'an and of the Old Testament. In a “shadowy” and “manifestational” manner I am a prophet of God. Every Muslim must obey me in religious manners.”<sup>22</sup>

However, Ghulam Ahmad was adamant in insisting that he was not usurping the status of Prophet Mohammad and that Allah spoke to him in his capacity of being a faithful and complete follower of Prophet Mohammad. Although the final form of his prophetic claims, Ghulam Ahmad's writings are full of descriptions of his experiences and revelations that use terms identical to those which are used to describe those of Prophet Mohammad's. Furthermore, many of Ghulam Ahmad's revelations are slight

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<sup>21</sup> However, Ghulam Ahmad's theological re-interpretations of the notion of *khatam-e-nabuwwat* would remain a recurrent theme within anti-Ahmadi rhetoric by the religious establishment in Pakistan and this theological issue was discussed both in the National Assembly in 1974 as well as by both the Federal Shariat Court (established by Zia-ul-Haq in 1980) and the Pakistan Supreme Court in the 1980s when the Ahmadis legally challenged the validity of the 1984 Ordinance on both Islamic and constitutional grounds. I will discuss these in chapters 4 and 6.

<sup>22</sup> Quoted in Friedmann (1989), page 133.

modifications of Qur'an, *hadith* and other literary sources, leading to a questioning of the originality (and hence veracity) of Ghulam Ahmad's claims (Friedmann 1989: 134-8).

A central feature of Ghulam Ahmad's discourse and writings was the predicting of earthquakes, diseases, plagues and other natural disasters. Another was predictions, or prophecies, concerning humiliations, hardships and deaths of his challengers. A notable case was that of the Arya Samaj polemicist Pandit Lekh Ram who engaged in acrimonious debates with Ghulam Ahmad following the publication of *Barahin*. In 1893, Ghulam Ahmad prophesized that Lekh Ram would die a violent death within six years because of his insulting remarks about Islam and the Prophet Mohammad. Incidentally, Pandit Lekh Ram was assassinated in March of 1897, putting Ghulam Ahmad in the awkward position of having to defend his innocence to the police (Lavan 1974: 76-87; Friedmann 1989: 9-10). This, and several other prophecies, that "proved" to be true doubtless increased Ghulam Ahmad's prestige within his community and outside it. However, it also allowed opponents to contest his claims on his own turf when a prophecy failed to be fulfilled.

The initial works of Ghulam Ahmad generated heated reactions from the *Arya Samaj*, in particular its polemicist Pandit Lekh Ram, who wrote viciously not only against Ghulam Ahmad as in, for example, a 1886 pamphlet that is translated as "The So-called Prophet of Qadian" but also Muslims in general, as in the 1892 pamphlet "The Epistle of *jihad* or the foundation of the Muhammadan religion" (Friedmann 1989: 8-9). The latter antagonized the Muslim community as a whole against the *Arya Samaj* and perhaps explains the appeal of Mirza Ghulam Ahmad's claims for some Muslims. Overall, however, Ghulam Ahmad's increasingly controversial claims regarding his

prophetic status and his claim to be Jesus antagonized both the traditional Indian *ulama* and Christian missionaries. The primary forums through which oppositional debates were conducted were first, the increasingly vibrant print media – pamphlets printed in publishing presses; newspapers and periodicals launched by the voluntary associations and communities being formed at that time in Punjab – and second, through direct debates, or *mubahalas*<sup>23</sup>, with key opponents that were open to the public. The opposition from the *ulama* is most visible by the number of *fatwas* made against Mirza Ghulam Ahmad during his own lifetime. Issuance of a *fatwa* refers to the rendering of nonbinding advisory opinions by leading *muftis* (jurisconsults) or *ulama* and represents a domain of activity separate from formal legal procedures including a case, rules of evidence, and a formal legally binding judgments usually enforced by the state. However, in both instances, the *shari'at* is invoked. According to Masud et al, “The significance of the work of the muftis...rests on the high degree of authority that could be carried by their opinions, which represent the closest Islamic equivalent to the familiar Anglo-American legal mechanism of case-law precedent” (Masud, Messick and Powers 1996: 3-4).

*Fatwas* rendering ‘problematic’ personalities as lying outside the fold of Islam have a long history in Islam and have been rendered against such prominent individuals as al-Hallaj, al-Ghazzali, and Ibn al-‘Arabi<sup>24</sup>. The effect of such “fatwas of condemnation” is almost always an “incurable wound to reputations” (Willis 1996: 153). In the time period under discussion, that is the late nineteenth century, *fatwa* writing was

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<sup>23</sup> *Mubahala* refers to a form of debating disputes on religious thought in Muslim tradition through “cursing” at each other. Opponents join together and jointly pray to Allah that He curse the side supporting falsehood. The idea is that whoever is wrong will face hardships thereby be sent hardships from Allah, revealing the falsity of their position.

<sup>24</sup> One scholar aptly describes these individuals as sharing “a high individualism and an aversion to taqlid (following the opinion of another within the madhab, or school of law) – an independence of approach that was to cast them in bad odor with the ‘ulama’ of their day” (Willis 1996: 153).

undertaken in a highly charged political context that was defined by the decline of the Mughal Empire, the failure of the Rebellion of 1857 and the ascendancy of Hindus in educational and other public arenas. For the Muslim communities of India, this was a moment of intense self-reflection and a number of influential Muslims gave different responses to what were perceived as the central issues facing Muslims, including questions of religious renewal, moral reform, challenges faced by Muslims in their competition with Hindus and other religious communities for limited resources, relations with British, and so on (Jalal 2000; Metcalf 1982; Robinson 2004; Zaman 2002). This period saw the rise of a number of religious reform movements within South Asian Islam of which the Ahmadiyya movement was only one. Other influential movements included the conservative Deobandi movement (the most influential reform movement in India founded by some of India's most respected and known *ulama*), the literalist *Ahl-i Hadith* (People of *Hadith*), *Ahl-i Sunnat* (People of *Sunnat*<sup>25</sup>) and the *Nadwat al-'Ulama* (Metcalf 1982). All of these movements were led by imposing personalities who were foundational in forming organized institutional structures including rival *madrassas* (religious schools), annual meetings and flagship newspapers and journals. Significantly, all of these *ulama* were also engaged in pronouncing *fatwas* of *kufir* (disbelief) against each other in their quest to legitimate their particular understandings of Islam. For example, Maulana Ahmad Riza Khan Barelwi (1856-1921), the leader of *Ahl-i Sunnat*, pronounced *fatwas* of *kufir* not only against Ghulam Ahmad, calling him the Antichrist inspired by Satan, but also leaders of the Deobandi movement (Sanyal 1996). However, while *ulama* from different schools routinely issued *fatwas* against each other, the significant thing about Ghulam Ahmad was that *ulama* of nearly all persuasions had

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<sup>25</sup> From *Sunnah*, meaning Sayings and habits of Prophet Mohammad.

issued *fatwas* against him, going as far as issuing a joint *fatwa* in 1891, using expressions such as *Dajjal* (Antichrist), “a faithless infidel and a double dealing heretic”, “the most wicked of God’s creatures”, “a confirmed liar and fabricator”, among others (Lavan 1974: 51, 60). The condemnation from the religious establishment in both colonial India and Pakistan must be understood on both theological grounds, with the *ulama* regarding Ghulam Ahmad as having challenged the absolute finality of Prophet Mohammad and therefore tainting his honor and usurping his superiority, as well the *ulama*’s protection of their own social standing derived from their training in traditional Islamic learning (Friedmann 1989: 183).

### **3.2. THE ORIGINS AND DEVELOPMENT OF THE AHMADIYYA MOVEMENT**

The most important event that began the consolidation of an exclusive religious community of Ahmadis was Ghulam Ahmad’s public invitation to pledge allegiance (*bay’at*) to him towards the end of 1888. The first ceremony of initiation took place in March of 1889. In December 1891, Ghulam Ahmad announced that an annual meeting would take place in Qadian that would enable the Ahmadis to increase their religious knowledge, strengthen fraternal bonds and plan missionary activities abroad. The Urdu weekly *Al-Hakam* was established in 1897 and another *al-Badr* in 1902<sup>26</sup>. Around the same time, a Middle School was established in Qadian and the local mosque extended (Lavan 1974: 96).

Ghulam Ahmad was concerned with the continuation of his religious movement after his death and imparted his will to his followers about how the community should be

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<sup>26</sup> In 1913, the Urdu weekly *Al-Fazal* was established, which remains the central Ahmadi newspaper published from London today. A monthly English language publication The Review of Religions was established in 1902.

led and managed after his death. He ensured his followers that a person from among his community would emerge as recipient of divine revelation and would assume leadership while other matters such as *bay'at* would be de-centralized and undertaken by a central organization. To raise funds for the movement, a “celestial cemetery” was established where Ghulam Ahmad marked his own future grave and stipulated that any Ahmadi who wanted to be buried there would have to bequeath at least one-tenth of their property to the community. The cemetery therefore became a resource for the collection of substantial funds. Ghulam Ahmad also maintained in his will that a council of pious men would be formed to accumulate and administer funds and oversee that they were used for the advancement of Islam, publication of religious books, support of missionary activities and welfare of the economically vulnerable members of the community (Friedmann 1989: 12). A central committee called the *Sadr Anjuman-e-Ahmadiyya* was subsequently formed for these purposes. Ghulam Ahmad also decided to identify his community as officially separate and chose the name “Ahmadiyya”. He wished for the Ahmadis to be enumerated separately on the *Census of 1901*, which reported 1,113 male members (over the age of fifteen)<sup>27</sup> (Lavan 1974: 93-4).

After Ghulam Ahmad’s death in 1908, his close associate Nur-al-Din assumed leadership of the community until his own death in 1914. These six years saw a considerable increase in missionary activities abroad with special attention paid to the English-speaking world at large and England in particular. Public debates and dialogues with Muslim *ulama*, Christian missionaries and Hindu reform movements, enthusiastically undertaken by Ghulam Ahmad, were almost completely abandoned.

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<sup>27</sup> The Punjab census report of 1921 reported 18,856 Ahmadis in Punjab but it was subsequently noted by a British official that the number “appears an under-estimate and they probably number about 75,000” (Government of Punjab 1938: 11).

After the death of Nur-al Din, the Ahmadiyya community split into two groups, one popularly referred to as the Qadiani group and the other as the Lahori group. The causes of the split were latent even before Nur-ul Din's death and two internal groups with differing views on how missionary activities ought to be undertaken, the relationship between Ahmadis and non-Ahmadis etc. were already present at his time. The split itself has been dealt with by some scholars (e.g. Friedmann 13-22; Lavan 98-114) and here it is suffice to note here that personality differences, struggles over future leadership and doctrinal differences all contributed to this split. The two notable things about the split are that first, Ghulam Ahmad's son Mirza Bashiruddin Mahmud Ahmad emerged as the leader of the core Ahmadiyya group in Qadian in 1914, assumed the title of *Khalifatul Masih II* (successor of the Messiah II) and remained the head of the Ahmadiyya community until his death in 1965<sup>28</sup>. Second, the Lahori group was increasingly critical of the separatist tendencies of the Qadian group and desired to distance itself from Mahmud Ahmad's public stance that non-Ahmadis were not true Muslims and that Ahmadis formed a separate religious community. Instead of a prophet, the Lahore group regarded Mirza Ghulam Ahmad as a holy man and merely a renewer of Islam. In short, the Lahori group chose to stay closer to mainstream Islam while the Qadian group chose to pursue a path of exclusivity, both socially and religiously. While the former saw the Ahmadi mission to be the spread and upliftment of Islam, the latter perceived the mission of Ahmadis to be the spread of true Islam as revealed in the writings and teachings of Ghulam Ahmad.

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<sup>28</sup> After Mahmud Ahmad's death, the leadership of this group (which shifted to the city of Rabwah in Pakistan after 1947) has remained with the direct descendents of Ghulam Ahmad to this day, with his son Mirza Nasir Ahmad being appointed *Khalifatul Masih III*.

In the 1920s under Mahmud Ahmad's leadership, the *Sadr Anjuman-e-Ahmadiyya* was reconstructed and expanded to incorporate the increasing demands on it with the swelling in the numbers of Ahmadis as well as in missions abroad<sup>29</sup> (Lavan 1974: 114). A highly elaborate organizational structure was put into place, consisting of key offices with clearly defined responsibilities and rules for placement into these offices. Various departments were formed to manage financial and budgetary affairs, missionary activities, community discipline, external and Government affairs, education, publications and hospitality. Each department was headed by a *nazir* (secretary) with a *nazir-e-'ala* (chief secretary) charged with coordinating the different departments. In 1922, a consultative, advisory body was formed consisting of several hundred appointed and elected members with the *Khalifatul Masih* having powers to overrule its recommendations. In 1934, a new institutional body called the *tehrick-e-jadid* ("New Movement") was launched entrusted solely with the intensification of missionary activities in both India and abroad. Local bodies were formed outside Qadian and abroad and their heads ("*amirs*") appointed who were responsible to Qadian. The structure of the Ahmadi *Jamaat* was a strictly hierarchical one having prominent authoritarian streaks. For example, the *Khalifatul Masih* was the ultimate temporal authority and could not be removed or deposed from his exalted position. He furthermore had the powers to excommunicate members of the community whose behaviors and actions were not in accordance with those perceived befitting to an Ahmadi. Similarly, the *nazir-e-'ala*,

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<sup>29</sup> The Ahmadi missions have met with greatest success in Africa (particularly Nigeria, Ghana, and Sierra Leone) and have faced the greatest difficulties in the Arab world, Indonesia and Afghanistan. In 1912, a mosque was established in London that later became the British center of the Lahori group. In 1924, a mosque run by the Qadian group was established in London. After World War Two, Ahmadi centers were established in other European countries like Germany, Holland, Switzerland and Denmark. Ahmadi missions in the United States began after World War One (Friedmann 1989: 30).

*nazirs*, local *amirs* and other heads could act in their own discretion and were not bound to follow their councils or the Ahmadis under them. It was further stipulated that all Ahmadis would bequeath at least 6.25% of their incomes to the Ahmadiyya *Jama'at* (organization) with many Ahmadis contributing as much as 10% of their annual incomes (Lavan 1974: 116). In 1925, a quasi-judicial system was instituted by the *Jama'at* in Qadian whereby all Ahmadis were required to approach *the Jama'at* to settle their internal disputes. Separatism was further forged through the creation of an educational system and other social organizations designed to serve Ahmadis in Qadian.

Despite the intense and highly public controversies surrounding Ghulam Ahmad and his teachings, he became a prominent public presence in public life of colonial Punjab, drew a large number of followers and most significantly, his movement continued to grow well beyond his death. Spencer Lavan has argued that even though his teachings alienated a large number of Hindus, Christians and Muslims, his “message appealed to an increasing segment of Muslims disenchanted with traditional structures incapable of meeting the challenges posed to Islam in the modern world” (Lavan 1974: 186). Ghulam Ahmad’s teachings constituted one clearly articulated response to “the post-1857 Muslim situation” that advocated a religious renewal coupled with political loyalty to the British government, thus providing a strong moral ground for the acceptance of British colonial rule. According to Lavan, Ghulam Ahmad’s teachings were welcomed by audiences within two social groups: one was the literate, although not intellectual, class that could read his Urdu, Persian and Arabic writings and the other was the non-literate Punjabi audiences who were moved by his personal qualities and traits which he communicated orally through public appearances (ibid.: 188).

In colonial India, the other Muslim thinker having close parallels to Ghulam Ahmad was the Muslim politician and educationalist Sir Syed Ahmad Khan (1817-1898). Like Ghulam Ahmad's father, Syed Ahmad emerged from the Rebellion of 1857 as a British loyalist. He was a staunch admirer of what he perceived as core values and achievements of the Western modernity, including science and technology, rationalism, educational norms (such as female education) and capitalism, and sought to impress upon the Muslims of India the usefulness of adapting these values within their traditional world-views<sup>30</sup>. However, while Syed Ahmad's message was welcomed by a section of the Muslim elite, it was Ghulam Ahmad's careful weeding together of a reformist Islam, an exclusive social community and a cogent articulation of the socio-political issues of the time that led to the birth of perhaps the most dynamic religious reform movement within South Asian Islam. Van der Linden (2008) has aptly contextualized the growth of the Ahmadiyya movement as enabled by a modern liberal public sphere (characterized by a print culture, Anglo-vernacular education and the emergence of voluntary associations in the Punjab) that was given patronage by the British colonial state in India at a time which also saw the birth of reform movements within Hinduism (*Arya Samaj*) and Sikhism (*Singh Sabha*) (Van der Linden 2008). According to Van der Linden, all of these reform movements are situated within the physical encounter between the colonial state and the colonized and the "complex world of opportunities, constraints and motivations" that this encounter created. Each of these reform movements "made certain rational forms of tradition available through modern disciplinary institutions and practices for the

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<sup>30</sup> Syed Ahmad's lasting contribution to the Muslims of India was the formation of Muhammadan Anglo-Oriental College in the city of Aligarh in 1877 (renamed Aligarh Muslim University in 1920) which became the forerunner in training Westernized Muslim leaders who would champion the cause for the Pakistan movement (Malik 1980).

communication of modern identity politics”, sought the patronage of the British, and most significantly constituted a dialogue with both Western reason and Christian missionary activities through the rationalization of religion (ibid.: 27). It was this symbiosis between traditional conservatism and dynamic religious reform based on reason that set Ghulam Ahmad apart from both Muslim modernist thinkers like Syed Ahmad and the Indian *ulama*.

### **3.3. AHMADIYYA COMMUNITY AND THE COLONIAL STATE: ACCOMODATION AND NEGOTIATION**

As mentioned above, Ghulam Ahmad, his successor and the Ahmadiyya *Jama'at* publicly professed their continued support and loyalty towards British colonial rule in India. The basis of their stance was Ghulam Ahmad's second most controversial theological re-interpretation, that of the notion of *jihad* (literally struggle). In Islamic faith, *jihad*, conceived as the struggle to honor Islam, is regarded as a core Muslim duty Islam. Within *Sunni* traditions, the struggle can be carried out within the self, that is, through discipline and containment of the ego; through the pen or *ilm* (knowledge), that is through spreading Allah's word; or through physical warfare, among others. With regard to the latter, the distinction that is significant in classical Islamic sources is that between *dar-ul-harb*, or the abode of war, generally understood as territory in which non-Muslims rule, and *dar-ul-Islam*, or the abode of Islam. A crucial question that came to occupy South Asian *ulama* following the takeover of India by the British was whether India was *daur-ul-harb* or *dar-ul-Islam*<sup>31</sup>.

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<sup>31</sup> The prominent scholar Shah Abdul Aziz (1746-1823) famously rendered a fatwa declaring India *dar-ul-harb*, which was largely viewed as a sanction for carrying out physical *jihad* against the British. However, this interpretation of Shah Abdul Aziz's fatwa is now questioned and scholars have argued that he

The essence of Ghulam Ahmad's reinterpretation of *jihad*, which he based on classical Islamic sources, was that physical or aggressive *jihad* could only be undertaken as a defensive strategy when Islam was threatened. This, he argued, was not the case in British India since the Muslims enjoyed religious freedom under British rule. Friedmann has argued that Ghulam Ahmad's notion of *jihad* is not "historically valid" in light of Islamic sources and that it represented "a fundamental revision of the idea, stemming from Ghulam Ahmad's constant exposure to the attacks on Islam by the Christian missionaries and bearing a conspicuous apologetic tinge" (Friedmann 1989: 180). Even if a theological basis was present, it can be reasonably assumed that Ghulam Ahmad's reinterpretation of *jihad* would have generated controversy given the colonization of Muslims by others in a context in which the Muslims had been the previous rulers. Instead of abolishing the idea of *jihad* altogether, however, Ghulam Ahmad made a distinction between *jihad* through the sword and *jihad* through the pen, or through argument, proofs and proselytizing, arguing that only the latter was theologically justifiable in the context of British rule in India. Both Ghulam Ahmad and his son Mahmud Ahmad routinely praised the British rule and maintained that the British rule in India was legitimate. This was anathema to the *ulama* who even when not advocating military *jihad* against the British rule in India did not regard it as legitimate.

One of the significant aspects of Ahmadi loyalty towards the British in the first two decades of the twentieth century was the distancing of the community from popular

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rendered his fatwa as a guide to practical Islamic matters such as interest that were guided by non-Islamic norms and not as a sanction for militancy against the British. He deemed the latter measure unnecessary since Muslims in India were free to follow their religious practices (Metcalf 2009: 21). However, a number of *ulama* strongly voiced their opinion that physical *jihad* be declared against the British, such as Sayyid Ahmad Barelwi (1786-1831) and the leaders of the Wahaabi movement dominant in the Northwestern Frontier of India. Thus, the issue of *jihad* was a highly unsettled one towards the end of the nineteenth century and it was in this context that Ghulam Ahmad proposed his reinterpretation.

Muslim and Indian nationalist causes, including the Khilafat Movement (1919-1924), the popular Muslim movement (also supported by the Indian Nationalist Congress) that sought to influence the British to protect the caliphate in Turkey after the World War One, and the Non-cooperation Movement headed by Gandhi between 1920 and 1922. The Ahmadiyya *Jama'at* also supported the British during the War by allowing Ahmadis to enlist in the British army. Such public acts of loyalty towards the British in India has led to continued charges by orthodox Muslims that the Ahmadis were the 'slaves' of the British, had been 'planted' by the British to cause dissent among the Indian Muslims, received patronage from the British, were subversive towards the Muslims of India, and so forth. As I will show later in the dissertation, this theme of the Ahmadi loyalty towards the British will emerge again and again in post-colonial discourses by the *ulama* and religious establishment in Pakistan, eventually finding a place within the official narrative about Ahmadis. Perhaps the pervasiveness of this discourse, legitimated as a historical and factual account, led Ayesha Jalal, one of the most prominent historians of Muslim politics under British colonial rule to note "the absence of any concrete evidence to prove their disloyalty to Islam and the Muslim community" (Jalal 2000: 292).

The suggestion that the Ahmadiyya community was slavishly loyal to the British colonial government does not capture the complexity of the ways in which the former differentially engaged in negotiations with and resistance towards British colonial rule. Conferrals of legitimacy were often employed in attempts at extracting advantages and favors from the government. The continuous pledges of loyalty opened up the door for the Ahmadis to make claims on the government for preferential treatment, for information, and for the well-being of its community. This was especially necessary

given that the religious community was pretty much in its infancy under colonial rule and because of the highly controversial nature of its tenets.

This is especially evident with regard to Ahmadi claims on the British government regarding help with their missionary activities abroad. For example, an Ahmadi missionary was stabbed in Damascus by a Muslim and subsequently expelled by the French authorities in December of 1927<sup>32</sup>. The Ahmadiyya community in India directly approached Sir Austen Chamberlain, the Secretary of the State for India, and requested a formal investigation of the expulsion, claiming that “The Local Government there has done so only because the Muslim priests there differ from us in certain religious doctrines such as Jihad etc.”<sup>33</sup> Chamberlain in turn directed the Political Department of India Office in London to investigate this incidence who in turn contacted the British consul at Damascus. It was subsequently learnt from the British consul in Damascus, an E.C. Hole, that the Ahmadi missionary Jalal-ud-Din Shams had scandalized the highly orthodox Muslim community of Damascus by his “heresies”, most particularly his claim that the Mirza Ghulam Ahmad was a reincarnation of Jesus Christ, which had led to local “protestations”. Shams was subsequently stabbed by a “religious zealot” and was asked by French authorities to leave the country. The British consul at Damascus also noted that Jalal-ud-Din Shams was “most willing [to leave], but his hierarchical superiors apparently preferred that he should remain”, so much so that Jalal-ud-Din Shams asked Hole to intervene on his behalf and write to Qadian to inform them that “his work exposed him to grave danger and that he would do well to leave Syria”. Hole had in fact written to Qadian himself. Hole also noted that he believed that the presence of Jalal-ud-

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<sup>32</sup> L/PS/11/263/4399. India Office Records, British Library U.K.

<sup>33</sup> *ibid.* Foreign Secretary of *Khalifa*, M. Muhammad Sadiq to the Government of India, 1 April, 1928.

Din Shams would have created disturbances in Damascus, and Jalal-ud-Din Shams may have lost his life. As far as he was aware, Jalal-ud-Din Shams had left Syria on his own accord. The Government of India informed Qadian of what had prevailed in Syria and said that they were unable to intervene further.

Why did the Ahmadiyya leadership insist on keeping Jalal-ud-Din Shams in Syria when the latter himself felt endangered and wanted to leave? The answer can be found in Qadian's request to the British government in which Foreign Secretary of Khalifa, M. Muhammad Sadiq told Chamberlain: "I request your favour of communicating with the Foreign Government urging them to give a religious independence to our missionaries like they have given to the Christian Missionaries and the Missionaries of other denomination." By keeping Jalal-ud-Din Shams in Damascus, Qadian could continue to make claims on the British government and establish itself as equal in religious standing to other religious communities. Incidences such as this one thus provided Ahmadis with opportunities to continually remind the British government of their presence and to engage in discursive practices to legitimate the standing of their religious community. The government of India did make a distinction between missionaries in Syria who were engaged in providing for "the spiritual welfare of an established community" and those like Jalal-ud-Din Shams who were engaged in "creating a new one". For instance, it informed Qadian that Ahmadi missionaries "differed from those of other missionaries in Damascus in that they were a dissemination of a new religion rather than a mainstream to adherents of established religions."

The Ahmadis also drew on the Government of India for informational support, such as asking the British government to ascertain the safety and whereabouts of its

foreign missionaries abroad. The colonial office records reveal that the Government of India routinely confirmed the well-being of Ahmadi missionaries and conveyed this information directly to Qadian. For example, in 1927, an Ahmadi missionary Mohammad Amin was imprisoned in Bukhara by Russian authorities for not having the proper passport for entry. The Ahmadiyya community in Qadian approached the government of India to inquire into the event. It was noted by British officials that this was not the first time that Mohammad Amin had attempted to illegally enter Central Asia and had also been previously arrested and expelled by Russian authorities on more than one occasion<sup>34</sup>. A British official irritably made the following observation about the situation:

“He [Mohammad Amin] deliberately courts arrest by entering territory admission to which without a passport is prohibited, and appeals are then addressed by the Qadiani community to His Majesty’s Diplomatic Representatives at Moscow and Tehran, the Consul General at Meshed and the Government of India to ascertain his whereabouts and effect his release”.

Mention was specifically made of another Ahmadi missionary who too had been arrested by Russian authorities in 1926 for not possessing the proper passport. In that instance too, Qadian requested the Government of India to trace his whereabouts and have him brought back to India, a request that was met by the Government although “at considerable expense and after a good deal of correspondence though presumably the former was refunded by the community”. Mohammad Amin was similarly brought back to India with the help of British authorities in Russia.

Of course the Ahmadiyya community was not always successful in prevailing upon the British government on account of its loyalty to it. In 1919, an Ahmadi Maulvi Neymatullah Khan, originally an Afghan subject, was sent from Qadian to Kabul for the “religious education” of the Afghani Muslims (Rafiq 1995: 115). This was done under

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<sup>34</sup> L/PS/11/266/677. India Office Records, British Library U.K.

the reign of King Amanullah Khan (1919-1929) who was well known for his modernizing tendencies and toleration for religious minorities. It was felt by the Ahmadiyya missionary organization that Ahmadis would enjoy greater freedoms in carrying out their missionary activities in Afghanistan under Amanullah than they had in the past, especially in light of the stoning to death of two Ahmadis in 1903 by the Afghan government on charges of heresy and apostasy<sup>35</sup>. Thus, in 1920, during his visit to India, the then Afghan Foreign Minister Sardar Mahmood Tarzi was met by a delegation of Ahmadis who explicitly asked Tarzi if Amanullah's proclamations regarding tolerance and freedom of faith for all religious minorities applied to Ahmadis as well. The delegation was assured by Tarzi that Ahmadi lives and properties were safe in Afghanistan and no Ahmadi would be targeted on the basis of his religious beliefs.

However, Maulvi Neymatullah Khan was stoned to death under similar charges on 31<sup>st</sup> August, 1924. The stoning received much publicity in India and Britain and was widely condemned<sup>36</sup>. *The Times* of London termed it "a political execution" and maintained that the killing was undertaken by the Afghan rulers to "placate the reactionaries" (6 September 1923). The Ahmadi *khalifa*, incidentally in London at that time, vocally charged the Afghan government for not allowing Maulvi Neymatullah Khan's father to pick up his son's dead body which still lay under rocks (*Morning Post*, London: 18 September 1924). A resolution was adopted by a number of influential Britons, including H.G. Wells, Sidney Lee and Arthur Conan Doyle, through the efforts of the Imam of the Ahmadiyya mosque in London, and sent to the British Government

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<sup>35</sup> Ahmadis accounts of the "martyrdom" of these Ahmadi missionaries in Afghanistan are viewed as an attempt by the establishment to placate the highly conservative religious elements in Afghanistan (Rafiq 1995).

<sup>36</sup> L/PS/11/250. India Office Records, British Library U.K. The entire discussion of this incident is based on this one file.

expressing their strong condemnation and disapproval of the Afghan government. Prominent British and Indian lawyers including Walter Walsh, Leader of Free Religious Movement, and the Ahmadi Zafrullah Khan also lodged their public protests with the British government against the Afghan government's actions. *The Ahmadiya Moslem Society of Chicago* and *The Ceylon Ahmadiyya Association* also lodged their protests directly with the British government in London.

The Ahmadiyya community formally approached the Foreign Office in Britain through their spokesman Zulfiqar Ali Khan and requested that the Government of India lodge a formal complaint with the Afghan government. Zulfiqar Ali Khan was told that the Indian government could not launch a formal protest since Maulvi Neymatullah Khan was an Afghan subject. Zulfiqar Ali Khan in turn reminded the government of his community's efforts in countering and quelling incitements for *jihād* against the British government in Afghanistan during the Third Anglo-Afghan War (1919) and maintained that the persecution of Ahmadis in Afghanistan was a direct result of this. Khan also reminded the government of the assurances given by Tarzi to Ahmadis in 1920 and claimed that Amanullah had lent his support to the persecution of Maulvi Neymatullah Khan's persecution to refute claims that he himself was a Qadiani and a heretic.

Internal communications among the Foreign Office reveal that British government was indeed mindful of Ahmadi support during the Third Afghan war and suggested to the Government of India that Tarzi be approached informally and reminded of his assurances to the Ahmadiyya community representatives in 1920. It was also suggested that it apprise Tarzi of the highly unfavorable impression of the Afghans as a result of the persecution and that it should urge Tarzi "to do what he can to prevent the

persecution of this sect”. Foreign Office records indicate that the Government of India did not concur with the suggestion. The Foreign Office sent a message to Zulfiqar Ali Khan stating that it was not possible for Britain to launch a formal complaint. However, he was told that

“...the attention of the British Representation in Kabul will be drawn to the report of the stoning to death of the late Niamatullah Khan. If the report is substantiated by information available to him, and a suitable opportunity occurs, it may be possible for him to make an informal representation on the subject to the Afghan Authorities.”

In response, Zulfiqar Ali Khan personally met a British official and re-stated the Ahmadi request. The hand-written minute paper by this British officer gives an account of this meeting. It reveals that Zulfiqar Ali Khan mentioned that the Ahmadis were going to further publicize the issue, including taking it to the League of Nations and the British Prime Minister as well as broadcasting it in United States and other European countries. Again, Ahmadi loyalty towards the British government during the Third Anglo-Afghan War was reiterated and the British official reminded that Britain had lodged a protest with Turkey on behalf of Armenians who were Turkish and not British subjects and to Soviet Russia on behalf of protesting Russians. Since Ahmadis were headquartered in India, a British territory, they were naturally looking towards the British for protection, and that “any action however informal would satisfy his community, if it was action by the British government”.

Prominent officials and diplomats in the Foreign Service conferred amongst themselves and agreed, in words of Stephen Gaselee, a Foreign Office diplomat, that Britain should not intervene with a foreign government “in favour of a non-royal person”:

“To make the King protest against the murder of Niamat Ullah Khan would therefore be to establish a precedent: which would be to my mind, particularly undesirable in that the unfortunate man is already dead. It might be possible to make a new departure if there

was a chance of saving a life; but to protest afterwards would be to lay His Majesty open to an unpleasant rebuff for having taken an action which could lead to no practical results”.

The Foreign Office however did request the Government of India to make an informal representation to the Afghan authorities. The latter again denied the request, stating that such a course of action would be “dangerous”. The Foreign Office asked the Government of India about the “nature of the danger”, holding that “if it is the danger of further persecution of Qadianis in Afghanistan, there is every reason to refrain from representation”.

Official correspondence between the Government of India and the British Minister stationed in Kabul, Frances Humphrey, reveals that that the latter had in fact discussed the persecution of Ahmadis with both Amanullah and Tarzi. According to Humphrey’s account of these meetings, both expressed their personal horror towards the stoning, stating that they were personally in favor of religious tolerance and against religious persecutions. However, Amanullah felt compelled to take such an action in the face of increasing resistance to his modernizing programs by the orthodox and reactionary religious establishment in Afghanistan which had manifested itself through the Khost rebellion of 1923-4 which although eventually quelled, had brought the religious establishment to prominence. Reports of these conversations were however not conveyed to the Ahmadis, who continued to prevail upon Britain. The Ahmadiyya community’s urgency was doubled by incidences of social acts of persecution by Afghan zealots against Ahmadis resulting in the murder of two Ahmadis in February of 1925.

The position that the Foreign Office thus found itself can be described by the following: a British press expressing its horror about the stoning to death of an Ahmadi by Afghan rulers; prominent British citizens protesting on humanitarian grounds and on

behalf of Ahmadis; large-scale publicity being given in Britain to the event by the Ahmadi *khalifa*; and increasing demands by the Ahmadiyya community that the Government of India take some sort of action on its behalf. At that time, the Afghan government had given a death sentence to an Italian engineer and a resident of Kabul, Dario Piperno, for killing an Afghan policeman and talks were underway between the Italian and Afghan governments with regard to the release of Piperno. The Foreign Office was unsure about what course of action to take. The reasons for not taking any action were summed up by a Foreign Office official:

“...there seems to be a possibility that if Sir F. Humphrys protests to Tarzi, and Tarzi informs the Amir [Amanullah] (and he will), the Amir (especially if his conscience is really a little uneasy) may resent the interference and, in a moment of reaction, recoil from his intended lenience to Piperno. Piperno’s release is no particular concern of ours; but it seems to be as much so as the manner in which Afghans deal with Afghan heretics. Stoning to death is in fact the form of punishment prescribed by Islamic law for heretics...”

Thus, Afghan Ahmadi subjects were rendered equivalent to Italian citizens (that is, neither were British citizens), stoning to death uncritically accepted as a form of Islamic punishment despite vocal protests by Muslims that this act was un-Islamic, and any supposed duty towards their Ahmadi subjects in India left out of the equation. However, it was also noted that

“On the other hand it is rather repugnant to one’s sense of fitness that the British representative should condone, in any degree the perpetration of these brutalities under the approval of a ruler to whom he has recently been delivering messages of personal sympathy from His Majesty the King.”

Thus, the British government felt two contradictory pulls with regards to correct diplomatic response to the persecution of the Ahmadi: to retain cordial relations with a hostile neighbor through non-interference or to engage in some form of (however informal) public rebuke so as to not appear to condone a neighboring ruler perpetrating

brutalities. At the end, however, the Foreign Office stated to the Government of India both its own and Frances Humphrey's willingness to protest the incident. However, the Government of India declined to lodge any protest.

For Ahmadis, the issue was one of the British government coming to its aide on both humanitarian grounds and because of the Ahmadiyya community's loyalty towards the British. However, the community was cautious of how it presented its relations with the British in public. An Ahmadi missionary in Britain during his interview to *Manchester Guardian* (21 February, 1925) maintained that there was a mistaken belief in Afghanistan that the Ahmadis were politically allied with the British, who are regarded as enemies by Afghans. Malik quoted: "We are, of course, friends of the British but then we are friends of everybody. In India we obey the government because we accept the law of the country wherever we are." Malik said that the impression that Ahmadis were politically loyal to the British was likely present amongst the Afghans because during the visit of Prince of Wales to India in 1922, the head of the Ahmadiyya community presented him with an address<sup>37</sup>. However, he maintained, the main reason Ahmadis were persecuted in Afghanistan was because of the Ahmadi belief in religious tolerance and peace.

It was around this time, which coincided with a series of steps that were vesting greater autonomy to the Government of India as well as increasing local representation in it, that Mahmud Ahmad began to take a more active interest in politics, manifested through a series of addresses and articles addressed to the British on the prominent

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<sup>37</sup> In this address, which was presented as "A Present to his Royal highness the Prince of Wales from the Ahmadiyya Community", Mahmud Ahmad recounted the history of the Ahmadiyya movement, appraised the Prince of the persecution suffered by Ahmadis in Afghanistan and in India and concluded by inviting him to join the Ahmadi faith (Ahmad 1922).

political questions of the day. This correspondence has been actively documented by the Ahmadiyya community through reproduction of it in the form of books and pamphlets<sup>38</sup>. In his initial correspondences in the 1920s, Mahmud Ahmad expressed concerns at the prospect of increasing self-government in India because he felt that the presence of the British kept religious conflict in check (Government of Punjab 1938: 5). In repeated communications, Mahmud Ahmad stressed the need for industrial progress, racial equality, greater education and access of Indians to the government but stood firmly against political reforms (ibid.: 6). Commenting on Hindu-Muslim unity during the non-cooperation movement in a letter written to the Viceroy of India in 1926, Mahmud Ahmad maintained that

“...Real peace could not be established in India unless the Indians adopted the following two methods: Firstly, instead of preaching that there were no differences between the different peoples of India and that the Indians formed one homogenous nation, they should admit the presence of differences and then proceed to remove the causes thereof; otherwise the result will be that the masses who in their state of excitement were forgetting their differences would soon after again recall them and would begin to fight over them more than ever.

Secondly, they should include in all their understandings and agreements the Government as well as the Anglo-Indians, because, no matter whether the coming of the Englishman into India was rightful or not, it is a fact that they now form a part of the inhabitants of the country, and consequently complete peace could not be established without their co-operation.” (Ahmad 1926: 6)

This view was remarkably sensitive to some of core issues that occupy contemporary theorists of multiculturalism, namely the reconciliation between demands of universalism and particularism and the participation in a liberal public sphere not on

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<sup>38</sup> An example is a book titled *Ahmadiyya Community and the British Government*, published by “The Foreign Secretary to His Holiness the Khalifatul Masih II” in 1947 (Ahmadiyya Community 1947a). In this book, various letters written by British officials to the Ahmadiyya community are reproduced. The aim of the book is to convey the acknowledgement of Ahmadiyya community’s loyalty towards the British government by a number of different British officials, mostly over the 1920s. The timing of the book’s publication suggests that the compilation was undertaken to remind the colonial regime of the various services rendered by the Ahmadiyya community to prevail upon the Government of India at the time of independence of India. I will discuss this in detail below.

the basis of shared cultural identity but a democratic tolerance for difference (e.g. Benhabib 1996, 2004; Kymlicka 1994; Taylor 1985), and contained an explicit or implicit critique of the colonial state's policy of supposed neutrality, Indian nationalist minimalization of religious difference, and the communalist essentializing of religious identities . According to Mahmud Ahmad, unless there was a genuine acceptance and tolerance for religious and other communal differences, the possibility of real and lasting peace amongst the different communities was only a distant possibility, and until then, India would alternate between periods of peace and communal tensions. Mahmud Ahmad thus urged the government not to tolerate communal disturbances, a stance that led people to hold the government of India “responsible for all these disturbances, or at least accuse the Government for lack of proper attention in the matter” (ibid.: 7). Mahmud Ahmad's official, public view of the British government was that of a benevolent monarch looking over the various subject populations, while the latter were articulated through the Orientalist discourses of the British themselves (Said 1979). For example, Mahmud Ahmad explained the causes of communal tensions in India as “due to certain moral weaknesses which, owing to the fact that the Indians are not accustomed to the national or representative form of Government, have become firmly rooted in them” (Ahmad 1926: 9). This had made the Indians “generally backward in their ideas of toleration”, a situation that could be remedied only through spread of education, construction of roads and railways and increased participation of Indians in the administration of the country (ibid.: 11).

This official endorsement of the “civilizing mission” and British Orientalist discourses however does not capture the Ahmadiyya community's complex engagements

with the local politics at this juncture in Indian history. For example, Ahmadis took an enthusiastic part in a number of Hindu-Muslim communal conflicts in second half of 1920s in Punjab, often emerging as the leading defenders of Islam. Ahmadi participation in communal tensions was summed subsequently by a Punjab police official as:

“In spite of all their vigorous championship of Islam and attempts to improve the economic conditions of Muhammadans it is doubtful whether they have to any appreciable extent won the sympathy and support of orthodox Muhammadans. They have, however, undoubtedly established the fact that in times of communal unrest they are a powerful and well organized community with considerable initiative and a well developed system of propaganda.” (Government of Punjab 1938: 9)

Despite official endorsements of the British colonial rule, the Ahmadis often formed alliances with dissenting Muslims and resisted colonial forms of control and governance. This is contrary to the views expressed by the Ahmadiyya community in a letter to Lieutenant-Governor of Punjab Douglas Maclagan in 1919 in which it was held that the Ahmadiyya movement was a “purely religious” one and that “even in matters of internal politics it follows methods which are eminently peaceful, disapproving many even of those methods which are held by others to be constitutional and legal” (Ahmadiyya Community 1919: 2). However, Ahmadi participation (and acceptance) was often fraught with difficulties because of the heterodox religious views of their community, in turn feeding into intra-Muslim competitions over which Muslim groups and individuals can legitimately represent the “Indian Muslims”.

#### **3.4. IN SEARCH OF A POLITICAL COMMUNITY: AHMADIS, ORTHODOX MUSLIMS AND RESISTANCE TO COLONIAL RULE**

The religious controversy generated by Ghulam Ahmad and his successor Mahmud Ahmad took on an overtly political dimension as the nationalist and the Indian Muslim causes took on greater urgency in India, beginning with the end of World War

One. The Ahmadiyya community's self-professed apolitical stance on communal and other political issues was slowly set aside as Mahmud Ahmad began to play an increasingly active role in popular Indian Muslim causes. One aspect of this greater participation as we saw above was Mahmud Ahmad's dialogue with the British colonists through addresses, letters and such as a means of imparting his community's views on communal and other issues facing the Indian community. In these, Mahmud Ahmad sought to maintain a balance between a loyalist stance towards the British on the one hand and an affinity with Indian Muslim community on the other.

With regards to direct participation in Muslim nationalist causes, a number of practical difficulties were faced that were, however, not specific to the Ahmadis alone. The most significant of these was the question of who can legitimately speak on behalf of the Indian Muslim community as well as the definition of the Muslim community itself. These issues rose to surface during the Khilafat Movement which saw a range of opinions and disagreements on these issues, ranging from Sir Syed Ahmad Khan's dismissal of the Ottoman Sultan's very claim to the caliphate, the poet Muhammad Iqbal's rejection of the Ottoman Sultan as having authority over the entire *ummah* (Muslim community), the majority of *ulama's* perception of the defeat of Ottoman Turkey as a calamity for the Muslim world at large, and the support of the Khilafat Movement by prominent Indian nationalist leaders such as the Ali Brothers, Zafar Ali Khan and Abul Kalam Azad on pragmatic political grounds (Minault 1982; Jalal 2000: 188-195). Mahmud Ahmad also rejected the claim on both religious grounds (since it would have been subversive to Ghulam Ahmad's claim to be the *khalifatul masih* and politically because the Khilafat Movement was a direct confrontation of Indian Muslims with the British. The wide

difference of opinion on the issue of the Ottoman caliphate revealed the multiplicity of political orientations towards the question of the relevant political community for the Indian Muslims, ranging from the entire *ummah*, the Indians, and the Indian Muslims.

The significant event that brought rivalries and differences among different Muslim groups over these issues and one in which the Ahmadiyya community was centrally involved in was the cause of suffering of Kashmir's Muslims that was taken on by prominent Indian Muslims in the early 1930s. Kashmir holds a special place in Ahmadi theology because of Ghulam Ahmad's claim that Jesus had died and was buried in Kashmir. Kashmir was also one of the central places in India where active missionary work was undertaken by the Ahmadis (Lavan 1974: 146).

Kashmir, a predominantly Muslim area, emerged as a 'princely state' in 1846 when the British gave patronage to a Hindu to become its ruler. A succession of Hindu rulers followed and a significant feature of their rule was a thinly veiled despotism and a trampling of the rights of their subjects. Muslims were a main target as most Muslim places of worship were in possession of the state; conversion of non-Muslims to Islam was punishable and religious preaching by Muslims strictly controlled; cow slaughter was illegal; Muslims were excluded from the Army and had poor representation in government services. In the context of high taxation, extreme poverty and world-wide depression, the early 1930s witnessed organized Muslim agitation against the Hindu ruler in Kashmir who was given patronage by the British in the wake of an incident involving the desecration of Quran by a Hindu police constable, the news of which spread all over Punjab. Newspapers in Punjab were quick to seize on the story and stories about the

Hindu ruler's policies and atrocities against Kashmiri Muslims widely narrated and published (Jalal 2000: 353-5).

Since the early 1900s, an organization called the Kashmir Muslim Conference had been serving as one of the main venues through which Kashmiri Muslims articulated and disseminated their grievances, most centrally through the organization of annual meetings in Kashmir. In the early 1930s, several Muslim groups dashed to assume the leadership role of the Muslim agitation in Punjab over the Kashmir situation. One of the first bidders for this role was the *Majlis-e-Ahrar-Islam* (in short, Ahrar), a Muslim political organization formed in 1931 "which included anti-imperialists, Islamic universalists and communitarian bigots of varying measures" (Jalal 2000: 349). The leaders of Ahrar, such as Mazhar Ali Azhar and Attaullah Shah Bukhari would play a leading role in anti-Ahmadi agitation both under colonial rule and in the 1953 anti-Ahmadi riots in Pakistan. At this time, they took up the cause of Kashmiri Muslims and started organizing rallies and calling for volunteers to march to Kashmir. Another prominent individual with a special interest in Kashmir was the poet and the politician Mohammad Iqbal (1877-1938), regarded as Pakistan's national poet. Being a Kashmiri himself, Iqbal had taken an interest in the Kashmiri Muslim cause prior to the events of early 1930s. The significant thing about Iqbal was that he had close ties to Ahmadiyya community. Some, including the Ahmadi, claim that Iqbal was not only highly impressed with the teachings of Ghulam Ahmad but was an Ahmadi himself, a charge denied by his son Javed Iqbal who addressed this issue in his biography on his father (Iqbal 1992). A number of Iqbal's family members were confirmed Ahmadi and perhaps because of these ties, Iqbal extended his support (along with a number of other influential Indian nationalist leaders)

to making the Mahmud Ahmad the Chairman of the Kashmir Committee. This split the Muslims right down the middle since a significant number of Muslims, including the Ahrar supporters, were suspicious of supporting an Ahmadi led organization, charging that the Ahmadis were using the agitation as a means of promoting their missionary activity in Kashmir. Lavan argues that the Ahrar in fact entered the Kashmir agitation as much to oppose the Ahmadis as to support the cause of Kashmiri Muslims (Lavan 1974: 149). Sheikh Abdullah, the Kashmiri nationalist leader, had close ties to the Ahmadiyya community as well, an association which because of Abdullah's highly critical stance of both the Kashmir government and the British patronage of it led the British to view the Ahmadi role in Kashmir suspiciously. Thus, as Lavan's analysis suggests, "The Ahmadiyah, while claiming to be in Kashmir for religious reasons and intensely loyal to Government, in fact were acting in a most political manner which ran counter to British support of the *Darbar* [court] in Kashmir" (ibid.: 160).

As a result of these internal conflicts, Mahmud Ahmad was forced to step down from his leadership role of the Kashmir Committee in 1933 and Iqbal made its temporary president. A little over a month later, Iqbal resigned from the post, declaring that he was unable to carry on the task since Ahmadis were unwilling to accept his leadership (Jalal 2000: 364). In fact, Iqbals' appointment had generated considerable criticism within the Muslim circles since Iqbal was more readily accepted as a man of letters and less so as an effective organizer and politician. The Kashmir agitation slowly petered out within a year and the Kashmir Committee dismantled. For our purposes, however, what is significant is that during the course of the Kashmir agitation, a rift had appeared between Iqbal and the Ahmadiyya community most likely fostered by Iqbal's close ties with the Ahrar

leadership who prevailed upon Iqbal the danger of letting Ahmadis assume any leadership role in Indian politics. Equally significant was the appointment of the prominent Ahmadi lawyer Zafrullah Khan to the Viceroy's Executive Council, a position coveted by Iqbal himself.

It is within such a context that I approach Iqbal's famous declaration of Ahmadis as non-Muslim in the Calcutta *The Statesman*. This declaration is especially significant because given Iqbal's huge stature and prestige in Pakistan (he is considered the 'national poet'), his polemics against the Ahmadiyya community have been repeatedly used to lend legitimacy to the anti-Ahmadi demands. In a letter to the editor of *The Statesman* that appeared on 10<sup>th</sup> June of 1935 under the caption "The Qadiani Question", Iqbal presented his views on the place of Ahmadiyya community within Islam<sup>39</sup>. He began by stressing the centrality of the belief in the finality of Prophet Mohammad in Islamic world-view, maintaining that Ghulam Ahmad's theological position constituted a fundamental subversion to the very essence of Islam. Equally essential for Iqbal was the Ahmadiyya community's self-separatism in "both religious and social matters". And yet, Iqbal wrote, the Ahmadis wanted to remain within the fold of Islam and had gotten themselves declared a separate "sect" of Islam but not a "political minority". This, Iqbal argued, constituted an anomaly which could be explained by the importance of the politics of numbers within the colonial context. Because Ahmadis were so less in number, they could not hope to enter the legislature through the system of separate electorates:

"The Muslim community is perfectly justified in demanding their immediate separation from the parent community. If the Government does not immediately agree to this demand, the Indian Muslims will be driven to the suspicion that the British Government is keeping the new religion in store as it were, and delaying the separation because in view of the small number of its adherents it is, for the preset, incapable of functioning as

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<sup>39</sup> Press cutting retrieved from L/PJ/7/751, India Office Records, British Library U.K.

a fourth community which may effectively damage the already marginal majority of Punjab Muslims in the Local Legislature [sic]. The Government did not wait for a formal representation for separation by the Sikhs in 1919; why should they wait for a formal representation by the Qadianis?"

Iqbal's comments in *The Statesman* were preceded by an earlier article in 1934 titled "Qadianis and Orthodox Muslims" in which he called the Ahmadiyya movement "a serious danger to the solidarity of Islam" (Iqbal 1976: 59) whose emergence was made possible by the "liberal and indispensable" British policy of non-interference in religion:

"Any religious adventurer in India can set up any claim and carve out a new community for his own exploitation. This liberal state of ours does not care a fig for the integrity of a parent community, provided the adventurer assures it of his loyalty and his followers are regular in the payment of taxes due to the State." (ibid.: 63)

Iqbal therefore combined his critique of the Ahmadis with that of British state's supposed policy of non-interference which created "forces of disintegration" within traditional Indian communities. Iqbal likened this "disintegration" to the distinction created by the British colonial state between rural and urban Muslims, characterizing it as "a distinction which has cut up the Muslim community into two groups and the rural group into several sub-groups constantly at war with one another" (ibid.: 65).

Iqbal's article drew a response from the Indian nationalist leader Jawaharlal Nehru who questioned the mixing of religion and politics in Iqbal's rendering of Ahmadis as non-Muslims. In turn, Iqbal published a rejoinder titled "Islam and Ahmadism" in which he attempted to shift the discussion of the Ahmadiyya movement away from "purely theological" matters as the Indian *ulama* had done and towards "a careful psychological analysis of the revelations of the founder" (ibid.: 26). The gist of Iqbal's argument against Ghulam Ahmad was that the latter had seized on the "ignorance" of "the innocent [Punjabi] peasant who has been for centuries exposed to all kinds of exploitation" (ibid.: 30-1). Ghulam Ahmad is presented as the last of these

exploiters, fundamentally in cahoots with the British rulers and rather than being “a reform movement”, bent on taking Islam “back to the fogs of medieval mysticism” and “political servility”. Thus Iqbal delivered his ultimate blow:

“I dare say the founder of the Ahmadiyyah movement did hear a voice; but whether this voice came from the God of Life and Power or arose out of the spiritual impoverishment of the people must depend upon the nature of the movement which it has created and the kind of thought and emotion which it has given to those who have listened to it.” (ibid.: 32-3)

Iqbal’s attack was conducted through written polemics and proceeded from his self-positioning as a student of history, philosophy, psychology and comparative religion. This was a radically different form of attack than that conducted by the most vicious nemesis that Ahmadis would face, both in British India and Pakistan, namely the right-wing Ahrar whose very claim to occupy public space in the Indian landscape of the 1930s and 1940s came to rest on their anti-Ahmadi polemics. I now turn to a brief examination of the Ahrar-Ahmadi confrontations in British India<sup>40</sup>.

The Ahrar party was initially formed as Muslim nationalist party that would work closely with the Congress to safeguard the interests of the Muslims by ensuring adequate Muslim representation within the Congress (Government of Punjab 1939). However, the Ahrar slowly drifted apart from the Congress by the early 1930s were slowly emerging as a “communal” body at odds with both Hindus and Ahmadis. The Kashmir agitation discussed above was central in the development of the mutual hostility between Ahmadis and the Ahrar. However, while the Ahmadi led All-India Kashmir Committee had

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<sup>40</sup> An excellent source for examining this relationship is two secret “notes” written by the Government of Punjab on the Ahrar and Ahmadis for the Government of India, titled “The Ahrar Movement in the Punjab, 1931-38” (Government of Punjab 1939) and “The Ahmadiyya Sect: Notes on the Origin, Development and History of the Movement” (Government of Punjab 1938). In addition to serving as a source of information for the historical events that transpired (albeit from the state-centered viewpoint), they also provide a resource for analyzing the local Punjab government’s policy towards the management of religious difference within a single “political” community of Islam as well as of its relationship towards both the Ahmadiyya community and the Ahrar.

followed constitutional and moderate means, Ahrar had been “violent and favored direct action” (ibid.: 9). In 1933, in a general meeting, the Ahrar passed a number of resolutions concerning their future program, one of which was to ensure that Ahmadis did not get elected to public offices and that Ahmadi candidates did not receive any votes in the upcoming elections. With the end of the Kashmir agitation in early 1934, the Ahrar leaders began devoting more energy towards their anti-Ahmadi activities “in which campaign they were once again finding a good public platform” (ibid.: 31). The campaign included public speeches against the Ahmadis, particularly Zafrulla Khan’s appointment in the Viceroy’s Executive Council and setting up of a number of “Tabligh” Conferences and public meetings in or around Qadian in 1933 and 1934 in which anti-Ahmadi speeches were made by Ahrar leaders known for their power of public speaking. The general theme of these conferences was giving accounts of Ghulam Ahmad’s “heresies”, the Ahmadiyya community’s separatism from the rest of the Muslims and the treatment non-Ahmadis in Qadian. These conferences were both well attended (generating crowds numbering in the thousands) and well received by orthodox Muslims. During this time, a number of Ahrar leaders were arrested for their anti-Ahmadi speeches. A conference held in Qadian in October of 1934 led to the prosecution of the eloquent Ahrar leader Atallah Shah Bukhari for saying provocative things about Ghulam Ahmad. Towards the end of 1934, Ahmadis began to hold counter public meetings.

The effect of Ahrar meetings was an increasing widespread sympathy amongst Punjabis for the Ahrari anti-Ahmadi cause. Efforts to recruit volunteers and raise money for the anti-Ahmadi cause were doubled and an “anti-Qadian day” organized by the

Ahrar on the 14<sup>th</sup> December of 1934. Speeches and rallies against the Ahmadiyya community continued into 1935, leading Mahmud Ahmad to accuse the government of partiality towards the Ahrar. A newspaper war was simultaneously going on, with the Ahrar using their newspaper *Ahrar* and the influential Lahore-based newspaper *Zamindar*<sup>41</sup> to disparage the Ahmadis, and the Ahmadis using their newspaper *Al-Fazal* to communicate their counter-attacks on the Ahrar. A Punjab government official subsequently made the following observation on Ahrar activities at this time:

“The Ahrars, who at this period were at the height of their power, were undoubtedly seeing in this agitation a good opportunity to increase their political strength in anticipation of the new constitution<sup>42</sup> and were not averse to collecting the funds popular sympathy for their cause was supplying.” (ibid.: 37)

The increasing public popularity of the Ahrar was halted during the course of Muslim-Sikh agitation arising out of the demolition of the Shahidganj Mosque in Lahore in 1935, an agitation in which Ahmadis joined the rest of the Muslims in condemning and from which the Ahrar kept a distance. The Ahrar at this stage maintained close ties with the Indian National Congress as a result of which they limited their agendas to anti-Ahmadi and anti-British causes and sought to avoid communal issues involving Hindus, Muslims and Sikhs. However, the anti-British stance of the Ahrar and their increasingly nationalist stance, calling for complete independence of India, slowly “rehabilitated” their position within the Punjab public (ibid.: 40). The Ahrar-Ahmadi controversy slowly lost its earlier urgency as the Shahidganj Mosque affair, Indian constitutional debates and the elections of 1936 came to occupy the public space. Prominent Ahrar leaders however continued to tour the Punjab countryside, delivering anti-Ahmadi speeches, and routinely

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<sup>41</sup> *Zamindar*'s editor Akhtar Ali Khan was well known for his sympathies with the anti-Ahmadi cause and who would play a leading role in the anti-Ahmadi agitation of 1953 in Pakistan.

<sup>42</sup> This reference to “the new constitution” referred to what would be termed the Government of India Act of 1935 which was being drafted at that time in Britain and which would serve as India's last constitution under colonial rule.

passing anti-Ahmadi resolutions in their meetings. In the middle of 1936, Ahmadi-Ahrar dispute arose over the burial of Ahmadis in the Qadian cemetery and in July 1937, the Ahrar joined hands with a number of excommunicated Ahmadis to reveal the lavish lifestyle of Mahmud Ahmad. Significantly, in March 1937, Ahrar suggested that the Punjab Legislative Assembly should pass an act declaring Ahmadis non-Muslim. At the same time, Ahrar maintained their distance from Jinnah's All-India Muslim League on the grounds that they would not co-operate with any political body that included Ahmadis in their midst.

Despite the anti-Ahmadi campaign of the Ahrar, relations between Ahmadis and other Muslims remained largely cordial. Especially noteworthy is a Punjab police officer's observation, made in 1928, regarding Ahmadis' use of general Muslim mosques:

“There is not a single incident on record in which his followers have been denied the use of mosques or Muhammadan burying-grounds or have in any way been molested, except in one case at Cuttack where some converts to Ahmadiyyaism wished to change the form of worship in the principal mosque in the town – a course to which the rest of the Muhammadan population naturally objected.” (Government of Punjab 1938: 1)

The same officer also noted the “excellent services” rendered by Ghulam Ahmad's family during the rebellion of 1857, and the Ahmadiyya community's non-involvement in the Khilafat and non-co-operation movements. A subsequent report of 1938 however noted that “The year 1935 was marked by a definite change in the attitude of the Qadian Ahmadis towards the Government” (ibid.: 17). Disillusioned by the Government's lack of response to what he saw as an outright attack on his community by the Ahrar, Mahmud Ahmad permitted the formation of a “political” body of the Ahmadiyya Jamaat, the National League, with one of its tasks being to “teach courtesy to the Government and its subjects”. The 1938 report noted that the British had reason to

believe that the National League intended to “instigate the Muslims of other countries in the name of Islam and pan-Islamic principles against the British government through the preachers of the community already in the field” (ibid.: 17). Public rhetoric by Ahmadis at this time began to include vocal discontent with the government. This was done in a context in which an increasing number of Muslims were rallying behind the Ahrari anti-Ahmadi cause and the Ahmadis were facing greater isolation than ever before. Significant factors leading to this isolation was the Ahrari rhetoric of Ahmadi “rule” in the city of Qadian and the harassment of non-Ahmadis in Qadian by Ahmadis. Furthermore, Mahmud Ahmad alienated the Sikhs at that time by claiming that Guru Nanak, founder of Sikh religion, was a Muslim.

That the British government was fully mindful of not only Hindu-Muslim communal tensions but also intra-Muslim tensions, particularly that between Ahmadis and others, can be seen by the reasoning used by British authorities with regard to an opening of the position of Chief Justice in 1938. Zafrullah Khan, member of Viceroy’s Executive Council as noted above, a practicing lawyer and one of the most prominent Ahmadis, had made known his wish to be considered for the position, and was being seriously considered for the position<sup>43</sup>. A number of objections were raised with regards to this appointment amongst the British officials. First was that while a successful lawyer, Zafrullah Khan had never previously held a judicial post and that his appointment may cause resentment among the local bar who would feel that they were being by-passed in favor of an outsider. A second was that the appointment of a Muslim judge may cause resentment at a time during which Hindu-Muslim communal tensions were high. Muslim press had already noted the vacancy and had expressed their desire for a Muslim Chief

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<sup>43</sup> India Office Records L/PO/8/92. Accession no. 8433, National Documentation Center, Islamabad.

Justice. One official, however, considered Zafrullah, despite him having “great regard for his abilities and character”, “out of the question” because the appointment “would not be acceptable to Mohammadans as a body, since Zafrullah is an Ahmadi, and feeling between members of that sect and orthodox Muslims (which is always bad) is worse at the present time and for many years”. Another official noted to Lord Linlithgow, Viceroy of India between 1936 and 1943, that “the principal objection to his appointment lies, in my opinion, in the fact that he is an Ahmadi and, I am afraid, a fanatic and leading adherent of that sect”, and that “I am convinced it would not be popular with Muslims generally”<sup>44</sup>. Zafrullah Khan was not appointed to the position.

In short, by the end of 1930s, the Ahmadiyya community was beginning to get increasingly isolated from the neighboring communities in Punjab, both Muslim and non-Muslim, as well as the British. Furthermore, Iqbal’s public polemics against the Ahmadis were widely noted and commented upon in both the Indian and British press and further hampered the position of the Ahmadiyya community within Muslim politics in the 1940s.

### **3.5. THE MARCH TOWARDS INDEPENDENCE: AHMADIYYA COMMUNITY, PAKISTAN MOVEMENT AND THE PARTITION OF INDIA**

In 1938, the Ahmadiyya leadership in Qadian wrote a letter to Mohammad Ali Jinnah, the leader of the All-India Muslim League (AIML), the separatist Muslim nationalist party spearheading the cause of greater political autonomy for Muslims in India. At that time, Jinnah and his Muslim League were beginning to increasingly part ways with the Indian nationalist Congress, and in their letter to Jinnah, the Ahmadi

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<sup>44</sup> *ibid.* However, no consideration was given to Zafrullah Khan’s religious status when it was tie to renew his membership to the Viceroy’s Executive Council in 1939, a position he continued to occupy until 1941. India Office Records L/PO/8/53. Accession no. 8369, National Documentation Center, Islamabad.

representative Farzand Ali appraised Jinnah that “the question whether members of the Ahmadiyya community should join the Congress or the League has been under serious consideration at the Headquarters of the Movement for some time past”. Their difficulty, Farzand Ali wrote, arose from the Punjab Provincial chapter of Muslim League having banned Ahmadis from its memberships on the grounds of their being not Muslim<sup>45</sup>. Farzand held that unless these views were “authoritatively discarded” and Ahmadis allowed to participate in the AIML like other Muslims, the Ahmadis could not be expected to join the AIML and “may be reluctantly driven to negotiate with the Congress”. Subsequently, another letter was written to Jinnah reiterating the position of the Ahmadiyya community and requesting Jinnah to clarify his position on the stance taken by the Punjab Provincial League. If he disagreed with the Provincial League, it was suggested that he may “kindly take suitable steps to impress upon the Provincial Branch their mistake in this matter”. Jinnah responded by reminding the Ahmadiyya community that under the new constitution of AIML, the Provincial Leagues stood disbanded as they were going to be replaced by District level Leagues, and that “it is for you to adopt such course as you may consider proper”.

Despite their thinly veiled threat however, the Ahmadiyya community was reluctant to join the Congress because Mahmud Ahmad was concerned about the rights of Muslims under a Hindu majority in India. Furthermore, Gandhi’s refusal to give assurance that Muslim missionary activity and conversion would be freely allowed in

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<sup>45</sup> The exact timing of the ban is unclear although it appears to have been undertaken somewhere around mid-1930s and without consultation with the central Muslim League (Friedmann 1989: 37-8). All members of Punjab Muslim League intending to run for elections for seats in the Punjab Legislative Assembly were required to take the following oath: “I solemnly promise that if I am elected, I will seriously struggle to get “Qadianis” declared a separate minority from the Muslims for the betterment of Islam and India”. Shamsul Hasan Collection, Volume number 24. National Documentation Center, Islamabad. *Translation mine*.

independent India led the Ahmadiyya movement to remain aloof from the nationalist cause being led by Congress (Friedmann 1989: 38). In a letter to Liaqut Ali Khan, a close aide of Jinnah and the future first Prime Minister of Pakistan, the Ahmadiyya community again requested a clarification of AIML's position towards Ahmadis, for "before we can think of joining the Muslim League, we must be assured that we shall be eligible, as members of the League, for all the political privileges which are open to the Muslim community". Perhaps expecting another lukewarm (or no) response, the letter stated the Ahmadiyya community's reasons for wanting an involvement in the nationalist movement underway:

"In negotiating any understanding with the Congress, assurances must be obtained to the effect that should the Congress come into power, they would not only permit the free practice, profession and propagation of faith to all and sundry but that they will also refrain from imposing any restrictions, direct or implied, on from one faith to another. This is a very important matter from our point of view..."<sup>46</sup>

This time, the Assistant secretary of the AIML Shamsul Hasan responded, stressing that AIML did not allow "communal representation" and that every member was enrolled in their "personal capacity". Regarding the community's reference to joining the Congress, Shamsul Hasan stated that that decision "entirely rests on your free will and in that case the Congressite Ulmas like Ataullah Shah Bukhari and Habiburrahman Ludhianvi will be the best authority to be consulted for the religious stand point of your community." Mentioning known Ahrari *ulama* Bukhari and Ludhianvi was surely a sarcastic reference to the anti-Ahmadi elements prevailing within the Congress itself, and Shamsul Hasan's letter drew a provoked response from the Ahmadiyya community, who again wrote to Liaqut Ali Khan, protesting that the response to their letter had come from "a paid subordinate official" whose letter contained "a sort

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<sup>46</sup> *ibid.*

of vulgar gibe at us, referring to our relationship with Ahrar, [which] is absolutely uncalled for besides being couched in very bad taste”. The letter once again requested a clarification of AIML’s position with respect to the equality of treatment between Ahmadis and other Muslims and demanded that the AIML explicitly define as Muslim as “any member of a Class or Community who profess to be Muslim and whom non-Muslims look upon such”.

Shamsul Hasan responded to this letter through a letter addressed to Liaqut Ali Khan, forwarded also to the Ahmadiyya community, in which he lodged his own protest to being called a “paid servant” and argued that the word “Muslim” was best left undefined by the AIML for the sake of Ahmadis themselves:

“...if it is considered at all necessary to define the word, I would ask the Nazir [Ahmadiyya organization official] to give out the view point of his community towards the Muslims who are not Ahmadis. Are they not Kafir in light of the Fatwa given out so often by the Founder of the Ahmadiyya community? I daresay it is the Fatwa alone which has dug a wide gulf between Muslims and Ahmadies; and which can not be bridged by simply defining the word ‘Muslim’ in the way suggested by the Nazir. Such an amendment to the Constitution at the Annual Session is sure to cause a havoc and create religious and sectional controversies in the League.”<sup>47</sup>

This communication, which took place in the first half of 1941, seems to have come to an end at this point, although the Ahmadiyya community attempted to elicit a response from Liaqut Ali Khan. The issue was raised once again in 1944 when it was reported in newspapers by the Ahmadiyya community that Jinnah in a public conversation had referred to the Ahmadiyya community as a section of Islam and stated that Ahmadis were free to join the Muslim League. The account “perturbed” one Muslim enough to send a letter to Jinnah asking if indeed “an Ahmadi can become a Member of the Muslim League?” Jinnah at that time was forced to issue a public statement stating

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<sup>47</sup> *ibid.*

that he had not agreed to anything and that he had merely reiterated a clause in the Constitution of AIML that held that all members of AIML must be Muslim, residents of British India and at least 18 years of age. The issue seems to have died down after this.

In 1946, provincial elections were held in India. One of the aims of the elections was the forming of Constituent Assemblies for the future states of India and Pakistan. The Ahmadiyya community approached Jinnah in 1945 with their decision that they had “decided to co-operate with the Muslim League in all possible manner in the coming electoral campaign” with the expectation that they would not be given the same “step-motherly treatment” that they had received in the past. They proposed to Jinnah that only those AIML members should be given the ticket to contest the elections on an AIML seat who, regardless of their religious persuasion, could prove that they would command the largest number of votes in that constituency. However, it was stated, the Ahmadiyya community’s support was contingent on the Punjab Provincial League recanting from their earlier position that Ahmadis were not Muslim. There seems to be no reply to this letter.

These various communications between the Ahmadiyya community and the AIML leadership reveal that the former found itself unable to forge a meaningful political alliance with not only AIML but with any significant political actor in the decade preceding independence. From the standpoint of AIML, the Ahmadis appear to have been considered a liability, an alliance with who would compromise AIML’s attempts to consolidate their position as the only legitimate leadership of the Muslims of India.

However, the Ahmadis chose to make Pakistan their future home at the time of the partition. Around 1947, the Ahmadis sent a petition to the Boundary Commission set up

by the British government to demarcate the territories of independent India and Pakistan. In it, the Ahmadis made a case for the inclusion of the District of Gurdaspur in which the city of Qadian is located in Pakistan. The demand resulted from the location of this district in an area in Punjab through which the boundary between India and Pakistan would be drawn<sup>48</sup>. For reasons that are unconnected to the Ahmadis or this petition, the District of Gurdaspur was placed in India. Following this, the Ahmadiyya community first announced that it was choosing to stay on in India “and, in keeping with their well-known teaching and traditions, to live as loyal citizens under the new India Government” (Ahmadiyya Community 1947b: i). The decision was undertaken for two reasons: first, because it was the duty of Ahmadis to remain close to their sacred places (unless they were ordered or forced by the government to vacate), and second, “it was their duty to make Qadian a test case and provide to the outside world visible evidence whether Muslims who desired to live in the Indian Union as loyal and peaceful citizens were really wanted and could really have the protection which the Government promised them” (ibid.: i-ii). Letters were sent to Indian nationalist leaders, including Nehru, Patel and Gandhi, appraising them of the violence being perpetrated by Hindus, Sikhs and the local authorities on the Muslims in Qadian and surrounding districts, and requesting a

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<sup>48</sup> The following reasons were enumerated by the Memorandum:

- “1. It is the living centre of the world-wide Ahmadiyya Movement in Islam.
2. Its sanctity is greater than that of any other shrine in India.
3. People flock to it from all over the world seeking religious instruction and missionary training.
4. Most of the basic Ahmadiyya literature written by the Holy Founder of the Ahmadiyya Movement is in Urdu which is the language of Pakistan and which is being discarded in Hindustan.
5. 74% of the branches of the Ahmadiyya Community lie in Pakistan.
6. Most of the financial assets of the Community lie in Pakistan.
7. The District in which Qadian lies has a clear Muslim majority and is contiguous to Western districts.
8. The services of the Community in Peace and War are second to none. Its interests, therefore, should not be sacrificed to those of any other community.” (National Documentation Center 1983: 428)

clear statement on what the new Indian government desired with respect to the Ahmadiyya community. A letter sent to Gandhi read:

“If the India authorities do not want us to live in Qadian let them say so in writing. Then we will have a clear cut choice before us. But no writing is given. Until, however, such a writing/ is given, we propose to stick to Qadian. Ahmadi blood will continue to flow in the lanes of Qadian to prove to the world that Ahmadies cannot abandon their sacred places; when those who hold the place die, there will be others to take their place until God restores our sacred town to us. Aye, Ahmadies will continue to make a present of their blood to the Indian Union.” (ibid.: 54-5)

Soon thereafter, following intense rioting between Muslims and Sikhs in Punjab, the head of the Ahmadiyya community moved to the city of Lahore in Pakistan and started making efforts for the safe migration of Ahmadis in Qadian to Pakistan. A *The Pakistan Times* editorial commented on the complicity between the new Indian government and the Hindu and Sikh rioters and noted that “With all its record of unqualified loyalty and ungrudging service to the Government established by law, the Ahmadiyya community is now threatened from a quarter from which it was least prepared to expect trouble”. The editorial also noted the protection and aide provided by Ahmadis to neighboring non-Ahmadi Muslims around Qadian and appealed to the Punjab government for the safe evacuation of Ahmadis in Qadian (*The Pakistan Times*, Lahore: 4 October 1947).

During the partition riots, the Ahmadiyya community approached the British government countless number of times through the Imam of its London mosque, reminding it of the Ahmadiyya community’s loyalty to the British under colonial rule and requesting that it intervene on its behalf and make a representation to the Government of India to stop the perpetration of violence against the Ahmadis. Furthermore, Ahmadiyya organizations from all over the world approached the British government, expressing their indignation over what they called the unfair placement of Qadian in India and

requesting information on the happenings in Qadian and the well-being of their community. Throughout, the British government maintained that it was unable to intervene into the affairs of the new dominions of India and Pakistan<sup>49</sup>. These and internal communications among the British government in London and local British officials in India reveal that the Ahmadis had in fact received more protection in evacuating India than other Muslim communities had and that the Ahmadis had also reacted aggressively to the surrounding Sikhs. The point to note, however, is that during the last decade of the colonial rule and including the moment of partition, the Ahmadiyya community was unable to prevail upon any government – British, Indian, or Pakistani – to emerge as its unwavering friend and supporter. Perhaps it is for this reason that immediately upon migration to Pakistan, the Ahmadiyya community chose to settle in Rabwah, an undeveloped land situated ninety-five miles west of the city of Lahore brought from the government, and soon declared to be the community’s spiritual headquarters in the world. Here, Ahmadis proceeded to set up administrative, educational, and social infrastructure akin to that which had previously existed in Qadian with little interference from the state until 1974 when this set-up was brought under crucial scrutiny during the anti-Ahmadi riots which led to the promulgation of the second

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<sup>49</sup> In a letter dated 30<sup>th</sup> September, 1947, a British official informed the Ahmadi Imam in London that “His Majesty’s Government are unable to intervene with the Government of India on behalf of your community. Any such step on our part, or even any specific enquiries regarding the welfare of members of your community would, it is feared, be misunderstood”. The letter stated that “the risk of embarrassment” to the British government was further increased because of allegations of complicity of Qadian in violence in Punjab and that it could not expose itself to “accusations of partiality in the communal conflict which is taking place”. In an internal communication on this letter, it was noted that although these allegations against Ahmadis “may be quite untrue”, “it is worth while to draw the Imam’s attention to them, since they prove that we can do nothing on his behalf without acute embarrassment to ourselves. The Imam will no doubt reply with an indignant denial of the accusations; but this would be beside the point.” L/P&J/7/12329. India Office Records. Accession no. 9322, National Documentation Center, Islamabad.

Constitutional Amendment of 1974 that legally rendered Ahmadis a ‘non-Muslim minority’.

### **3.6. CONCLUSIONS**

Self-enforced social, institutional and religious separatism of Ahmadis has doubtless played a part in the hostility generated among other Indian (and later Pakistani) religious groups, as has the economic and social standing of many Ahmadis who gained prominence in the political affairs of both the colonial and later Pakistani state. With regard to the former, especially notable is Mahmud Ahmad’s public statement in 1911 in which he declared that anyone who did not believe in Ghulam Ahmad was ‘not a Muslim’ (Friedmann 1989: 158-9). With regard to the traditional *Sunni* Muslims, the reverence for the Prophet Mohammad and the perception that the very figure of Ghulam Ahmad represented a serious transgression of a cardinal article of faith in Islamic beliefs must be taken as the final source of *religious* differences. However, these differences increasingly became politicized under colonial rule in the 1930s, and would continue to occupy the discursive space of nationalism in the post-colonial Pakistani society. It is an analysis of this politicization based on the theoretical framework outlined in chapter 2 that the rest of this dissertation will address.

## Chapter 4

### **Defining the Boundaries of ‘Muslim Citizenship’: State Field, Nationalism and the Socio-legal Construction of the Ahmadiyya Community, 1947-1974**

In this chapter, I analyze the shift from the Pakistani state’s accommodation of Ahmadis in 1953 to their exclusion in 1974 through the enactment of the second Constitutional Amendment. Drawing on the theoretical framework laid out in chapter 2, I examine the following four contingent factors for explaining nationalist policy outcomes: dynamics of intra-state competition for state power; the degree of permeability of the space of nationalist discursive strategies; the dispositions of dominant state actors with regard to structuring legitimate political authority and managing relations with citizens; and finally, repertoires of contention of relevant social actors vis-à-vis the state. Additionally, this chapter explores changes in these factors over time to explain the historical “switchpoint” of 1974 by identifying key intervening events and processes that lead to “combination of changes in challenges, resources, understandings, and opportunities”, thereby re-constituting the ways in which key actors defined and devised solutions to (re)current social problems (Haydu 2010:32). The chapter is organized chronologically.

## 4.1. POLITICS OF ACCOMODATION OF AHMADIS IN 1953

### 4.1.1. The Structure of the State Field: 1947-1956

The state of Pakistan came into existence in August of 1947 following a Muslim nationalist movement spearheaded by the All-India Muslim League Party (later Muslim League, henceforth ML) under the leadership of Muhammad Ali Jinnah (deemed *Quaid-e-Azam* or Father of the Nation). Premised on the ‘two-nation theory’ – the idea that Muslims and Hindus of the Indian sub-continent constitute two separate nations – the newly carved state of Pakistan was to serve as a separate state for Muslims living under British colonial rule. However, there was no consensus at the time of the partition about how the idea of a territorially based Muslim nationalism, led by the Westernized upper middle class of India, would translate into the machinery of the state. Before the partition, a number of *ulama* (Muslim scholars trained in Islamic law) and religious parties had expressed their discomfort with the idea of two-nation theory on the grounds of the incompatibility between nationalism and Islam<sup>50</sup>. Others such as Shabbir Ahmad Usmani (1886-1949) joined the ML, were pivotal in the struggle for an independent Pakistan and came to Pakistan armed with clearly articulated ideas about the relationship between Islam and the future Pakistani state (Zaman 2002: 133-5). Islamic Modernists such as Syed Abu’l-A’la Maududi too had opposed the ML’s demand for the creation of Pakistan but after the independence of Pakistan worked closely with the *ulama* in Pakistan for articulating demands about an Islamic constitution for Pakistan (Bahadur 1977; Nasr 1996). In short, there was no consensus amongst the prominent religious and political

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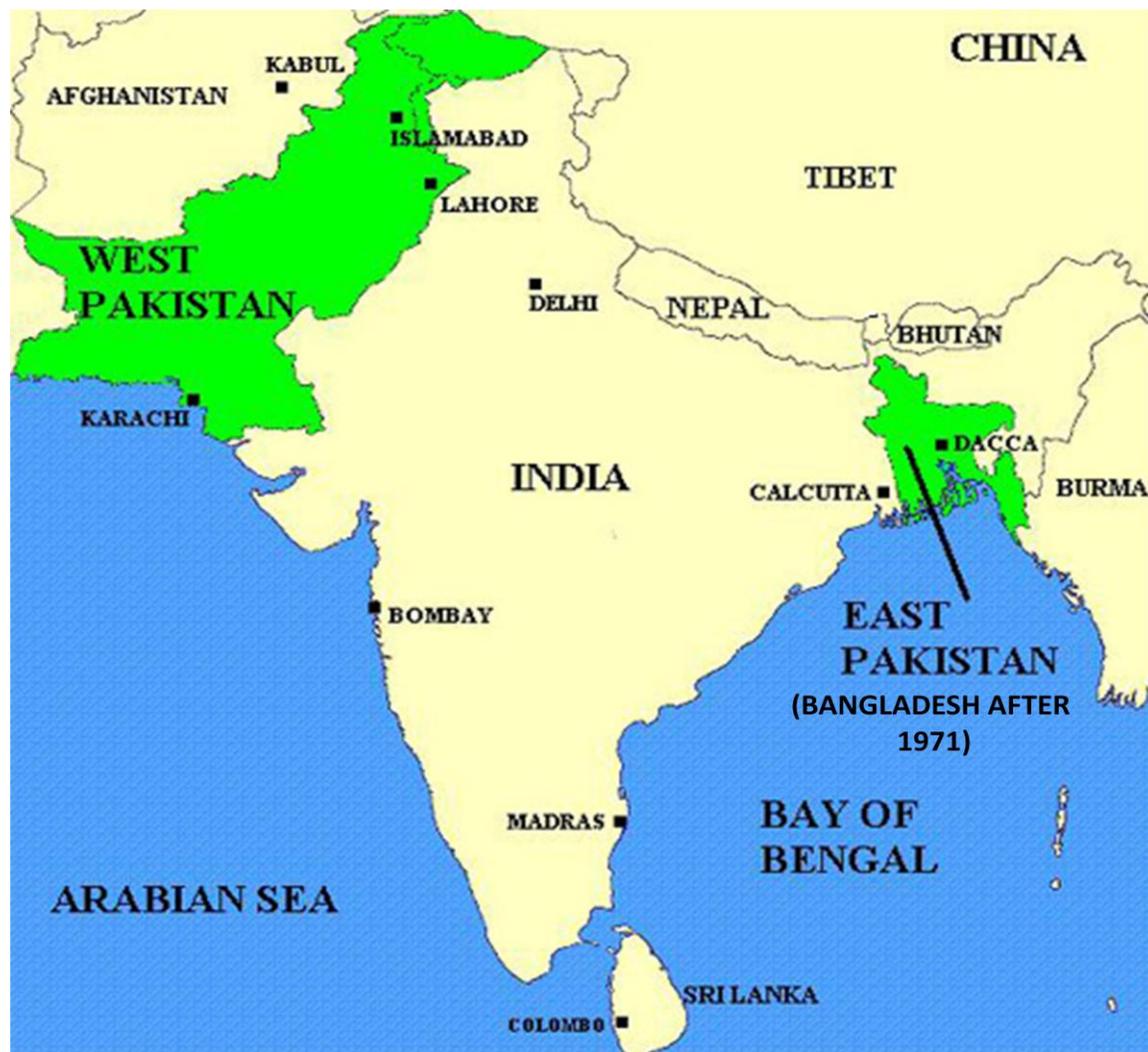
<sup>50</sup> Notable amongst these *ulama* was Syed Hussain Ahmad Madani (1879-1957) of the Deoband School. Prominent religious parties that had opposed the idea of Pakistan and supported the Congress for the Indian Nationalist cause included *Jamiat-ul-Ulama-e-Hind*, *Jamaat-e-Islami* and *Majlis-e-Ahrar-e-Islam* (Metcalf 2008; Zaman 2002)

elites about how the idea of two-nation theory would practically translate into the task of state formation in independent Pakistan.

Social and political cleavages began to emerge almost immediately after 1947 as the bureaucratic and political elites began the task of putting together viable administrative machinery for the new state. A significant geo-political feature characterizing the Pakistani state and one that would play a key role in Pakistan's politics was the territorial structure of the Pakistani state, consisting of two 'wings' – East and West Pakistan – and separated by some 1000 miles with India lying in between<sup>51</sup> (see Figure 4.1, next page). Economic and political marginalization of East Pakistan eventually led to what is popularly referred as a civil war in Pakistan and a Liberation war in Bangladesh in 1971, resulting in the creation of the independent state of Bangladesh. Upon independence, the constitution of the British colonial state, called the Government of India Act of 1935, became with some modifications the working constitution of Pakistan. The Independence Act of 1947 provided for the continuance of the position of Governor-General who in colonial India as a representative of the British crown has enjoyed the highest political authority. In the new dominions of India and Pakistan however, this position was deemed subservient to the political state subfield, centered on the Legislative-cum-Constituent Assembly in Pakistan. However, the balance of power between this body and the Governor-General soon shifted in Pakistan. Unlike India where the power of the Governor-General was considerably curtailed, the Governor-General in Pakistan, a position held by Jinnah since the creation of Pakistan

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<sup>51</sup> While the smaller of the two in size, East Pakistan (part of the pre-partition Indian province of Bengal and officially referred to as East Bengal until 1955) had a larger population that had been more centrally engaged in anti-colonial and nationalist politics during colonial rule. In contrast to its Western counterpart, the populace here had historically shown more support for democratic values and had upheld a more moderate version of Islam.



**Figure 4.1:** Map of Pakistan in 1953.

until his death in September of 1948, continued to enjoy wide powers. According to Ayesha Jalal, a prominent historian of Pakistan, “On the face of it, the legislative

Assembly – which also served as the constitution-making body – was the sovereign authority. It could make or amend laws as well as restrict the governor-general’s powers.

But, very soon after Pakistan’s creation, Jinnah secured his cabinet’s approval to overrule their decisions and assumed similar levers of power *vis-à-vis* the legislative assembly” (Jalal 1991:62)<sup>52</sup>. While Jalal holds that “the mainstay of government after Jinnah was the Pakistan cabinet, responsible to the legislature and, in theory if not in practice, the supreme executive authority” (ibid), Ian Talbot, another influential historian of Pakistan argues for the same period that “authority lay in descending order with the Governor-General, the Prime Minister and the central cabinet” (Talbot 1998: 134). In either case, because of the close linkages between Jinnah and his hand-picked Cabinet, we can hold that during Jinnah’s term as Governor-General, statist power was concentrated in Jinnah’s hands. The structural position of Governor-General thus emerged as a powerful contender for statist capital.

As mentioned above, the political state subfield in the immediate post-colonial periods was centered on the Constituent Assembly of Pakistan, the members of which had been determined through indirect elections held in 1946 under British colonial rule. In the immediate post-colonial period, there were only two political parties in the Constituent Assembly – the ML representing the Muslims which occupied the dominant pole of the political subfield and the Congress Party representing Hindu and other religious minorities which occupying the dominated pole of the political subfield. The

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<sup>52</sup> The powers of the governor-general included the authority to appoint key officials in the state (including the posts of Prime Minister, federal ministers, principal military officers, Governors of provinces, the Chief justice, and other judges of Federal Court) and to legislate and to stop legislations passed by the Federal Legislature by sending them back for reconsideration. His sanction was required for passing certain bills and amendments and he enjoyed immense power of control over provincial governments by virtue of his supervisory role of Provincial Governors who in turn had considerable powers over choosing and dismissing provincial Ministers (Khan 2001: 50-51).

political state subfield on the whole was considerably weakened when Jinnah withdrew from the ML on the grounds that it was a communal organization to which a state executive could not belong and advocated a general separation of the party and the government. However, Jinnah served as the President of the Constituent Assembly where he continued to exert legislative and executive authority while he was alive<sup>53</sup>.

Upon Jinnah's death, the position of state power passed on to Liaqut Ali Khan, Pakistan's first Prime Minister and Jinnah's right-hand man while Khwaja Nazimuddin, a politician, became the country's second governor-general. With this shift, the political state subfield enjoyed a brief ascendancy in national affairs, manifested most starkly in the ease with which it passed the Objectives Resolution in 1949, a resolution on the 'Aims and Objects of the Constitution', akin to a preamble. Premised on a Muslim nationalist discourse, the Objectives Resolution met with wide praise throughout the country, thus consolidating the ML's position as the holder of the most ethno-national capital within the state field. With Prime Minister Liaqut Ali Khan's assassination in October of 1951, the balance of power shifted once again within the state field. This time, it was the bureaucratic field that emerged as a serious contender for statist capital.

The structure of the bureaucratic field in the immediate post-colonial period was in almost all respects a continuation of its colonial predecessor in which British district officials and political agents combined revenue, executive and judicial functions, oftentimes working in collusion with local authorities (Alavi 1983). Indigenous members of the colonial bureaucracy who opted to join Pakistan upon independence occupied these

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<sup>53</sup> According to Jalal, "In a state where political traditions had yet to be established firmly, and where real authority vested in the hands of the governor-general, the delinking of government and party officials worked to the disadvantage of the latter" because it left "the one party capable of claiming a nationwide basis of support out in the cold" (Jalal 1991: 61).

posts in the administrative machinery and continued to enjoy similar discretionary, arbitrary powers in collusion with the provincial and local police (Ibid.: 31-2; Sayeed 1968). According to Hamza Alavi, “the bureaucrats were brought up on the myth of ‘guardianship’, the idea that it was their mission to defend the interests of the people as against the supposed partisanship of and personal ambitions of ‘professional’ politicians” (Alavi 1983: 66). After Khan’s death, Nazimuddin resigned from the position of Governor-General to become the Prime Minister and Ghulam Mohammad, a highly influential ex-bureaucrat and Pakistan’s first Finance Minister was elected by the Cabinet to serve as the Governor-General. The election of Ghulam Mohammad became the means through which the bureaucratic field formally entered the state field, eventually forming a powerful bureaucratic-military oligarchy in direct opposition to the political subfield<sup>54</sup>.

It would be apt to suggest that the Pakistani state field in 1953 – when the question of the religious status of Ahmadis was raised by the religious Right – was as yet unsettled on the question of which state subfield held the monopoly over statist capital. I argue that the ‘Ahmadi question’ brought this as-yet latent struggle to the forefront as well as becoming the immediate means through which the outcome of this struggle was determined. As we saw in chapter 3, anti-Ahmadi demands by the religious establishment have a long history in South Asia that precedes the independence of Pakistan. Even before the creation of Pakistan, the right-wing *Ahrar* was agitating against the Ahmadis and portraying them as heretics, demanding in 1934 that the Ahmadis be declared outside

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<sup>54</sup> A crucial point of contention between Prime Minister Nazimuddin and the military-bureaucratic coalition (led by Ghulam Mohammad and Commander in Chief of Army General Ayub Khan respectively) was the foreign policy of Pakistan, in particular whether Pakistan should form an alliance with British Crown as was Nazimuddin’s leaning (Jalal 1991: 137-8), or whether Pakistan should “enter a Cold War driven regional defence organization sponsored by the USA” (Talbot 1998: 141), a policy preferred by the bureaucratic-military coalition as well as the Ahmadi Foreign Minister Zafrullah Khan but opposed by Nazimuddin.

the pale of Islam and that no Ahmadi be appointed to a public office (the latter being a direct reference to Zafarullah Khan, a prominent Ahmadi personality who was later appointed the first Foreign Minister of Pakistan). In this, the *Ahrar* were ideologically close to the Punjab wing of the ML which too had declared the Ahmadis non-Muslim and barred them from membership, even though the central wing of the League remained evasive on the issue (Friedman 1989: 37-38).

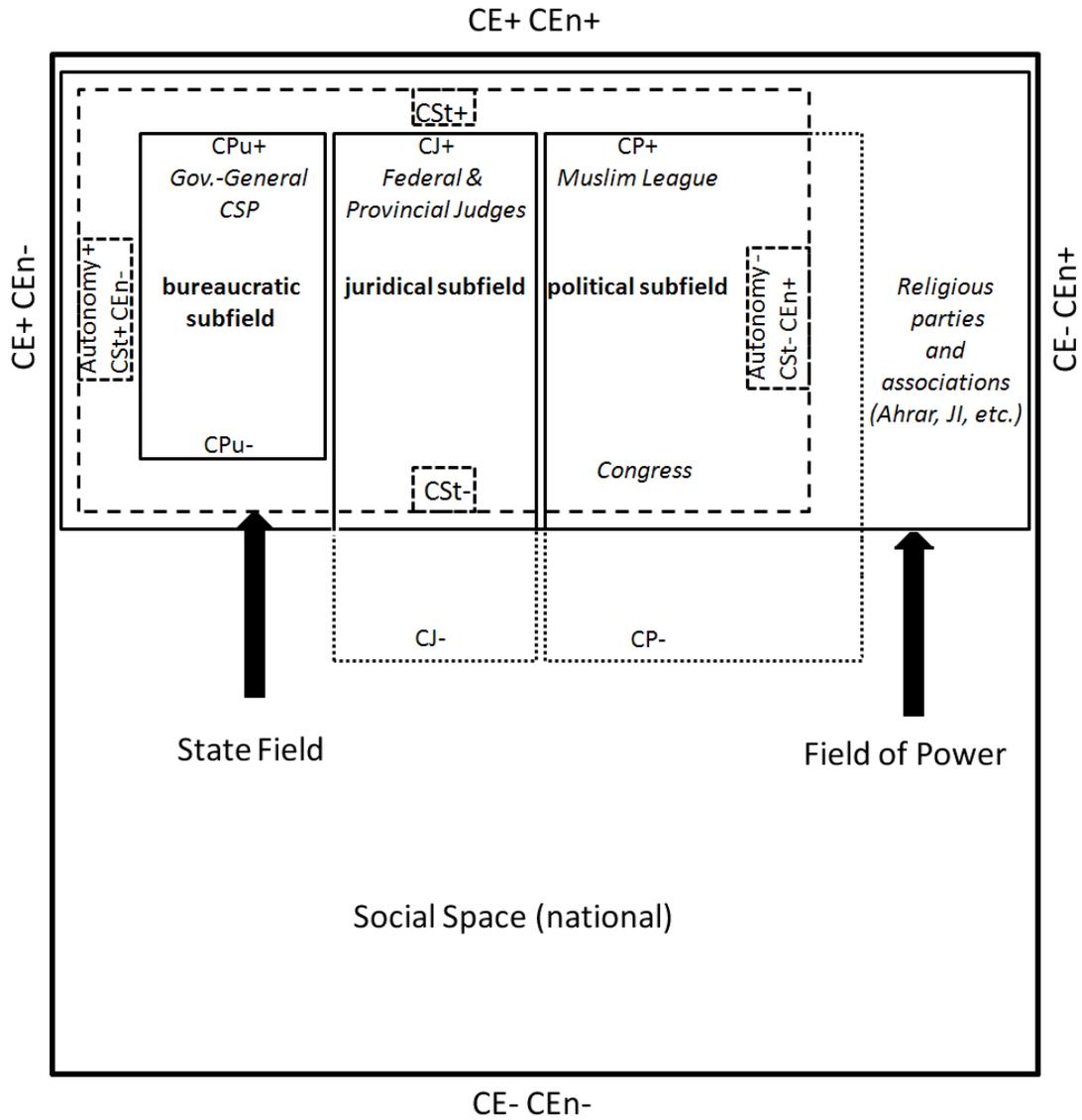
Continued anti-Ahmadi agitation in post-1947 period took a serious turn in early 1953 with the religious establishment – including Islamist party JI, prominent *ulama* and *Ahrar* (Binder 1961: 266) – confronting the state with the demands that the Ahmadis be declared non-Muslim. Additionally, when Nazimuddin entered office, the country was facing an economic crisis which resulted in serious food shortages across the country, a situation to which Nazimuddin was unable to respond aptly and which contributed to the anti-Ahmadi rioting by the *Ahrar*-led agitation. The breakdown of law and order, especially in Punjab led to the imposition of Pakistan's first Martial Law by senior Army officials over the city of Lahore in March 1953. Governor-General Ghulam Mohammad made Nazimuddin's government's inability to deal decisively with the religious right the pretext for dismissing Nazimuddin's government in April of 1953, a move condoned by the Lahore High Court judge Justice Mohammad Munir in his inquiry Report in which he held that the imposition of the Martial Law and the sacking of Nazimuddin's government were imperatives created by the (in)actions of politicians within the political subfield with regard to anti-Ahmadi demands (Lahore High Court 1954). Ghulam Mohammad also dismissed the Punjab provincial government of Mian Mumtaz Daultana because of his ineffectiveness with regards to the anti-Ahmadi agitation. Anti-Ahmadi riots thereby

settled the question of the distribution of statist capital in the Pakistani state field by making the political field a victim of a bureaucratic-military coup. The outcome of this struggle was further consolidated in October of 1954 when the Governor-General Ghulam Mohammad proclaimed a state of emergency and dismissed the Constituent Assembly<sup>55</sup>. This move was eventually challenged in the Federal Court of Pakistan where Justice Mohammad Munir now served as the Chief Justice of Pakistan and who gave legal sanction to the actions of Ghulam Mohammad. The new Cabinet set up by Ghulam Mohammad contained several high-level military officials, thus paving the way for the Army's ascendancy in Pakistani politics.

The struggle among the political and bureaucratic subfields which I have recounted here in depicts one causal sequence – intra-state competition for statist capital – that is crucial for explaining the nationalist policy outcome in 1953. Figure 4.2 (next page) gives a visual representation of these dynamics. The state field is located within the field of power and is constituted by three subfields: the bureaucratic subfield dominated by the Governor-General and the Civil Services of Pakistan (CSP) and entirely nestled in the state field. Its location on the left side denotes its dominant position within the state field, characterized by a monopoly over statist capital as well as high degree of autonomy both *vis-à-vis* other state subfields and social actors. The juridical subfield lies at the center and is dominated by Federal and Provincial level judges. During the time period under consideration, it emerged as a significant player in the state field through the support it lent to the bureaucratic field in the Federal and provincial courts. Finally, the

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<sup>55</sup> In 1954, following the provincial elections in East Pakistan, the Constituent Assembly introduced a series of proposals for constitutional amendments that would redistribute statist power in favor of the political subfield. Before these could take effect, the Constituent Assembly was dissolved by the military-bureaucracy oligarchy through the office of Governor-General.



**Note:** CE: economic capital; CEn: ethno-national capital; CSt: statist capital; CPU: public capital; CJ: juridical capital; CP: political capital

**Figure 4.2:** Intra-state and state-society struggle for ethno-national capital in the field of power in Pakistan in 1953.

political subfield lying at the right side and dominated by ML is characterized by the least amount of statist capital and low autonomy both *vis-à-vis* other state subfields and social actors. However, even though ML held the most ethno-national capital, it was unable to convert it into statist capital and shape nationalist policy. Before analyzing the specificities of the ways in which these dynamics impinged on nationalist policy outcomes, I will analyze the relationship between nationalist discourses, constitutional struggles and the question of the religious status of Ahmadis in 1953.

#### **4.1.2. Constitutional Struggles, “Ahmadi Question” and the Discursive Space of Nationalist Strategies, 1947-1953**

The Pakistani state space in the immediate post-colonial period was characterized by two discursive positions with regard to the role of religion in politics. Both of these positions emerged as opposing conceptions of the national community during the course of constitutional debates within Pakistan’s first Constituent Assembly. The Constituent Assembly of Pakistan was formed under the Indian Independence Act of the British Parliament (1947). Elected indirectly by Provincial Assemblies in 1947, the Constituent Assembly was given the task of framing the future Constitution of Pakistan as well as acting as a legislative body or a Parliament until the constitution was framed. Until that time, the Government of India Act 1935 became the working constitution of the country. In the Constituent Assembly debates under discussion, all Muslim seats were held by members of the ML party. All the non-Muslim members of the Constituent Assembly, mostly Hindu, belonged to the Congress Party, which had opposed the partition of India.

On 11 August 1947, four days before the Indian Union was to be declared officially independent, Mohammad Ali Jinnah, considered the founder of Pakistan and at

the leader of the nationalist movement for the creation of Pakistan, was sworn in as the first President of Pakistan's first Constituent Assembly. In the speech that followed, Jinnah maintained that if Pakistan was to progress and to succeed as an independent state, it was of the most crucial importance that every citizen of Pakistan be regarded as possessing equal rights, irrespective of the "community" the citizen belongs to<sup>56</sup>. Jinnah explicitly addressed the question of the relationship between state and religion through the issue of religious freedom. Specifically, Jinnah maintained that "You are free; you are free to go to your temples, you are free to go to your mosques or to any other place or worship in this State of Pakistan. You may belong to any religion or caste or creed that has nothing to do with the business of the State" (Constituent Assembly of Pakistan Debates (henceforth CAPD), 11 August 1947: 20). The "ideal" being pursued here was that "in course of time Hindus would cease to be Hindus and Muslims would cease to be Muslims, not in the religious sense, because that is the personal faith of each individual, but in the political sense as citizens of the State" (ibid.). In this view of the national community, citizenship transcended religious belonging.

Incidentally, this speech of Jinnah, considered by many to be his definitive statement on the relationship between religion and politics in Pakistan, was delivered on the same day that the design of the flag of Pakistan was debated. A symbol "so central to the idea of nationhood that it is impossible to imagine the existence of a nation without it" (Sorek 2004: 271) and possessing the trappings of a natural and timeless symbol, a nation's flag is a deeply historical and situated symbol and oftentimes a product of

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<sup>56</sup> In Jinnah's words: "If you change your past and work together in a spirit that everyone of you, no matter to what community he belongs, no matter what relations he had with you in the past, no matter what is his colour, caste or creed, is first, second and last a citizen of this State with equal rights, privileges, and obligations, there will be on end to the progress you will make." (*Constituent Assembly of Pakistan Debates*, 11 August 1947: 19)

intense debate and contestation (Weitman 1973). The origins of the Pakistani flag go back to the flag employed by the ML during its struggle for Muslim autonomy in colonial India. The ML flag was set on a dark green background, with a crescent and a moon in the center. The flag proposed in the Constituent Assembly, and eventually adopted, added a white rectangular stripe on the side to the same design.

The motion to adopt the ML's flag as the flag of Pakistan was passed by Liaqut Ali Khan, the future first Prime Minister of Pakistan and a close aide of Jinnah. Liaqut maintained that the proposed flag stood for "freedom, liberty, and equality to those who owe allegiance to this Flag of Pakistan" (CAPD, 11 August 1947: 22). This, he said, was in accordance with his vision of Pakistan "where there will be no special privileges, no special rights for any one particular community or any one particular interest" (ibid.: 22-3). However, the non-Muslim members of the Constituent Assembly unanimously expressed their disapproval of the Pakistani flag proposed by stating that the minority communities had not been consulted at all in the designing of the flag. Dharendra Nath Datta, a Hindu Member of the Congress Party, noted that the proposed flag was "almost identical with the Party flag of the Muslim League" and therefore represented the "the flag of a particular community" (ibid.: 26). However, these concerns were set aside and the proposed flag adopted through a majority Muslim vote.

Being the first issue debated by the Constituent Assembly and constituting an important part of the task of nation-state formation, the flag debate reveals the importance felt by the Muslim leaders of establishing a symbolic continuity between the new state and the Muslim nationalist movement preceding it. That Jinnah did not intervene in the debate suggests that to him, the issue was neither one of the role of Islam in state-

formation nor of establishing a democratic practice. However, the marginalization of the non-Muslim minorities at this stage set an important precedent for the subsequent debates in the Constituent Assembly on the preamble of Pakistan's constitution, termed the Objectives Resolution, which took place in 1949 and followed Jinnah's death in September of 1948.

Of the eleven clauses of the Objectives Resolution, explicit reference to Islam appears in three<sup>57</sup>. First, while not declared an Islamic or a theological state, the Objectives Resolution begins by vesting "sovereignty over the entire universe" to Allah. The fourth clause states that "the principles of democracy, freedom, equality, tolerance and social justice, as enunciated by Islam, shall be fully observed". The fifth clause maintains that Muslims "shall be enabled to order their lives in the individual and collective spheres in accord with the teachings and requirements of Islam as set out in the Holy Quran and the Sunna". The Objectives Resolution also protects the rights of minorities to "to profess and practise their religion's and develop their cultures" as well as guaranteeing fundamental rights of all citizens.

The non-Muslim members of the Constituent Assembly rigorously opposed the Objectives Resolution on ground of its religious character, noting that the adoption of Objectives Resolution may hinder the development of democracy in Pakistan by giving way to theocratically-minded interpretations of Islam. The fundamental issue was that giving such a central space to religion in politics opened up an ambiguous space in which it was difficult to determine which interpretations of Islam would be given official sanction, who would decide, and how these would be practically implemented. Second, it was argued that it may lead to the repression of non-Muslim minorities since the

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<sup>57</sup> See Appendix 1 for the text of the Objectives Resolution.

Objectives Resolution equated a religious community with the national community. The Congress members argued for instead incorporating more universal and abstract notions of rights of citizens such as found in the United Nations Charter. Once again however, the voice of non-Muslim minorities was unheeded and the Objectives Resolution was adopted through a majority Muslim vote.

An analysis of Prime Minister Liaqut Ali Khan's speech following his presentation and formal motion for the adoption of Objectives Resolution as the preamble of Pakistan's constitution clearly reveals that Khan envisioned a nation-state constituted by the Muslims for the Muslim majority. According to Khan, "Pakistan was founded because the Muslims, of this sub-continent wanted to build up their lives in accordance with the teachings and traditions of Islam" (CAPD, 7 March 1949: 2). The checkered history of the struggle for Pakistan and the alternative visions, most notable of Jinnah himself, were duly silenced as the category 'Muslim' was placed at the center of the definition of the new nation. Khan imagined Pakistan as paving the way for a new world order, for providing "a panacea to the many diseases which have crept into the life of humanity to-day" (ibid.). While Khan explicitly stated that the Objectives Resolution did not endorse a theocracy, he ambiguously noted that Islam recognized no separation between religion and politics. This latter view was directly questioned by dominant state actors in 1953 through the discussion of the demands that Ahmadis be declared non-Muslim.

Although the Members of the Constituent Assembly were split on the nationalist question along religious lines with Muslim members voting unanimously for a Muslim nationalist discourse and non-Muslim members advocating a secularist conception of the

nation, the social space outside the political subfield transcended these religious lines. This crystallized most starkly during public debates on the constitution of Pakistan. In December 1952, the Basic Principles Committee (BPC), a Committee set up by the Constituent Assembly of Pakistan to work out the details of the Constitution following the passing of the Objectives Resolution in 1949, presented a second draft of its Report to the Prime Minister Nazimuddin<sup>58</sup>. The Report was critically scrutinized by publics across the country, and while several aspects of it were heatedly discussed in the press<sup>59</sup>, the issue that centrally concerns us here is the relationship between Islam and politics as envisaged by the BPC Report. Incorporating the Objectives Resolution into the main text of the Constitution as the Preamble and the ‘guide’ for all policies and activities of the state, the BPC Report stipulated that steps “should” be taken by the government to “enable the Muslims to order their lives individually and collectively in accordance with the Holy Quran and the *Sunnah* [sayings and habits of Prophet Mohammad]”<sup>60</sup>. Furthermore, it was stated that “Suitable steps should be taken for bringing the existing laws into conformity with the Islamic principles, and for the codification of such injunctions of the Holy Quran and the *Sunnah* as can be given legislative effect”. If the BPC Report had stopped here, most likely the criticism of the Report would have been limited to the organized religious establishment demanding a greater and more concrete

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<sup>58</sup> The first draft, presented in 1950, was severely criticized across Pakistan, but particularly in East Pakistan, for reducing the numerical majority of East Pakistan in the legislature by giving East Pakistan the same representation as the 4 provinces of West Pakistan. In response to the outcry, it was decided that suggestions and proposals would be solicited from the public until January 1951, after which a second draft would be prepared and submitted.

<sup>59</sup> Again, the clause that met with the most controversy was the allotment of seats in the Central Legislature between the two wings of the country.

<sup>60</sup> The specific steps enunciated were: teaching of Quran should be made compulsory; prohibition of drinking, gambling, and prostitution; elimination of ‘*Riba*’ (interest) “as soon as it may be possible to do so”; “promotion and maintenance of Islamic moral standards”; and proper organization of *zakat* (compulsory charity in Islam); *waqfs* (religious endowments) and Mosques.

role of Islam in the state apparatus. As it is, the BPC went further and proposed the formation of a Board composed of *ulama*, charged with the task of determining and advising the Head of the State whether the bills passed in Federal or provincial Legislatures are “repugnant to the Holy Quran and *Sunnah*” and suggesting the proper lines along which the Bill should be reframed. It would then be necessary for the Legislature to incorporate the changes in the Bill.

The *Ulama* Board clause met with huge outcry from different sections of the population, both from those in favor of the presence of religion in politics and those against it. For example, the daily *Zamindar*, known for its staunch support of Islamists and the *Ahrar*, pointed out that the BPC Report had failed to declare Islam as the religion of the state, and posed the following rhetorical question: “Until the religion of the state is explicitly announced, how can Pakistan be declared a Islamic State? Why is our leadership so hesitant of taking Islam’s name?” This editorial further stated that the proclaimed primacy of Quran and *Sunnah* was at odds with the other principle of laws arrived at through majoritarian vote. In other words, it was suggested that parliamentary democracy was inconsistent with an Islamic state, and that allegiance of the state to both of these ideals suggested a lack of trust in Islamic law and sources on the part of the state<sup>61</sup>.

I chose this editorial from hundreds of articles, opinion columns, and editorials appearing in newspapers across the country making similar cases because of the pivotal role that both the newspaper *Zamindar* and its prominent editor Maulana Akhtar Ali

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<sup>61</sup> The editorial acknowledges that there would indeed be many practical difficulties in imposing an Islamic state, most significant of which would be over the question of what Islamic law is, but argues that this problem can be dealt with through appointing “Muftis” (religiously learned people acting as judges) to decide these matters, whose position and authority would be higher than those of secular judges in the Courts (*Zamindar*, Lahore: 28 December, 1952).

Khan would play in the anti-Ahmadiyya campaign. The most forceful response however came from a group of *ulama* who held a convention in Karachi from 11 to 18 January 1953 and came up with an amended BPC Report. A few of the amendments proposed were: i) compulsory education of Quran and Islamic teachings in the educational system; ii) prohibition through legislation of “the propagation of atheism and infidelity and the insulting or ridiculing of the Holy Qur’an or the *Sunnah*; “the Quran and the Sunnah be the chief source of the law of land”; the name of the state be changed from Pakistan to the “Islamic Republic of Pakistan”. With regard to the *Ulama* Boards, the report held that instead of establishing *Ulama* Boards, the state should appoint five able *Ulama* to the Supreme Court, who along with one Judge of the Supreme Court known for his piety and “knowledge of Islamic law and learning” “should decide whether or not the law in dispute is in conformity with the Quran and the Sunnah” (Maududi 1980: 348). Most significantly for our purposes, the *ulama* and the Islamists decided to form an alliance with the already strengthening anti-Ahmadiyya campaign led by the *Ahrar* by adding that Ahmadis be officially declared a non-Muslim minority<sup>62</sup>. The nationalist discursive strategy formulated and upheld by the coalition of traditional *ulama* and modernist Islamists espoused the creation of a theological state, although Binder has noted the

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<sup>62</sup> In the explanation for this amendment, the *ulama*’s report maintained: “They [the constitution-makers] must not be unaware of how delicate and tense the situation has become in areas where a considerable number of Qadianis are living along with Muslims. They should not behave like our erstwhile rulers who did not care to take cognizance of the Hindu-Muslim problem until the four corners of undivided India had become blood-stained on account of the Hindu-Muslim disturbances. For our constitution-makers, belonging to this country as they do, it would be a tragic blunder that they should refuse to take notice of a problem which needs an urgent solution and wait until such time as they find that it has grown into a wild fire. What had added considerably to the delicacy of the problem is that while, on the one hand, Qadianis try to pose themselves as and mix with Muslims, on the other hand, they stand not only aloof from, but as rivals of Muslims by virtue of their creed, religious practices and collective organization and openly dub all the Muslims as ‘*Kafirs*’ [heretics]” (Maududi 1980: 362).

differing motivations (and hence mutual suspicions) among these two groups (Binder 1961: 266-81).

The other end of the discursive space of nationalist strategies was constituted through a critique of the BPC report by self-identifying liberals and secularists who were quick in making public their discontent with the religious character of the BPC Report. In an article titled “Our Constitution” published in the daily *Civil and Military Gazette* [henceforth, CMG], a newspaper conspicuous for its repeated exhortations regarding the danger of extremism of the ‘*Mullas*’<sup>63</sup>, one Khwaja Nazir Ahmad put forth objections to the ‘*Mulla* Boards’ through arguing that although Pakistan was meant to be an Islamic state, it was never meant to be a theocracy, and that there were too many elements in the BPC Report making it such (CMG, Karachi: 29 December, 1952). The author argued that BPC Report was an attempt to appease the ‘*mulla*’ which would take the country back to Dark Ages of Islam when the ‘*mulla*’ reigned supreme. Ahmad argued that because the Members of the Board would be nominated by the Executive, they would in effect be “sitting in judgment over the will of the chosen representatives the people”. The suggestion here was that the Executive could manipulate the Board in order to suppress the voice of the people through invoking religion<sup>64</sup>. Ahmad maintained that the *Ulama* Board be abolished altogether<sup>65</sup>.

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<sup>63</sup> ‘Mulla’ is a derogatory term used by liberals and secularists in Pakistan for the petty *ulama*.

<sup>64</sup> Ahmed argued that this would be especially true at times when the *Ulama* Board would be divided over a Bill, thus giving the Head of the State the ultimate authority to decide on the ‘repugnancy’ of the Bill, bypassing the legislature altogether. Ahmad also maintained that because the Board was supposed to consist of “persons well versed in Islamic laws”, it added the additional complication of determining who such people were, since there were no organizations or institutions in place that determined these hierarchies.

<sup>65</sup> Similar concerns were expressed by other individuals as well. For example, one Qari Mufti Mohammed Yusuf questioned the supposed autonomy of the *Ulama* Board if it were to be constituted by the Executive (CMG: Karachi, 30 December, 1952). A lawyer expressed it thus: “They [the *Ulama* Board] will be guided by the general policy of the State and the party in power. They will become an integral part of the State

After the publication of the *ulama's* amended BPC report, the outcry from this side, which had been strong initially, increased in intensity. For example, the editorial of the prominent English daily *Dawn* warned that the country was in danger of slipping into 'Ulamacracy' (*Dawn*, Karachi: 24 January 1953). Prominent political leaders such as Khan Abdul Qayyum Khan, Chief Minister of NWFP Province, rejected the BPC Report for taking power away from 'the people' (*The Pakistan Times*, Karachi: 1 January 1953).

In response to the above critiques, the Constituent Assembly moved to adjourn consideration of the BPC Report to a later date, and when the first Constitution of Pakistan was finally approved in 1956, it contained no reference to *Ulama* Boards. For our purposes, however, the above attests to the highly public contestations and debates among different social actors with regard to the identity and institutional set-up of the state with regard to religion. It was the permeability of this discursive space of nationalist strategies that opened up the space both for highly orthodox religious groups and political parties to advocate a more religious conception of the nation (through the demand that the state declare Ahmadis non-Muslim) than the ML in the political field and for the state to eventually adopt a more secularist stance than the one adopted by the non-Muslim members in the political field.

#### **4.1.3. Politics of Agitation and State-Centered Language of Stateness**

In Pakistan, the demand that the Ahmadis be declared non-Muslim was first made in 1949 by the *Ahrar* in public meetings throughout the province of Punjab. The passing of the Objectives Resolution gave the *Ahrar* leadership impetus to make their anti-

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machinery. Their views will get tainted and they will react according to the Government holding power. They will not remain the true representatives or spokesmen of the public" (*CMG*, Karachi: 31 December 1952).

Ahmadi demands public (Nasr 1994). However, while the Punjab Provincial Government directed local district-level authorities to be vigilant, impartial and take firm action against the *Ahrar*<sup>66</sup> (Lahore High Court 1954: 38-9), it refrained from taking overt public action against the *Ahrar* on the grounds that such action would give their anti-Ahmadi demands greater prominence among the public which was already wary of the Ahmadi interpretation of the doctrine of Finality of Prophethood. For example, a senior bureaucrat in the Punjab government noted:

They [*Ahrar*] have made the Ahmadis the target of their attack in order to gain a hearing from the public. They are trying to exploit the religious feelings of an average Musalman against the Ahmadis; but I do not think it would be advisable to take any action against the *Ahrar* for the present as the Muslims are very touchy on the point of Ahmadism and to prosecute the *Ahrar* for their vituperations against the Ahmadis, would, give them an air of martyrdom in the eyes of public which they do not deserve. I would not, therefore, advise any action against the *Ahrar* leaders for the present. (Lahore High Court 1954: 16)

The Governor of Punjab Sirdar Abdur Rab Nishtar personally met with the President of the *Ahrar* Master Taj-ud-din and cautioned him against hurling abuse at senior Pakistani state officials on the grounds that they were Ahmadis, informing him that “Though the[ir] propaganda is given a religious colour, the real object is believed to be to create disaffection in the minds of the people against the Pakistan Government for entrusting responsible posts to such persons” (Lahore High Court 1954: 23). The provincial government’s intense distrust of the *Ahrar* led one senior police official to state that “Their outward object is to denounce Ahmadis, their *khalifa* and Sir Zafrullah Khan, but their inward object is to create disorder and lawlessness in our country” (Lahore High Court 1954: 42). The close linkages between the Punjab Provincial ML and

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<sup>66</sup> In the directive issued by the Punjab Provincial Government to Deputy Commissioners, it was stated that “It has been Government’s firm policy that the legitimate rights of any community or sect to practise its religious beliefs should not be unduly restricted and that no discrimination in this respect should be made between different parties. It is, nevertheless, important that religious controversies should be discouraged or at any rate they should not be allowed to the extent of endangering the public peace and tranquility” (Lahore High Court 1954: 38).

the *Ahrar* was also noted by senior administrators who also questioned the real motives behind the religious demands of the *Ahrar*. One senior official noted:

The *Ahrar* have a feeling that the Muslim League is at their back: otherwise their past is black and they would not have dared to step into the political field. They were stooges of the Congress and some of them are still loyal to that body... In their heart of hearts some of them are still disloyal to Pakistan. They are working outwardly on a religious platform not in order to serve their country but in order to retrieve their lost prestige. There are signs already that a section of the *Ahrar*...wants to come into active politics and its members are contemplating the formation of a new party". (Lahore High Court 1954: 50)

This was a direct reference to the fact that during the anti-colonial movement, the *Ahrar* eventually aligned itself with the Indian National Congress (the Indian nationalist party engaged in struggle for India's independence from colonial rule and opposed to the partition of India into separate states) and openly opposed the movement for the creation of an independent Pakistan.

Despite various warnings and sanctions, the *Ahrar* continued with their anti-Ahmadi propaganda, leading to the Punjab government imposing an official ban on their meetings and arresting a few prominent *Ahrar* leaders. However, the *Ahrar* continued with their activities and broadened their platform by launching a large-scale movement through enlisting the support of JI and prominent *ulama* some of who held posts in the government. It was demanded that the Ahmadis be declared non-Muslim and Zafrullah Khan and other senior Ahmadis in the government administration be removed in July of 1952. This movement was given support by Punjabi politicians, in particular the Chief Minister of Punjab Mumtaz Daultana<sup>67</sup>, who rescinded the ban on *Ahrar* activities (Lahore High Court 1954: 91), openly gave patronage to newspapers such as the *Zamindar* which were at the forefront of the movement and posting inflammatory

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<sup>67</sup> The Punjab Provincial Muslim League had strong linkages with the *Ahrar* and Islamist parties like *Jamiat-ul-Ulama-i-Islam* (JUI), who gave it financial and other support during the provincial assembly elections held in 1951.

speeches against the Ahmadis; and presided over the meeting of the Council of the Punjab ML in which the proposal was put forth that “the Ahmadis who have a fundamental difference of attitude on a question of faith, should be classed as a non-Muslim minority in the Constitution of Pakistan” (Lahore High Court 1954: 96). Thus, while *Ahrar* provided the initial leadership and spearheaded the movement, other religious bodies, most notably JI quickly jumped on board<sup>68</sup>.

The involvement of these Islamist groups can be explained by the larger national context of that time characterized by very public contestations and struggles over the constitutional relationship between Islam and politics that I have discussed above. The Ahmadi issue became the means through which religious organizations and parties entered the field of power and competed for the conversion of religious (symbolic) capital into political capital. Islamist groups appropriated the *Ahrari* demand that Ahmadis be legally declared non-Muslim in a bid to accumulate ethno-national capital with the long-term goal of converting it into political power through formal entry into the political subfield.

As the movement proceeded, it turned from an agitation directed against the Ahmadis into one directed explicitly against the state. One official noted that “The significant feature is that after attacking the Ahmadis, most of the speakers run down the Government and accuse it of inefficiency, corruption, food situation, etc. This inclines one to the view that the anti-Ahmadi agitation is used as a device for mobilising public

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<sup>68</sup> During the course of the agitation, the founder of JI, Sayyid Abul Ala Maududi, drafted a pamphlet titled “Qadiani Problem” that was then circulated throughout the country in huge quantities. In it, Maududi laid forth the reasons that justified the Islamist demand that Ahmadis be declared non-Muslim, chief among them being that Ahmadis did not believe in the finality of the Prophet Mohammad (Maududi 1953.). Because of his involvement in the agitation, Maududi was subsequently sentenced to death by a military court, although the charge was never carried out.

opinion with a view to ultimately arousing contempt and hatred against Government” (Lahore High Court 1954: 115). A delegation of religious leaders met with Prime Minister Nazimuddin who outright declined to accept the demands, holding that the proper authority for declaring Ahmadis non-Muslim was the Constituent Assembly (ibid.: 129). In January of 1953, the movement took an explicit turn against the government when a Council of Action was created to take practical steps against the government. The significant shift that took place at this time was the employment of the trope of “direct action” by the *Ahrar* and allied religious groups, which placed the religious establishment in an openly confrontational position towards state. It was maintained that if the government did not declare the Ahmadis a non-Muslim minority by the beginning of March, the course of ‘direct action’ would be adopted by them. The exact nature of the ‘direct action’ was never clearly spelled out by the agitators. However, daily reports appeared in *Ahrar* and religious sponsored newspapers such as the *Zamindar* to the effect that all efforts were being made and volunteers being recruited in thousands to march to Karachi, the capital of Pakistan, on a certain date, so as to give public demonstrations and picket the residences of the Governor-General and Prime Minister of Pakistan. The following “notice” to the government appeared everyday in the *Zamindar*, with the number of days “left” being changed daily, exhorting the state to fulfill their demands:

“Only 7 days left for the Fulfillment of Majlis-e-Amal’s Notice

Test of Faith of the Government and Ministers

A delegation of Majlis-e-Amal in a meeting with the Prime Minister of Pakistan Khwaja Nazimuddin on 22 January placed the following demands by the *Ulama* of Pakistan on behalf of the Muslims of Pakistan:

1. Chaudhry Zafrullah Khan should be removed from the post of the Foreign Minister.
2. Marzais [Ahmadis] should be declared a separate minority.
3. Marzais in various governmental departments should be restricted from taking undue advantage of their government posts and preaching Mirzayyat [Ahmadiyyat] among the Muslims.

One month notice was given for the acceptance of these demands.  
Only 7 days are left for the Fulfillment of this notice.

We hope that instead of trying the patience of the Muslims, the Government will seriously consider these demands and announce its decision as soon as possible.”  
(*Zamindar*, Lahore: 19 February 1953)

These agitational tactics and repertoires of contention were met by a state-centered language of stateness through the direct and very public deployment of the military to restore law and order. The relationship between the military and the bureaucratic subfield in Pakistan was significantly similar to the one that had existed between the British Indian Army and the British colonial state. According to one historian of the Pakistani army, “the (British) Indian Army, from its very inception, was trained to be the ‘custodian of law and order’ and to promote colonial interests at the cost of different indigenous and regional interests within the subcontinent” (Hashmi 1983: 149). This relationship continued into the immediate post-colonial period and “the Pakistan Armed Forces remained largely predisposed toward maintenance of internal order, rather than becoming an institution primarily for the purpose of defense and external aggression” (ibid.: 154). Thus, the state responded to the ‘deadline’ by arresting

prominent religious leaders, including the editor of *Zamindar*, banning *Zamindar* and other pro-anti-Ahmadiyya movement newspapers, and stationing large civilian forces at entry points in Karachi to stop agitators from entering the city. Eventually, in response to defiance of agitators to the government imposition of Section 144 of Criminal Penal Code that prohibits public gatherings of more than five people, the army declared Pakistan's first Martial Law over the city of Lahore and proceeded to suppress the movement through public arrests of top leadership of these religious and Islamist groups. Maulana Maududi, the head of JI, was also given a death sentence for his involvement in the anti-Ahmadi agitation although the sentence was eventually dropped. The *Ahrar* and the religious groups thus emerged in this moment as the national villains, the traitors that had to be curbed<sup>69</sup>.

The political field was severely compromised by the imposition of the martial law. The disorder around the anti-Ahmadi agitation coupled with severe socio-economic crises facing the country paved the way for the consolidation of a judicial-military-bureaucratic alliance that eventually led to the dismissal of both Prime Minister Nazimuddin's central government and Mumtaz Daultana's Punjab provincial government by Ghulam Mohammad in April of 1953.

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<sup>69</sup> As the Munir Inquiry Commission, a two-person Commission formed by the Government to inquire into the causes of the agitation, noted: "The conduct of the *Ahrar* calls for the strongest comment and is especially reprehensible—we can use no milder word—for the reason that they debased a religious cause by pressing it into service for a temporal purpose and exploited religious susceptibilities and sentiments of the people for their personal ends. That the *Ahrar* were sincere in what they did can only be believed by themselves because their past history is so glaringly inconsistent that only a fool could be misled by their professions of religiousness. Khwaja Nazimuddin described them as enemies of Pakistan, and this compliment they richly deserved for their past activities. That they turned out to be enemies of the new State when it came into being has been proved by their subsequent conduct" (Lahore High Court 1954: 259).

#### **4.1.4. Religion, Politics and Law-Centered Language of Stateness**

In 1953, the state response to the “Ahmadi question” was delivered by two judges, Justice Muhammad Munir who was the senior judge aided by Justice M.R. Kayani, who formed an Inquiry Commission. Emerging from the dominant position within the juridical subfield, the judges were given the task of inquiring into the circumstances leading to the declaration of Martial Law in Lahore; the responsibility for the disturbances; and the adequacy or otherwise of the measures taken by the Provincial authorities to prevent and adequately deal with the disturbances. The result of the inquiry was a 387 page published report titled “Report of The Court of Inquiry constituted under Punjab Act II OF 1954 to enquire into the Punjab Disturbances of 1953”. Popularly termed the Munir Inquiry Report, this document therefore serves both as a source material for the proceedings of the Inquiry Commission before which appeared all major religious and political figures but most importantly as the definitive statement by dominant state actors who gave the hegemonic state response to the Ahmadi question. The imposition of Martial Law and the employment of judges to form an inquiry commission to probe into the question of the breakdown of law and order, along with the personal linkages between Governor-General Ghulam Mohammad and Justice Muhammad Munir welded together both the state- and the law-centered languages of stateness to form a coherent formulation about the relationship between law, politics and religion from which we can glean the habitus of the dominant state actors.

The judges judiciously stated in the beginning of the report that their use of the term ‘Muslim’ referred to “the general body of Muslims who do not believe in Mirza Ghulam Ahmad” while ‘Ahmadi’ referred to those “who believe that Mirza Ghulam

Ahmad was a prophet” (Lahore High Court 1954: 9). This politics of naming suggests that the judges deliberately distanced themselves from the issue of the religious status of the Ahmadis. During the course of the judicial inquiry, the *ulama* repeatedly maintained that their demands were based on the promise of an Islamic state contained in the Objectives Resolution. This, according to the judges, was an erroneous assumption since the Objectives Resolution was equally premised on two mutually contradictory principles: first, democratic ideals that vest sovereignty in the people, and second, on the ideals of an Islamic state that vests sovereignty in Allah. In other words, the state could either be Islamic or it could be democratic, where “democracy means the rule of the demos, namely, the people, directly by them as in ancient Greece and Rome, or indirectly through chosen representatives as in modern democracies” (ibid.: 210). The judges drew on Jinnah’s historic speech before the Constituent Assembly (which I have referred to above) to espouse the ideals of *people-as-demos*: “The future subject of the State is to be a citizen with equal rights, privileges and obligations, irrespective of colour, caste, creed or community” (ibid.: 203).

If Islam/democracy was the primary antinomy articulated by the judges in narrating citizenship, the secondary one was religion/nationalism. In this, the judges upheld the normative ideals of a liberal nationalism. In *On Nationality* (1995), David Miller gives a ‘discriminating defense of nationalism’ that “can acknowledge the claims of national identity without succumbing to an unthinking nationalism which simply tells us to follow the feelings of our blood wherever they might lead us” (Miller 1995: 183-4). Nationhood is a cultural category that can be conducive to real democracy by requiring people to hold greater moral obligations towards co-nationals than others, but only if it is

based on an 'ethical universalism'. Similarly, Yael Tamir argues that "the liberal tradition with its respect for personal autonomy, reflection, and choice, and the national tradition, with its emphasis on belonging, loyalty, and solidarity, although generally seen as mutually exclusive, can indeed accommodate each other" (Tamir 1993: 140). For the judges, it was an adherence to such normative ideals of nationalism that brought all the citizens on an equal footing, irrespective of cultural and religious differences, and in turn ensuring the religious and cultural rights of all citizens. Regarding Ahmadi religious beliefs, the judges maintained:

Faith is a matter for the individual and however, false, dishonest or ridiculous it may appear to be to another, it may still be held sincerely and honestly by the person who professes it, and we have not the slightest reason to doubt that the Ahmadis hold the founder of their community and its subsequent leaders including the present head in deep reverence. Any attack on these personalities must, therefore, have deeply wounded the religious susceptibilities of the Ahmadis. (Lahore High Court 1954: 279)

Religion, on the other hand, is a vehicle for disorder and can become "an embodiment of complete intellectual paralysis" when in hands of the *ulama* that appeared before the Court (ibid.: 220). The judge's distrust of religion, and more significantly, of populism can be gleaned from the following statement:

If there is one thing which has been conclusively demonstrated in this inquiry, it is that provided you can persuade the masses to believe that something they are asked to do is religiously right or enjoined by religion, you can set them to any course of action, regardless of all considerations of discipline, loyalty, decency, morality or civic sense. (ibid. 231)

In order to bring their point home regarding this, the judges questioned a host of *ulama* on their views on what constitutes an Islamic state and what defines a Muslim, concluding that the *ulama* "were hopelessly disagreed among themselves" on the very important question of who was a Muslim (ibid.: 36). The conclusion was the equation of national community with the abstract citizen, and at this moment, the state discredited the

idea of a religious community as playing a role in practical life of the Pakistani state<sup>70</sup>. Objectives Resolution was perceived as giving only a nominal voice to the idea that the nation consisted of majority Muslims.

The political state subfield, both at the Center and in the Province of Punjab, was severely criticized by the Inquiry Commission, a logical extension of the juridical-military-bureaucratic distrust of mass politics directed by religious sentiments and employed by politicians for political ends. The higher echelons of the bureaucracy and the military were for the most part highly secular in their personal and public outlooks and proceeded in 1953 to rid the state apparatus of politicians sympathetic to the ideal of the Muslim state, most notably Prime Minister Nazimuddin, “a man whose reputation for weakness was tempered only by that for religious piety” (Jalal 1991: 137). Munir Inquiry Report strongly reproached Nazimuddin for his failure to deal firmly with the religious establishment. The report held that this situation resulted from Nazimuddin’s erroneous conclusion that the anti-Ahmadi demands had a broad popular appeal as well as from his own sympathies to the anti-Ahmadi demands. About Nazimuddin, the report states:

“His own belief was that if ninety per cent of the *Ulama* agree that a believer in Mirza Ghulam Ahmad was a *kafir* [heretic], or that he should be stoned to death, he would bow his head to the decision. But the fatwa [Islamic legal injunctions] of *kufur* [hereticism] does not necessarily turn a community into a non-Muslim minority. The basis of the Demands has, therefore, no connection with the demand for an Islamic state. Fatwas of *kufur* have been quite a feature of Islam since the Four Caliphs, but they have never resulted in the denial of civic rights to the individuals or classes against whom the decree was made. This is very comforting indeed, in a state where fatwas are likely to become as necessary as guns and butter. The last remark is our own.” (Lahore High Court 1954: 291)

Harsher criticism was made of Punjab Chief Minister Mumtaz Daultana, who it was claimed, had aided the agitation for his own ends, including detracting attention

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<sup>70</sup> Asad Ahmad has rightly noted that the Munir Report “exhibits considerable textual ambivalence in its discussion of Islam” as it vacillates between viewing Islam as at odds with political modernity and viewing Islam as a totality containing potential for imparting social justice (Ahmed 2009).

away from the food shortages plaguing Punjab, weakening the Nazimuddin government and thereby creating space for himself in the Center, and garnering the support of the religious establishment for future elections (Jalal 1991: 153).

In conclusion, the nationalist policy of accommodation of Ahmadis was a result of an alliance between the dominant actors in the bureaucratic and juridical subfields (and significantly aided by the military) that successfully monopolized statist capital at this juncture but which made no pretensions of acquiring ethno-nationalist capital. The highly permeable and open space of discursive nationalist strategies enhanced the autonomy of dominant state actors with regard to forming nationalist policy. Furthermore, the agitational repertoires of contention employed by the religious establishment coupled with its alliance with significant elements in the political field opened the space for a repressive state-centered language of stateness.

#### **4.2. BETWEEN ACCOMODATION AND EXCLUSION, 1958-1973**

A number of significant shifts took place in the period between 1958 and 1973 that were crucial for setting the stage for the exclusion of the Ahmadis in 1974. The first was the distancing of the central state from popular expressions of religion. As noted above, the resolution of the Ahmadi question in 1953 was a part of a larger process of intra-state struggles that marginalized the political field within the state field. This shift became synonymous with the shift away from public discussions about the role of Islam in defining Pakistani nationalism as it was primarily the politicians within the state field who had engaged with this issue. The new power establishment was comprised of highly modernist and secular-minded bureaucratic and military elite. A series of reshufflings

within the higher echelons of the state eventually resulted in the proclamation of Martial Law and the abrogation of Pakistan's first constitution (eventually framed in 1956) by President Iskander Mirza (an ex-Major General in the army) in 1958. Mirza's position was almost immediately co-opted by Genreal Ayub Khan, the Commander-in-Chief of the Pakistani Army appointed the martial law administrator by Mirza, through a bloodless coup. Ayub Khan deemed himself the President of Pakistan and his regime (1958-1969) can be more aptly categorized as the politicization of the army rather than the militarization of the state. In other words, it was the logic of politics – (sham) elections and referendums, nominal vestiges of a legislature, restricted activity by political parties etc. – that provided the framework for the entry of military men into politics (Alavi 1983: 41).

Both Iskander Mirza and Ayub Khan were highly suspicious of, and contemptuous towards, what they saw as the use of Islam by politicians for political gains. For example, Mirza openly castigated politicians for their “‘ruthless struggle for power’, corruption and ‘prostitution of Islam for political ends’” in his public statement explaining the reasons for his imposition of Martial law<sup>71</sup>. Ayub Khan's memoirs *Friends not Masters: A Political Autobiography* (1967) conveys Ayub Khan's intense distrust of religion, mass politics and politicians which he argues led to his conviction that Pakistan was in need of a strong center to escape political instability and that the military remained the only credible institution that could deliver stability and progress. The self-conscious distancing of the state from Islam under the Ayub regime was a part of a larger context defined by the habitus of the bureaucratic and military state subfields of which Ayub Khan was a part.

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<sup>71</sup> Cited in Talbot (1998): 146.

The short-lived constitution of 1956 had paid lip-service to Islam through declaring Pakistan an “Islamic Republic”. The provisions relating to Islam were contained in the ‘directive principles of state policy’ that were meant as a guide in the formation of state policies but were not enforceable by law. The most significant of these provisions were the following. First, the state would take steps to enable Muslims of Pakistan to order their individual and collective lives according to Islamic principles. Second, the constitution held that only a Muslim could hold the position of the President. Because the political system advocated by the constitution was a Parliamentary one along the model of Britain, it was argued that the position of President, which was largely one of a symbolic head, could be restricted to a Muslim to reflect the Muslim majority in Pakistan but without withholding non-Muslims from holding positions of highest power in the state. No definition of a Muslim was however given by the Constitution. Third, the ‘repugnancy clause’ was introduced which held that “no law shall be enacted which is repugnant to the injunctions of Islam as laid down in the Holy Quran and the *Sunnah*” and that existing laws “shall be brought into conformity with such injunctions”. It was provided by the Constitution that the President of Pakistan would form a Commission within one year of the enactment of the Constitution that would make recommendations to this end within five years of its appointment and submit these to the National Assembly who would act accordingly to revise laws. This and other provisions that invoked the state to take measures to eliminate gambling, prostitution, drug use, alcohol consumption, *riba* (financial interest), etc. were “without teeth” because “the mechanisms designed to implement such a vision were intentionally weak, vague or ill-defined” (Kennedy 1992: 770).

The next Constitution designed under the Ayub regime in 1962 marginalized Islam further by dropping “Islamic” from the country’s name, thereby renaming Pakistan the “Republic of Pakistan”. It also removed reference to “the Holy Quran and the *Sunnah*” in the repugnancy clause, trimming it down to “no law should be repugnant to Islam”. On the political front, the Constitution of 1956 envisaged a Presidential system in which the President would be elected through indirect franchise through a system of local representation termed Basic Democracies. Political Parties were thereby banned by the new Constitution. However, the clauses regarding the dropping of the word ‘Islamic’ from the name of the country and the banning of political parties came under heavy criticism immediately and had to be quickly re-modified. The Political Parties Act of 1962 removed the ban on political parties while the First Constitutional Amendment Act of 1963 re-inserted the term ‘Islamic’ in Pakistan’s name. The former made sense since it allowed the sham “legislature” made-up of pro-government politicians to organize as a political party called the Convention Muslim League (CML) to give some legitimacy to the regime. While the political subfield lost significant statist capital in the new set-up, the military ties with the bureaucratic subfield were strengthened through the system of Basic Democracies which placed Commissioners and Deputy Commissioners in the Civil Services of Pakistan at the center of the political machinery<sup>72</sup>.

The most significant step undertaken under the Ayub regime that widened the distance between religion and the state was the promulgation of the Muslim Family Laws Ordinance, 1961 (MFLO) that explicitly brought the laws governing the domestic space

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<sup>72</sup> Regarding the military-bureaucracy ties, Hamza Alavi maintains that from 1947 until 1971, “effective power...was firmly in the hands of a bureaucratic-military oligarchy, notwithstanding successive changes in the form of government and, in the first decade, the installation of political parties and political leaders apparently in charge of the state apparatus” (Alavi 1983: 41).

of marital and other familial relationships under state scrutiny. This area of private domestic life has been negotiated by the colonial state with the aid of what was termed “Muslim personal law” in colonial courts but under the guidance of local Indian experts on the subject (Kozlowski 1985; Singha 1998). The post-colonial state legitimated regulation in this domain by drawing upon the narrow but increasingly vocal social base of discontent with existing patriarchal laws with regard to issues of polygamy, divorce, legal age at which girls can marry among others<sup>73</sup> (Abbott 1962). Limited to the secular-minded and reformist upper classes and brought to public space through feminist organizations like All-Pakistan Women’s Association (APWA), critiques of existing laws were couched within a framework of Islamic justice (Islam does “not recognize different standards of morality for the two sexes”, maintained the women of APWA) and the supposed promise of equal citizenship rights contained in the Muslim nationalist movement for an independent Pakistan (Abbott 1962: 26). The state too employed rhetoric of Islamic justice to justify the changes promulgated by MFLO as after all the changes being made were in that domain of law that was essentially premised on a Muslim religious identity and governed by Islamic law, however interpreted. However, the MFLO was a firm stance against traditionalist interpretations of Islamic law that privileged the patriarchal domination of women by men in the private sphere of familial relationships<sup>74</sup>.

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<sup>73</sup> The crucial event that brought the issue of polygamy into the public sphere was the second marriage of the then Prime Minister of Pakistan Muhammad Ali Bogra in 1955, reactions to which started off a chain of events that led to the promulgation of the MFLO (Ansari 2009).

<sup>74</sup> Some of the changes instituted by the MFLO included state permission for Muslim men to undertake more than one marriage, changes in divorce laws as a result of which men could not divorce women arbitrarily, and increase in the legal age at which girls could marry from fourteen to sixteen.

This distancing of the state from popular understandings of religion serves as an important point of reminder that there was nothing inevitable about the declaration of Ahmadis as non-Muslim by the state in 1974. It was a combination of a number of factors, processes and turning points that carved the space within the state field for a re-articulation of a religiously-centered nationalist discourse which would provide the discursive frame for the re-definition of the official boundaries of Muslim citizenship. However, the distancing of the state from Islam is significant for this narrative causal account in that it provided the context for the following two changes. First, it was an important factor in that it, and the undemocratic character of the state, lent the political subfield a crucial point of attack on the existing state structure. However, in contrast to before, it was now the political subfield *outside* the state field that entered the field of power to struggle for the ascendancy of political capital. An important change that occurred was the re-organization of Islamist parties like the JI whose leader Maulana Maududi vocally criticized the anti-democratic as well as un-Islamic elements in the new political structure. The MFLO came under the most heat as can be witnessed by the meeting of fifty *ulama* from across Pakistan who supported Maududi's public and vehement critiques of it (Talbot 1998: 168-9). The JI consolidated its position as a political party by joining with other non-Islamist political parties to oppose the nature of the Presidential elections of 1965, a move that compromised JI's self-fashioning as *primarily* an Islamist party at odds with other political parties having a non-religious political agenda. Pragmatic accommodations and alliances such as these allowed the JI to enhance its prestige in the political subfield, while tempering the more radical Islamist elements within the party (Nasr 1994: 219-20). As I will show below, this will eventually

lead to JI (and other Islamist parties) entering the political subfield within the state as a numerically tiny but for our purposes a highly significant oppositional entity through Pakistan's first general elections held in 1970.

Second, this self-conscious distancing had the result of significantly shrinking the discursive space of nationalist strategies. The immediate post-colonial period was characterized by a highly vital and prolific space of public discussion in which a broad array of social actors publicly engaged with issues of the relationship between Islam and the state, citizenship, functions of the state, the history of the Pakistani nationalist movement, analyses of Jinnah's various utterances with regard to the future set-up of the Pakistani state and so forth. This was manifested by a broad spectrum of discursive strategies within the public space ranging from calls for radical infusion of state and religion to the complete elimination of religion from political space<sup>75</sup>. The specificities of the Ayub regime, specifically its un-democratic character, its intolerance for popular expressions of religiosity and its valorization of the Pakistani army as the protector of a monolithic Muslim community at odds with a Hindu India (Talbot 2000) had the effect of shrinking this space by polarizing it into a space characterized as either pro-Islam or anti-Islam, both characterized by a limited and inflexible set of social and cultural significations. As I will show below, when the question of the religious status of Ahmadis

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<sup>75</sup> I do not concur with the dominant interpretation of these initial years as ones in which "secular" state-elites ruthlessly used Islam as an ideological apparatus to consolidate their own state power. Such a reading, even though *partially* borne out by empirical evidence (as, for example, in Mumtaz Daultana's use of anti-Ahmadi *Ahrar*-led agitation to further his political interests), occludes the ways in which the state not only tolerated but, more significantly, constituted *within* itself the space for engaging in fundamental existential questions that face any state-in-formation as long as the participants in the debate did not engage in violent repertoires of contention, as was the case in the *Ahrar*-led anti-Ahmadi agitational politics. I also agree with Stephen Philip Cohen who has argued that over time, "Pakistan evolved an ethos and a ruling elite that narrowed the range of debate over the nature of the idea of Pakistan, glorifying elements of the state, especially the army, and buttressing a political order that had little relevance to Islam, democracy, or any other system" (Cohen 2004: 67).

was raised by highly organized religious parties in the political subfield in 1974, this aspect will be significant in shaping nationalist policy outcome.

Another significant shift that took place in this period was the consolidation of religious associations and media outlets aimed specifically at “educating” orthodox Muslims about the “truth” of ‘Qadianis’ and ‘Qadianiat’, pejorative terms for Ahmadis and Ahmadi interpretation of Islam, respectively. The most prominent association involved in this task was the *Aalmi Majlis Tahaffuz Khatm-e-Nubuwwat* (International Association for the Protection of the Finality of Prophethood, henceforth MTKN), formed in 1949 as a religious platform for those members of the *Ahrar* who sought to undertake religious causes but in the capacity of their religious and not political identities. The emphasis on the religious/political dichotomy is meant to underscore the purity of the religiously motivated individual in contrast to the conniving of the politically motivated. My interview conducted with Maulana Allah Wasaya, presently belonging to the top leadership of the MTKN, was highly informational with regard to MTKNs mode of operation<sup>76</sup>. Wasaya revealed that since its inception in 1949, MTKN’s top agenda has been getting the government to declare Ahmadis non-Muslim. MTKN is organized hierarchically, starting with the national level and branching into smaller district and city level branches. Most of the funds are generated through donations and one of the central tasks of MTKN is preaching and propagating about the centrality of the tenet of Finality of Prophethood in Islam and against ‘Qadianis’<sup>77</sup>.

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<sup>76</sup> Interview with Maulana Allah Wasaya, Islamabad. 5 March, 2008.

<sup>77</sup> During my visit to the central offices of the MTKN in the city of Multan, which I undertook to visit their library and interview the top leadership of MTKN, one of the staff raised objection to the term ‘Ahmadis’, stating that it referenced a sacred Muslim name and the correct term to use was ‘Qadianis’, a term that Ahmadis find pejorative. While I was given full access to MTKN’s collections and archives, the head of MTKN refused to grant me an interview.

In 1974, MTKN formed their own publishing press and began printing and distributing hundreds of books and pamphlets about ‘truth’ about Ahmadis. MTKN was centrally involved in the 1974 campaign to get Ahmadis declared as non-Muslims. However, before 1974, prominent members and supporters of MTKN propagated the MTKN cause through alternative media sources. For example, Agha Shorash Kashmiri, a highly prominent Urdu journalist and public orator who was an *Ahrari* and devoted to cause of getting Ahmadis declared non-Muslims used his weekly Urdu magazine *Chattan* as a vehicle for keeping alive the anti-Ahmadiyya movement. The intensity of anti-Ahmadi rhetoric resulted in him receiving multiple warnings from the government on the grounds that such literature incited sectarian conflict and was in direct contravention of Punjab government’s orders of April 1966 prohibiting all printers, publishers and editors from publishing “any matter casting reflection on the origin, prophecies, revelations or beliefs of any sect.” In April 1968, *Chattan* was banned by the provincial government of Punjab from publishing any material “touching on the origin, prophecies, revelation or beliefs of any sect of Islam or on their comparative merits of status, by way of news, views, comments or in any other form whatsoever”<sup>78</sup>. According to the Home Department, such materials promote “religious and sectarian controversy” and thereby “tend to seriously affect amity and harmony among various sects of the Muslim community and is, therefore, prejudicial to the maintenance of public order”<sup>79</sup>. The banning of *Chattan* was challenged in the Lahore High Court by Kashmiri but the court upheld the ban. Kashmiri was also arrested by the government in 1968 (but released in 1969) because of his defiance of this ban.

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<sup>78</sup> *Abdul Karim Shorish Kashmiri v. The State of West Pakistan*. PLD 1969 Lahore 289. Page 295.

<sup>79</sup> *ibid.*: 294.

Such arrests and bans were entirely consistent with Ayub regime's intolerant attitude towards religion at large, and towards religiously centered sectarian disturbances in particular. It is claimed by the religious right that the Ayub regime contained a number of highly powerful and influential Ahmadis who had a hand in curbing the anti-Ahmadi movement (Ahmad 1994; Kashmiri 1974). During the Ayub regime, many Ahmadis did come to occupy highly influential posts in the army and the bureaucracy. However, this 'fact' came to public prominence through narratives by the religious right that argued that this was a part of a larger Ahmadi conspiracy to capture the state of Pakistan and to establish Ahmadi dominance in Pakistan. By 1974, when a truly nation-wide movement emerged demanding that the Ahmadis be declared non-Muslim, *Chattan* had been back in the business of appraising Pakistanis about the 'truth' behind Ahmadi religion. An analysis of *Chattan* issues immediately preceding this movement attests to the vehement nature of the weekly and conveys what had by then become a routine and largely accepted narrative about Ahmadis in the popular mind. For example, the issue of 27 May 1974 showed a picture of Mirza Ghulam Ahmad on its cover with the inscription reading "five thousand rupees will be given to that individual who can prove that Prophets have faces like this and that of those chosen by Allah, any of the Prophets met their death in the toilet" (*translation mine*). Among others, the issue has articles on how 'Muslims' can stop the construction of a Ahmadi mosque in Lahore and the ties between Israel and the head of Ahmadiyya community Mirza Nasir. One article has the editor requesting Muslim students to form 'cells' that will undertake the task of preparing lists of Ahmadis in their schools and colleges. Another article series is called 'Falsehoods of a False Prophet'. While statistics on the exact circulation of *Chattan* at that time are not available

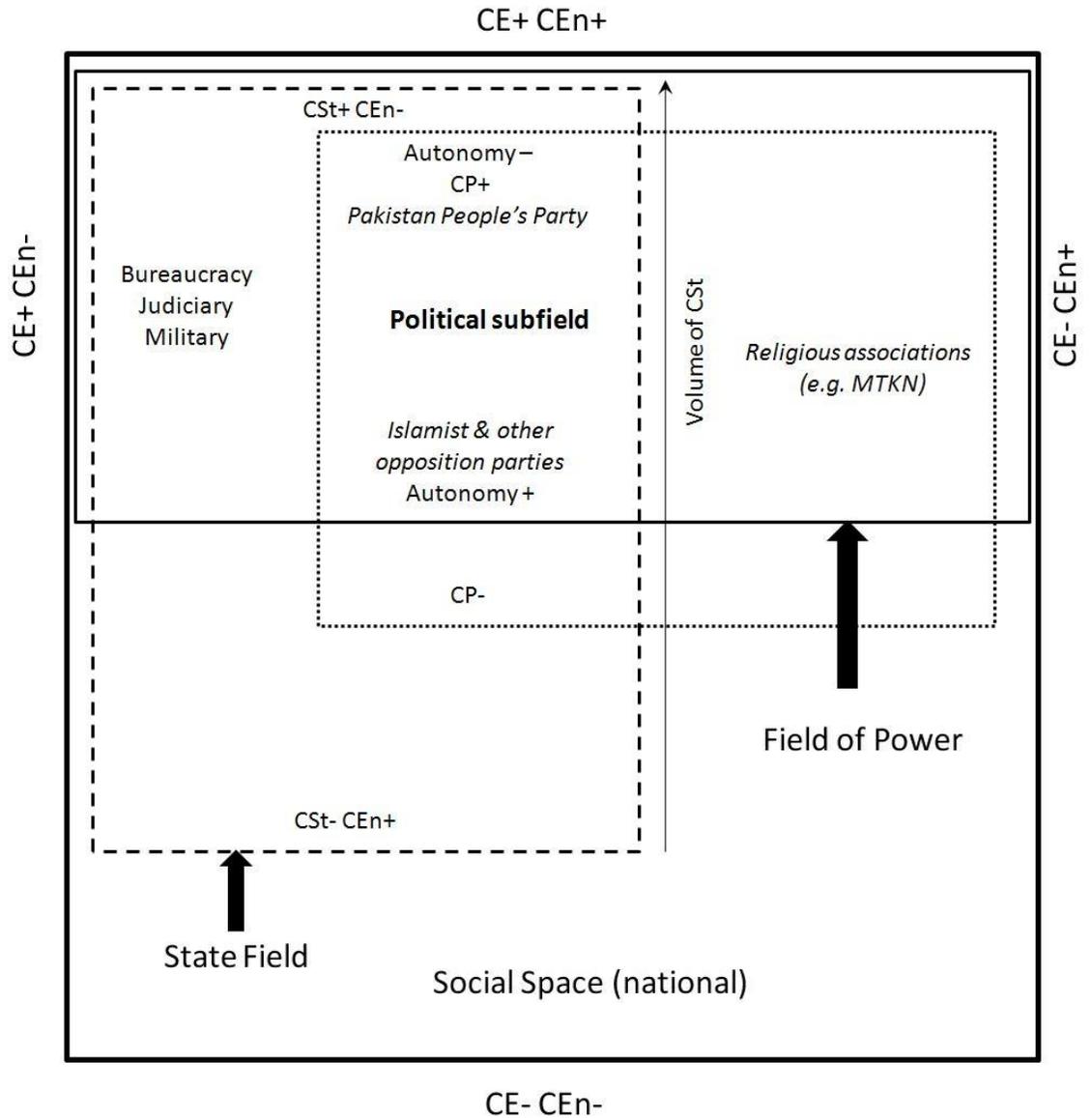
since the weekly has long been out of print and minimal records kept, it is reasonable to assume that given Kashmiri's prominence in the world of Urdu journalism, *Chattan's* message was heard widely at least in the Punjab.

#### **4.3. POLITICS OF EXCLUSION: STATE FIELD, MUSLIM CITIZENSHIP AND THE NATIONAL COMMUNITY IN 1974**

Because of increasing discontent among the citizenry with regard to the undemocratic structure of the state, manifested among other things through the student and labor riots of 1968 as well as increasingly vocal opposition in East Pakistan with regard to West Pakistan's disproportionate share of economic and political capital, President Ayub Khan turned over power to his trusted General Yahya Khan in 1969 who proceeded to hold Pakistan's first general elections in 1970. As a result, the socialist government of Zulfikar Ali Bhutto came to office in 1971 in the wake of Pakistan's war with India and following the loss of significant territory through the creation of the independent state of Bangladesh.

One of the distinguishing features of the political subfield was that it contained a broad spectrum of political parties and ideological positions, including Islamist parties that formed a small yet significant component of the opposition. The complex chain of events that led to civil war in Pakistan and Pakistan's international war with India in this tumultuous period is out of the scope of this article. Suffice is to note that Bhutto's socialist regime, led by the Pakistan People's Party (PPP), arrived at the dominant position within the political subfield through identifying itself closely both with mass politics and populism, the clearest manifestation of which was its election slogan of '*roti, kapra aur makan*' (Bread, cloth and home) and Islam. To counter claims by the Islamist

parties that socialism was fundamentally in contradiction with religion, Bhutto espoused a discourse of “Islamic socialism”, arguing that Islamic egalitarian principles were in perfect accord with those of socialism. According to Shahid Javed Burki, whose work on Bhutto’s regime remains one of the definitive in the field, “In emphasizing this link between Islam and socialism, Bhutto seemed impressed with what seemed to him as a resurgence of religious sentiment in the country. To him *Jamaat-i-Islami* appeared as his most important competitor and he was not prepared to surrender some political advantage to this fundamentalist party on the ground that his own PPP was a secular organization with a secular program” (Burki:1988: 53). Figure 4.3 (next page) depicts the PPP as holding the dominant position both within the political subfield and the larger state field. The dominated pole of the political subfield was occupied by the opposition parties, and most significantly the Islamist parties JI, *Jamiat-ul-Ulama-e-Pakistan* (JUP) and *Jamiat-ul-Ulama-e-Islam* (JUI).



**Note:** CE: economic capital; CEn: ethno-national capital; CSt: statist capital; CP: political capital

**Figure 4.3.** Intra-state and state-society struggle for ethno-national capital in the field of power in Pakistan in 1974.

<b>PARTY</b>	<b>No. of seats</b>	<b>% of seats</b>
Pakistan People's Party (PPP)	86	61.43
National Awami Party	5	3.57
Pakistan Muslim League (Q)	9	6.43
Pakistan Muslim League (C )	8	5.71
Jamiat-ul-Ulama-e-Pakistan (JUP)	6	4.29
Jamiat-ul-Ulama-e-Islam (JUI)	7	5
Jamaat-e-Islami (JI)	4	2.86
Pakistan Democratic Party	1	0.71
Independents	14	10
<b>TOTAL</b>	<b>140</b>	<b>100</b>

**TABLE 4.1:** Breakdown of political parties in the National Assembly of Pakistan, 14 April, 1972 – 10 January 1977.

**Note:** The NAP, like the PPP, represented the left on the political spectrum in that both parties had strong socialist themes running through party manifestos. The Muslim League and its various offshoots constituted the center of the spectrum, while three religious parties, *Jamaat-e-Islami* (JI), *Jamiat-ul-Ulama-e-Pakistan* (JUP), and *Jamiat-ul-Ulama-e-Islam* (JUI), constituted the religious right.

**Source:** Compiled from the official website of National Assembly of Pakistan. <http://www.na.gov.pk/>

Table 4.1 shows the break-down of political parties in the National Assembly in 1974 and reveals the narrow base that Islamist parties had had at the time of elections in 1970. However, the legitimacy given to the role of Islam in politics both through Bhutto's 'Islamic socialism' and the presence of Islamist parties in the political subfield as well as the equation of secularism with the authoritarian rule by the military meant that articulations of Pakistani nationalism that did not draw upon religion would find it much harder now to find strategic space within the state field. The ouster of military men from politics, with the Pakistani Army blamed for the loss of Bangladesh, meant that the

principal state actors committed to maintaining distance between the state and religion were no longer players in the competition for imposing their vision of the nation-state. The debacle in East Pakistan significantly reduced the military's prestige in the public eye and in 1974 when the 'Ahmadi question' arose, it was not in the position to intervene as it had in 1953. Furthermore, Bhutto took steps such as retiring a number of top military officers and promoting those who he believed would show loyalty to him as a way of weakening the military, measures that the military was forced to accept because of the loss of East Pakistan (Ziring 1980: 105). While the military would eventually re-enter the state field in 1977, the placement of the military outside the field of power in figure 4 captures the state-military balance of power in 1974.

One of the most significant changes made by Bhutto was the restructuring of the bureaucracy in 1973 which entailed the dissolving of the elitist CSP and the erection of a new and broader All-Pakistan Civil Services divided into different groups according to government activity (such as District Management, Police, Foreign Affairs). Officers could move horizontally across two or three groups and in a unprecedented move, Bhutto introduced the system of 'lateral entry' whereby persons having no ties with the formal bureaucratic structure could be appointed to senior positions in the government. This had the effect of breaking "the caste-like structure of the C.S.P.-dominated bureaucracy" (Alavi 1983: 76) as well as leading to "the politicization of the bureaucracy" (Ziring 1980: 105). The vertical axis in figure 4.3 represents the volume of statist capital and we can see that the PPP, occupying the dominant pole within the political field, lies at the top and the bureaucracy, military and the judiciary below it. Significantly for the purposes of this article, the re-structuring of the state field meant that the question of the religious

status of the Ahmadis in 1974 would be decided by the logic internal to the political subfield which was autonomous *vis-à-vis* other state subfields.

In the elections of 1970, Islamist parties failed to capture a single National Assembly seat from East Pakistan (Talbot 1998: 196), a reflection that Bengalis did not support the ideology of Islamist parties which is fundamentally premised on strengthening the relationship between state and religion. With the loss of Bengal, according to Cohen, “the balance of power subtly shifted away from secular, “mainstream” forces towards Islamists... The breakup of the country merely empowered the most regressive and conservative Islamists in the West” (Cohen 2004: 76-7). The formation of Bangladesh posed the fundamental question about whether a common religion could form the basis of identity for Pakistan since it revealed that a common Islamic identity did not ensure transcendence of provincial identities which in Pakistan are organized along cultural and ethnic lines. Aijaz Ahmed’s analysis of the consolidation of an ideology of Islamism within the political field following the break-up of Pakistan, although couched in strictly Marxist terms whereby ideology is used by the power elite “to shift the terrain of class struggle from the political to the moral and from the economic to the millenarian” (Ahmed 1983: 116), is nonetheless revealing. With the break-up of Pakistan, both Bangladesh and India had a greater number of Muslims within their individual territories than Pakistan. The entire basis of the creation of Pakistan was that it would serve as a place where Muslims of the sub-continent would find a home to thrive free of oppression and discrimination from the Hindu majority. Following the monumental event of 1971, which starkly revealed economic and political disparities among different sub-nationalities within Pakistan, the ruling regime more aggressively

sought “a centralizing ideology”. According to Ahmed, “now that Pakistan...[was] no more the ‘national homeland’ for all, or even most, Muslims of the subcontinent, its *raison d’etre* must be that it is the home of the *good* Muslims” (ibid. 116).

One of the first significant manifestations of Prime Minister Bhutto’s appropriation of a religious discourse was the Constitution of 1973. The 1973 Constitution was the fifth to be drafted and the third Constitution to be adopted in Pakistan. In it, Islam for the first time in the history of Pakistan was declared the “state religion”. With the exception of this novel clause, however, other affirmations of Pakistan’s religious identity in the Constitution, such as those holding that the head of the state be a Muslim (Article 41 [2]) and that the state make all efforts to bring existing laws into conformity with Islamic principles (Article 31), were similar to earlier Constitutions of 1956 and 1962<sup>80</sup> and as such did not commit the state to bring about any novel reforms along Islamic lines. The most contentious issue during the course of the 1973 Constitutional debates was the issue of provincial autonomy, aggressively championed by the main opposition party, the National Awami Party (NAP), which had a strong presence in North Western Frontier Provinces and Baluchistan. I posed the following question to Professor Ghafoor Ahmad, a JI Member of National Assembly (MNA) during 1973-4: “During the [1973 constitutional] debates, was there much opposition and/or debate over the religious clauses?” The reply was: “No. The primary disagreement was over the issue of provincial autonomy....the main debate was over fundamental rights, judiciary, and

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<sup>80</sup> It has been noted by a constitutional expert that “But for the few Articles pertaining to constitutional matters, the framers of the 1973 Constitution followed the pattern of the earlier Constitutions of 1956 and 1962. Even the language used in the earlier Constitutions was retained in the majority of Articles” (Khan 2001: 275).

provincial autonomy<sup>81</sup>. Ghafoor Ahmad forcefully maintained that “The religious part of the constitution has not been made by any religious party but by a political party that had been calling itself a secular party and they also themselves had the slogan of ‘Islamic Socialism’ and that Islam is our religion”. In other words, Ghafoor Ahmed was asserting that the PPP itself had opened up the space within the existing state structure for social demands that state act in accordance with religious principles. This, and various other accounts, attest to the relatively less volatile nature of the question of Islam in 1973 as compared to 1953.

If 1953 was defined by post-colonial anxieties about the identity of the new nation-state, 1974 constituted a moment in which the question of the state’s relationship with Islam had been temporarily resolved through the birth of a new constitution for the nation in 1973, debated and arrived at democratically through the participation of elected representatives of the people. It was within this context that the Ahmadis were forcibly yet constitutionally declared non-Muslim. To understand this exclusion, we need to look at the conjunctural role of the rhetorical claims of the religious movement spearheading the demand that the Ahmadis be declared non-Muslim. As I will show below, the mutual legibility between the movement’s repertoires of contention and the nation-centered language of stateness adopted by the PPP set the grounds for the ‘Ahmadi question’ to be debated in the National Assembly. Furthermore, I will discuss the constitutive role of structure of opportunities and constraints internal to the political subfield in producing the exclusion of Ahmadis. While the political subfield was autonomous *vis-à-vis* other state subfields, actors within the political subfield did not enjoy similar autonomy *vis-à-vis* their party bosses and their electoral bases and felt considerably constrained in the ways

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<sup>81</sup> Interview with Ghafoor Ahmad in Karachi, 8 March 2008.

in which they could approach the issue of the religious status of Ahmadis. The constriction of the discursive field of nationalist strategies meant that paradoxically, it were the actors occupying the dominant pole of the political subfield holding the most statist capital, including Bhutto himself, who were the least autonomous with regard to spelling out the nationalist policy while the Islamist opposition parties within the political subfield were able to employ the anti-Ahmadi demands to increase ethno-national capital and subsequently convert it into statist capital. As figure 4 depicts, autonomy within the political subfield was inversely proportional to volume of statist capital in 1974.

#### **4.3.1. The Re-emergence of the “Ahmadi Question**

On July 30 1974, all major newspapers reported that a group of 160 non-Ahmadi Muslim students of Nishtar Medical College at Multan were attacked on the Train Station at the city of Rabwah, a predominantly Ahmadi town, by thousands of Ahmadis. According to the popular newspaper accounts, the crowd was armed with sticks, knives, and swords, and proceeded to attack and beat the students, injuring 30 in the process. During the subsequent investigations, the number of attackers and those hurt, and the nature and the reasons for the attack would come under inquiry. However, it was acknowledged by all that on May 22, when the same students had stopped at Rabwah train station, there had been some minor skirmish at the train station between a group of Ahmadi and non-Ahmadi students, with the former claiming that anti-Ahmadiyya slogans had been shouted without provocation, and the latter denying those claims.

Because of the wide coverage given to the 29 May event by newspapers and the emotional response it generated among orthodox Muslims became the pretext for

religious groups and parties to re-launch a social movement demanding that the state declare Ahmadis non-Muslim. The state immediately appointed a High Court judge, K.M.A. Samdani, to investigate the incident and submit his findings, thus instituting what is popularly termed the Rabwah Tribunal. Regarding the event itself, different eye-witnesses and participants, both Ahmadis and non-Ahmadis were called in to give their account of the event. The Ahmadi student body maintained that they had been provoked into the fight by the Nishtar Medical College students, who at the Rabwah train station earlier on May 22 had shouted offensive slogans at the Ahmadi students in the ground nearby, in addition to verbally sexually harassing a group of girls at the station. The Nishtar Medical College students denied these charges, instead claiming that the attack had been unprovoked, and that it were the Ahmadi students who had shouted blasphemous slogans on May 22 and had tried to distribute objectionable Ahmadiyya literature to the Nishtar Medical College students. This line of inquiry was mostly concerned with ascertaining the number of attackers, their identities, the methods of attack, the timing, in short, the logistics of the attack. Throughout the inquiries, however, the non-Ahmadi side was given more space and time to articulate and debate their position. It was charged again and again that the attack was pre-planned, unprovoked, authorized by the Ahmadi administration of Rabwah, and part of a larger strategy to overturn Islam and institute the Ahmadiyya religion in Pakistan.

In response to the incident, acts of violence against the Ahmadiyya community started immediately, especially in the province of Punjab. At various university campuses, Ahmadi students were forcibly thrown out of their hostel rooms, their belongings collected and set on fire. Ahmadi shopkeepers in markets and bazaars started

receiving threatening phone calls while enraged crowds stoned and burnt Ahmadi shops, gas stations, and factories. Incidents of beatings of Ahmadis were reported which, according to official reports, also led to 42 murders, of which 27 were reported to be of Ahmadis (*Dawn*, Karachi: 23 June 1974). Violence against the Ahmadis came to an end within a week, largely because of willingness on the part of the state to use force to curb violence. However, a propaganda campaign was launched, with major Islamist political parties, religious organizations, student and trade unions; Members of opposition parties in the national and provincial assemblies, and public intellectuals publicly demanding that the government declare the Ahmadis a non-Muslim minority; remove all Ahmadis from key positions in state institutions; and that it declare Rabwah, alleged a “state within a state” run by the despotic descendents of Ghulam Mirza Ali, an “open city”. Additionally, a nation-wide movement was launched that advocated the social boycotting of Ahmadis. The following announcement that appeared on the front page of *Nawa-e-Waqt*, a major national newspaper that supports the religious Right, is typical of the scores of statements and announcements that were being sent in to and published by newspapers:

It is the Religious Duty of all Muslims  
That the Deniers of the Finality of the Prophethood of Prophet Muhammad (PBUH),  
the Qadianis, be completely boycotted,  
That they [the Muslims] maintain no relationships with them [the “Qadianis”] and do not buy and  
sell products made by them.  
We strongly demand from the Prime Minister of Pakistan Mr. Zulfikar Ali Bhutto that he, without  
delay,  
Declare the Qadianis a non-Muslim minority  
And on the Day of Judgment, with the Shafa’at [recommendation] of the Last of the Prophets  
PBUH, earn a high place in Heaven.  
From: President Wholesale Cloth Association, Gujranwala  
And Khwaja Cloth Market, Insaaf Cloth Market, Khaqwani Cloth Market, Madina Cloth Market  
[...etc]  
(*Nawa-e-Waqt*, Lahore: 16 June 1974, *Translation mine*)

The scale of anti-Ahmadi nationalism was much larger in 1974 than it had been in 1953. Oral accounts of the time period suggest that that country was gripped in anti-Ahmadi fervor and the pressure on the state to act according to popular nationalist demands were intense. Indeed, the demands were couched within rhetoric of democracy, with various organizations, opposition members, and newspapers demanding that the state act in a democratic manner and in accordance with the wishes of the majority of the nation. The state response in 1953 was cited as an instance of state repression.

At the start of the movement, acts of violence were committed against Ahmadis. Oral accounts of the time period suggest that that country was gripped in anti-Ahmadiyya fervor which had previously lain dormant but came to surface through the public outrage felt by the popular perception of the beating of non-Ahmadi students by Ahmadis in Rabwah. While violence against Ahmadis came to an end quickly, anti-Ahmadi rhetoric flooded national newspapers like *Nawa-e-Waqt* and *Mashriq*, while weekly magazines like *Chattan* and *Jsaarat* were so intense that they were outright banned by the state. The state response in 1954 was cited as an instance of state repression and editorials in newspapers supporting the anti-Ahmadi demands exhorted people to refrain from take recourse to violence (as the *Ahrar* had done in 1953) lest the state be forced to resort to taking military action (e.g. *Nawa-e-Waqt*, Lahore: 6 June 1974; *Mashriq* Newspaper, Lahore: 6 June 1974). While the 1953 anti-Ahmadi demands were coupled with a stringent critique of the existing government, contentious activity in 1974 was primarily directed towards the Ahmadis, the most general manifestation of which was the non-violent social boycotting of Ahmadis. Furthermore, in 1974 the demands were couched within rhetoric of democracy, with various organizations, opposition members, and

newspapers demanding that the state act in a democratic manner and in accordance with the wishes of the majority of the nation. For example, the editorial of *Dawn* Newspaper argued that the Islamist opposition in the National Assembly was within their democratic right to express dissent and canvass popular support with regard to their demands (*Dawn*, Karachi: 7 June 1974).

In 1953, the state's response to anti-Ahmadiyya nationalist violence produced a number of 'state effects' through which both state power and the idea of the state were institutionalized and articulated (Jessop 1990; Trouillot 2001). Firstly, the state in an unprecedented move, that was also clearly unconstitutional and by-passed both the elected Federal and provincial governments, took recourse to Martial Law thereby institutionalizing a new language for governance to regulate the body politic in the name of the maintenance of law and order. Secondly, while the state engaged with the issue of defining the boundaries of "Muslim citizenship", it ultimately proposed a territorial, and not a religious, conception of the nation, while recognizing that the majority of the citizens of Pakistan were Muslim. Lastly, the idea that it was the institution of the state, and not those of elected representatives, which could most effectively guarantee rights and just outcomes in a clash between different ideas about national minorities was implicitly professed by the state, with the state distrusting elected representatives as being partisan, biased, and set out to embarrass the state.

In 1974, all of these aspects were brought under critical scrutiny. This time, anti-Ahmadiyya demands were couched within public narratives about state – its functions, its ideology, its responsibility to the majority of Pakistanis, its relationship to Islam, etc. For example, it was being claimed across the board that the basis of the origins of Pakistan

were founded on Islam, and that Islam alone provided justification for the existence of an independent Pakistan. The “Ahmadi question” at this moment proved to be the mean through which the Pakistani state was historically reconstituted, both institutionally and discursively, in order to provide a different solution to the problem of accommodating Islam within the national narrative. The wider social base of the anti-Ahmadi nationalism in 1974, coupled with the increasing presence of religious rhetoric within the Bhutto regime, created the space within which the state was led to revise its earlier position on the ‘Ahmadi question’.

In the construction of this new national narrative, the “history” of the formation of the Ahmadiyya religion occupied center stage. One of the most vocal and public articulators of the “history” of Ahmadiyya community in Pakistan at the time was the journalist and public intellectual Z. A. Suleri, who, in a series of articles published in *Nawa-e-Waqt*, a right-wing Urdu language national newspaper, popularized his views. With regard to the birth of the Ahmadiyya religion in the late nineteenth century Punjab, Suleri argues that the Ahmadiyya religion was given patronage by the British colonial authorities because of its anti-*Jihadi* (Holy War) and pacifist teachings in order to create a band of loyal Muslims who did not see it as their religious duty to oppose British colonial rule<sup>82</sup> (*Nawa-e-Waqt*, Lahore: 30 June, 1974). In one of his earlier articles, Suleri celebrated the Rabwah incident as “a blessing in disguise” for throwing into “bold relief the truly religious character of Pakistani society” (*Nawa-e-Waqt*, Lahore: 23 June 1974).

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<sup>82</sup> The editorial of *Nawa-e-Waqt* (Lahore) unequivocally argued that the “Ahmadi problem” was a legacy and a reminder of colonial rule, and the problem would never have arisen if the Muslims had not been colonized. The editorial argues that under Muslim rule, no person would have dared to claim Prophethood, for they would have known that such claims would not be tolerated (*Nawa-e-Waqt* Newspaper, Lahore: 2 July 1974). Suleri’s article in the same newspaper, in which he celebrated the passing of the second constitutional amendment, was titled “British Killed Today!” (*Nawa-e-Waqt*, Lahore: 13 September 1974, *translation mine*).

A staunch critic of Bhutto and his socialism, Suleri equated the religion of the “*Qadianis*” with the “communist materialist creed”, and pronounced both an “anathema to the Islamic way of life” (ibid). Suleri argued that the creation of Pakistan was fundamentally premised on Muslim nationhood, a position that was rejected by the Ahmadiyya community at the time of the Pakistani movement. Furthermore, Suleri argued, Islam alone could offer a unifying point of departure for the nation. It was the failure to recognize the fundamental importance of Islam for Pakistan nationhood that had led to the separation of East Pakistan from Pakistan (*Nawa-e-Waqt*, Lahore: 23 June 1974).

The position that the Ahmadiyya community was linked to foreign elements that were antithetical to the Pakistani state was seriously entertained by the Pakistani state itself. The proceedings of the tribunal constituted by the Punjab government, to be headed by the Lahore High Court Judge K.M.A. Samdani, to investigate the May 29 disturbances<sup>83</sup>, provides an especially rich source for analyzing how both the Pakistani state and right wing nationalists articulated the Ahmadi issue. In addition to the state, the tribunal allowed different religious organizations and the Ahmadis to present their views and testimonies regarding the May 29 event. The organizations represented in the tribunal included, among others, JI; MTKN; the Ahmadiyya organization of Rabwah; the Student Union of Talimul Islam College, Rabwah, whose students were allegedly responsible for the May 29 attack; and JUP. The “Rabwah Tribunal” commenced its proceedings on 4th June 1974 and brought them to an end on 3rd August 1974. During this inquiry into the 29th May incident, the tribunal recorded testimonies of seventy persons, both Ahmadis

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<sup>83</sup> The “Rabwah Tribunal” commenced its proceedings on 4th June 1974 and brought them to an end on 3rd August 1974. During this inquiry into the 29th May incident, the tribunal recorded evidence of seventy persons, both Ahmadis and non-Ahmadis. In addition, some people sent in written records that were made part of the tribunal record. Most of the tribunal proceedings were held in open court, with newspapers publishing these almost on a daily basis (*Dawn*, Karachi: August 4 1974).

and non-Ahmadis. In addition, some people sent in written records that were made part of the tribunal record. Most of the tribunal proceedings were held in open court, with newspapers publishing these almost on a daily basis (*Dawn*, Karachi: 4 August 1974). While most of the inquiry revolved around the 29 May event, questions about the administration of Rabwah, the loyalty of the Ahmadiyya community to Pakistan, and its religious status and beliefs were raised and debated.

The religious organizations in fact announced that they were unable to represent their case with regard to the complicity of the Ahmadiyya *Jama'at* without debating the larger issue of the religious status of the Ahmadiyya community (*Nawa-e-Waqt*, Lahore: 16 June 1974). Justice Samdani asserted that the tribunal's position was that the Ahmadiyya community did form a distinct sect having its own organizational structure, and that the issue of the basis of their separateness from the rest of the community was relevant to the case. Despite protests by the lawyer of the Ahmadiyya *Jama'at* of Rabwah that the issue of the religious beliefs of the community was irrelevant to the case in hand, the tribunal asked all the lawyers to prepare written statements regarding the issue of the basis of Ahmadiyya separateness (*ibid*). While the issue wasn't openly debated during the inquiry, the religious establishments in their concluding statements demanded that the tribunal in its final report recommend that the community be declared non-Muslim (*Nawa-e-Waqt*, Lahore: 4 August 1974).

While the exact status of the Ahmadiyya community was not discussed, the "heretical" and "blasphemous" practices of the community were neatly threaded in with discussions about the organization of the Ahmadiyya *Jama'at* in, and their administration of, Rabwah. Witnesses were brought in who gave statements regarding the despotic

nature of the *Jama'at* in Rabwah, particularly the close family and associates of the *Khalifa* – the head of the *Jama'at* and the direct descendent of Ghulam Mirza. For example, a Mohammad Saleh Nur, an Ahmadi by birth who was later dislodged from Rabwah in 1956, claimed that he and 50 others were shunned that year on grounds of making critical statements about the *Khalifa* (*Nawa-e-Waqt*, Lahore: 27 June 1974). In addition to being fired from his job, he was made to leave Rabwah without his wife and children, who were kept away from him on the grounds that since he was no longer an Ahmadi, he had no claim on his Ahmadi family. Several such witnesses and ex-Ahmadis were brought in who gave testimonies to the effect that the *Jamaat* had its own system of administration, education, policing, and justice, all characterized by despotism and arbitrariness, and which by-passed the state altogether. Furthermore, it was stated that the *Jamaat* had formed quasi-militias in Rabwah that were armed and ready to strike out against the 'Muslims' in Pakistan, with the help of foreign enemies. For example, the lawyers representing the MTKN argued that the May 29 incident was a part of a larger 'Qadiani' conspiracy to collaborate with India to create a 'united India' in the South Asian sub-continent (*Nawa-e-Waqt*: 20 June 1974).

#### **4.3.2. Muslim Nationalism and the Political Field**

Initially silent on the question of the religious status of Ahmadis, the state forcefully maintained that it was the state's duty to protect all citizens equally without regard to considerations of religion. However, prominent leaders of PPP, particularly Bhutto and the Chief Minister of Punjab Hanif Ramay publicly declared their faith in the doctrine of the finality of Prophethood and affirmed the Islamic identity of Pakistan. In a

speech in the National Assembly, Bhutto referred to the Ahmadi issue as a “problem” that dated back to 1953 but argued that the “problem” had been solved through the 1973 constitution that stipulated not only that only a Muslim could occupy the positions of the President and Prime Minister of Pakistan but also required all incumbents to take an oath affirming their belief in the finality of the Prophethood of Mohammad. Bhutto further noted that the categories of minorities had been defined in the 1973 constitution and that no party or individual had raised the issue of the minority status of Ahmadis at that point. Bhutto concluded that the Ahmadi issue was being used by the opposition to ignite trouble and weaken Pakistan. The government, he declared, “had no vested interest in the problem”, was taking a “rational view” and “trying to apply universal morality to the issue” (*Dawn*, Karachi: June 4, 1974). The Speaker of the National Assembly Sahabzada Farooq Ali on the subsequent day ruled out adjournment motions by members of the opposition demanding that there be a debate on the Rabwah incidence in the National Assembly. The speaker maintained that the incident pertained to a provincial law and order matter and that the inquiry commission set up by Lahore High Court would probe into the incident. The opposition led by Islamist parties staged a brief walk-out to protest this (*Dawn*, Karachi: June 5, 1974). Soon thereafter, however, on June 13<sup>th</sup>, Bhutto in a televised speech announced that the Ahmadi issue would be placed before the National Assembly for deliberation (*Dawn*, Karachi: 14 June 1974). The National Assembly was subsequently converted into a Special Committee which debated the issue of whether the Ahmadis were Muslim or not and called the various heads of Ahmadiyya organizations to present their views and to answer questions posed by members. The exact proceedings of these deliberations have not been made public to this day. The Ahmadis were

unanimously declared a non-Muslim minority and the second constitutional amendment passed by the National Assembly on September 7, 1974.

As anti-Ahmadi agitation continued to grow in 1974, Bhutto was confronted with a choice: revert to the historical precedent of cracking down on right-wing establishments to thwart anti-Ahmadi demands, or to engage somehow with the demands. The first option wasn't a possibility in 1974 for a number of reasons. As discussed above, the discursive space of nationalist strategies in 1974 was radically different from that in 1953. In the former moment, the relationship between Islam and the state was a hotly debated, contested and as yet unresolved issue. In contrast, by 1973, the PPP had aligned itself with Islam through its self-identification as an Islamic-socialist party. While nominal, this identification was symbolically potent, circumscribing the range of actions available to Bhutto.

Second, Bhutto came to dominance in the state field through a populist mode of electoral campaign that was novel in Pakistani politics. Bhutto emerged as a charismatic leader through "a folksy and colorful campaign" in which large portraits of Bhutto, Bhutto's performative theatrics during public rallies (such as passionate shouting accompanied with rolling up his sleeves, opening his shirt front), catchy slogans centered on Bhutto ("Our Bhutto is truly a lion while the others are merely devious") etc. were the norm (Syed 1992: 68-79). This style of electioneering doubtless was crucial to his emerging as a charismatic and the unchallenged leader of the people in West Pakistan. However, this extreme self-posturing as a man of the people, their servant, brother, friend, comrade, spokesperson, their *delegate*, meant that while Bhutto could take radical steps to curb real or perceived opposition within the state field (such restructuring the

bureaucracy, perpetrating cruel acts towards individuals who challenged him during his regime), he was helpless when faced with a truly nation-wide social movement making demands on his government.

My interview with the Speaker of National Assembly in 1974 Sahabzada Farooq Ali, a close aid of Bhutto, confirms this view. According to Farooq Ali, Bhutto had received a lot of support from the Ahmadiyya community during his election campaign of 1970 and enjoyed close ties with several Ahmadis<sup>84</sup>. According to Farooq Ali, “Bhutto told me personally that Ahmadis had suffered a lot and that they should not suffer any more. But Bhutto was left with no option. People wanted the issue to be taken to National Assembly. The day it was announced that the issue would be taken to National Assembly, the riots stopped.” Farooq Ali spoke of his own close ties with the Ahmadis, ties that had organically emerged over time because of a huge presence of Ahmadis in his electoral constituencies of cities of Sailkot and Gujarat. Farooq Ali revealed that for both Bhutto and him, the issue was not one of religion but of a popular demand that had to be met. Bhutto did not attend the National Assembly sessions in which the question of the religious status of Ahmadis was discussed on the grounds that he was the representative of the entire country and did not want to influence the National Assembly in any way. Farooq Ali believes that another reason Bhutto stayed away was because he did not want any direct part in a decision that was at odds with his own inclinations towards the issue. When asked if he now feels that the nationalist policy of exclusion adopted at that time was the correct one, Farooq Ali responded in affirmative “because this was the voice of the nation”. However, he was derisive towards the ‘mullas’ who now had the ‘*raj*’ (rule)

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<sup>84</sup> Interview with Sahabzada Farooq Ali, Multan. 8 April, 2008.

over proclaiming who was and was not a Muslim and argued that the state instituted by the Prophet Mohammad in Medina had been a welfare and not a theocratic state.

The Minister of Minority Affairs and Tourism at that time, Raja Tridev Roy, a Buddhist hailing from Chittagong Hill Tracts in Bangladesh, was on an official tour in Germany at that time period and was not consulted about the issue whatsoever<sup>85</sup>. While in Germany, he was approached by a number of Ahmadis who lodged protests with him regarding the occurrences in Pakistan and asked him to convey their protests to the center. Roy did approach the center but by then the second amendment had been passed. Roy told me during my interview conducted with him that he was personally not in favor of the amendment but as a non-Muslim, he felt that “this is a matter of theology and dictation of Islam and...beyond my ability and my responsibility”. According to Roy, Bhutto’s acquiescence with regard to the Ahmadi issue and his later policies of banning of alcohol and declaring Friday instead of Sunday as the weekly holiday (Friday is considered the day of special prayers in Islam) were not reflective of his personal views or wishes but arose from “a misplaced sense of self-preservation” and as a means to neutralize the Islamic rhetoric of opposition parties, both the Islamist and the secular ones.

Bhutto’s was a true adoption of what I have termed a nation-centered language of stateness. Bhutto was the first truly popular leader of the West Pakistani people who had come to office not just through democratic means but more significantly through Pakistan’s *first* general elections which constituted the first engagement of a large number of Pakistanis with national level politics. This nation-centered language of stateness posed a sharp contrast with the state-centered language of stateness of 1953 that

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<sup>85</sup> Interview with Raja Tridev Roy, Islamabad. 4 April, 2008.

was characterized by very public and performative displays of state power such as imposition of martial law, use of brutal police force against agitators, imprisonment of prominent public leaders, death sentencing of Maulana Maududi, and of course the formation of the Court of Inquiry led by Justice Mohammad Munir before which appeared a large number of social and state actors ranging from Prime Minister Khwaja Nazimuddin to local leaders involved in the agitation. Bhutto's nation-centered language of stateness also excluded the law-centered language of stateness through which the Court of Inquiry in 1953 had privileged a territorially based nationalism characterized by *people-as-demos*.

This nation-centered language of stateness was in complete accord with the repertoires of contention used by the anti-Ahmadi social movement as well as with the popular rhetoric around the demands that I have discussed above. It was the articulation of a nation-centered discourse by the anti-Ahmadi social movement and the mutual legibility between this discursive strategy and the nation-centered language of stateness that led Prime Minister Bhutto to place the issue of the religious status of Ahmadis before the National Assembly. A motion passed by the Law Minister Abdul Hafeez Pirzada "to discuss the question of the status in Islam of persons who do not believe in the finality of Prophethood of Mohammad" was adopted on 30<sup>th</sup> June (National Assembly of Pakistan Debates (henceforth NAPD), 30 June 1974: 1302). The hope, according to Pirzada, was to arrive at "an effective, just and final solution" as was desired by Bhutto (ibid. 1303). This was followed by a motion by twenty-two MNAs belonging to the opposition parties (mostly Islamist) to declare all followers of Mirza Ghulam Ahmad as "not Muslims"<sup>86</sup>.

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<sup>86</sup> The grounds on which the motion was being passed were enumerated in the motion and included: (1) Mirza Ghulam Ahmad's "false declaration to be a prophet, his attempts to falsify numerous Quranic texts

The motion was accepted and the National Assembly was subsequently converted into a Special Committee to debate the religious status of Ahmadis.

During the proceedings, the leadership of Ahmadiyya community organizations was called in the National Assembly to present their views and to answer questions posed by MNAs. A useful document for considering the discursive strategies employed by the Islamist political parties, who were in effect the dominant actors in framing the terms of the debate within this state space in 1974, can be captured by analyzing the text circulated by them to all the MNAs written by Maulana Mohammad Taqi Usmani, a prominent religious scholar. This text was later translated into English and titled *Qadianism on Trail: The Case of the Muslim Ummah against Qadianis presented before the National Assembly of Pakistan*. This hegemonic discourse was defined by what can be termed a socio-symbolic narrative construction of the Ahmadis that claimed to give an authentic rendering of the Ahmadiyya community's "political history" (a creation of the British colonial state "to disintegrate the unity of the Muslims"; religious precepts (false and doubly dangerous because they are presented as true Islam); social organization (self-separatist) , its political ambitions (take over Pakistan); and its practices as citizens (disloyal and traitorous towards Pakistan), *despite* the presence of Ahmadis who rejected these charges (Usmani 1977: 125). This discourse of the religious right was not novel and had been disseminated in 1953's movement, most notably through the publication and wide circulation of Maulana Maududi's *Qadiyani Problem* (1953). The difference in 1974 was that this discourse occupied a more central position in the state field and set the

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and to abolish Jihad were treacherous to the main issues of Islam"; (ii) Mirza Ghulam Ahmad "was a creation of imperialism for the sole purpose of destroying Muslim solidarity and falsifying Islam"; (iii) the entire Muslim ummah (community of Believers) consider Ahmadis "outside the pale of Islam"; Ahmadis are "indulging in subversive activities internally and externally by mixing with Muslims and pretending to be a sect of Islam" (NAPD, 30 June 1974: 1306).

background against which the leaders of the Ahmadi community were asked if they regarded non-Ahmadis as non-Muslims. My interviews with several MNAs reveal that this was perhaps the most crucial question posed because the response of the Ahmadi leadership was an unequivocal yes, which had the effect of angering even the more secularly inclined MNAs who had been wary of the Ahmadi issue being brought to the National Assembly. By answering yes to the question, the Ahmadi leadership fundamentally challenged the re-articulated basis of the Pakistani nation as representing true Islam. By calling into question the authenticity of their religious beliefs, the Ahmadis challenged not only the MNAs' identity claims but the very basis of their political platform and the Muslimness of the nation of which they were the delegates.

The MNAs were angered by the Ahmadiyya leadership's statements regarding the Ahmadi Islam as being the only true Islam. However, there were a number of other factors that set the constraints with regard to the autonomy MNAs and other state actors had with regard to the ways they could address the question of the religious status of the Ahmadis. I will begin with the juridical field's role in this issue. While the religious organizations attempted to use the public space constituted by the Rabwah Tribunal to further the cause of their movement, Judge Samdani actively resisted these attempts. According to Samdani, "the Samdani tribunal had nothing to do with religion"<sup>87</sup>. Samdani held that he allowed the religious groups to present their arguments regarding the religious status of Ahmadis in a written form so that these groups would refrain from making similar speeches in the Courtroom. However, he himself neither read those, nor considered them in his judgment. If the state-space constituted by the juridical subfield had been responsible, or at least had a more active role in addressing the issue of the

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<sup>87</sup> Interview with K.M.A. Samdani, Islamabad, 30 January, 2008.

state's proper role with regard to the question of the religious status of Ahmadis in 1974, it is likely that the outcome would have been very similar to that in 1953. However, at this moment Bhutto decided to place the issue before the National Assembly for deliberation. While announcing this decision, Bhutto maintained that full freedom would be given to all members of the National Assembly to vote for or against the constitutional amendment as they saw fit (*Dawn*, Karachi: 14 June 1974). Personal interviews conducted with a number of MNAs of 1974 contradict this and point to the multiple, and oftentimes conflicting, logics at play in the determination of nationalist policy. Specifically, they suggest the lack of autonomy that all MNAs, with the exception of those belonging to Islamist parties, had in choosing which way to vote as well as suggesting the opportunities and constraints felt by MNAs in their voting decisions. Significantly, they also attest to the high stakes that developed for the ruling regime itself as Bhutto became increasingly convinced that the declaration of Ahmadis as non-Muslims would strengthen his popular appeal and political standing.

Bourdieu argues that political parties are often shaped by opposition and struggles between two groups of people within them. On the one hand, there are those who advocate a commitment to the original manifestos of the Party even if it means denouncing the compromises necessary to increase the strength of the party. On the other hand are those who side with the logic of Realpolitik and willing to entail all the compromises and concessions that would lead to a broadening of its social base (Bourdieu 1991: 189-90). Which group will succeed in giving the hegemonic response to the nationalist question within each political party is contingent on the position occupied by that political party within the political state subfield with regard to the

autonomy/heteronomy dimension. My contention is that within parliamentary systems, opposition parties are more autonomous with respect to advancing the “original” position of the parties. Being the minority and forming the opposition affords them a more stable position in that they are not constantly seeking compromises with other political parties to stay in their positions. This is especially the case with those political parties that are destined to retain the role of an opposition party by virtue of commanding a significant *but not significant enough* electorate. Paradoxically then, being a minority and in essence possessing less political capital opens up the space for the political party to maintain its party line with more vigor. In contrast, the ruling political party, especially if its ruling position is maintained through forming temporary coalitions with otherwise-opponent political parties has to be willing to concede its party manifesto in the interest of maintaining coalitions. Furthermore, because such a party can very well visualize the likelihood of a future in which it may not need to form coalition with other parties, it seeks to tailor its political rhetoric to suit the electorate.

The ‘Ahmadi question’ in 1974 is indicative of the way autonomy in the political subfield was structured. Outwardly, there was no conflict with regard to ascertaining the religious status of the Ahmadis, since all Members of the National Assembly, self-identified secularists and Islamists, opposition Members and those from the ruling parties, unanimously voted that Ahmadis be declared non-Muslim. Personal stories about the events of the time revealed by the MNAs I interviewed suggest otherwise. Specifically, they reveal that MNAs belonging to non-Islamist parties were compelled to vote against the Ahmadis even if their own inclinations dictated otherwise. However, the

Ahmadi issue provided the MNAs belonging to Islamist parties a means to consolidate and win gains for their version of the nation-state.

One of the MNAs I interviewed, Gul Aurangzeb, belonged to an opposition Party, Muslim League (Qayyum), in 1974. Below is an excerpt from the transcript of my interview with him which reveals the constraints faced by him during that time period.

S.S.: I find it very interesting that there was not one person in the 1974 Assembly who voted against the Amendment.

G.A.: The whole Assembly voted and the whole Assembly said they [Ahmadis] are non-Muslims, because we have dictatorships of different kinds. There are military dictators and there are civilian dictators. Hitler became a civilian dictator. Mussolini was a civilian dictator. Some were Generals, some were not. No body dare vote against Bhutto's wishes.

S.S.: Is that what it was?

G.A.: Yes...And then there was the fear, because there was a general feeling in Pakistan...anti-Ahmadi. I have got a couple of Ahmadi friends. They came and visited me in those days. They said we expect you to vote for us. I told them, 'Chums, don't think that I will be the single person in the hundred and forty-four members voting for you and the rest are voting against you'. And I said I can't even abstain...And the punishment that I am going to receive after that [after voting against the amendment], are you going to help me?

S.S.: So you think if most of the people had the choice, then they wouldn't have voted for the amendment?

G.A.: Well I don't know about other people but about me, if I had a free choice I would have abstained.

S.S.: You would have abstained?

GA: I would have abstained, yes. I am neither calling them Muslims, I am neither calling them non-Muslims.<sup>88</sup>

According to Aurangzeb, he was given the directive by his Party Head to vote against the Ahmadis as Bhutto wanted the amendment to go through in order to gain popularity among the people. According to Aurangzeb, "We, the members of ML (Q) were sold by Qayyum Sahib to Bhutto". Furthermore, he held, "In the parliament there was no question of anybody opposing Bhutto's orders and nobody was willing to face the public outside". Aurangzeb proceeded to tell me of the difficulties he would have faced from the electorate when he would have returned from the capital to his home

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<sup>88</sup> Interview with Gul Aurangzeb, Islamabad, 4 March 2008.

constituency of Swat, an increasingly Islamicized area in the Northern areas of Pakistan. According to Aurangzeb, “In my country if you do not agree with the mobs, you are declared a traitor”.

A very similar story was related to me by another MNA Sherbaz Mazari, an Independent in the 1974 Assembly. With misting eyes, Mazari told me that he had erred in not taking a stance at that moment and that he had voted with the crowd in fear of Bhutto<sup>89</sup>. According to Mazari, MNAs from Islamist parties and Bhutto himself personally approached and asked him to vote for the amendment.

If fear of the mob/crowd on the one hand and of Bhutto on the other shaped the votes of a few MNAs, other MNAs had their own motivations. Ahmad Raza Kasuri, an Independent and an ardent critic of Bhutto both inside and outside the Assembly, was the first MNA to raise the Ahmadi issue in the National Assembly immediately in the aftermath of the May 29 events. According to Kasuri,

“My normal practice was that I was a very very sensitive Parliamentarian. I would take up all possible issues....and I was very vocal. My style was that every day I would glance through at least 10 newspapers every morning and the few educated boys that I would bring from Kasur [Kasuri’s hometown] would help me with scanning the newspapers because I did not have time to read every newspaper. At breakfast they would give me all the newspapers with red markings which from their point of view was important, not from my point of view. But I would glance through those red lines seeing whether there is some meat in it...and once I would scan them what I would do is call the [ineligible], give them a note, the dictation, prepare a general motion.”<sup>90</sup>

It was Kasuri’s “normal practice” to file 3-4 adjournment motions everyday. Kasuri told me that he had a two-fold motivation to present the Ahmadi issue in the Assembly: one, to create pressure on Bhutto by putting him in a difficult spot, and second, because of his religious motivations, since he personally believes that Ahmadis are non-Muslim because of Ghulam Mirza Ahmad’s claim to Prophethood. Kasuri

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<sup>89</sup> Interview with Sherbaz Mazari, Karachi, 9 March, 2008.

<sup>90</sup> Interview with Ahmad Raza Kasuri, Islamabad, 30 January, 2008.

informed me that for every MNA in the House, there was a different motivation for supporting the amendment. Some supported it because of their religious beliefs; others, such as Bhutto and his close secular aides like Hafiz Pirzada, the Law Minister at that time, because of political compulsion; and yet others who supported it because they wanted to put pressure on Bhutto and did not expect Bhutto to let the Ahmadi issue be debated in the House.

One of the MNAs I interviewed was Ghafoor Ahmad, belonging to the Islamist JI voted for the amendment on the basis of his religious beliefs and because of the 1973 Constitution that made Islam the state religion of Pakistan. Ghafoor Ahmad maintained:

“Pakistan’s state is an ideological state. There are two ideological states in the world, one Pakistan, the other Israel. What was the basis upon which the sub-continent was divided? It was decided because the Muslims felt that...they had economic rights there too...but they felt that on the basis of their own concept, on the basis of their *din* [religion], they could not set up a *nizaam* [institutional set-up] there. What Islam demands, the concept of the Islamic state, could not be realized by staying in India. We could have had independent provinces there, like they have states, but the majority in the center would have been that of non-Muslims.”<sup>91</sup>

The logical corollary of this, according to Ahmad, is that in an Islamic state, it is of utmost importance to determine who is and in not a Muslim since in an Islamic state, only a Muslim can be the Head of the State.

In his speech in the National Assembly on 7 September 1974, the day constitutional amendment rendering Ahmadis non-Muslim was passed through a unanimous vote, Bhutto maintained that the resolution of the Ahmadi question was fundamentally a religious issue that required a ‘genuine resolution’ because “Pakistan came into creation for the Muslims to have a homeland; and if a decision is taken which the body of Muslims in this country feel to be against the tenets of the fundamental

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<sup>91</sup> Interview with Ghafoor Ahmad, Karachi. 8 March, 2008.

beliefs of Islam, it would dangerously affect the rationale and *raison d'être* of Pakistan” (NAPD, 7 September 1974: 566). In the next paragraph (in the written version of the speech), Bhutto held that the resolution reflected “both a religious decision and a secular decision”:

“It is a religious decision because it affects the majority of the population of Muslims. It is a secular decision because we live in modern times and we have a secular Constitution and we believe in the citizens of the country to have their full rights. Every Pakistani has a right to profess his religion, his caste and his sect proudly and with confidence and without fear, and this guarantee the Constitution of Pakistan gives to citizens of Pakistan.” (ibid.: 567)

Bhutto hailed the decision as one of democratic triumph, maintaining that the decision could not have been taken “without democratic institutions” (ibid.: 565). By letting majoritarian democratic institutions take the lead on the issue of citizenship rights, the state allowed the religious right to occupy the center stage within the National Assembly and turn its claims about Pakistani Muslim nationalism into practice through re-defining citizenship.

## Chapter 5

### **From Muslim Nationalism to ‘Islamic’ Statehood: Examining the Conjectures between Statist Imperatives and Socio-Symbolic Struggles**

In 1984, the military ruler General Zia-ul-Haq, who came to power in 1977 through a military coup and undertook the project of the Islamization of Pakistan, passed an Ordinance titled *Anti-Islamic Activities of the Qadiani Group, Lahori Group and Ahmadis (Prohibition and Punishment) Ordinance 1984* ('1984 Ordinance') that made it a criminal offence for Ahmadis to refer to themselves as Muslims and to their religion as Islam; to use 'epithets, descriptions and titles, etc. reserved for certain holy personages or places'; and propagate and preach their faith. It also made any Ahmadi liable to punishment and fines who "directly or indirectly, poses himself as Muslim...or in any manner whatsoever outrages the religious feelings of Muslims"<sup>92</sup>.

At first glance, this Ordinance represents a continuation of the larger trajectory of the relationship between the Pakistani state and the Ahmadiyya community that I have analyzed in the previous chapters. However, as has been the central premise of this study, the significant shift constituting this trajectory – defined by shift from the exclusion of Ahmadis in 1974 to the criminalization of Ahmadis in 1984 by the Pakistani state – itself requires explanation since instances of seemingly straightforward continuity between past utterances of national identity and their official, institutional re-inscriptions occur through

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<sup>92</sup> See Appendix 1 for the text of the 1984 Ordinance.

conjunctures between structural changes that affect the redistribution of various capitals in the social field, shifts within the discursive space of nationalist strategies, and the changing structures of opportunities and constraints of relevant social and political actors. An instance of nationalist policy that explicitly placed the Ahmadis outside the regime of citizenship rights enjoyed by the majority of Muslims in Pakistan, the 1984 Ordinance necessitates an account of the multiple causal mechanisms of intra-state and state-society interactions through which this policy outcome arose and of its discursive positionality within the terrain of nationalist discourses under Zia-ul-Haq regime. Some of the questions that this chapter addresses are: given that the promulgation of the 1984 Ordinance constituted an acceptance of the demands put forth by a narrow but vocal religious establishment, why did Zia-ul-Haq undertake a measure that was articulated neither as a popular nor a democratic demand as had been the case with the 1974 constitutional amendment? How are intra-state dynamics of policy making – conceptualized in the present study as the competitive struggle for proclaiming ethno-national truths of the nation – implicated in the promulgation of the 1984 Ordinance? How can we analytically situate the 1984 Ordinance within the larger project of Islamization undertaken by Zia-ul-Haq? And finally, what do public discussions about the ‘Ahmadi question’ in the 1980s – including the demands for the promulgation of the 1984 Ordinance, the content of the Ordinance itself and the subsequent responses to it within public discourses – reveal about the ways Pakistanis were fragmented among themselves with regard to understanding and narrating the national identity of Pakistan?

To recap the theoretical framework laid out in Chapter 2, one of the central premises of this study is that an explanation of shifts in official national policy outcomes

requires bridging the gap between state theory and nationalism theory through theoretically reconceptualizing both the state and nationness by de-centering the state and de-naturalizing seemingly primordial national identities. The reification of the state – approaching the state as a unified whole in which different state subfields function in harmony to produce nationalist policy outcomes – is untenable when we pay attention to the presence of multiple and oftentimes contradictory languages of stateness that structure the habitus of differentially placed state actors within specific substate institutional sites. By thus theoretically re-conceptualizing the state, we can arrive at a more sociological understanding of nationalist policy outcomes by looking at the multiple logics of governance and their attendant languages of stateness through which relations with citizens are governed. It is easy to overlook intra-state and state-society dynamics when the state under consideration is an authoritarian one in which the ruling regime expends considerable resources to give and maintain the perception of holding authority over different state subfields and citizens. However, as I will show, the institutional practices and discursive repertoires of authoritarian regimes *create* the space for social groups to articulate their demands through repertoires of contention that strategically appropriate the very language of stateness that the authoritarian state employs to legitimate its own rule. Similarly, analyzing shifts in nationalist policy outcomes requires a critical engagement with the institutional and discursive terrain on which the collective work of creating, preserving, appropriating and renewing collective memories and national identities and symbols – what Bourdieu refers repeatedly to as the very ‘principles of vision and division’ that institutionalize hegemonic and seemingly natural classifications and social hierarchies – takes place.

In what follows, I consider the political, cultural and institutional mechanisms that led to the promulgation of the 1984 Ordinance against the causal backdrop of the genealogy of the relationship between the Pakistani state and the Ahmadi question that I have recounted thus far. I examine the emergence of 1984 Ordinance through considering the historical conjunctures between (1) dynamics of distribution of statist capital within the state field; (2) shifts in the discursive space of nationalist strategies; and (3) mutual legibility between the dominant state actors' language of stateness and the repertoires of contention by religious groups demanding the promulgation of the 1984 Ordinance. I argue that the 1984 Ordinance was a result of the conjunctures between the redistribution of statist capital whereby Zia-ul-Haq came to occupy the dominant position within the state field; an explicit program of the Islamization undertaken by Zia in alliance with *Jamaat-e-Islami* (JI), an Islamist political party having a historical anti-Ahmadi agenda as a response to the legitimacy crisis facing his undemocratic rule; and a restricted discursive space of nationalist strategies that was nonetheless subsequently broadened as a result of nationalist and Islamization policies such as the promulgation of the 1984 Ordinance. I also analyze the symbolic struggles between Ahmadis and the orthodox religious establishment over the hegemonic narration of the 1974 constitutional amendment and the relationship between nation, state and Islam contained in it. I argue that this symbolic struggle was an important contingent factor that shaped the anti-Ahmadi demands in 1984 which in turn led to the promulgation of the 1984 Ordinance.

### **5.1. THE REDISTRIBUTION OF STATIST CAPITAL: 1977-1988**

Mohammad Zia-ul-Haq was promoted as the Chief of the Army Staff in 1976 by Prime Minister Zulfikar Ali Bhutto despite Zia-ul-Haq's junior status at that time (he was a lieutenant-General). Zia-ul-Haq's promotion was an attempt by Bhutto to consolidate his dominant position within the state field through placing individuals he perceived as loyal to him at the most important posts in the various state subfields. However, despite his own earlier convictions that the military should discharge a purely non-political function in the state field and that his role as the top man of the military was to serve the constitutional government of Bhutto, Zia-ul-Haq was pressurized into taking a course that would eventually culminate in a military coup in July of 1977. A coterie of highly influential Generals in the Army convinced Zia-ul-Haq of the necessity of a military takeover (Ziring 1980: 197-8). The immediate context informing the reentry of military men into the administration of the state was the discontent caused by the rigging of elections held in January of 1977 by the ruling PPP, a measure precipitated by the formation of an alliance of nine major opposition political parties under the umbrella organization Pakistan National Alliance (PNA) that was highly critical of Bhutto's socialist and nationalizing policies. Among these nine parties included the major Islamist parties including the JI, JUI and JUP; the centrist-conservative Pakistan Muslim League (PML); and socially progressive parties like *Tehrik-e-Istiqlal* and Pakistan Democratic Party. In its election rhetoric, PNA emphasized high inflation, corruption within the state machinery, undermining of democratic norms and suppression of dissenting opponents

under the Bhutto regime (Rizvi 2000: 158)<sup>93</sup>. PNA launched a major anti-Bhutto movement casting serious doubts about the credibility of the elections of 1977 that showed the PPP win by a landslide victory. Charges of election rigging were followed by PNA-led demonstrations all across Pakistan with PNA leaders incorporating a critique of existing government (including Bhutto's Western lifestyle and drinking habits) with the promise of the introduction of *Nizam-i-Mustafa*, the law of Prophet Mohammad, should the elections be re-held and the PNA come to occupy the dominant position within the political state subfield. What this Islamic system would look like in practice was as usual vague, a feature that lent to its wide resonance with a huge section of the population. It has been aptly noted that

“The catch-all slogan of introduction of *Nizam-i-Mustafa*...meant different things to different people: to orthodox and fundamentalists, it meant a polity that accommodated their religio-political views and guaranteed an effective role for them in governance; for lawyers, journalists and advocates of civil and political rights, it meant the restoration of civil and political rights, rule of law, justice and socio-economic egalitarianism; labour [sic] expected to get a better deal that would protect them against inflation, price hikes and personal insecurity; the business and industrialist community supported this to get rid of Bhutto's socialist economy” (Rizvi 2000.: 159).

The promise of the introduction of an Islamic system resonated with a wide section of the populace, in particular the two social groups that had most avidly supported Bhutto in the 1970 elections and were now the most discontent with the then-current political situation: the students and professional elites who had desired a political society characterized by freedom of expression and association and free from the kind of restrictions imposed under the previous military regime of Ayub Khan and the petty bourgeoisie – the small traders, merchants and shopkeepers – of Punjab who had been badly hit as a result of the labor reforms and nationalization of key industries instituted

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<sup>93</sup> Numerous scholars have written about the concentration of power by Bhutto in his own hands and not only the denial of political space to his adversaries but the cruel and torturous punishments meted out to his opponents and political adversaries (e.g. Burki 1988; Wolpert 1993).

by Bhutto (Talbot 1988: 243-4). As I have show in the previous chapter, the most enthusiastic supporters of the 1974 anti-Ahmadi movement led by the religious right were precisely these groups – the petty bourgeoisie of interior Punjab having their stronghold in local *bazaars* and the student unions of major universities in the Punjab. These groups were therefore pre-disposed both towards resisting the repressive Bhutto regime as well as welcoming the promise of *Nizam-i-Mustafa* by the PNA.

Bhutto responded to the PNA opposition in his characteristic fashion by arresting senior PNA leadership and opposition activists. However, the PNA-led agitation continued to grow largely because of its wide electoral base, which meant that local petty businessmen adversely effected by Bhutto's nationalization policies could form linkages with local religious leaders (the petty *mullahs*). The movement thus found itself at home both in *bazaars* and *mosques*, amongst the union workers and elite business community. It was at this point that Bhutto attempted to contain and neutralize the opposition by taking measures such as banning sale and consumption of alcohol and declaring Friday the weekly holiday instead of Sunday. It was also at this point that Bhutto asked the military to intervene and contain the increasingly violent crowds of agitators. As a result, Martial Law was imposed on 21 April 1977 in the cities of Karachi, Hyderabad and Lahore following which Bhutto initiated a reconciliation process with the PNA-led opposition. At the same time, the PNA leaders started their independent communications with the military and impressed on it the serious legitimacy crisis facing Bhutto. The PNA tacitly intimated its endorsement of a potential military coup. The culmination of these processes was a bloodless military coup that brought Zia-ul-Haq in his role as Chief Martial Law Administrator at the apex of state power. Upon assuming power, Zia-ul-Haq

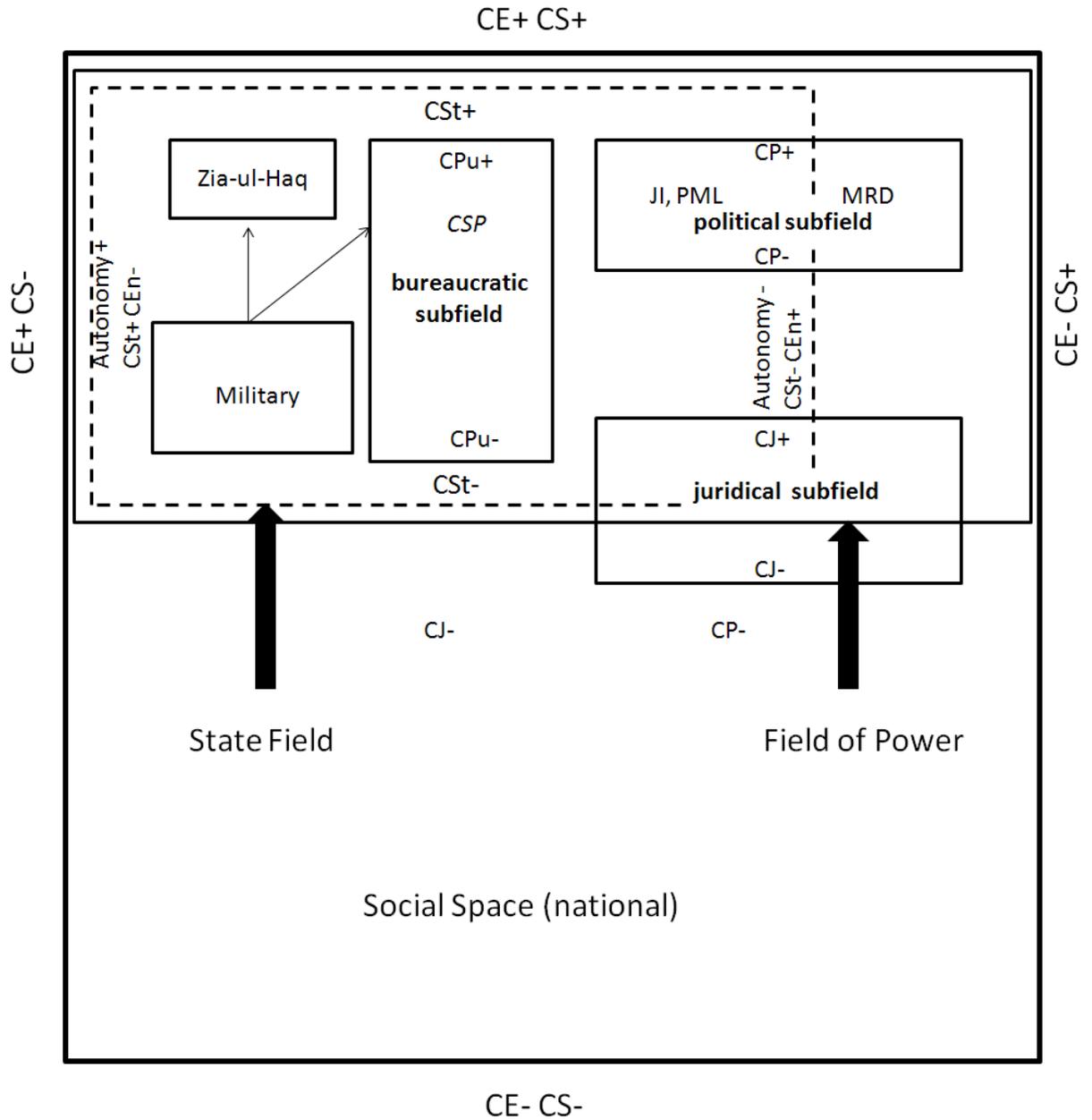
announced that free and fair elections would be held within ninety days and Bhutto, who had been detained by the Army, was released from custody.

In 1977, a significant segment of the political subfield thus attempted to form an alliance with the military with the expectation that the military would not upset the distribution of statist capital in the state field. The PNA had been convinced that the Army would hold elections within ninety days and both the PNA and the Army were convinced that PNA would emerge as the winner in the elections. However, the release of Bhutto from protective custody saw mounting public support for Bhutto, who was enthusiastically greeted by crowds in Lahore, Multan and Karachi, as well as Bhutto's open defiance towards the Army. This alarmed the military regime and Bhutto was subsequently re-arrested on charges of murdering a political opponent and massive corruption. The PNA, also alarmed by the resurgence of public support for Bhutto, demanded that Bhutto's trial on murder and other charges be concluded before re-elections. Bhutto's case was heard in the Lahore High Court where he was sentenced to death and an appeal filed in Supreme Court, where too he was charged with murder and the death penalty upheld. Bhutto was eventually executed on 4 April 1979.

Zia-ul-Haq eventually appointed himself the final executive authority within the state field. In 1978, Zia-ul-Haq restyled himself the President of Pakistan. The provincial and Federal assemblies were dismissed, the 1973 Constitution suspended and a host of martial law regulations imposed. Between 1979 and August 1983, the military kept promising elections to be held at an "appropriate" time, a promise not fulfilled until 1985 when elections were held on a non-party basis. The 1985 elections were boycotted by nearly every major political party, many of who had been part of the PNA but had later

organized themselves into the Movement for the Restoration of Democracy (MRD) in 1981 when it became clear that Zia-ul-Haq had no intention of holding general elections. The significant event precipitating the formation of MRD was the enforcement of the Provisional Constitutional Order (PCO) in March of 1981 which entirely replaced the 1973 constitution that had already been in abeyance. The suppression of all opposition at the time of elections, the house arrest of all major MRD leaders in the days preceding the elections, and the propaganda carried on by the ruling regime through state-controlled media sources led to the formation of a puppet regime of Prime Minister Muhammad Khan Junejo under which real power nonetheless lay in the hands of President Zia-ul-Haq, a situation that continued until Zia-ul-Haq's mysterious death in 1988.

Figure 5.1 (next page) depicts the distribution of statist capital as it existed in the aftermath of the 1985 elections. The state field is firmly anchored within the field of power and statist power is distributed along the horizontal continuum, with the left side representing the highest volume of statist capital. The concentration of statist capital in the entire period from 1977 to 1988 was in the hands of Zia-ul-Haq who is placed on the top-left corner inside the state field. The most significant change in the distribution of statist capital affected by Zia-ul-Haq was both the economic and public ascendancy of the military field in Pakistan. Under the previous military regimes, army rulers had to form close alliances with the bureaucratic state subfield to consolidate their power and by-pass the legitimacy question altogether. Furthermore, while these earlier regimes were characterized by the entry of military men at the apex of statist hierarchy, these earlier military rulers did not condone the large-scale conversion of military capital into economic or public capital. This was reversed with Zia-ul-Haq's regime, which saw the



**Note:**  
capital;

CS: symbolic capital; CE: economic capital; CEn: ethno-national capital; CSt: statist

CPu: public capital; CJ: juridical capital; CP: political capital

**Figure 5.1:**

The distribution of statist and symbolic capital in the field of power in Pakistan in 1985.

entry of a huge number of Army officers into the bureaucratic subfield both on a permanent and contractual basis as well as enjoying lucrative assignments and positions within elite corporations (Talbot 1988: 247-8). Furthermore, until the elections of 1985, military men occupied posts of the governors of the provinces. Thus, I have placed the military subfield directly below Zia-ul-Haq and the bureaucratic subfield on its right side in Figure 5.1.

The political field in 1985 was characterized by the schism between those parties that chose to participate in the highly restricted political space authorized by Zia-ul-Haq, most notably the JI and the PML, and the political parties opposing Zia-ul-Haq's rule and organized as MRD, which was led by the PPP. Figure 5.1 depicts PML and JI occupying the political state subfield inside the state field while MRD lies in the political field in the field of power but outside the state field. The distribution of political capital within the political subfield at this time is uncertain because of the lack of general elections as well as of unbiased referendums and opinion polls. I have also depicted (symbolic) ethno-national capital as being inversely proportional to statist power at this moment because of the under-representative character of the ruling regime. Furthermore, as I will show below, Zia-ul-Haq's policies aimed at forming a symbiosis between Islam and the Pakistani nation met with wide opposition within the public space of nationalist discourses. Lastly, I have depicted the juridical field in Figure 5.1, which was a key institutional site within which symbolic struggles took place under Zia-ul-Haq's regime. The transformation of the juridical field under Zia-ul-Haq regime and the resulting shifts in the juridical field's relationship with the question of the religious and national status of the Ahmadis form the central themes of the next chapter.

## 5.2. QUEST FOR LEGITIMACY: THE INSTITUTIONAL-DISCURSIVE TERRAIN OF ZIA-UL-HAQ'S PROGRAM OF ISLAMIZATION

Measures to Islamize the Pakistani state and society were initiated by Zia-ul-Haq as soon as he came to power, largely necessitated by his very claim to power. As mentioned above, when Zia-ul-Haq assumed power, it was believed by the PNA and the country at large that he would hold elections and oversee the transfer of statist power to a democratically elected civil regime. A close look at Zia-ul-Haq's rhetoric from his initial days reveals that Zia-ul-Haq at that point was not concerned with issue of Islam and the state. However, as promises of elections were pushed further and further into the background, rhetoric about Islamization came to occupy a highly central position within Zia-ul-Haq's public discourse. One historian aptly notes that "It [Islamization] was an attempt on the part of the military regime to cope with the legitimacy crisis which had been accentuated with the postponement of the elections and the expansion of the goals of the coup. This also facilitated the cultivation of fundamentalist, conservative, *fiqah* (Islamic jurisprudence)-oriented, literalist Islamic elements who wanted to create a puritanical Islamic order" (Rizvi 2000: 170). However, the quest for legitimacy took the specific form it did because of the highly unsettled nature of the question of the basis of the identity of Pakistan as revealed by PNA's agitational rhetoric, a crucial source of nationalist anxiety that Zia-ul-Haq drew upon to in an attempt to accumulate ethno-national capital.

Some of the institutional measures taken by Zia-ul-Haq in his quest for the accumulation of ethno-national capital included the reconstitution of the Islamic Council of Ideology, an advisory body formed in 1962 that was given the task of bringing laws of the state in conformity with injunctions of *Quran* and *Sunnah*. Under Zia-ul-Haq, the

Council came to be occupied by highly orthodox and conservative *ulama* whose advice was actively solicited by Zia-ul-Haq. Second, Islamic modes of interest-free banking were introduced and *zakat*, a charity tax that is obligatory for Muslims, made compulsory by the state. Ahmadis were exempted from paying *zakat* and other taxes exclusively levied on Muslims since Ahmadis were legally non-Muslim. However, an Ahmadi organization boldly claimed that it was their right to pay taxes and that they would continue to pay them (Kaushik 1996: 60). Third, the religious establishment that had been marginalized in public and political space under the previous military regime was brought back to the center through the normalization of its narrative about the relationship between Islam and Pakistan through the re-writing of official history of Pakistan that gave a highly central role to the two-nation theory and by extension to Muslim nationalism (Jalal 1995). The state-controlled educational system during the Zia-ul-Haq regime rigorously expounded the idea that Pakistan was an ‘Islamic state’; Urdu its national language; and Islam its official ideology. Fourth, the state-controlled media was given an ‘Islamic’ color through making head covering compulsory for all female employees such as newscasters; strict censorship laws; reduction in cultural and entertainment programs centered on creative arts, music, dance etc. with women actively discouraged from participating in these; imposing dress codes; and introduction of programs centered on religious education. Both television and radio were instructed to bring their programs into conformity with Islamic ethical and moral standards. Films, newspapers, journals and other audio-visual media were asked to eliminate what the state perceived as vulgar and obscene. Fifth, prayers were made compulsory in government offices and the wearing of national dress made compulsory at government functions and

banquets. Sixth, fasting during the Islamic month of Ramadan was made compulsory and violators – those found eating and drinking in public places during fasting hours – made liable to punishment. Nearly all of these changes were suggested by the Islamic Council of Ideology, which also suggested in 1978 that the state should confirm the moral character and loyalty of all Ahmadis before giving them any responsible position in the state apparatus (Mehdi 1994: 206-9).

Zia-ul-Haq also adopted a number of measures that led to the Islamization of the juridical field in Pakistan. The imposition of laws based on highly traditionalist and orthodox interpretations of Islamic law was perhaps the most significant measure undertaken by Zia-ul-Haq. The major institutional step taken in this direction was the creation of the Federal Shariat Court and the Shariat Appellate Bench of the Supreme Court. The purpose of these Courts was to “examine and decide the question whether or not any law or provision of law is repugnant to the Injunctions of Islam, as laid down in the Holy Qur’an and the Sunnah of the Holy Prophet” (Federal Shariat Court 1998: 414). If a law was found to be repugnant to Islam the Court would inform the government, which would be obliged to alter the law accordingly. I discuss the transformation of the juridical field under Zia-ul-Haq in the next chapter. At present, I will analyze the Islamic laws introduced under Zia-ul-Haq, in particular a series of blasphemy laws of which the 1984 Ordinance was a supposed extension.

During Zia-ul-Haq’s regime, a series of Ordinances were implemented in Pakistan that introduced what are popularly referred to as ‘blasphemy laws’ in Pakistan’s Penal Code (PPC) (Mehdi 1994). The first Ordinance was promulgated in 1980 and added

section 298A in PPC, titled “Use of derogatory remarks, etc., in respect of holy personages”, which states that

“Whoever by words, either spoken or written, or by visible representation, or by any imputation, innuendo or insinuation, directly or indirectly defiles a sacred name of any wife...or members of the family...of the Holy Prophet (PBUH), or any of the righteous caliphs...or companions...of the Holy Prophet description for a term which may extend to three years, or with fine, or with both.”

The second Ordinance, titled “Defiling, etc., of Holy Qur’an”, was promulgated in 1982 and added the following section 295B in the PPC:

“Whoever willfully defiles, damages or desecrates a copy of the Holy Quran or of an extract therefrom or uses it in any derogatory manner or for any unlawful purpose shall be punishable with imprisonment for life.”

The third Ordinance was introduced in 1986 and added the following section 295C to PPP titled “Use of derogatory remarks, etc., in respect of the Holy Prophet”:

“Whoever by words, either spoken or written or by visible representation, or by any imputation, innuendo, or insinuation, directly or indirectly, defiles the sacred name of the Holy Prophet Mohammed (PBUH) shall be punished with death, or imprisonment for life, and shall also be liable to fine.”<sup>94</sup>

Zia-ul-Haq also promulgated ordinances that introduced punishments such as amputation of limbs, whipping and stoning to death for crimes relating to fornication, adultery, theft and drinking of alcohol (Mehdi 1994: 109-10). By imposing very traditionalist, puritanical and literalist understandings of Islamic law and punishment, Zia-ul-Haq attempted to create a regime of moral regulation premised on a patriarchal and exclusive religious nationalism that placed the ‘morally upright’ Muslim male at the apex of hierarchy of the national citizen. For example, the laws that have generated the

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<sup>94</sup> The death penalty contained in section 295-C has generated a lot of discussion in Pakistani media, mainly revolving around whether the punishment of death penalty was justified in light of Islamic injunctions (Mehdi 1994: 150). In 1991, the Federal Shariat Court upheld the view contained in section 295-C that the only punishment for blasphemy under Islam was death. The words “or imprisonment for life” thereby ceased to have effect. A huge number of reports by Human Rights NGOs and activists have pointed to the repercussions of blasphemy laws on Pakistanis, both Muslim and non-Muslim (Lau 1994: 193-4). The most serious effect, however, has been on the Ahmadis since “being a follower of the Ahmadi faith attracts as a matter of absolute criminal liability penal sanction since inherent in the tents of the belief is a lowering of the Holy Prophet” as defined by orthodox interpretations of *khatam-e-nabuwwat* (ibid.: 195).

most controversy are a series of laws known as the Hudood Ordinances introduced in 1979 that address crimes relating to extra-marital sex (including rape), false accusations of extra-marital sex, theft, and consumption of alcohol. Of these, the laws relating to rape have been especially controversial since the pertinent law requires either the rapist's verbal consent or evidentiary testimony of four morally upright Muslim male adults, thereby making it impossible for a woman to prove rape. However, because Hudood Ordinances also make extra-marital sex a crime, any woman unable to prove rape automatically stands convicted of extra-marital sex.

All these measures were designed to give an institutional form to Zia-ul-Haq's re-articulation of the very basis of Pakistan's creation as founded upon the establishment of an Islamic state. As I have discussed in chapter 2, the movement for the independence of Pakistan was composed of multiple social groups and ethnicities who participated in the movement for different reasons, both pragmatic and ideological. While a small section of orthodox *ulama*, such as Maulana Shabbir Ahmad Usmani and his JUI, supported the Pakistan movement, they largely remained peripheral to the movement that was led principally by the AIML whose central leaders were secularist in their outlooks. JI, the leading Islamist political party with which Zia-ul-Haq formed an alliance, and its founder and leader Maulana Maududi had been vocally opposed to the creation of Pakistan although once its creation became a political reality, Maududi changed his stance and moved to Pakistan after independence (Nasr 1996).

Zia-ul-Haq's attempts to significantly alter the nationalist narrative can be viewed by steps taken to represent Jinnah as having given the sanction for the creation of an Islamic state. Newspaper articles on Jinnah on the eve of his birthday celebrations in

1981 omitted to include speeches and quotations from Jinnah in which he had laid out an explicitly secular program for Pakistan. This move was noted by a number of secular nationalist leaders following which a resolution was moved in the National Assembly that attempted to ban any verbal or written comment that “would in any way, directly or indirectly, detract from, or derogate (Jinnah’s) high status, position and achievements”<sup>95</sup>. When Zia-ul-Haq launched his military coup during the PNA agitation, there had been a consensus among the political field at large that Bhutto had failed to deliver a hegemonic response to the question of Pakistan’s national identity. Political parties across the board – with the obvious exception of Bhutto’s PPP – clamored to displace Bhutto from the dominant position within the state field, taking up Bhutto’s failure to adequately integrate Islam into the nationalist identity of Pakistan. However, once it became clear that Zia-ul-Haq meant to hold off elections inconclusively and was increasingly getting oriented towards a program of Islamization dictated by JI, rifts within the political field began to appear. With these rifts came an increase in number of position-takings within the discursive space of nationalist strategies with respect to the issue of Pakistan’s national identity. The more Zia-ul-Haq attempted to give a definitive answer to the question of Pakistan’s national identity through imbricating Islam with the nation, the more contested the issue became. It is a legacy of the Zia-ul-Haq regime that the question ‘Was Jinnah a Secularist?’ has emerged as a legitimate question for both scholars (e.g. Ahmed 1997) and public intellectuals (e.g. Jan 1998) alike. This is in striking contrast to the formative decades of Pakistan during which this question was considered a settled one, at least for dominant state actors as I have shown through an analysis of the Munir Report and the Ayub regime (chapter 4). In short, Zia-ul-Haq devised a number of measures that

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<sup>95</sup> Cited in Talbot (1988): 256.

regulated the private and intimate lives of individuals and reconstituted citizenship rights through appropriating a narrative of the properly Islamic way of relating to self, Islam and others. The 1984 Ordinance was a crucial part of the constitution of a nationalist discourse that equated Pakistan's identity with Islam.

### **5.3. THE AFTERMATH OF THE 1974 AMENDMENT: AHMADI RESPONSE AND THE COUNTER-INITIATIVES OF THE RELIGIOUS RIGHT**

Before turning to the 1984 Ordinance, I highlight key features of both the Ahmadi and the religious right's response to the 1974 Constitutional Amendment. I show that the Ahmadi challenge to both the content of the Amendment and the means through which it was enacted was significant in re-generating symbolic struggles between Ahmadis and the religious right with regard to the construction of the moral and institutional boundaries of Muslim citizenship. In January of 1975, Abdul Ghafoor Ahmad, a Member of National Assembly belonging to the JI, published an article titled "The Qadiyanies – a Non-Muslim minority in Pakistan" in *The journal of Muslim World League*, published from the city of Mecca in Saudi Arabia. I have not been able to get a hold of the copy of this article but it is significant in the present narrative because it elicited a response from the Ahmadis in the form of an anonymous rejoinder titled "A Rejoinder to the Qadiyanies A non-Muslim Minority in Pakistan" (henceforth *Rejoinder*) that was published in *The Muslim Herald*, an Ahmadi publication from the United Kingdom. This *Rejoinder* was subsequently published in a form of booklet by Ahmadi organizations in India and America and widely distributed. I approach this *Rejoinder* as the response of the Ahmadis to the 1974 constitutional amendment.

Before analyzing this response, I would like to return to my interview with Ghafoor Ahmad in some detail since a large portion was devoted to explicating the basis of the JI's support for both the 1974 constitutional amendment and the 1984 Ordinance<sup>96</sup>. It can be assumed that Ghafoor Ahmad's 1975 article conveyed a similar viewpoint, as also suggested by the "rejoinder" that I will discuss below. Ghafoor Ahmad holds a central place within the leadership of the JI and is widely regarded as an honest politician with a clearly-defined ideological position on the relationship between Islam and the state in Pakistan. Within JI, he is styled as an 'intellectual', able to discourse on a wide range of issues extending beyond theology.

Ahmad's narrative is centrally defined by Sir Zafrullah Khan, Pakistan's first Foreign Minister who was an Ahmadi, who publicly refused to participate in Jinnah's funeral prayers on the grounds that as an Ahmadi, he did not consider anyone a Muslim who did not believe in Mirza Ghulam Ahmad. Ahmad repeated the oft-repeated claim that Zafrullah Khan used his political office to propagate the Ahmadi faith and his influence to recruit a large number of Ahmadis within the state<sup>97</sup>. Ahmad forcefully pointed out the "economical" aspect of the Ahmadi issue whereby a majority sees a

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<sup>96</sup> Interview with Ghafoor Ahmad, Karachi. 8 March 2008.

<sup>97</sup> This point has been stressed to me by a number of people I have interviewed, including those who voiced their opposition against the treatment of Ahmadis. For example, K.M.A Samdani, the judge of Lahore High Court who headed the inquiry Tribunal in 1974 informed that a huge number of Ahmadis were recruited in the Foreign Service when Zafrullah Khan was the Foreign Minister (1947-54). Samdani told me an anecdote about how a leading Pakistani lawyer who Zafrullah Khan initially assumed was an Ahmadi was refused a job by Zafrullah Khan when it turned out he was not. Samdani also held that the Ahmadi Air Marshall Zafar Chaudhry, the Chief of Air Staff (1972-74) also used his position to recruit a huge number of Ahmadis in the Pakistani Army. Samdani terms the treatment of the Ahmadis by the Pakistani state as "persecution" and argues that under no circumstances does the majority have a right to persecute minorities as the Ahmadis have been in Pakistan. Samdani pointed out that such "abuse of power" makes the "Muslims" apprehensive about Ahmadis and gives them a pretext with which to attack Ahmadis. Roedad Khan, one of Pakistan's senior-most (ex)-bureaucrats who has served under six presidents, also corroborated that Zafrullah Khan openly utilized his position to place Ahmadis not only in the Department of Foreign Services but other CSP departments as well (Interview with Roedad Khan. Islamabad: 16 April 2008).

minority acquire more capital in proportion to their numerical strength. This, he claims, allowed the Ahmadis to become more influential than their numerical strength, in turn providing them with resources to convert Muslims to the Ahmadi faith. The second crucial point in Ahmad's narrative is the suppression of the large-scale people's movement of 1953 which led to a huge number of religious leaders getting arrested, in particular the founder of JI, Maulana Maududi. For Ahmad, a crucial point is that a majority of Pakistanis regard Ahmadis as non-Muslim, thereby justifying the forcible rendering of Ahmadis as non-Muslim. The third notable point in Ahmad's narrative is that Ahmadis have themselves raised the issue of the boundaries of Muslim citizenship by claiming that any person who does not believe in the prophethood of Mirza Ghulam Ahmad was a non-Muslim. Furthermore, he holds, the boundaries of Muslim citizenship are fixed and unambiguous since the Quran has explicitly laid out that one of the central tenets of the Islamic faith is the belief in the Finality of Prophet Mohammad. This, according to Ahmad, is a minimalist definition and not open to any interpretation. Another crucial point in Ahmad's narrative is that the Constitution of Pakistan states that Pakistan is an Islamic state and given this Article of the constitution, it becomes necessary to ascertain who is and is not a Muslim since the Constitution deems that only a Muslim can hold the position of the President while the oath of Prime Minister contains the belief on the finality of Prophet Mohammad. According to Ahmad,

“Pakistan's state is an ideological state. There are two ideological states in the world, one Pakistan, the other Israel. What was the basis upon which the sub-continent was divided? It was decided because the Muslims felt that...they had economic rights in India too...but they felt that on the basis of their own concept, on the basis of their religion, they could not set up a system there. What Islam demands – the concept of the Islamic state – could not be realized by staying in India. We could have had independent provinces there, like they have states, but the majority in the center would have been that of non-Muslims.”

As I have discussed above, this narrative of JI with regard to the ideological basis of the creation of Pakistan was almost fully appropriated by Zia-ul-Haq and given official sanction through the media and educational system. However, this narrative is historically incorrect and undermines a crucial distinction drawn by many of Pakistan's founding fathers – that between a Muslim state and an Islamic state.

In short, the four elements in Ahmad's narrative which he strategically drew upon depending on the question posed to him can be summarized as: first, the materialist argument (Ahmadis take undue advantage of their positions and enjoy a larger piece of the pie than their numbers allow); the political argument (large number of Muslims consider Ahmadis non-Muslim); the theological argument (the definition of *khatam-e-nabuwwat* is unambiguous in the Quran); and fourth, the nationalist argument (Pakistan is an Islamic state).

The *Rejoinder* questioned all of Ahmad's premises. First, it was maintained that the National Assembly was not an "ecclesiastical body" and thereby did not have the "authority to make such a determination". In fact, Islam did not recognize any ecclesiastical institution having the authority to determine the boundaries of Muslim citizenship. It also questioned the unanimity of the second constitutional amendment by noting that sixteen MNAs had been absent on the day of voting. Significantly, the *Rejoinder* also claimed that other than "half a dozen or so who could claim to be divines of a certain type, bigoted, obstinate and obstructionist, and yet versed to some degree in clerical lore", "it would be difficult to find among the members even a dozen who could read the Holy Quran accurately, let alone know its meaning" (5). The Ahmadis, in contrast, constituted "a community an average member of which is far better instructed in

these matters than the total membership of Parliament taken together and conforms far more strictly and piously to the values of Islam than an average member of Parliament” (5). The *Rejoinder* raised the issue of the consumption of alcohol by MNAs, explicitly charging Yahya Bakhtiar, Pakistan’s Attorney-General who had carried out the “inquisition” of Ahmadi leadership in the National Assembly in 1974, with indulging in “this abomination and satanic device” (6). The *Rejoinder* thereby took up the issues of personal piety and religiosity and placed it in the forefront as opposed to doctrinal issues, arguing that when viewed in light of the former, Ahmadis were much superior in their moral conduct and adherence to the tenets of Islam than the mainstream, orthodox majority that is vastly either ignorant or disregards Islamic practices.

The *Rejoinder* also brought up the issue of *khatam-e-nabuwwat* from a theological perspective, quoting verses from the Quran to argue that the Ahmadi interpretation was in conformity with key Islamic verses on the issue and reiterated that the Quran formed the principal source of Ahmadi faith. Highly polemical in nature, the *Rejoinder* refuted Ghafoor Ahmad’s claim that Mirza Ghulam Ahmad was an agent of the British colonial state, throwing out an outright challenge to him “to prove that a single rupee was ever paid to him by the British” (13). Step by step, the *Rejoinder* proceeded to contest Ghafoor Ahmad’s claims regarding the attempts by Ahmadis to takeover Pakistan after its independence in 1947 and the rise to prominence of Ahmadis within elite institutions of the country. In short, the *Rejoinder* challenged the larger orthodox Muslim narrative through a conversation with Ghafoor Ahmad and called his article full of “a series of utterly false statements” and “transparent absurdities”. The *Rejoinder* also questioned the popular interpretation of events that transpired between Ahmadi and non-

Ahmadi students on 29 May, 1974, claiming that the non-Ahmadi media had a huge role in disseminating misinformation about the event. The *Rejoinder* pointed out that the head of Ahmadiyya *Jama'at* had publicly asked Ahmadis to refuse to accept the 1974 constitutional amendment and expressed surprise at Ghafoor Ahmad's questioning of such a stance, asking rhetorically: "Did he [Ghafoor Ahmad] really expect that the Head of the Ahmadiyyah Movement, as leader of a community which is inspired by passionate devotion to the teachings, values and ideals of Islam, should have welcomed enthusiastically a pronouncement to the effect that they are all non-Muslims?" (27) The *Rejoinder* claimed that the 1974 constitutional amendment not only violated the fundamental rights of religious expression contained within the constitution itself but also the religious injunction contained in the Quran that "There shall be no compulsion in religion, for guidance and error have been clearly distinguished' (2.257)" ( 28). Regarding the recommendation contained in the amendment that a special committee of National Assembly be formed to amend the Pakistan Penal Code to make it a crime for Ahmadis to profess or propagate their interpretation of the finality of prophethood, the *Rejoinder* holds that "A belief sincerely held would not be abandoned because the holding of it has been declared to be an offence, so that by virtue of such legislation a doctrine could become a continuing offence attracting perpetual imprisonment" (29). Such a situation "would reduce law to a patent absurdity" (29).

In short, the Ahmadi leadership continued to publicly proclaim itself as Muslim and propagate its religion as Islam following the 1974 constitutional amendment. Mirza Nasir Ahmad, the head of the Ahmadiyya community from 1965 to 1983, in his sermon to his community on 26<sup>th</sup> December 1974 during the Annual Conference held at Rabwah

referred to the people who made the 1974 constitutional amendment possible as “the step-children of our mother country” (Ahmad 1976: 61). Reminding his community of the sacrifices made by them and the losses suffered during the partition of India, Mirza Nasir Ahmad exhorted the Ahmadis to stay committed to the well-being of Pakistan and re-iterated his faith in Allah, Prophet Mohammad and Mirza Ghulam Ahmad:

“It is only an Ahmadi who has a living relationship with God through the Holy Prophet, peace be upon him, and through his beloved Mahdi, on whom be peace. These things have been restored to us in this age by the Mahdi. How can we leave him who has made us acquainted with the living God and who has shown us the Islamic ways through which we have established a living relationship with God?” (Ahmad 1976: 67).

Similarly, in his sermon delivered at the annual conference at Rabwah in 1975, Mirza Nasir Ahmad told the gathering of Ahmadis that “The [Ahmadiyya] Community has been established to bring about the supremacy of Islam and thus every supplication made for the supremacy of Islam is also a supplication for strengthening the Community” (Ahmad 1976: 74). In his 1978 address, Mirza Nasir Ahmad discoursed on the freedom of religion and conscience in Islam, quoting extensively from the Quran to argue that “There is no compulsion whatever in Islam. So far as the Holy Quran is concerned there is no text, no verse, not a single word that prescribes any worldly, political or administrative punishment for apostacy [sic]” (Ahmad 1979: 10). Ahmad reiterated his position on the religious status of Ahmadis in this sermon: “We esteem ourselves Muslims; we are Muslim. We have never thought of departing from Islam. We deem it a curse that our tongues should say that we are not Muslims, that we have abandoned God and that (God save us) we do not believe in Muhammad, the Messenger of Allah, peace be on him” (ibid.: 13).

The Ahmadiyya community’s vocal questioning of the 1974 Constitutional Amendment must be placed alongside the religious right’s continuation of a polemical

warfare against the Ahmadis. Following 1974, the MTKN launched a printing press from Multan devoted almost entirely to the issue of the finality of Prophethood defined through an opposition to the Ahmadi faith. The texts of the written arguments by the *ulama* on the Ahmadi faith and practices presented to the National Assembly in 1974 were published in both Urdu and English as were unofficial accounts of the proceedings of the National Assembly<sup>98</sup>. Short pamphlets with such representative provocative titles such as “What is Qadianiat” (Ludhianvi 2001), “The Qadiani Funeral” (Ludhianvi n.d.), “The Difference between Qadianis and Other Infidels” (Ludhianvi n.d.) and “Qadianis: A Plant Grown by the British” (anonymous, n.d.)<sup>99</sup> published by MTKN and widely disseminated both before and after the 1984 Ordinance give a sense of the kind of polemical war carried on by the MTKN against the Ahmadis since the 1974 Amendment<sup>100</sup>. I questioned Maulana Allah Wasaya, a religious leader belonging to the MTKN, on how the MTKN perceived its organizational mission following the enactment of the 1974 Constitutional Amendment. Allah Wasaya pointed out that after 1974, the Ahmadis persisted on calling themselves Muslims, thereby “creating a complication themselves”. According to Allah Wasaya:

“AW: Qadianis should respect the constitution, act on it, and admit that they are not a part of the Muslim community. As a minority and on the basis of being humans, they are our brothers [...] We converse with them, we sit with them, we have table talk with them. They are citizens of this country. It is our duty to take care

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<sup>98</sup> MTKN published a book called “The Views of Ummah on Qadiyanism: The Case of the Muslim Ummah on Qadiyanism Presented Before the National Assembly of Pakistan in 1974” (Anonymous n.d.).

<sup>99</sup> Translation mine, Original “Qadiyaniat: Angrez kaa Khud-kaasht Poda”.

<sup>100</sup> “What is Qadianiat”, “The Qadiani Funeral” and “The Difference between Qadianis and other Infidels” (translation mine, Original *Qadiyanion aur Doosray Kafiron kay Darmiyaan Faraq*) are written by Maulana Mohammad Yousuf Ludhianvi, a prominent political leader and a religious scholar of the Deobandi school associated with the MTKN and, in addition to his anti-Ahmadi views, widely known for his anti-Shi’ite polemics. A major distinction informing Ludhianvi’s religious thought on religious difference is the distinction between ‘interpretive difference’ (such as between different schools of thought such as Deobandi and Barelvis within South Asian Sunni Islam) and ‘ideological difference’ (such as between ‘Muslims’ and Ahmadis, and possibly Shi’ites). According to Ludhianvi, only the former point of difference is legitimate (Khan 2009: 439-40).

of them, but on the condition that they had accepted this constitutional amendment. But rather than doing that, they became rebellious [...].

SS: How did they rebel?

AW: The constitution says that they are non-Muslim. They say that we are not non-Muslim. Is that not a violation of the constitution? The constitution says that Ahmadis are not Muslim...that a particular community is not a part of Muslims. They say that they are and so they have denied the constitution.”<sup>101</sup>

It is with this context – characterized by the vocal refusal on the part of Ahmadis to accept as legitimate both the content of the 1974 constitutional amendment as well as the means through which it was enacted and the counter-attack by the religious right to bring the 1974 amendment to what has been termed its ‘logical conclusion’ – that I turn to an examination of the mode of interaction between Zia-ul-Haq and the movement demanding that the 1984 Ordinance be enacted.

#### **5.4. EXPLAINING THE EMERGENCE OF 1984 ORDINANCE**

Section 298B of the 1984 Ordinance explicitly prohibits Ahmadis from using Arabic words and phrases that are traditionally reserved for Prophet Mohammad, his companions and wives since these terms are regarded as expressions of highest respect by orthodox South Asian Muslims. This section also makes it a criminal offence for Ahmadis to refer to their places of worship as *Masjid* (mosque) and to their call to prayers as *Azaan*<sup>102</sup>. Section 298B also prohibits Ahmadis from saying the *Azaan*. Section 298C lays out the rationale for this prohibition by equating these as acts of ‘posing as Muslims’ and also prohibits Ahmadis from preaching and propagating their faith and ‘outraging’ “the religious feelings of Muslims” (see Appendix 1). Together, the two sections serve to completely oust the Ahmadi religion from public space by criminalizing

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<sup>101</sup> Interview with Maulana Allah Wasaya, Islamabad, 5 March 2008.

<sup>102</sup> The practice of shouting of the prayers, or *Azaan*, in mosques before prayer times is a traditional Islamic practice and serves as an invitation by the Imam of the mosque to fellow Muslims to congregate in prayer.

Ahmadi religious practices. In this section, I engage with the following empirical questions: why did the Pakistani state undertake this criminalization of Ahmadis especially when the Ahmadis had already been rendered non-Muslim for all official and legal purposes?

Like 1953 and 1974, 1984 too constituted a moment in which anti-Ahmadi demands were made to the state by the religious establishment. The *ulama* started expressing their concerns to Zia-ul-Haq with regard to the ‘anti-Islamic’ activities of Ahmadis as early as 1980, as for example during the All Pakistan Convention of *ulama* which was also attended by Zia-ul-Haq. The *ulama* pointed out to Zia-ul-Haq that despite the official rendering of Ahmadis as non-Muslim, government circulars continued to refer to Ahmadis as ‘Qadiani Muslims’ and that this caused confusion as to the religious status of Ahmadis. Zia-ul-Haq assured the *ulama* that the circular would be amended and that the government would keep the Ahmadi literature under close scrutiny to ensure that the name of Prophet Mohammad would be protected (Kaushik 1996: 60).

As noted above, upon assuming power, Zia-ul-Haq announced that the 1973 constitution would be kept in abeyance. The PCO was instead introduced through extra-constitutional mechanisms on 24 March 1981 and served as a constitution until 1985 when the 1973 constitution was reinstated. As a nod to the *ulama*, the PCO not only retained the second Constitutional Amendment of 1974, which laid out the legal definition of a Muslim, but also introduced an interpretation clause that explicitly named Ahmadis as non-Muslims. The 1974 constitutional amendment had defined a Muslim as “a person who believes in the unity and oneness of Almighty Allah, in the absolute and unqualified finality of the Prophethood of Muhammad (peace be upon him), the last of

the prophets, and does not believe in, or recognize as a prophet or religious reformer, any person who claimed or claims to be a prophet, in any sense of the word or of any description whatsoever, after Muhammad (peace be upon him)". Although the 1974 Amendment did not explicitly name Ahmadis as non-Muslim, it constituted a forcible rendering of Ahmadis as non-Muslim since its promulgation followed a nationwide movement demanding that Ahmadis be declared a non-Muslim minority. Section 1-A of the PCO introduced the following interpretation of the 1974 Amendment:

"In the Constitution and all enactments and other legal instruments, unless there is anything repugnant in the subject or context

(a) "Muslim" means a person who believes in the unity and oneness of Almighty *Allah*, in the absolute and unqualified finality of the Prophethood of Muhammad (peace be upon him), the last of the prophets, and does not believe in, or recognize as a prophet or religious reformer, any person who claimed or claims to be a prophet, in any sense of the word or of any description whatsoever, after Muhammad (peace be upon him); and

(b) "non-Muslim" means a person who is not a Muslim and includes a person belonging to the *Christian, Hindu, Sikh, Buddhist* or *Parsi* community, a person of the *Qadiani* Group or the *Lahori* Group who call themselves '*Ahmadis*' or by any other name or a *Bahai*, and a person belonging to any of the Scheduled Castes." (Constitution of Pakistan 1974)

Despite this 'clarification', the *ulama*, Islamist parties and religious organizations re-launched the *Tehrik-e-Khatm-e-Nabuwat* (Movement for the Protection of Finality of Prophethood, in short TKN), a movement that got its impetus from Zia-ul-Haq's continual and public proclamations regarding his plans for the total Islamization of Pakistan. Islamist parties like the JI, JUI and JUP campaigned for the complete removal of Ahmadis from the bureaucracy and the military on the grounds that Ahmadis were traitors to Pakistan and engaged in terrorist and subversive activities. Zia-ul-Haq publicly termed Ahmadis "worse than *Kafirs*"<sup>103</sup>. TKN decided to dedicate the entire year of 1984 to curbing the supposed Ahmadi threat, recalling that 1984 marked the ten-year anniversary of the 1974 Constitutional amendment.

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<sup>103</sup> Quoted in Kaushik (1996), p. 62.

Formal anti-Ahmadi demands by TKN were put before the state in The All-Party *Khatm-e-Nabuwwat* Conference held in Rawalpindi on 1-2 January, 1984. Specifically, it was demanded that: (a) introduction of death sentence for apostasy; (b) complete ban on publication and distribution of Ahmadi literature; and (c) state take steps to curb the anti-Islamic and anti-national activities of Ahmadis. The Council of Islamic Ideology openly sided with these demands and added its own list of demands: (d) Ahmadis should be prohibited from naming their places of worship as mosques and their call for prayer as Azaan; and (e) implementation of death sentence for those who use derogatory language about Prophet Mohammad (Kaushik 1996: 63-4). In February 1984, the *ulama* threatened to launch a nation-wide anti-Ahmadi campaign if the government did not accede to their demands by 30 April 1984. If the government did not demolish all Ahmadi mosques, it was announced, the *ulama* would be compelled to do so themselves. The national MTKN and its local branches started holding local meetings in Punjab reiterating these demands.

Consider the contentious repertoires and strategies of interaction with the state employed by the religious right. Newspapers *Jang* (Rawalpindi) and *Nawa-e-Waqt* (Lahore) were two main Urdu-language newspapers of national stature that favorably devoted much space to the activities of TKN. The headlines that appeared in *Nawa-e-Waqt* in April 1984 attest to the wide leverage that was given to some of the most widely circulated newspaper in Pakistan with regard to what the earlier military regime of President Ayub Khan would have unambiguously termed sectarianism. The following three ‘news items’ are indicative of the kind of reporting that the *Nawa-e-Waqt* engaged in during the first few months of 1984: “Despite the 1974 Constitutional Decision, Qadianis are strengthening their roots. In an ideological state, permission should not be

granted to preach against religion of Islam and Ideology of Pakistan.” (*Nawa-e-Waqt*, Lahore: 4 April, 1984); “Demand made to take action against Qadianis for distributing provocative pamphlets and causing Muslims to fight amongst themselves.” (*Nawa-e-Waqt*, Lahore: 14 April, 1984); and “If Qadianis do not stop their proselytizing, action will be taken against them.” (*Nawa-e-Waqt*, Lahore: 15 April, 1984). It was announced by MTKN that a decisive meeting of all religious organizations and parties would be held on April 27, 1984 in Rawalpindi and presided by Maulana Abdul Hakeem, a prominent leader of MTKN. *Jang* and *Nawa-e-Waqt* reported on the preparations underway for the meeting. *Jang* reported on 24 April that “devotees of Prophet Mohammad will travel in large groups from all over the country to attend the TKN conference” (*Jang*, Rawalpindi: 24 April, 1984). On 25 April, *Jang* reported on its front page that pre-conference meetings were being held to oversee the organization of the conference. On 26 April, *Jang* reported that all preparations for the conference were complete.

While the political subfield dominated by Bhutto in 1974 had attempted to *neutralize* the *ulama* by conceding to what was a genuinely popular (although highly problematic) demand, the state field led by Zia-ul-Haq gave a wide space to the *ulama* to promote sectarianism in a bid to divert attention from the undemocratic nature of Zia-ul-Haq’s rule. On April 26, Zia-ul-Haq’s government promulgated the 1984 Ordinance. My interview conducted with Raja Zafar-ul-Haq, the Minister of Information and Religious Affairs at that time and a close aide of Zia-ul-Haq, is significant for revealing both the immediate causes as well as the larger structural context that led Zia-ul-Haq to accede to the demands<sup>104</sup>. In response to a direct question, Zafar-ul-Haq responded that the 1984

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<sup>104</sup> Interview with Raja Zafar-ul-Haq, Islamabad: 7 February 2008.

campaign was restricted to the religious parties and despite the latter's best efforts had not yet turned into a popular movement. According to Zafar-ul-Haq,

“There is no denying that the common man didn't take up the demand for 1984 legislation. There could be many reasons for this. One big reason could be that Zia was very close to religious parties and the common man, secularists and moderates did not want to associate themselves with a movement that would strengthen Zia's hold. That movement was confined to religious parties.”

Zafar-ul-Haq spoke of the large number of people that had begun arriving in the twin cities of the capital Islamabad and Rawalpindi and the perception that more would gather to attend the MTKN conference to be held on April 27.

“I knew that if all these people gathered there, there would be blood-shed. But at that time, the Interior Minister, Mahmood Haroon, suggested that the crowd couldn't be stopped by force. Government would break down. Zia approached some religious leaders with whom he already had a relationship, and they also said that really a huge number of people were converging in 'Pindi on that day...it was a Friday. Zia was advised by Governor [of] Punjab<sup>105</sup> and the Interior Minister that Zia should give in to their demands after listening them out. Nawab of Bahawalpur was the Minister for Religious Affairs at that time, he gathered people, held talks with them and the ordinance, which had already been drafted but not implemented and thus did not have to be written anew, was taken out and implemented.”

According to Zafar-ul-Haq, the implementation of the 1984 Ordinance was a political move, an attempt to thwart a movement that could have taken on the proportions of the 1974 movement and was a part of Zia-ul-Haq's larger agenda of Islamization adopted from the PNA's anti-Bhutto rhetoric. The promulgation of the 1984 Ordinance completely quelled the movement. Zafar-ul-Haq did not know, or chose not to reveal, who had penned the 1984 Ordinance but said that the Law Ministry usually handled the drafting of such Ordinances, which were carefully looked over by Zia-ul-Haq himself. In the case of 1984 Ordinance, Zafar-ul-Haq's impression was that the draft of the Ordinance was already in existence since “it seems unlikely that as soon as people started gathering together and making the demand, a draft would materialize. So it must have

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<sup>105</sup> Lieutenant-General Ghulam Jilani Khan was the Governor of Punjab from May 1980 to December 1985.

already been in existence and then it was implemented.” Zafar-ul-Haq told me that he is considered by Ahmadis to be one of the persons directly responsible for the 1984 Ordinance because of his supposed enmity towards Ahmadis, a charge that he explicitly denied to me<sup>106</sup>.

The dilemma that Pakistani politicians and other state actors who do not self-identify as Islamists or religious leaders find themselves when faced with a “liberal” inquiry of their actions is that they do not want to be *personally* held responsible for what they know is almost certainly regarded as a problematic act within the larger regime of international human rights. As discussed in the Introduction, my positionality as a liberal-looking woman (markers of this include an uncovered head, unaccompanied by a male, ambiguous marital status but possibly single, a doctoral student at an American university) who has undertaken an inquiry of state-sanctioned injustices against the Ahmadiyya community while belonging to the dominant Sunni Muslim group (it was important to reveal this to all interviewees), meant that I was regarded as a “secularist” and a “human rights activist”. As a result, the emphasis was almost always on the structural contexts and “political” (read strategic) moves made by politicians and other state actors to remain in power or to enhance their power. State actors either desisted from making any personal claims about the religious status of Ahmadis (which I took to mean that they did personally regard Ahmadis as non-Muslim) or they told me that “the

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<sup>106</sup> One of the reasons Ahmadis make this charge is because Zafar-ul-Haq, a lawyer by profession, was the defense lawyer for an Aslam Qureshi, a lift operator who had attempted to assault M.M. Ahmad, a prominent Ahmadi and an advisor to the President in 1970. According to Zafar-ul-Haq, he took the case pro bono because of the poverty of Qureshi’s family and because every other lawyer was afraid to take on M.M.Ahmad. The case was taken to military courts where Zafar-ul-Haq attempted to get Qureshi a lesser sentence on grounds of ‘grave provocation’. Qureshi served a 14 year sentence and was released in 1984 after which he was abducted. It was claimed by the religious establishment that the Ahmadis had carried out the abduction. (Interview with Raja Zafar-ul-Haq, Islamabad: 7 February 2008; Ahmadi version can be found on one of their official websites at [http://www.thepersecution.org/archive/pl\\_xrzh.html](http://www.thepersecution.org/archive/pl_xrzh.html)).

state” had no business with deciding on the religious status of its citizens (which I took to mean that they either did not have an opinion on, or did not concur with, the state’s rendering the Ahmadis non-Muslim). One of the crucial points here is that because the Ahmadis are legally prohibited from referring to themselves as Muslims, any Pakistani who refers to Ahmadis as Muslim too can potentially get into trouble. Thus, politicians and other state actors at large both distanced themselves from the narratives popularized by the orthodox religious organizations that construct Ahmadis as both traitors and heretics and refrained from giving their personal opinions on the religious status of Ahmadis.

These issues were most starkly raised during my interview with Minocher P. Bhandara, the Zoroastrian Minister of Minorities in 1984<sup>107</sup>. He maintained that at large, the discrimination against minorities in Pakistan arose from the lower economic and social status of minorities and not necessarily because of their religious status. As a Zoroastrian, a well-off religious community in Pakistan, neither he nor his community had faced any discrimination. The Ahmadis however were an exception and along with Christians, the most “vulnerable” of all minorities. When I broached the subject of the 1984 Ordinance, Bhandara concluded the interview by saying “I had nothing to do with this.” I would also like to note that I interviewed the present Chairman of the Council of Islamic Ideology, Dr. Khalid Masud, to inquire about the Council’s historical role in the framing of the 1984 Ordinance<sup>108</sup>. While Dr. Masud was very forthcoming about his personal views with regard to Ahmadis and how a properly ‘sociological’ research about Ahmadis should be carried out, he showed ambivalence with regard to discussing the

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<sup>107</sup> Interview with Minocher P. Bhandara, Rawalpindi: 10 April 2008.

<sup>108</sup> Interview with Khalid Masud, Islamabad: 14 April 2008.

Council's role towards 1984 Ordinance and its present stance towards Pakistan's blasphemy laws and anti-Ahmadi legislations.

My interview conducted with Syed Sharifuddin Pirzada, Minister of Law and Parliamentary Affairs when the 1984 Ordinance was promulgated, was more revealing<sup>109</sup>. At the time that I interviewed Pirzada, he occupied office space in the Secretariat in his capacity as the Honorary Senior Adviser to the Musharraf regime on Foreign Affairs, Law, Justice and Human Rights and held the status of Senior Federal Minister, posts he occupied from 2002 to 2008. Pirzada claimed that both he and Ghulam Ishaq Khan, the then Minister of Finance, had directly opposed the promulgation of the 1984 Ordinance to Zia-ul-Haq<sup>110</sup>. He believes that the Governor of Punjab Lieutenant-General Ghulam Jilani Khan too had opposed its promulgation. Zia however had been "poisoned" by Minister of Information Raja Zafar-ul-Haq, Minister of Religious Affairs Mahmood Haroon and the religious lobby with which Zia-ul-Haq kept company. Pirzada claims that he stood between the religious establishment and Zia-ul-Haq and tried to "moderate" the latter's religious views, in which he sometimes succeeded and sometimes did not. Pirzada denied that he took any part in the drafting of the 1984 Ordinance as he had been opposed to it. Zia-ul-Haq, according to Pirzada, had been motivated by political gains – "Zia was doing this more from the point that his constituency was the *mullas*. So he did it more

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<sup>109</sup> A lawyer by profession who was also Jinnah's personal secretary, Pirzada's distinguishing trait in the mind of most Pakistanis is that he has served as the lawyer for all authoritarian rulers of Pakistan whose rule has been challenged as illegal and un-constitutional in Pakistan's supreme courts. The list of Pirzada's clients include military 'dictators' Ayub Khan, Iskander Mirza, Zia-ul-Haq and Pervaiz Musharraf. Democratically elected leaders Nawaz Sharif and Benazir Bhutto have also availed Pirzada's services when their edicts have been challenged in Pakistan's courts. Because of these services, Pirzada has been rewarded with highly prestigious posts in the state apparatus, including Attorney General of Pakistan (1965-66, 1968-71, 1977-1985), Foreign Minister of Pakistan (1966-68, 1993), and Minister of Law and Parliamentary Affairs (1977-1985). See Jane Perlez's article on Sharifuddin Pirzada titled "On Retainer in Pakistan, to Ease Military Rulers Path" published in *The New York Times*, 15 December, 2007.

<sup>110</sup> Interview with Sharifuddin Pirzada, Islamabad: 12 March 2008.

from that point of view rather than any conviction”. Pirzada argued that the 1974 constitutional amendment too had been politically motivated and neither it nor the 1984 Ordinance made any legal sense. Pirzada expressed his own personal views thus:

“My view was that I am no judge whether a person is a Muslim or not. It should be left to his conscience. And I told him [Zia] something which he noted but did not act on it. I said this question was raised when they [Ahmadis] wanted to become members of Muslim League [...] and Quaid-e-Azam [i.e. Jinnah] said they [Ahmadis] say they are Muslims, who am I to say? I consider him [Jinnah] full authority. But he [Zia] didn’t listen.”

The many silences surrounding the 1984 Ordinance are revealing for a number of reasons. First, they depict the lack of transparency surrounding the 1984 Ordinance, especially with regard to questions of: Who drafted it? When was it drafted? Who condoned it? Who opposed it? This silence is all the more interesting because the 1984 Ordinance is popularly (and correctly) perceived as the *clearest* expression of Zia-ul-Haq caving in to the demands of the orthodox religious establishment. However, there is no authoritative account of what transpired inside the state field with regard to the 1984 Ordinance. In contrast, the processes leading up to 1974 Constitutional amendment were ostensibly hidden from the public view – the deliberations of the National Assembly were held in camera and have not been made public to this day and the report of inquiry conducted by Judge Samdani formed a part of the National Assembly deliberations but these too have not been made public – and yet, there was a robust discussion of all that transpired within the state field, especially in print media. Second, these silences reveal that the state actors involved in 1984 Ordinance are intensely self-conscious that the Ordinance was a product of an authoritarian ruler and not the will of the people. In contrast, even though the 1974 amendment was highly restrictive and problematic when viewed from the lens of human rights, it constituted a moment of a democratic decision-making. Thus, the state actors in 1974 such as the speaker of the House Sahabzada

Farooq Ali praised the second constitutional amendment not because of its content but because of the procedures through which it was arrived at. For those involved in the 1984 Ordinance, not only is there nothing worth celebrating or taking credit for but pains had to be taken to distance themselves from it. Third, and most significantly, the silences reveal that there was some discontent felt at least by some state actors with regard to the 1984 Ordinance, even though I was unable to arrive at the exact nature of this discontent and if it translated into active resistance.

Following the promulgation of the 1984 Ordinance, the Government of Pakistan printed a short pamphlet titled “Qadianis: Threat to Islamic Solidarity...Measures to Prohibit Anti-Islamic Activities” to disseminate both nationally and internationally the reasons behind its promulgation (Government of Pakistan 1984). The most interesting aspect of the pamphlet is that in addition to highlighting the theological differences between Ahmadis and non-Ahmadis, it portrays Ahmadis as a “subversive movement” that has historically been in “close cooperation with the colonial powers”, a threat not just to the moral order of an Islamic society but also to the Pakistani state and its people:

“The Qadiani movement is all the more pernicious since it seeks to operate surreptitiously from within the fold of Islam despite its clear status to the contrary, by virtue both of the law that prevails in Pakistan and the Qadiani community’s own dissociation from the Muslim Ummah. Muslims the world over need to be fully aware of the origin, the goals and the activities of this heretical order. The government and the people of Pakistan continue their efforts to decisively isolate them from the Community of Islam to which they do not belong.” (Government of Pakistan 1984: 5)

I contend that the publication of this official pamphlet was necessitated by the need to ward off the wide criticism that Zia-ul-Haq surely knew the 1984 Ordinance would be met with, both domestically and internationally. It constitutes a recognition on part of the state that a nationalist discourse equating the Pakistani nation with Islam was not sufficient to explain the indiscriminate criminalization of an entire religious

community. The narrative of the purification of the Muslim *ummah* on which the 1984 Ordinance was premised contained not only the usual theological polemics against Ahmadi interpretations of Islam but significantly also wedded it with a symbolic construction of Ahmadis as having historically been traitors to Muslims in South Asia, both under colonial rule and in Pakistan. This latter narrative was presented as based on unbiased ‘modern research’:

“Modern researches have established that it was at the instigation of the colonialists that the scheme was prepared and the master minds of the scheme were fortunate enough in finding out in the shaky personality of Mirza Ghulam Ahmad Qadiani their prospective ‘apostilic prophet’ who would undertake the mission of undermining the religious integrity and intellectual solidarity of the Muslim Ummah.” (ibid.: 9)

Based on Ahmadi plans to carry out extensive missionary activities in certain locales in Pakistan, the pamphlet concluded that “The most sinister conspiracy of the Qadianis after the establishment of Pakistan was to turn this newly Islamic state into a Qadiani kingdom subservient to the Qadiani’s pay masters. The Qadianis had been planning to carve out a Qadiani State from the territories of Pakistan” (ibid.: 24-5). While the 1974 Constitutional Amendment had been narrated as a moment of democratic triumph for a Pakistani Muslim nationalism, the state-sanctioned narrative contained in this pamphlet re-wrote not only the history of Ahmadis (on the basis of “modern researches”) but also of Pakistani as an “Islamic state”. As I will discuss next through analyzing the public response to the 1984 Ordinance, Zia-ul-Haq’s attempt to legitimate the undemocratic reconfiguration of statist power away from the political state subfield into his own hands through the symbolic construction of Pakistan as premised on Islamic statehood was contested by some of the main actors in the political field as well as significant portions of the citizenry. These responses constitute a moment of intense

competition between different social actors – Zia-ul-Haq, the political field, Ahmadis, the religious establishment – for the accumulation of ethno-national capital.

### **5.5. DEBATING 1984 ORDINANCE: THE STRUGGLE FOR ETHNO-NATIONAL CAPITAL**

I want to conclude this chapter by looking at how the 1984 Ordinance was narrated and contested in the public, discursive space of nationalist position-takings in the immediate aftermath of its promulgation. I argued in the previous chapter that when the Ahmadi issue arose in 1974, the discursive space of nationalist strategies was dominated by a single hegemonic discourse of Muslim nationalism. My contention is that Zia's authoritarian rule and his promulgation of Ordinances such as the present one had the effect of re-invigorating this space by re-opening the question of the basis of Pakistan's national identity. The women's movement in Pakistan was one of the most significant contributors in the broadening of this space as many of Zia-ul-Haq's Islamization laws were premised on a highly traditional patriarchal order. As has been aptly noted, "Paradoxically, by sharply focusing attention on gender issues and discrimination, the reversal of women's rights galvanized a wide spectrum of women and women's groups to form a women's rights lobby[...] The same period saw the establishment of many more activist-oriented women's groups and marked a high point of collaboration between different women's organisations and individual activists in a joint struggle" (Shaheed and Warraich 1998: 279). The critique launched by women was significant not only because it responded to Zia-ul-Haq's claim of a crisis of national identity but also because it recognized the legal protection that was being given to traditional and

customary modes of patriarchal domination under the guise of religion (Shaheed 1998)<sup>111</sup>.

The response to the 1984 Ordinance, especially in the popular print media, in the immediate aftermath of the Ordinance has not been studied, thereby consolidating the popular impression that the 1984 Ordinance was met with the same wide acclaim as its 1974 counterpart<sup>112</sup>. An analysis of a wide spectrum of newspapers following the 1984 Ordinance reveals that the Ordinance was most enthusiastically welcomed by the religious establishment itself and the editors of all newspapers, including those that gave considerable voice to the critics of the Ordinance. The latter indicated to me that editors of newspapers were apprehensive of overtly expressing their disapproval to the Ordinance. *The Pakistan Times* reported in a prominent heading that the “Ordinance [was] widely welcomed” although the text following it revealed that it was only prominent religious leaders of Council of Islamic Ideology, JUI, JUP and JI who congratulated Zia-ul-Haq on the Ordinance (*The Pakistan Times*, Lahore: 27 April 1984). An editorial appearing in the April 29 issue of *The Pakistan Times* called the Ordinance “a welcome measure” and a “logical conclusion” of the 1974 constitutional amendment but cautioned against the potential for the abuse of minority rights and the perception created about Pakistan in the international community by such Ordinances (*The Pakistan Times*, Lahore: 29 April 1984).

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<sup>111</sup> It is also noteworthy that Zia-ul-Haq’s regime witnessed the largest increase in the number of women entering the labour market and institutions of higher education and technical training. Also, as dress codes became more conservative, a new class of urban women began appearing in public (as opposed to previously private and elitist) spaces of leisurely activity such as parks and restaurants (Shaheed 1998: 420).

<sup>112</sup> The Human Rights Commission of Pakistan, an independent body formed in 1987 by leading human rights activists in Pakistan, has been committed to documenting the human rights abuses committed against the Ahmadis. It forms the only institutional voice that has challenged the 1984 Ordinance.

As was expected, Urdu language dailies representing the orthodox religious establishment – most notably *Mashriq* (Lahore), *Imroze* (Lahore), *Nawa-e-Waqt* (Lahore) and *Jang* (Rawalpindi) – were the most vocal enthusiasts and supporters of the Ordinance. *Mashriq* termed the Ordinance “A Memorable Achievement” (*Mashriq*, Lahore: 28 April 1984); *Nawa-e-Waqt* proclaimed it “A late Enactment but a Correct Enactment” (*Nawa-e-Waqt*, Lahore: 28 April 1984); *Imroze* called it an “Incredible service to Islam” (*Imroze*, Lahore: 28 April 1984); and *Jang* praised it as “A Timely Step” (*Jang*, Rawalpindi: 28 April 1984). Following a brief period of enthusiastic praise of the Ordinance, which included a full day’s celebration as Thanksgiving, the *ulama* began articulating new anti-Ahmadi demands. A JUP leader suggested that the government should impose a restriction on Ahmadis from using Muslim names (*Mashriq*, Lahore: 30 April 1984); a MTKN local representative suggested that the government start taking *jizya* tax (tax reserved for non-Muslim minorities in Islamic law) from Ahmadis (*Mashriq*, Lahore: 6 May 1984); that Ahmadi literature should be confiscated and all Ahmadis removed from government posts (*Imroze*, Lahore: 21 May 1984); and a local Imam of a mosque in city of Nankana suggested that Ahmadi mosques should be handed over to MTKN (*Nawa-e-Waqt*, Lahore: 5 May 1984). Other suggestions included changing the name of the Ahmadi city of Rabwah (*Nawa-e-Waqt*, Lahore: 10 May 1984) and making of ‘Qadiani boxes’ on National Identification cards, passports and educational certificates (*Mashriq*, Lahore: 13 May 1984). Though these demands were not formalized, such demands, sometimes made with suggestions such as that the 1984 ordinance should be revised to include death penalty, suggest that the 1984 Ordinance considerably widened the space for the religious establishment for presenting and

consolidating themselves as the moral guardians of the Pakistani nation. The successful opposition of the *ulama* towards the Ahmadis also served the role of the “sectarian upbringing” and the radicalization of prominent leaders of both *Sunni* and *Shi’a* militancy in Pakistan. For example, many of the leaders of the *Sipah-i Sahaba*, a prominent militant Sunni organization known for its central role in anti-*Shi’a* violence among other things, began their careers agitating against the Ahmadis<sup>113</sup> (Zaman 2002: 114). Alongside acts of legal and extra-legal discrimination and aggression against the Ahmadis, the 1980s also witnessed large-scale clashing and violence between *Shi’as* and *Sunnis*, a situation that persists to this day and is directly attributable to the state’s toleration of sectarian discourse (as visible around the polemics surrounding the 1984 ordinance) and the proliferation of *madrasas* (religious schools) tied to particular sectarian organizations (Zaman 1998).

The 1984 Ordinance was publicly critiqued on both secular and Islamic grounds. The most outspoken critic of the 1984 Ordinance was Chaudhry Aitzaz Ahsan, a lawyer, human rights activist and a politician from the PPP. Ahsan likened the 1984 Ordinance to arbitrary state interference in the private lives of citizens aimed at “diverting attention of people from democracy and the basic issue that martial law must be withdrawn and elections held in the country” (*The Muslim*, Islamabad: 3 May 1984). According to Ahsan, the government was deliberately instigating sectarianism in an attempt to deflect the democratic aspirations of the people. Ahsan also claimed that the majority of the Pakistani people were opposed to the Ordinance but were afraid to speak out against it.

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<sup>113</sup> Muhammad Qasim Zaman, one of the most prominent scholars of the *ulama* in Pakistan, has aptly noted that “In a state that professes to be guided by the fundamental principles of Islam, the Ahmadi controversy has contributed to a sectarian discourse by forcefully raising, and keeping alive, such questions as who a Muslim “really” is (irrespective of one’s own claims in that regard) and what position a Muslim (and those who are not Muslim, or are not recognized as such) has in that state” (Zaman 2002: 114).

Chaudhry Rehmat Ali Alvi, a Muslim League politician, also critiqued the Ordinance for interfering in the private lives of citizens and argued that the Ordinance was a complete disavowal of the Pakistan envisaged by Jinnah (*The Muslim*, Islamabad: 4 May 1984). *Ulama* noted that Pir Ghaus Baksh Bizenjo, one of the most prominent politician from Baluchistan at that time and the leader of the Pakistan National Party, had publicly criticized the Ordinance and demanded that the government revoke it while Khan Abdul Wali Khan, the leader of National Awami Party declined to comment on the Ordinance (*Mashriq*, Lahore: 3 May 1984 and 5 May 1984). The *ulama* also noticed the criticisms made by other prominent politicians including Sherbaz Khan Mazaari and Qasur Gardezi and termed these responses as contrary to both religious and national sentiments. The Bar Association of the Lahore High Court passed a resolution expressing its dissatisfaction with the Ordinance (*Imroze* Lahore: 18 May 1984). Mrs. Naseem Wali Khan, another politician, critiqued the Ordinance and was branded as being “basically irreligious” by the *ulama* (*Nawa-e-Waqt*, Lahore: 10 May 1984). The *ulama* were openly hostile towards politicians critical of the 1984 Ordinance and characterized these critics as devoid of religious fervor and nationalist sentiments. The *ulama* thus self-styled themselves as the moral and righteous guardians of Pakistani Muslim nationalism and as the selfless proponents of a truly Islamic social order.

The discussion of the 1984 Ordinance was not limited to religious and political leaders alone. For example, an Anwar Saleem recounted in his letter to editor in the *Pakistan Times* that Prophet Mohammad was known to have praised a Jewish boy for reciting “in a sweet voice” the words of *Azaan* and had requested the boy to recite the *Azaan* louder to which the boy obliged. Saleem gives his objection from an Islamic

standpoint by asking how clearly Islamic practices such as reciting *Azaan* become “un-Islamic”, in the words of the 1984 Ordinances, merely by being undertaken by non-Muslims (*The Pakistan Times*: 23 May 1984). The most ardent discussion was however generated by a series of editorials that appeared in *The Muslim*, an English language secularist daily newspaper published from Islamabad. In the first editorial, *The Muslim* termed the Ordinance “A positive step” since it was “necessitated” by the 1974 constitutional amendment and because “it clearly underlines the lacuna and the dichotomies on an issues which agitates the people’s minds” (*The Muslim*, Islamabad: 29 April 1984). The editorial’s praise of the Ordinance was cautious since it arose from an executive order and not from “a mass-oriented, democratic process, which springs from the grass roots” and has “the consensus of scholars and personages from all schools of Islamic thought”. In a subsequent editorial responding to the above-mentioned critics who were calling for the withdrawal of the Ordinance, *The Muslim* argued that the Ordinance was in line with the vision of Pakistani society that Jinnah propagated, which basically called for a Muslim nationalism and Pan-Islamism. The editorial recanted from its earlier questioning of the representative character of the Ordinance by claiming that “its real importance is that it enjoys the consensus of *Ulama* of all schools of thought and has the writ of the Muslim masses behind it” (*The Muslim*, Islamabad: 4 May 1984).

Comments on the editorials immediately started pouring in, with one Kamran Shafi starting the debate by expressing his ‘shock’ and ‘dismay’ over the second editorial, especially its positing of Jinnah as a non-secularist. Shafi also questioned the claims that the Ordinance represented a consensus of *ulama* from different Islamic schools, reminding the editor of the *ulama*’s opposition to the movement for Pakistan under

colonial rule, and that it represented the wishes of the people at large since no referendum or opinion poll on the issue was undertaken, and concluded by terming the Ordinance “the very essence of intolerance” (*The Muslim*, Islamabad: 9 May 1984). A Mian K.A. Rauf echoed a similar sentiment, arguing that Jinnah had never endorsed a theocracy in Pakistan (*The Muslim*, Islamabad: 4 June 1984). Perhaps the most cogent liberal response came from Alamzeb Khan who asked what the *ulama*’s reactions to a similar ordinance would have been if it were issued in a (hypothetical) Ahmadi-majority country against non-Ahmadis. Khan also pointed out that the *ulama* had been opposed to the creation of Pakistan and Jinnah while Ahmadis had supported the Pakistan movement and Jinnah and made sacrifices for the cause. Khan called the Ordinance un-Islamic and argued that of all modern faiths, Islam permitted the greatest freedom to minorities to practice and preach their religions. He also pointed out a basic contradiction in the Ordinance whereby Ahmadis were allowed to practice their own religion, the basic tenet of which was that Ahmadis should follow Islamic practices, as long as they did not call it Islam. Khan asks: “What should they [Ahmadis] do now Can the ulama issue a new “Holy Book” for them?” (*The Muslim*, Islamabad: 10 June, 1984). One contributor to the debate drew the government’s attention to Article 18 of the Universal Declaration of Human Rights that is concerned with religious freedoms (*The Muslim*, Islamabad: 11 June, 1984), while another asked for statistics and evidence about the supposed anti-Muslim and pro-Zionist activities of Ahmadis (*The Muslim*, Islamabad: 12 June, 1984)..

Regarding the same editorial, a Mrs. Naseem Iqbal wrote that “it has shattered the image I had of ‘The Muslim’ as a champion of democracy and an exponent of human rights. Please say you wrote it under compulsion or for some expediency such as

obtaining a few government ads”, further accusing *The Muslim* of “tread[ing] the line of government controlled newspapers” (*The Muslim*, Islamabad: 25 May 1984). Similar sentiments were echoed by a person calling themselves “Pro Bono Publico”, who lamented that with these editorials, “the last voice of freedom, a fresh gush of breeze, in this taboo-ridden choked society has been strangulated, intimidated or God-forbidden sold out” (*The Muslim*, Islamabad: 28 May 1984). A Roshan Zamir reminded *The Muslim* of the trust placed by Jinnah in the Ahmadi Zafrullah Khan, the first foreign Minister of Pakistan and later Pakistan’s representative in United Nations. Zamir argued that religious differences were “a blessing as they keep the religious fervour alive [sic]” and that the government should not favor one interpretation of Islam over others (*The Muslim*, Islamabad: 13 May 1984). A Basharat Qadir posed the following rhetorical question: “how many of us would stand up for the Ahmedis with Voltaire’s words when he says “I disagree with all you say but will defend to death your right to say it”?” Qadir responded with a pessimistic response of “few I fear” (*The Muslim*, Islamabad: 5 June 1984).

An A.J. Akbar argued from a theological perspective that no tradition in the Quran or *Sunnah* of Prophet Mohammad lent credence to the views propagated by the Ordinance and that these classical sources maintained that any person who refers to themselves as Muslim is a Muslim. Akbar also raised the issue of whether it was theologically credible to prohibit non-Muslims from using ‘Islamic’ terms and in fact went further to argue that the supposedly ‘Islamic’ terms such as *masjid* were routinely used by non-Muslims in the Prophet Mohammad’s days (*The Muslim*, Islamabad: 24 May 1984). An S. Saadi termed the ordinance “a matter of disgrace not only to the citizens of Pakistan but also to our religion, Islam, which we believe is a perfect code of like for

mankind” (*The Muslim*, Islamabad: 2 June 1984). A Mustafa Kamal similarly wrote about the tolerance shown by Prophet Mohammad towards minorities and stated that Quran explicitly does not give anyone authority to call another a heretic when that person claims to be a Muslim and that Prophet Mohammad had “categorically stopped Muslims from calling anybody a Kafir [heretic] or harming him physically on suspicion” (*The Muslim*, Islamabad: 15 June, 1984).

A Bashir Ahmad responded to Kamran Shafi by reminding readers of the standpoint of Allama Iqbal, the famous Muslim poet regarded as the national poet of Pakistan, on the religious status of Ahmadis (I have discussed this issue in chapter 2). Ahmad argued that “it is absolutely impossible to expect of the Muslim community to show tolerance towards its own rebellious group whose founder has not only openly defined the Finality of Prophethood but also declares non-Ahmadis as heretics to be punished with ex-communication”. In the face of this, the 1984 Ordinance arose the Muslim community’s “instinct of self-preservation” (*The Muslim*, Islamabad: 18 May 1984). In similar vein, an I.H. Hassan wrote of the linkages between the British colonial government and the Ahmadis under colonial rule and advocated that the 1984 Ordinance be taken further by prohibiting ‘Qadianis’ from using the Muslim word ‘Ahmad’ in their self-descriptions (*The Muslim*, Islamabad: 29 April 1984). Hassan defended the Ordinance by claiming that it would actually serve to protect the position of Ahmadis in Pakistan since Muslims would now be satisfied and not harm the Ahmadis. Also, “The Ordinance does not in any way infringe the rights of the Ahmadis. They have only been prevented from making inroads into Islam by anti-Islamic and provocative activities. If the Ahmadis consider this Ordinance cool-heartedly and dispassionately they will also

come to the conclusion that it is ultimately in their wider interest". A Sarfaraz Hussain wrote in recounting Ahmadis' links not only with the British colonial state but with Zionism and "international Capitalism and Imperialism" (*The Muslim*, Islamabad: 27 May 1984).

Ahmadis too took part in this debate. An Ahmadi who referred to himself as just Majeed polemically said that he would be willing to renounce his faith if someone could convince him of which of the seventy-two different interpretations of Islam currently in practice should he convert to (*The Muslim*, Islamabad: 2 June 1984). Another Ahmadi Roshan Zameer contested the religious orthodoxy's claims about the history of the Ahmadi religion, arguing that anti-Ahmadi demands have always been the strategic ploy employed "to harass and topple the established government of time by creating law-and-order problems" (*The Muslim*, Islamabad: 7 June 1984).

## **5.6. CONCLUSIONS**

In this chapter, I have examined the social, political and discursive mechanisms that were centrally involved in both the emergence and reception of the 1984 Ordinance. Most significant of these was the re-distribution of statist capital under the Zia-ul-Haq regime for which Zia-ul-Haq sought legitimation through undertaking a program of Islamization of Pakistani state and society. As the 1980s proceeded, this program had the effect of significantly re-broadening the discursive space of nationalist strategies that had been markedly constricted during public debates surrounding the 1974 Constitutional Amendment in the wake of independence of Bangladesh in 1971. Zia-ul-Haq's increasingly unpopular Islamization program as the 1980s proceeded had the effect of

creating a space for intense public discussions about the relationship between Islam and the state and the basis of Pakistan's national identity. In this chapter, I have drawn on the debates surrounding the 1984 ordinance in the national public space to capture the elements of this discourse.

Thus, in contrast to the 1950s when dominant state actors occupying the bureaucratic subfield drew upon a state- and law-centered language of stateness to uphold a authoritarian liberal order and the 1970s when actors within the political subfield drew upon a democratic, nation-centered language of stateness, the central institutional space that articulated nationalist policy with regard to Ahmadis in the 1980s was the figure of Zia-ul-Haq himself operating within a system of opportunities and constraints partially of his own making. Interviews conducted with close aides of Zia-ul-Haq have helped to situate the 1984 Ordinance both within the larger political-structural context by revealing the imperatives that key state actors felt at that time as well as in the discursive space of nationalist strategies being pursued by Zia-ul-Haq, defined by an attempt to foreclose the debate on Pakistan's national identity through the articulation of a self-enclosed, internally consistent and externally legible narrative of the relationship between the Pakistani nation and Islam.

A historian of Zia-ul-Haq's regime has made the following observation: "By imposing Islamic laws from above, Zia may have saved Pakistan from a fundamentalist revolution from below like the one that took place early in his tenure in neighboring Iran. Internally Zia's most lasting contribution could be resolving the issue of the role of Islam in the state" (Azfar 1991: 79). Zia did succeed in providing one response to the question of the identity of the Pakistani state, but one that has generated much opposition from

human rights and feminist groups in the country and which remains unsatisfactory to a large number of Pakistanis. Internationally, the regime of Zia-ul-Haq is largely remembered for its Afghanistan Policy, in particular Pakistan's alliance with the United States to combat Soviet Empire in Afghanistan through the creation and support of the Taliban. Zia-ul-Haq's domestic legacy can be aptly summed up by the following observation about Zia-ul-Haq: "...an intolerant and vindictive ruler who illegally hanged the country's Prime Minister, cynically manipulated Islam and during the eleven and half years of his representative rule opened the floodgates of drug trafficking and the widespread ethnic and sectarian violence which are the hallmarks of the so-called 'Kalashnikov culture'" (Talbot 1988: 247). This 'cynical manipulation' of Islam went hand in hand with Zia-ul-Haq's own brand of personal piety described by strict scripturalism and orthodoxy. Zia-ul-Haq could have appropriated an Islamic discourse to further the cause of social and economic justice and egalitarianism. Instead, he chose to emphasize the "regulative, punitive and extractive" supposedly "Islamic" elements as provided by the fundamentalist religious right that has historically been more occupied with sectarian and religious differences and the 'proper' moral conduct of women than with issues of rights, justice and equality. In this, the Zia-ul-Haq regime was crucially aided by the juridical field in Pakistan. It is to the transformation of this field and its response to the 1984 Ordinance that I analyze next.

## Chapter 6

### **Towards a Sociology of Normative Legal Repertoires: The Criminalization of Ahmadis inside Pakistan's Juridical Field in the Long 1980s.**

In 1993, the Supreme Court of Pakistan gave its ruling on the landmark case *Zaheeruddin v. The State*<sup>114</sup> ('*Zaheeruddin*'). In *Zaheeruddin*, the Ahmadis challenged the 1984 ordinance on the grounds that it violated Article 20 of the Constitution, which provides for all citizens of Pakistan the right to freedom of religion. Specifically, Article 20 of the Constitution holds:

**Article 20:** "Subject to law, public order and morality: (a) every citizen shall have the right to profess, practice and propagate his religion; and (b) every religious denomination and every sect thereof shall have the right to establish, maintain and manage its religious institutions" (Constitution of Pakistan 1973).

The Ahmadi petition was denied. What makes the ruling of *Zaheeruddin* distinct is that "*Zaheeruddin* has remained the only case in which the Supreme Court expressly restricted a constitutionally guaranteed right on the basis of Islamic law" (Lau 2006: 119). One of the novelties in the case of *Zaheeruddin* is the wide use made of use of Islamic law and Islamic legal discourses to decide upon an issue involving fundamental rights of citizens in Pakistan's supreme secular court. The majority judgment, upheld by four out of five judges who heard the case, explicitly held that the scope of fundamental rights could be reduced through recourse to Islamic law, as interpreted by Pakistan's

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<sup>114</sup> 1993 SCMR 1718.

courts. The minority judgment delivered by the one remaining judge strongly argued that constitutionally guaranteed fundamental rights of citizens could not be struck down through recourse to any other system of law including Islamic law.

One of the crucial issues at hand can aptly be summed up by drawing on the following observation by Abdullahi an-Naim, prominent scholar of Islamic law, human rights activist and a self-proclaimed secularist: “On a practical level, although most of the constitutions of modern Muslim states guarantee against religious discrimination, most of these constitutions also authorize the application of Shari’ah [Islamic law]. As such, these constitutions sanction discrimination against religious minorities. This is inconsistent with the constitutions’ own terms” (An-Na’im 1987: 1). An-Na’im’s larger intellectual project entails demonstrating that the *shari’ah* is historically and socially constructed and that most of our contemporary wisdom about Islamic law derives from interpretations that were made in the earlier history of Islam. According to An-Na’im, “it should be open to modern Muslim jurists to state and interpret the law for their contemporaries even if such statement and interpretation were to be, in some respects, different from the inherited wisdom” (ibid.: 16-17). Interestingly, An-Na’im explains the use of the phrase “in some respects” thus: “I say in some respects because I do not conceive of all aspects of Shari’ah as open to restatement and reinterpretation. Belief in the Qur’an as the final and literal word of God and faith in the Prophet Mohammed as the final prophet remain the essential prerequisites of being a Muslim”. This observation perhaps brings into sharper focus the highly charged and controversial nature of the subject that was to be dealt in Pakistan’s Supreme Court in the case of *Zaheeruddin* since it depicts the crucial

importance of the centrality of the belief in the finality of Prophet Mohammad for defining the boundaries of Muslim citizenship.

The Supreme Court was the second avenue utilized by the Ahmadis in their resistance to the 1984 Ordinance. In 1985, they challenged the Ordinance in the newly established Federal Shariat Court of Pakistan on the grounds that it violated Islamic law in *Mujibur Rehman v. Federal Government of Pakistan*<sup>115</sup> (*'Mujibur Rehman'*). There too, the petition was rejected. The Ahmadi challenge to the 1984 Ordinance is an example of the ways citizens employ a judicial system comprised by state-centered legal pluralism. What we have here are two different legal spheres *theoretically* characterized by their distinct modes of legal reasoning and institutional codes and existing side by side within a larger, supposedly autonomous juridical field that affords citizens greater space to make contestory claims through what has been termed “forum shopping” (Shaham 2006). However, as I will show below, the formation of the FSC, part of Zia-ul-Haq’s larger project of the Islamization of Pakistani state and society that I have discussed in the previous chapter, significantly re-constituted the ways in which Islamic discourses and practices were appropriated by secular courts to dispense justice. For example, one of the novelties in the case of *Zaheeruddin* was the wide use made of use of Islamic legal discourses to decide upon an issue involving fundamental rights of citizens in Pakistan’s supreme secular court in a manner that *restricted* the scope of fundamental rights as opposed to the historical precedent of employing Islamic law for widening the latter. On the other hand, the majority judgment in the case of *Mujibur Rehman* explicitly engaged with questions of citizenship, community and nation-state, in effect teetering from an

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<sup>115</sup> PLD 1985 FSC 8.

exclusive reliance upon Islamic law to engage with fundamental modern national questions of identity formation.

*Zaheeruddin* forms the central pivot around which this chapter is organized. My broader concern is accounting for both the institutional and discursive transformation of the juridical field under Zia-ul-Haq's regime and the ways these transformations consolidated the 1984 Ordinance through legalization of the symbolic order contained in it. This chapter proceeds as follows. First, I conceptualize the juridical field in detail through drawing on Bourdieu's influential essay "The Force of Law: Toward a Sociology of the Juridical Field" (1987). My aim is to arrive at an understanding of the relationship between the legal sphere and the state that neither reduces legal judgments to the ideological apparatus of an authoritarian state (Althusser 1971) nor approaches juridical discourses as operating within a self-referential and enclosed "system" that is illegible to non-juridical actors (Luhmann 1985, 1988). My contention is that Bourdieu's larger sociological project of overcoming the subjective/objective divide within the "human sciences" provides a theoretical tool for approaching this relationship, but with some modifications. Specifically, I argue that Bourdieu's account theorizes the formalization and codification of laws through a structuralist account that does not take into account the meanings that social actors invest into these processes, thereby occluding the practical content of law, that is, which social laws, rules and norms get successfully formalized. A focus on the habitus of legal actors – the historically structured patterned ways of acting, judging and investing meaning – provides an incomplete account of historical trajectories of social change in social contexts that place pressures on social actors to act in ways contrary to their dispositions. Drawing on some key interventions within Law and

Society literature, I conceptualize a sociology of norms that places actors' normative and rhetorical narratives (conceptually distinct from the habitus) at the center of the discussion. I then focus on the institutional and discursive mechanisms through which the outcome of the symbolic struggle between these competing narratives is decided to consolidate historically novel symbolic orders. I attempt to show how norms contained within the symbolic order privileged by law are both outcomes of past practices and constitutive of future practices. Norms are thus approached sociologically and distinguished from "ideals". Such an approach enables me to differentiate between the "pure" Islamic ideals found in the political rhetoric of Zia-ul-Haq and the socially constructed normative Islamic ideals that structure practice.

I follow this theoretical discussion with a consideration of the juridical field in Pakistan, focusing in particular on how it has historically constructed legal discourses about Islamic law and state authority. Next, I discuss the institutional transformations affected in the juridical field by the Zia-ul-Haq regime. Finally, I turn to the consideration of the treatment of the question of the religious status and rights of Ahmadis in Pakistan's courtrooms, comparing pre-1984 Ordinance cases with the post-1984 Ordinance cases. I draw on the legal judgments pronounced by the judges and interviews conducted with legal professionals to show the conjunctures and ruptures between institutional constraints and legal precedents through which the criminalization of Ahmadis was legally consolidated in Pakistan.

## **6.1. THEORIZING THE JURIDICAL FIELD WITH BOURDIEU**

Bourdieu's conceptualization of the juridical field is part of his larger sociological project of overcoming the subjective/objective dichotomy. Bourdieu offers a critique of

both formalist theories of the legal space that attribute absolute autonomy to legal thought and practice, and instrumentalist theories that view law and jurisprudence as “*direct reflections* of existing social power relations, in which economic determinations and, in particular, the interests of dominant groups are expressed” (Bourdieu 1987: 814; italics in the original). Both of these perspectives fail to do justice to an understanding of “the social significance of the law” by which is meant the social practices through which “juridical authority is produced and exercised” (ibid.: 816). Bourdieu argues that these social practices are “the product of the functioning of a “field” whose specific logic is determined by two factors: on the one hand, by the specific power relations which give it its structure and which order the competitive struggles (or, more precisely, the conflicts over competence) that occur within it; and on the other hand, by the internal logic of juridical functioning which constantly constrains the range of possible actions and, thereby, limits the realm of specifically juridical solutions”. Akin to other social fields characterized by competitive struggles for the field-specific capital, the juridical field is “the site of a competition for monopoly of the right to determine the law” (ibid.: 817). Competition occurs among legal actors possessing unequal legal competence, defined as such by standards within the juridical field and consisting of “the socially recognized capacity to interpret a corpus of texts sanctifying a correct or legitimized vision of the social world”.

Juridical field is also the social space in which social actors interact. It is “a social space organized around the conversion of direct conflict between directly concerned parties into juridically regulated debate between professionals acting by proxy” (ibid.: 831). This conflict is brought to head through the trial, which is the “paradigmatic staging

of the symbolic struggle inherent in the social world: a struggle in which differing, indeed antagonistic world-views confront each other” (ibid.: 837). Central to this symbolic struggle is ‘the power of naming’: “What is at stake in this struggle is monopoly of the power to impose a universally recognized principle of knowledge of the social world – a principle of legitimized distribution”.

While “the body of law constantly registers a state of power relations”, law’s relation to social relations is always couched in an “ambiguity” through which “law’s symbolic effectiveness” is produced. Bourdieu used the word “miscognition” to refer to “the illusion of the law’s absolute autonomy in relation to external pressures” (ibid.: 817). The result of this miscognition is that the system of norms and practices in the juridical field “appears as if it were founded a priori in the equity of its principles, in the coherence of its formulations, and in the rigor of its application. It appears to partake both of the positive logic of science and the normative logic of morality and thus to be capable of compelling universal acceptance through an inevitability which is simultaneously logical and ethical” (ibid.: 818). Miscognition serves to reproduce the power relations within society through structural-symbolic means, that is, through producing the language through which symbolic violence is carried out and through which domination itself is comprehended.

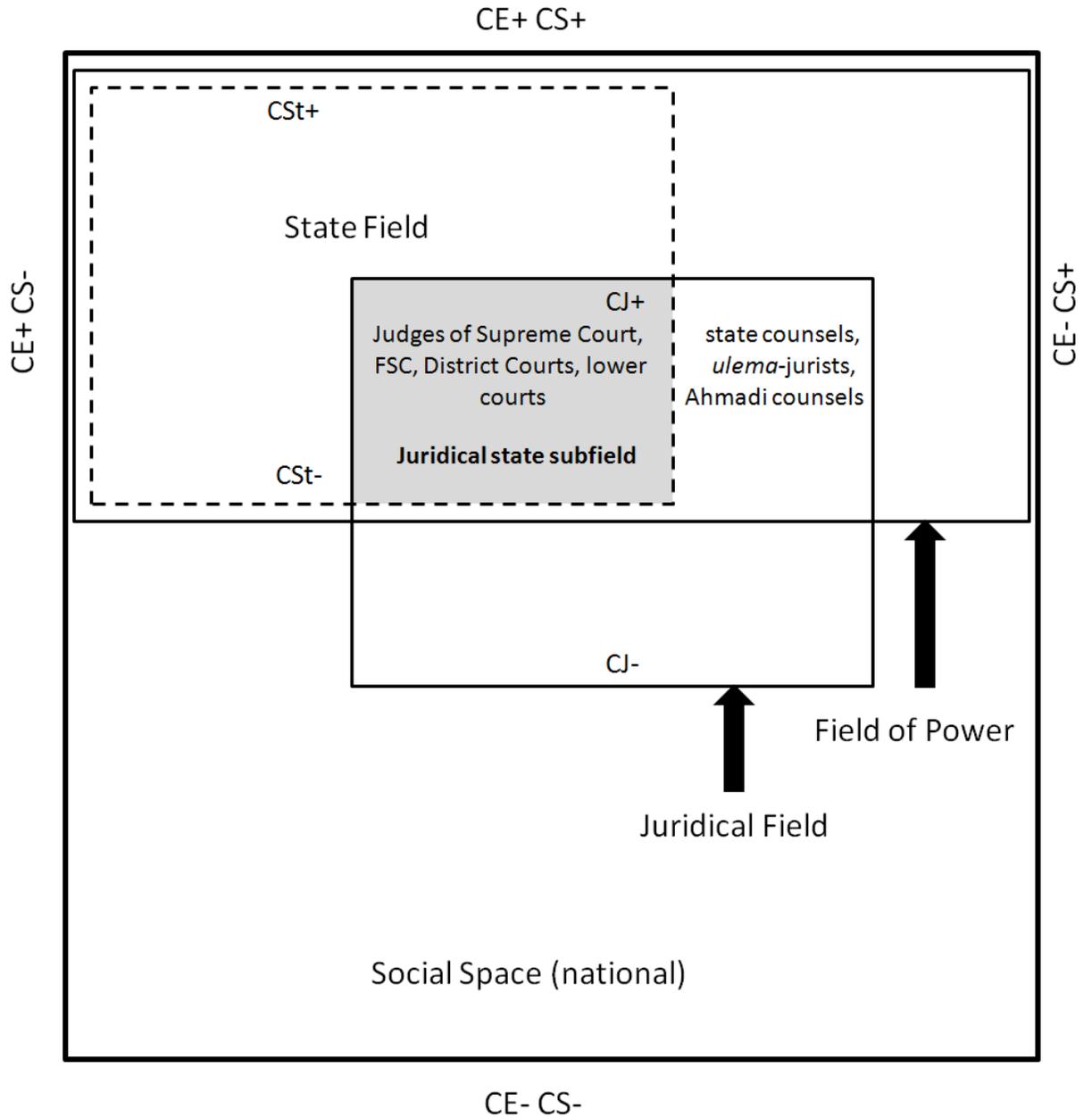
The relative autonomy of the juridical field is meant to capture a relationship between power and law that recognizes that the juridical field is internally autonomous in that the actors located within it act in ways that are governed by the distinct *habitus* of the juridical field. The *habitus* of professionals within the juridical field is constituted through the historical processes of interpretation of legal texts towards the end of arriving

at practical legal solutions to practical problems centered on competing claims about correct legal reasoning through a set of established procedures learned through professional training. Even when hierarchies among the professionals within the legal system produce a symbolic order that is homologous to social relations in the social space at large, the habitus of legal professionals produces an imperative of couching legal outcomes as fundamental, transcendental norms. There is thus an internal logic to legal norms and reasoning that is constituted by a specialized language that “bears all the marks of a rhetoric of impersonality and neutrality” (ibid.: 819). Strategic references to preceding cases are a key strategy through which this is done. Bourdieu draws out the constant interplay between the invariability of the law (that is, the limits imposed on juridical behavior) as well as the flexibility inherent in it so that “a proportion of arbitrariness remains in legal decisions” (ibid.: 826).

How does the external world impose itself on the juridical field? The first way it does so is through the social hierarchies that can be found among the professionals themselves. According to Bourdieu, “The practical content of the law which emerges in the judgment is the product of a symbolic struggle between professionals possessing unequal technical skills and social influence. They thus have unequal ability to marshal the available juridical resources through the exploration and exploitation of “possible rules,” and to use them effectively, as symbolic weapons, to win their case” (ibid.: 827). Bourdieu conceives of “the specific power relation between professionals” as “corresponding to the power relations between the parties in the case”. In this way, the symbolic orders that emerge from the juridical field, the seemingly neutral and natural hierarchies within the social order, are related to social classes (including politicized

religious groups) and thus serve as instruments of social domination. Second, Bourdieu draws attention to the ethical and political dispositions of legal actors which may form an important part of the legal decision especially if they can produce “symbolic effectiveness”. Bourdieu draws on Weber’s thesis on the intricate relationship between rationality and modernity to argue that this symbolic effectiveness is oftentimes achieved through impressions of logical necessity, recourse to will of the law or legislature and such. As I will argue below, a comparative and historical approach to the relationship between law and power requires engaging with the content of juridical judgments to uncover the culturally-specific normative and ethical dispositions that are inherent to any given symbolic order that is debated within the juridical field. Bourdieu also points out that shared ethical and political dispositions can generally be found among social actors and the legal professionals they hire.

For the present purposes, the externality that is the most important is the law’s relationship to the state. According to Bourdieu, “the judgment of a court [...] belongs in the final analysis to the class of *acts of naming* or of *instituting* (ibid.: 838). Because “the State alone holds the monopoly of legitimized symbolic violence”, “law consecrates the established order by consecrating the vision of that order which is held by the State”. However, as discussed in the introduction, rather than situating “the state” and the “juridical field” as two distinct social spaces, I argue that a part of the juridical field – constituted by judges, state lawyers, attorney-generals etc. – lies within the state field (see Figure 6.1, next page). I have characterized this part of the juridical field as a state subfield with the understanding that the dispositions of actors in this overlapping space may be subject to various contradictory pulls and pushes. Whether the judge will pass his



**Note:** CS: symbolic capital; CE: economic capital; CSt: statist capital; CJ: juridical capital  
**Figure 6.1:** The Juridical Field in Pakistan after the introduction of the Federal Shariat Court.

judgment in his capacity as a state official upholding official orthodoxy or as a executor of a transcendental “truth” that may be at odds with the dominant language of stateness is a empirical question and can be determined only by taking into account the larger field of power and historical trajectories of dynamics between the juridical state subfield and other state subfields and social fields. In addition to questions of the ethical and political dispositions of actors within the juridical field, a crucial issue is the mode of entry into the juridical state subfield. Specifically, are the rules for entry governed by state authorities or is it the juridical field at large that sets the parameters for entry into the juridical state subfield? My contention is that the juridical state subfield’s autonomy vis-à-vis the dominant state subfield, especially with regards to issues of entry, exit and promotion, is a crucial factor for explaining the larger structural context within which legal judgments are pronounced.

I have argued earlier that Bourdieu’s conceptualization of the state as a singular entity always-already possessing the absolute authority to pronounce principles of vision and division is inconsistent with one of the central aims of Bourdieu’s larger sociological project – explaining the emergence of particular social forms through consideration of practices. With regard to the relationship between law and the state, Bourdieu argues that law is the practical means through which the state effects the distribution of various capitals among social actors. I concur with this and Bourdieu’s assertion that

“The judgments by which law distributes differing amounts of different kinds of capital to the different actors (or institutions) in society conclude, or at least limit, struggle, exchange, or negotiation concerning the qualities of individuals or groups, concerning the membership of individuals within groups, concerning the correct attribution of names (whether proper or common) and titles, concerning union or separation – in short, concerning the entire practical activity of “worldmaking” (marriages, divorces, substitutions, associations, dissolutions) which constitutes social units” (ibid.: 838).

However, this perspective does not provide tools for explaining the practical content of the law. The state consists of multiple institutional sites and the balance of power among them may be subject to frequent historical shifts, as has been the case in Pakistan. Relations among these different state subfields are often characterized by conflict, and to argue that law consecrates the symbolic order privileged by a monolithic “State” begs the questions of which symbolic order and why that order. Even when the principles of vision and division given legal sanction by the juridical field are the ones that are upheld by an authoritarian state executive, questions remain about the relationships between these and the legal precedents concerning the same (or similar) legal situations and the relationship between this order and the sociological context which makes possible the conditions for the existence of the tight imbrications between the locus of statist authority and the juridical field.

According to Bourdieu, “Given the determinant role it plays in social reproduction, the juridical field has a smaller degree of autonomy than other fields, like the artistic or literary or even the scientific fields, that also contribute to the maintenance of the symbolic order and, thereby, to that of the social order itself. External changes are more directly reflected in the juridical field, and internal conflicts within the field are more directly decided by external forces.” The present case provides evidence of this. The events surrounding *Zaheeruddin* show that the symbolic order upheld by the judgment erected legal distinctions between Ahmadis and non-Ahmadis on the basis of a Muslim nationalism that was given its first institutional voice through the constitutional amendment in 1974. However, the case of *Zaheeruddin* cannot be reduced to a mere instance of a Court upholding a state-issued legislation that can always-already be

explained through an assertion about the universal relation between the state and law. Rather, it was a complexly argued case consisting of multiple normative and rhetorical repertoires on the basis of which the courts sought to advance a seemingly autonomous and internally generated legal reasoning that was based on both past precedents and on novel discursive arguments about the relationship between individual, community and the state. The transformation of the juridical field in Pakistan, in particular the question of legal pluralism and how it affected the juridical field at large, is central to my empirical case. Next, I first consider theories of legal pluralism and combine key interventions within this literature with Bourdieu's conceptualization of the juridical field. My aim is to arrive at a conceptualization of legal practices that makes an actor-based view of norms central to the discussion.

## **6.2. TOWARDS A SOCIOLOGY OF NORMATIVE LEGAL REPERTOIRES**

Within sociological theory, the relationship between what Bourdieu calls the juridical field and the social space at large can be organized along a continuum ranging from law's complete autonomy to law as a reflection of the social world. The former view is most famously associated with Niklas Luhmann's understanding of law as "autopoietic" or self-reproducing *system* of communication that is internally self-referential and reproduced through operations internal to itself (Luhmann 1988). The other end of the spectrum can be associated with Louis Althusser's structural Marxism that conceives of law as an ideological apparatus of the state (Althusser 1971). Bourdieu's interventions that I have discussed above are in direct conversation with this continuum, and as I have discussed above, retain a structuralism that is insufficient for approaching the issue of the conditions under which certain legal norms and rules come

to be codified over others. Specifically, I argue that Bourdieu's account of the relationship between law and the state suffers from an over-essentialized and structural view of the state as an all-encompassing social entity that dominates the field of power and holds full monopoly over symbolic capital. As a corrective, I find debates within law and society literature relevant for thinking about how we can conceptualize the mental representations reified by the juridical field to the normative orders of concrete social actors. The debates about legal pluralism are one way to segue into this debate.

Socio-legal scholars have generally accepted the distinction between weak and strong legal pluralism posed by John Griffiths in his classic article "What is Legal Pluralism?" (1986). Griffiths defined legal pluralism as "the presence in a social field of more than one legal order" (Griffiths 1986: 1). By thus invoking the "social field", Griffiths at the outset expanded the locus of legal activity as stretching outside the state-sanctioned juridical field. Next, Griffiths addressed the issue of how legal orders are identifiable. According to Griffiths, legal pluralism is "that state of affairs...in which behavior pursuant to more than one legal order occurs" (ibid.: 2). By thus situating "behavior", Griffiths made the subject-centered conception of practice central to his definition. The goal of Griffiths article was a critique of what he termed "an ideology of legal pluralism" described as the normative position of "legal centralism" that holds that "law is and should be the law of the state, uniform for all persons, exclusive of all other law, and administered by a single set of state institutions" (ibid.: 3). Such a perspective, Griffiths argued, arose from the perceived "necessary connection between the conception of law as a single, unified and exclusive hierarchical normative ordering and the conception of the state as the fundamental unit of political organization". To correct for

the lacunae that emerges from such a conceptualization, Griffiths posed a distinction between “strong” vs. “weak” legal pluralisms. Griffiths defined strong legal pluralism as a situation in which different normative orders co-exist, including those of the family, religion, economic organization and voluntary associations. Griffiths thus radically expanded the domain of law by including social spheres of activity that are not officially (i.e. by the state) regarded as being governed by law but that nonetheless produce normative orders and govern practice. Griffiths characterizes this situation as “rather an unsystematic collage of inconsistent and overlapping parts, lending itself to no easy legal interpretation, morally and aesthetically offensive to the eye of the liberal idealist, and almost incomprehensible in its complexity to the would-be empirical student” (ibid.: 4). Weak legal pluralism refers to a state-sanctioned pluralist legal system in which the “the sovereign (implicitly) commands [...] different bodies of law for different groups in the population. In general the groups concerned are defined in terms of features such as ethnicity, religion, nationality or geography, and legal pluralism is justified as a technique of governance on pragmatic grounds” (ibid.: 5).

Griffith’s conceptualization of the relation between law and the state is consistent with Bourdieu’s in that both approach state legal system as the central institutional site through which the state upholds its normative and symbolic order. However, while Bourdieu forwards a sociological conception of how this symbiosis between law and state has been historically constructed, Griffith’s is primarily concerned with advancing a sociological conception of strong legal pluralism, thereby bypassing the state altogether. I am concerned in this chapter with the relationship between the state-sanctioned pluralistic legal order, the state itself, and groups that enter the ambit of the former. Griffith’s article

is a useful starting point because of its obvious influence within theories of law and society but more significantly because of the critical debate it has generated that has bearing on the theoretical relationship I am centrally concerned with here.

Some critics have critiqued the distinction between weak and strong legal pluralisms for rendering “law” into such a broad category that law becomes equivalent to all forms of social control exercised from various normative orders (Dupret 1999; Shahar 2008; Tamanaha 1993, 2000). Others have found the distinction useful for introducing a continuum (Woodman 1999). My contention is that Griffiths has correctly identified and critiqued what he terms “the ideology of legal pluralism”. However, this critique is only partial because while he questions the reification of the state in the law-state relationship, he does not address the question of how we can re-theorize this relationship if we re-think the state as a de-centered and complex entity consisting of multiple and overlapping institutional spheres, or what I have termed state subfields, that are constituted by historically structured languages of stateness and whose actors strategically negotiate with each other and other social actors to define policy outcomes. In other words, my contention is that we move beyond the doctrine of “legal centralism” not by just looking within the larger social space for alternative normative orderings that may be more “real” to the citizenry than the state-sanctioned legal order but also by approaching the law-state relation as a sociological fact. We need to gain an understanding of both how social norms structure legal judgments and how the normative symbolic order privileged by the state via the juridical field impacts social space. Thus, rather than marginalizing the state, we should bring the state back into the analysis so that we may approach the law-state relationship in relational, processual terms.

One result of the wide-scale acceptance of Griffith's assertion that weak legal pluralisms are a mere instance of state's ideology has been that studies of legal pluralism, especially in Muslim societies, have focused empirically on instances of strong legal pluralisms to the detriment of studies of weak legal pluralism. As Ido Shahar notes, "Griffiths' distinction leads him – and those who follow him – to the unsound conclusion that legal pluralism within the boundaries of the state's legal system is not "empirical", "lacks "social significance", and consequently is not worthy of study by social scientists" (Shahar 2008: 122). A related problem is that the debate has focused on the normative issues of what ought to be the relationship between the individual and law, thus shifting focus away from empirical and practice-driven questions of how social actors conceive of law and how they negotiate between different legal systems within the state sphere. Equally importantly, a focus on strong legal pluralism does not problematize the historical emergence and continuation of weak legal pluralism. Specifically, such a focus ignores the ways in which legal pluralism may have historically emerged as a deliberate strategy by state regimes to gain legitimacy, or that it may be a culmination of a process of societal demands made to the state to, or some combination of these two.

To correct for some of these lacunae, Gordon R. Woodman re-conceptualizes what Griffiths has termed weak legal pluralism as state legal pluralism, defined simply as existing in "those instances in which there are two bodies of norms within the law of a state" (Woodman 1999: 5). Such a perspective opens the space for addressing instances in which a single legal issue may be adjudicated in two different ways, depending on the body of norms – common law, religious law, customary law etc. – that is drawn upon. Woodman employs the notion of "recognition" to define that sub-type of state legal

pluralism in which “a state law is composed in part of an elaborated body of norms first developed as state law, and in part of another body of norms which has been developed outside the context of state law and given “recognition” by the state law in question” (ibid.: 8). Such a state of affairs opens up the twin issues of how ordinary citizens approaching the state legal system engage in “forum-shopping”, or choosing from among the different laws, and relatedly of how the state regulates the relations between these different laws. As I will show below with reference to the 1984 Ordinance, state legal pluralism has the effect of significantly broadening the terrain on which symbolic struggles take place by allowing a wider range of signifiers, or cultural resources, which may be juridically employed by social actors (or legal actors representing the state) to accumulate statist capital and social actors to engage in the struggle to impose their own *nomos*. The hierarchy between two bodies of law that may apply to the same legal situation in contradictory ways is always marked by slippage so that the conflict generated by their mutual existence within the same sphere of activity is always open to negotiation, contestation and negotiation. The aim is to arrive at “integration” so that “the inconvenience and possible injustices of conflict are avoided” (ibid.: 17).

The introduction of the Federal Shariat Court within the state legal system in Pakistan was an instance of “normative recognition” since the state law was now required to recognize norms of another law. However, Islamic law has classically operated outside the sphere of state activity in that the Islamic jurists do not need state validation for the “truth” of their interpretation of Islamic laws to hold since the source of authority of Islamic law belongs to Allah as manifested in *Quran* and *Sunnah*. The creation of Federal Shariat Court and its appellate bench was an instance of the branching out of the existing

institutional structure of the state. However, the normative Islamic values upheld by traditional *ulama* were recognized through the incorporation of Islamic *ulama* as judges of Federal Shariat Court. I do not characterize this system as one of deep legal pluralism since although placed within state law, the authority deciding on which issues would fall within the ambit of Islamic law and the hierarchy between Islamic and secular law lies outside the Federal Shariat Court and with the state. Rather, the reception/recognition of Islamic law within the state law is an instance of internal legal pluralism, defined as a situation “when a state law adopts as part of its corpus both the indigenous [by extension, religious] law and the received law” (Woodman 1999: 18). Thus, Figure 6.1 (page 9) places judges of Federal Shariat Court inside the juridical state subfield and suggests that the introduction of the Federal Shariat Court did not lead to a bifurcation of the juridical field which would have been the case if Federal Shariat Court had been created as an institutionally parallel Islamic juridical system parallel to the existing secular courts.

An important question that is raised by the existence of internal legal pluralism within state law is whether this normative plurality is sociologically relevant. In other words, are the categories of “Islamic” law, “state” law, “constitutional” law etc. merely legal categories or do they have a social significance? Are the norms emanating from these different sources merely the stuff of legal discourse carried on by the professionals within the juridical field or do they have a bearing on the way social actors engage in social practices? Drawing on these concerns, Baudouin Dupret offers “a sociology of normative plurality” (Dupret 1999). Dupret is in conversation with Bourdieu and agrees that processes of codification of law have been central to the creation of modern juridical fields through processes of objectification, publicization and formalization. However,

codification of laws should not lead to their reification and it should be recognized that the process of codification is preceded by concrete social acts/practices through which the effectiveness of the norms contained in the law are upheld. In other words, norms originate from practices and (some of them) translate into legal principles. These past practices provide actors with “rhetorical repertoires” or “normative repertoires” that serve as discursive resources already imbued with meaning. According to Dupret, “they have meaning because they relate back to “authorized languages”, to clusters of norms based on legitimizing principles, accepted at a given time in a given place” (ibid.: 34). In short, the normative repertoire is “a cluster of formal resources around legitimizing principle”. Actors may draw upon multiple repertoires and multiple actors pursuing different arguments may draw upon the same repertoire. Which repertoires social actors will draw upon in the juridical field will of course depend on their argumentative tactics and strategies but it is useful to recognize that these are historically situated and emerge from structures of opportunities and constraints that have been partially determined outside the juridical field. Such an approach opens up the sociological space for questioning the legal bifurcation of norms into “Islamic” and “secular” and of investigating “normative entanglements” by which I mean looking at the ways both Islamic and secular norms and values may be drawn upon to invest meaning in signifiers such as nation, community, justice, rights etc.

Focusing on normative repertoires within the juridical field allows an investigation of how highly local ideas, nationalist discourses and discourses about universal rights may be simultaneously drawn upon in ways that cross-cut the religious/secular divide. Such repertoires are also “repertoires of justification” since they

contain within them stories social actors tell to justify their actions in a conflictual situations (Bowen 2003: 7; Dupret 1999). The institutional separation between secular and religious courts that in theory belong to two different normative systems is a symbolic distinction erected by the state which cannot *a priori* be assumed to have a sociological relevance. As I will show below through discussing case laws dealing with the religious rights of Ahmadis in Pakistan's courtrooms, legal reasoning within the secular courts in Pakistan's juridical field had routinely contained references to Islamic law and values since the late 1960s to supplement and uphold a regime of equal citizenship rights. Two significant shifts that took place in *Zaheeruddin* was first, the rendering of Islamic law the *grundnorm* of legal reasoning and second, that Islamic law was used to subvert fundamental rights protected by the constitution whereas earlier, it had served to uphold the religious rights of Ahmadis. To approach Islamic law sociologically is therefore to move away from approaching the *shari'at* as an immutable set of rules and to instead take account of the social contexts within which Islamic legal reasoning is practiced by judges, jurists and social actors seeking justice (Hallaq 2005; Masud, Peters and Powers 1996; Powers 1993).

I contend that with regard to the Ahmadi question, the significant shift that took place within juridical reasoning is explained by the conjuncture between institutional transformation that occurred with the introduction of the Federal Shariat Court and the discursive legal shift from what I term a normative repertoire of abstract citizenship to one upholding a national community. This shift meant that juridical discourses now entered the ambit of what I have termed in the previous chapters as the discursive space of nationalist strategies. In the former normative repertoire, even when Islamic legal

reasoning was used, it was used to supplement a narrative that was founded on an ontology that placed the abstract citizen at the center. It was the individual in their lone capacity and shorn of all particularistic identities, most significantly religious identity, that was to be protected by law (excluding family personal law which was based on religion). The community occupied a lower place in legal reasoning than the individual and when Islam was invoked, it was done to advance the ideals of social justice that expanded the scope of rights for the individual. The question of the national identity of Pakistan – essentially a question about community – was not part of juridical reasoning. This was reversed with the re-introduction of the Ahmadi question in the 1980s. The national community was at the center of juridical reasoning and when the individual was invoked, it was always in their capacity as a citizen of a national community defined by religious identity. Before turning to the specifics of the Ahmadi issue, I will first give a brief account of the juridical field in Pakistan.

### **6.3. THE JURIDICAL FIELD AND THE INTRODUCTION OF LEGAL PLURALISM IN PAKISTAN**

Pakistan has a tiered judicial system directly inherited from the British colonial rule. At the apex of the juridical field is the Supreme Court of Pakistan, having original, appellate and advisory jurisdictions. The highest authority within the juridical field is the Chief Justice of Pakistan appointed by the President of Pakistan. The judges of the Supreme Court are also appointed by the President of Pakistan but in consultation with the Chief Justice of Pakistan. Below the Supreme Court of Pakistan lie the four Provincial High Courts, the Chief Justices of which are appointed by the President in consultation with the Chief Justice of Pakistan. Below it lie the District courts (dealing

with civil matters) and Session courts (dealing with criminal matters). Figure 6.1 (page 9) depicts the judges of these Courts as situated inside the juridical state subfield.

I have discussed the various measures taken by constitution-makers to integrate Islam into the framework of the state in Pakistan in the previous chapters. With regard to the juridical field, it is important to note that there has been almost no sustained effort to replace the legal system inherited from the British colonial state by an “Islamic” legal system to this day. The Objectives Resolution as well as the three constitutions of 1956, 1962 and 1973 paid nominal allegiance to Islamic principles through the ‘repugnancy clause’ (no laws shall be introduced in Pakistan that are repugnant to Islam); ‘conformity clause’ (efforts will be made to bring all laws of Pakistan in conformity with Islam) and the setting up of the Advisory Council of Islamic Ideology that could only make recommendations with regard to the former clauses but not enforce them. The only body having the authority to introduce Islamic laws in Pakistan until Zia-ul-Haq’s regime was the Parliament of Pakistan. Until that time, the juridical field in Pakistan has therefore had no institutional relationship with Islamic law with the exception of Muslim personal law that was codified under colonial rule and which regulates domestic issues in the realms of marriage, divorce and inheritance in family courts.

The lack of an institutional relationship with Islam has however not translated into the absence of a discursive relationship with Islam. Based on his intensive study of Pakistan’s reported case laws, Martin Lau has argued that since the late 1960s, the juridical field in Pakistan has increasingly relied on principles of Islamic law (Lau 2006: 19). This timing is consistent with my analysis of case laws dealing with religious rights of Ahmadis. Before that, “Judges who tried to depart from the inherited ‘Western’ legal

mode were swiftly admonished by the higher judiciary” (ibid.: 10). From this, Lau concludes that “in the 1950s and 1960s judges were still able and willing to reject any express reliance on Islamic law” (ibid.: 11). Justice Mohammad Munir, the author of the Munir Inquiry Report and later the Chief Justice of Pakistan, was one of the main forces engaged in the eradication of recourse to Islamic laws and values within the juridical field in Pakistan. There were certain geographical areas in Pakistan where local courts continued to employ Islamic and customary modes of legal reasoning. However, it can be generally claimed that the habitus of the juridical field was constituted by legal professionals trained in the Anglo-American tradition and possessing a secular outlook towards the relationship between law and religion. The Munir Inquiry Report (although not a legal case) that I have discussed in chapter 3 provides a good example of the dispositions of dominant actors within the juridical field in the early “secular” years of Pakistan’s history. However, as I will show below through discussing case laws dealing with the Ahmadi question in Pakistan’s superior courts, until the end of 1970s, even when Islamic law and values were invoked by the Courts, they were done with the explicit recognition that the 1973 Constitution formed the *grundnorm*. It was held that Islamic law was entirely consistent with, and supported, the fundamental rights of citizens contained in the Constitution. I suggest that the dispositions of the judges continued to be defined by a secular understanding of the relationship between state law and religion even when Islamic law was recognized in its supplementary capacity. The significant shift that took place in the 1980s under the Zia-ul-Haq regime was therefore a shift towards a particular mode of Islamic jurisprudence historically dominated by the orthodox *ulama* operating outside the state juridical field.

This shift took place because of a number of changes instituted within the juridical field by Zia-ul-Haq as a part of his larger project of Islamization. First, Zia-ul-Haq initiated measures that led to the introduction of Muslim criminal law. The imposition of colonial rule in British India had retained Muslim personal law for Muslims and other traditional and customary/religious sources of law for Hindus and other religious groups but had homogenized criminal law on the basis of English common law. Zia-ul-Haq promulgated ordinances that introduced punishments such as amputation of limbs, whipping and stoning to death for crimes relating to fornication, adultery, theft and drinking of alcohol (Mehdi 1994: 109-10). Second, Zia-ul-Haq announced in 1978 that he wished to bring all Pakistani laws in conformity with the *Shariat* (Islamic law). As Craig Baxter, a prominent historian of Pakistan, puts it, “This presented two problems: Who would make the decision and what Islamic school of law would be followed?” (Baxter 1991: 36) After a number of experiments with the creation of Shariat Courts, Zia-ul-Haq settled on the creation of the Federal Shariat Court and the Shariat Appellate Bench of the Supreme Court. The purpose of these Courts was to “examine and decide the question whether or not any law or provision of law is repugnant to the Injunctions of Islam, as laid down in the Holy Qur’an and the Sunnah of the Holy Prophet” (Federal Shariat Court 1998: 414). If a law was found to be repugnant to Islam, the Court would inform the government who would be obliged to alter the law accordingly. Anita M. Weiss observes that

The establishment of shari’a courts...is interesting largely for what the order did not do. It did not restrict the power of either the civil or military courts operating concurrently in Pakistan, except to ensure that the laws were not repugnant to Islam. Nor was there an overhaul of the legal system, placing all laws into conformity at once. Instead, only when a law was challenged as repugnant to Islamic injunction did a shari’a bench become involved. In addition, the question of legal derivation was not raised; laws were decreed

as conforming to Islamic shari'a, but no attempt was made to derive the legal system directly from the shari'a" (Weiss 1986: 11-12).

In other words, Zia-ul-Haq's measure was cautionary, gradualist, and to some extent, deliberately vague. The Shariat Courts were "firmly embedded in the existing judicial structure" although they had the effect of significantly enlarging the powers of judicial review, for various sources of law could now be theoretically drawn upon by lawyers and judges (Lau 2006: 126). However, the Federal Shariat Court could not be used to strike down the Constitution, fiscal law, and Muslim personal law. Cases concerning charges of rape, adultery, fornication etc. fall under the jurisdiction of District and Session courts but the first Court where they can be appealed are the Federal Shariat Court (Kennedy 1988)<sup>116</sup>.

Furthermore, Zia-ul-Haq introduced a number of rules regarding the appointment to the Federal Shariat Court that ensured his personal hold over the rulings of this court. For example, all appointments to the Federal Shariat Court were to be made by Zia-ul-Haq himself from amongst High Court judges or persons qualified to be High Court Judges without consultation with the Chief Justice of Pakistan. After 1985, through a Constitutional amendment, it was provided that the Federal Shariat Court would consist of eight judges, of who no more than three would be members of *ulama* and well-versed in Islamic law. While under appointment at Federal Shariat Court, the judges would cease to be High Court Judges. There was to be a 'probation' period of one year for each judge after which the appointment would be renewed by Zia-ul-Haq with the consultation of the

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<sup>116</sup> In fact, hearing appeals on these cases, involving both conviction and acquittal, has remained one of the prime functions of the Federal Shariat Court until 2006, when in response to the decades of criticism of the Hudood Ordinances, a Women's Protection Bill was passed in the National Assembly of Pakistan making criminal rather than Islamic courts the site of juridical inquiry into cases of rape and fornication. These cases are to be determined on the basis of forensic and circumstantial, and not shari'at-sanctioned, evidence, and the punishment to be meted out in case of conviction based on punishment and fines and not on Islamic ones such as stoning.

Chief Justice of Pakistan. Furthermore, any High Court judge who refused the appointment to Federal Shariat Court would undergo compulsory retirement. Through these measures, Zia-ul-Haq strove to curb, successfully, not only the judicial independence of Federal Shariat Court judges but also those of High Court Judges.

A significant aspect of the Federal Shariat Court was the clothing prescribed for its judges. The requirement that the judges and jurists wear the black *sherwansi* (long coat-like garment) with a white collar inside, white *shalwars* (loose pants), black shoes and socks, and a black Jinnah cap (a Qaraqul-fur cap worn by Jinnah) if a cap were to be worn – considered the national dress of Pakistan for males – attempted to visually combine Islam and nationalism (Weiss 1986: 12).

The creation of the Federal Shariat Court has both its supporters and ardent critics. The state officials and Ministers that I have interviewed who served in the Zia-ul-Haq regime, notably Sharifuddin Pirzada<sup>117</sup> (Minister of Law and Parliamentary Affairs) and Raja Zafar-ul-Haq<sup>118</sup> (Minister of Information) regard it as one of the achievements of Zia-ul-Haq and defended it as a transparent institution imparting important judicial functions. More telling, however, are the critiques of the Federal Shariat Court. Khalid Anwar, a prominent lawyer and constitutional expert who served as Federal Minister for Law, Justice and Human Rights from 1997 to 1999 has referred to its creation as the ‘usurpation of the prerogatives of the National Assembly’ of Pakistan. Anwar launches his critique on the judicial powers of the Federal Shariat Court as defined by the Constitution and limits it to “the constitutional propriety of having a Federal Shari’ah Court, which impliedly or expressly amounts to the imposition of restrictions on the

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<sup>117</sup> Interview with Sharifuddin Pirzada, Islamabad: 12 March 2008.

<sup>118</sup> Interview with Raja Zafar-ul-Haq, Islamabad: 7 February 2008.

powers of the elected representatives” (Anwar 1998: 168). The written constitution of course does not give an account of how the Federal Shariat Court functions within the juridical field, a topic on which I spoke at length in my interview with Fakhruddin G. Ebrahim<sup>119</sup>, the lead counsel retained by the Ahmadis in *Zaheeruddin*. Ebrahim was a judge of Supreme Court in 1981 but resigned when Zia-ul-Haq asked the judges to take oath under the new constitution promulgated by him upholding his executive rule. Ebrahim would later serve as the Governor of Province of Sind in 1989-90, the Federal Law Minister under the caretaker cabinet of President Farooq Leghari in 1996 and the Attorney General of Pakistan. Ebrahim is widely regarded as a constitutional expert and a human rights activist and also does his own private practice, usually covering civil cases. Ebrahim informed me that since its creation, Federal Shariat Court has been used as a dumping ground for judges who the establishment considers undesirable. For example, if a High Court judge is becoming inconvenient for establishment, he gets transferred to Federal Shariat Court since Federal Shariat Court operates at the margins of the juridical field and covers limited cases. The other informal way its appointments function is that when a judge is reaching his retirement but is someone who has been loyal to the establishment, he gets rewarded by being appointed to the Federal Shariat Court so that he may continue to enjoy the benefits of a salary, official position and other perks that are equivalent to those enjoyed by a High Court judge.

The bifurcation of courts into secular and Shariat courts did not initially lead to jurisdictional contradictions and confusions, and the limitations imposed on it were strictly adhered to by the Federal Shariat Court. The jurisdiction of the various courts was significantly muddied with the passing of a Presidential Order in 1985 titled “Revival of

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<sup>119</sup> Interview with Fakhruddin G. Ebrahim, Karachi: 9 March 2008.

the Constitution of 1973 Order” which, like its name suggests, reinstated the previously suspended 1973 Constitution. The Order also inserted a new clause 2A into the Constitution which stated that “The Objectives Resolution to form part of substantive provisions. The principles and provisions set out in the Objectives Resolution...are hereby made substantive part of the Constitution and shall have effect accordingly”. Before 1985, the Objectives Resolution, first passed in 1949, had served as a preamble to all three of Pakistan’s Constitutions, passed in 1956, 1962, and then in 1973. Now it was to become a part of the Constitution and its provision that in Pakistan, “Muslims shall be enabled to order their lives in the individual and collective spheres in accordance with the teachings and requirements of Islam as set out in the Holy Quran and the Sunnah” would come into sharp conflict with the provisions guaranteeing Fundamental Rights contained in the Constitution. As Lau puts it, the significant question that came to fore as a result of the incorporation of the Objective Resolution, was this: “was it [Objectives Resolution] a supra-constitutional provision controlling all other parts of the 1973 Constitution and Pakistan’s statute law ad making them subject to an overriding repugnancy to the Islam test, or had the Objectives Resolution, in spite of having been incorporated into the 1973 Constitution, remained just a programmatic and inspirational advice to Pakistan’s first Constituent Assembly?” (Lau 2006: 48) This question was to be addressed, either implicitly or explicitly, in numerous court cases in the post-1985 period, and was to be answered differently at different moments, depending mostly on the Judges’ own convictions regarding this important issue. As I will show with the example of the case of *Zaheeruddin* below, the effect of the insertion of clause 2A in the Constitution was to

create the unprecedented occurrence of the abrogation of a constitutionally guaranteed right on the basis of Islamic law.

The creation of Federal Shariat Court created ambiguity about the jurisdictional authority of the secular and *shari'at* courts and about the hierarchy of norms within state law. Katherine P. Ewing has argued that in the Muslim world, the relationship between Islamic and alternative legal codes is almost always characterized by ambiguity and that “more than simply tolerating ambiguity, community members value and exploit it” (Ewing 1988: 1). The placement of *ulama* inside the Federal Shariat Court and the overall legitimation of an orthodox, reformist and traditionalist Islam brought the dispositions of actors within the juridical state subfield in conflict with the normative ideals prescribed by the new politico-legal order. The conflict was created by the very different ways that the *ulama* and state legal professionals view the role of *shari'at*, which at its broadest is defined as follows by Ewing:

“...the limits of acceptable behavior for Muslims are expressed in terms of the concept of *shari'at* – the canon law of Islam, which has been given by God and which is the basis for judgment of actions as good or bad. *Shari'at* regulates the external relations of men to Allah and to their fellow men. It is concerned with the fulfillment of prescribed duties. The *shari'at* consists of guidelines for judging actions; these guidelines have their roots in Qur'an and in accounts of the life of the Prophet. From this perspective, Islam can be seen to provide constraints, rules, and limits of discourse. *Shari'at* is thus a way of demarcating the boundaries of the community”. (Ewing 1988: 2)

The boundaries of Muslim citizenship are central to any discussion about the *shari'at* because *shari'at* is the means through which a Muslim community is ordered by Muslims themselves. The Muslim *ummah*, or the community of the faithful, is distinguished from *kafirs*, i.e. infidels. The term *kafir* is generally used for non-Muslims but which groups are and are not *kafirs* is historically constructed and managed and may contain heterodox groups (defined as heretics by the establishment). The disposition of

the state legal actor towards the *shari'at* is integral to the question of the boundaries of Muslim citizenship.

The second significant aspect of the habitus of the higher echelons in the juridical state subfield is the disposition of its dominant actors with regard to state authority. In chapter 3, I have tried to capture this relationship through the notion of state-centered language of stateness whereby executive, authoritarian rule is privileged by the juridical state subfield over democratic norms on grounds of the 'necessity doctrine', a disposition partially structured by the fact that many of Pakistan's early influential legal professionals received their training and started their practice within a milieu of the colonial state's authoritarian rule. Jinnah, himself a lawyer, has often been characterized as an old school hyper-constitutionalist in the British tradition and wary of mass democratic politics. The crucial case that set the legal precedent and starkly revealed the dispositions of the dominant actors within the juridical field towards the construction of state authority was the Supreme Court's review of the judgment in *Maulvi Tamizuddin Khan v. The Federation of Pakistan*<sup>120</sup> ('*Tamizuddin*'), in which Maulvi Tamizuddin Khan, the president of the Constituent Assembly in 1954, questioned the legality of the Governor-General Ghulam Mohammad's dissolution of the Constituent Assembly in the wake of anti-Ahmadi riots in Punjab that I have discussed earlier. The case was filed in the Sind High Court (SHC) which ruled in favour of legislative authority and the sovereignty of the constitution-making body. The distribution of statist capital declared lawful by the SHC was unambiguous: supremacy rested with the Legislative-cum-Constituent Assembly which was not bound to seek the Governor-General's assent on the provisions of the Constitution or any other legislation. Ghulam Mohammad appealed the

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<sup>120</sup> PLD 1955 Sind 96.

ruling in *Tamizuddin* in the Federal Court of Pakistan<sup>121</sup> in *The Federation of Pakistan v. Moulvi Tamizuddin Khan*<sup>122</sup> ('*T. Khan*'). Written by Justice Mohammad Munir, the majority judgment ruled against the SHC by upholding executive authority over legislative authority and by ruling that assent from Governor General was required by the Legislative Assembly to pass laws. Newberg in her analysis of *T. Khan* aptly notes that "The court based its judgment on a close reading of the relationship between the English Crown and Dominion government [...], a reading that underscored executive powers at the expense of the Assembly's sovereignty" (Newberg 1995: 46).

If *T. Khan* was the definitive case that paved the way for the ascendancy of the bureaucratic subfield within the state field, the case that gave legal protection to the military intervention in the state field in Pakistan was *The State v. Dosso and another*<sup>123</sup> ('*Dosso* ') in which the legality of Ayub Khan's military coup was brought under scrutiny. The bench consisted of four judges with three judges upholding the military coup as legal and one judge dissenting with the majority opinion. Once again, the majority judgment was written by Justice Mohammad Munir, which held that a "victorious revolution or a successful coup d'etat is an internationally recognised legal method of changing a Constitution". Drawing on Hans Kelsen's famous *General Theory of Law and the State* (1961), Justice Munir argued that "Where revolution is successful it satisfies the test of efficacy and becomes a law-creating fact". By thus equating efficacy, legality and force, Justice Munir made lawful the military's usurpation of statist power. This doctrine of revolutionary legality was challenged in the early 1970s when the human rights activist

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<sup>121</sup> The Federal Court of Pakistan was re-termed the Supreme Court of Pakistan under the 1956 Constitution.

<sup>122</sup> PLD 1955 Federal Court 240.

<sup>123</sup> PLD 1958 Supreme Court 533.

Asma Jilani challenged the legality of General Yahya Khan's martial law of 1969 in *Asma Jilani v. The Government of the Punjab*<sup>124</sup> ('*Asma Jilani*'), also calling into question the elections of 1970 and the legality of the Bhutto regime, both of which were premised on actions and rules promulgated under the martial law regime. The Supreme Court overruled the argument of revolutionary legality that had been upheld in *Dosso*, further arguing that even from the perspective of this doctrine, Yahya Khan's martial law regime was illegal since it was constituted by Ayub Khan, himself a military ruler, handing over power to Yahya Khan and not through revolution or a coup d'etat. *Asma Jilani* was a crucial case since it allowed the juridical state subfield to cast a critical eye upon its former actions that had supported authoritarian rule in cases such as *T.Khan* and *Dosso*, and to declare cases of imposition of martial law as acts of treason. However, the judgment in *Asma Jilani* came at a time – in 1972 – when Yahya Khan was no longer in power, and it therefore did not constitute a challenge by the juridical state subfield to the ruling regime. In fact, *Asma Jilani* was cautious towards invalidating the Bhutto regime under which the democratically elected National Assembly was then involved in the task of framing a constitution for the country.

In Pakistan, the introduction of the Provisional Constitution Order (PCO) in 1981 significantly undermined the autonomy of the juridical state subfield in Pakistan. In the words of Paula Newberg, it “almost choked the judiciary and virtually silenced dissent” (Newberg 1995: 26). The PCO was preceded by the case of *Begum Nusrat Bhutto v. Chief of Army Staff and Federation of Pakistan*<sup>125</sup> ('*Nusrat Bhutto*') in which ex-Prime Minister Bhutto's wife Begum Nusrat Bhutto challenged the legality of Zia-ul-Haq's

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<sup>124</sup> PLD 1972 Supreme Court 139.

<sup>125</sup> PLD 1977 Supreme Court 657.

martial law regime. In it, the Supreme Court upheld the legality of the martial law through re-validating the doctrine of necessity, in effect providing Zia-ul-Haq the legal basis for holding onto power for the next decade. The lower courts however continued to review the martial regime's practices, especially with regard to the formation of military courts, and did not always give favorable rulings on the scope of actions that was allowed to the martial regime under the doctrine of necessity (Newberg 1993: 174-5). According to Newberg, in the years between Begum Nusrat Bhutto and the promulgation of the PCO, "the high courts subjected the necessity doctrine to serious scrutiny. Because they could not revoke the Supreme Court's judgment validating the regime, they too steps to dissect the doctrine and define its limits, largely to mitigate the effects of *Nusrat Bhutto's case*. At each opportunity, the necessity doctrine was tested against concrete actions of the martial law regime. This strategy helped to soften the absence of fundamental rights" (ibid.: 178). The lower courts were engaging in creative ways to create space for alternative venues to the kind of fundamental rights that the 1973 constitution had upheld but that had been abrogated with the 1977 Martial law. In a context in which the dominant state actors employed a state-centered language of stateness through using police and army, institutions that were now seen as instruments of oppression, and in which the political subfield was severely compromised through the placement of radical limitations on political activity and the suppression and imprisonment of opponents within the political subfield, courts retained a degree of freedom of judicial review.

The autonomy of the review process however faced considerable challenges from the ruling regime with the promulgation of the PCO. The preamble of the PCO stated that one of the reasons it came into existence was because "doubts have arisen...as regards

the powers and jurisdiction of the Superior Courts”<sup>126</sup>. The PCO was Zia-ul-Haq’s attempt to extinguish the powers of judicial review, and it explicitly stated that actions of his regime could not be questioned by “any Court on any ground whatsoever”. It also barred the juridical state subfield from passing legal judgments on a broad range of issues including jurisdiction of military courts, an issue that was increasingly being taken up in the Provincial High Courts. One of the most significant aspects of the PCO was that it required judges to take a hold to uphold the PCO, an un-ratified political document framed as a national constitution but which effectively served as “an instrument to preclude democracy” by making the executive, in the figure of Zia-ul-Haq, the locus of statist capital (Newberg 1995: 180). This placed the judges in the awkward position of either accepting the PCO as legitimate or of losing their jobs. A handful of judges who were invited to take the oath chose to decline and lost their jobs but overall, the majority of the judges took the oath, in effect “accepting a political and juridical order that rendered political justice an oxymoron” (ibid.: 181).

#### **6.4. THE AHMADI QUESTION INSIDE THE JURIDICAL FIELD IN THE 1980s**

With the above theoretical exposition, I now turn to the empirical case of the treatment of the Ahmadis by Pakistan’s courtrooms. The analysis that follows is broken down into two parts. First, I discuss some of the key legal cases preceding *Zaheeruddin*. My aim is to show that by the time *Zaheeruddin* was undertaken, legal reasoning within the juridical field was characterized by contradictory normative repertoires. I discuss two cases concerning the religious status and rights of Ahmadis in Pakistan’s superior courts before the promulgation of the 1984 Ordinance and one case in the Federal Shariat Court

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<sup>126</sup> Cited in Newberg (1995), p. 180.

in 1985 in which Ahmadis challenged the 1984 Ordinance from the perspective of *shari'at*. I argue that these cases point to the presence of conflicting norms and contradictory pulls that would be exerted on the judges in the case of *Zaheeruddin*. Next, I analyze *Zaheeruddin*, arguing that around this case crystallized the practical effects of both the transformation of the juridical field in Pakistan and of the increasing political embeddedness of this field.

#### **6.4.1. Moving Towards *Zaheeruddin*: Continuities and Contradictions**

##### *Legal Precedent I: The Case of Kashmiri*

In line with the Munir Inquiry Report of 1954 following anti-Ahmadi disturbances in the Punjab, the juridical field remained committed towards accommodating the Ahmadis on the grounds that the issue of the boundaries of Muslim citizenship was a non-juridical issue. In the late 1960s, this was witnessed by the case of *Abdul Karim Shorish Kashmiri v. The State of West Pakistan ('Kashmiri')*<sup>127</sup>. I have noted in chapter 5 that this case concerned an order passed by the Home Department of the Province of West Punjab that banned the weekly journal *Chattan* from publishing any material “touching on the origin, prophecies, revelation or beliefs of any sect of Islam or on their comparative merits of status, by way of news, views, comments or in any other form whatsoever”<sup>128</sup>. The order was a response to the anti-Ahmadi literature published in the pages of *Chattan* that most likely expressed the personal views of the journal’s editor Abdul Karim Shorish Kashmiri, a known Ahrarite. The petitioners challenged the order in the Lahore High Court on the grounds that the order infringed on the petitioners’ right

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<sup>127</sup> PLD 1969 Lah 289

<sup>128</sup> *ibid.*: 295.

to freedom of speech. The petition was dismissed by the hearing judges, and in the final written judgment submitted, Judge Muhammad Gul noted that the right to freedom of speech was suspended under the rules governing Proclamation of Emergency<sup>129</sup>. However, the freedom to practice and profess religion was still in force “subject to law, public order and morality” (as provided by the constitution). In other words, the freedom to religion was not “absolute” and it was held that “the expression subject to law, implies a recognition of similar freedom of every other citizen of Pakistan and also subject to the requirements of maintenance of law and order and morality”<sup>130</sup>. The judgment noted that the counsel for the petitioners in their arguments “overlooks the fact that Ahmadis as citizens of Pakistan are also guaranteed by the Constitution the same freedom to profess and proclaim that they are within the fold of Islam” which the petitioners claim for themselves when they argue for their right to free speech. The Court also maintained that the question of who was and wasn’t a Muslim was beyond the scope of legal process and that there was an “absence of any legal right...to have this abstract question determined by any right legal process, unless it is somehow linked with any right to property or right to office”. The Court at this moment drew upon a secular reading of the phrase “subject to law, public order and morality”, and implicitly equated the Pakistani nation with all citizens of Pakistan, irrespective of religion.

The Lahore High Court in this instance upheld the stance of the dominant actors within the state field, most particularly the secularist regime of President Ayub Khan. However, the court gave sanction to a normative, symbolic order that is significant not only because it represents the symbolic order privileged by the dominant actors within

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<sup>129</sup> At the time of the judgment, Pakistan was under a State of emergency declared by the military regime of General Yahya Khan (1969-1971).

<sup>130</sup> *ibid.*: 307.

the state field but also because it emanates from a competition for juridical capital among legal professionals who in their social and ethical dispositions are related to actors within the social field, in this case Ahmadis and orthodox Muslim establishment. The repertoires employed by these legal actors are a function of past social practices and form importance symbolic resources that can be powerfully employed by actors in subsequent legal cases.

The judgment in *Kashmiri* undertook a legal discourse that was based on a normative repertoire of abstract citizenship. Within this repertoire, it is the individual and not the community that lies at the center of the legal narrative. In this repertoire, all ‘citizens’ and not just ‘Muslims’ are equal before law. Furthermore, the citizen, first and foremost an abstract individual and the bearer of rights and only secondarily a Muslim, has the right to define themselves as they want. Orthodox and mainstream Muslims do not hold an elevated position before law simply because they form the majority *community*. The abstract-citizen repertoire thus contains within itself an ontology of the social and a prescriptive norm of personal religiosity that is oriented towards the self and one’s own religious community and exists peacefully alongside other religions. The norm of freedom of speech flows from this ontology and gives Ahmadis and non-Ahmadis equal rights with regard to expressing their religious views. The religious identity of the individual-citizen is legally irrelevant.

The normative repertoires employed by the petitioner’s (i.e. Kashmiri’s) counsel argued that the constitution guarantees to all citizens liberty to profess, propagate their religion, irrespective of the proclamation of Emergency. The pages of *Chattan*, it was argued, were devoted to expressing the religious views of true Muslims. However, the

petitioners were not willing to concede a similar right to Ahmadis. Kashmiri had the right to express his religious views because he was a member of an exclusive, majoritarian national community of Muslim Pakistanis. I refer to this normative repertoire as the national community repertoire.

It is significant to note that the religious identity of the judge who is a part of a national community defined by Islam is drawn upon through invoking Islamic values that are consistent with the abstract citizenship repertoire. The court firmly held that episodes of the persecution of Ahmadis “are sad instances of religious persecution against which human conscience must revolt, if any decency is left in human affairs”. The judge drew on a number of Quranic verses to show “how far these instances are opposed to the true Islamic precepts and injunctions”. For example, the judge invoked verse 256 of chapter 2 of the Quran “which guarantees freedom of conscience in clear mandatory terms” and another verse that states that “Let there be no compulsion in Religion”. The judge also reproduced translation of 3:79 in which “there is also a positive injunction....prohibiting man – even though a prophet – from imposing his will upon others”. Thus, “Freedom of thought and conscience could not have been guaranteed in clearer terms. These references from the Holy Qura’an, demonstrate the untenable stand taken by the petitioners...” It is significant to note that the legal stance taken by the judge is supplemented, but not based, on readings of Quran. His reading of the Quran is entirely consistent with the abstract individual repertoire and is intended to enhance the scope of fundamental rights as protected by the constitution.

### Legal Precedent II: The Case of Mobashir

The juridical field remained committed to the abstract citizenship repertoire even after the enactment of the second constitutional amendment in 1974. An appeal that the Ahmadis be barred from publicly practicing their religion was brought into the Lahore High Court in the case of *Abdur Rahman Mobashir v. Amir Ali Shah* ('*Mobashir*')<sup>131</sup>. This case is significant for the purposes of this chapter because it forms an excellent case for comparison with *Zaheeruddin*. The timing of this case is significant because it took place in 1978 in the pre-1984 Ordinance period but post-military coup period. Essentially, *Mobashir* deals with the same themes that *Zaheeruddin* later will but there are a number of significant differences which I will analyze below. My argument is that *Mobashir* provides the paradigmatic legal account of how the juridical field in Pakistan has dealt with the Ahmadi issue until the 1984 Ordinance. It contains multiple rhetorical narratives ranging from the hierarchy between codified law and Islamic law, between secular and religious law, religious rights of minorities (and the scope of Article 20), about the relationship between the State and law etc. Because the case did not generate attention either within the state field or the social space at large, the space of court proceedings, including the final judgment, can be taken to be a relatively autonomous rendering by the juridical field of questions pivotal to the present study.

The case was heard by two prominent judges of the Lahore High Court. The junior judge was K.M.A. Samdani who in 1974 had headed the Rabwah/Samdani Tribunal that was charged with determining the events of May 29, 1974. I have mentioned his views with regard to the issue of the religious status of the Ahmadis in the previous chapter, which can be broadly summarized as being highly critical of the 1974

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<sup>131</sup> PLD 1978 Lah 113.

amendment with Samdani referring to the 1974 Amendment as an instance of persecution of Ahmadis. I attempted to question Samdani about the *Mobashir* case but was told that “once a judgment is delivered, the judgment should speak for itself. The judges should not speak about it”<sup>132</sup>. The senior presiding judge was Aftab Hussain and it was he who wrote the final judgment, with Samdani adding an “I concur” at the bottom. Significantly, Aftab Hussain would later be appointed as the Chief Justice of the Federal Shariat Court by Zia-ul-Haq. I will return to this point later.

The case constituted an appeal filed by the Ahmadis against an earlier judgment by a lower court. In the earlier case, charges were brought by some non-Ahmadi Muslims of the city of Dera Ghazi Khan against religious practices of Ahmadis of that city. Specifically, it was argued that in light of the 1974 constitutional amendment, courts should rule that the mosque, the *azan*, and the Muslim prayers are for the exclusive use of Muslims and “infidels” do not have the “right” to construct their places of worship in shape of mosques or refer to them as mosques, give the Islamic call for prayers or to pray in a manner in which Muslims pray. The basis of the complaint was that Dera Ghazi Khan is a city populated predominantly by Muslims and that, “the religious sentiments of these Muslims are wounded by these activities of the defendants, which have created a law and order situation”<sup>133</sup>. The trial judges at the lower courts upheld this normative repertoire of religious community and temporarily prohibited Ahmadis from engaging in “Islamic” practices. This decision was first challenged by the Ahmadis in the district court where too it was upheld and finally appeal was brought to the Lahore High Court in *Mobashir*. Lahore High Court termed the judgments of the lower court as faulty, full of

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<sup>132</sup> Interview with K.M.A. Samdani, Islamabad, 30 January, 2008.

<sup>133</sup> *ibid.*: 127.

“jurisdictional errors” and the courts as having “acted illegally and with material irregularity in the exercise of their jurisdiction, and their judgments cannot, therefore, be sustained”<sup>134</sup>. The suit was filed under Pakistan’s civil law but Lahore High Court held that civil law did not regard religious nomenclature and practices as having the status of legal property and thereby could not legally recognize as legal the claimed exclusive right of Muslims to the distinctive characteristics of Islam. In short, religious practices and terms did not constitute a proprietary right.

Justice Hussain also noted in his judgment that “there is no threat to the plaintiffs’ own right to use their mosque nor is there any threat in regard to their right to performance of their own prayers. It is merely a suit to stop defendants from performing their religious rites and from calling their place of worship by the name of mosque”<sup>135</sup>. Nor could the issue of copyrights or trademarks be used since “Rights in trade marks or copyrights are matters which are the concern of statutory law. There is no positive law investing the plaintiffs with any such right to debar the defendants from freedom of conscience, worship, or from calling their place of worship by any name they like”. Justice Hussain drew a distinction between “religious property or religious office on one hand and religious rites and ceremonies on the other” and held that the present case involved the latter and not the former<sup>136</sup>. This point about the legality of the claim that religious practices and nomenclature could be treated as legal objects and thereby given legal protection for the exclusive use by a religious community is important as it would be central to subsequent discussions on the 1984 Ordinance in *Zaheeruddin*. Next, Justice Hussain considered the issue of whether a suit could be filed on grounds the existence of

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<sup>134</sup> *ibid.*: 131.

<sup>135</sup> *ibid.*: 139.

<sup>136</sup> *ibid.*: 143.

the Ahmadi mosque was a public nuisance. Justice Hussain rejected this argument employing the following legal reasoning: “in the absence of any law barring the right of the Ahmadis to perform their religious rites or ceremonies in a manner objected to by the Muslims, such an objection is only sentimental which cannot cause any material loss or injury to the comfort or happiness of the plaintiffs or those whom they represent”<sup>137</sup>.

An analysis of *Mobashir* again reveals that the judges upheld what I have termed a normative repertoire of abstract citizenship. Sentiments, emotions, and perceived injustices that relied upon the individual’s religious identity were deemed irrelevant to the case, whether of Ahmadis or non-Ahmadis. During the case proceedings, Ahmadi counsel Mujeeb-ur-Rehman repeatedly argued that the second constitutional amendment deemed Ahmadis non-Muslim for the purposes of “law” and “constitution” only and that from all other regards, including the *shari’at* Ahmadis were Muslims. Furthermore, Mujeeb-ur-Rehman maintained that even if it were conceded that Ahmadis were non-Muslim under *shari’at*, there could still be no prohibition legally placed on Ahmadis using Muslim nomenclature and practices since *shari’at* did not prohibit non-Muslims from using these. Finally, Rehman invoked article 20 of the 1973 Constitution that guarantees fundamental rights of citizens with regard to religious practices.

The plaintiffs on the other hand argued that the *shari’at* could be invoked to both render Ahmadis non-Muslim and to bar Ahmadis from using Islamic nomenclature and practices. Second, they argued that the Article 20 guaranteed religious rights but with the qualification that those were subject to “law, order and public morality” and that the word “law” in Article 20 included the *shari’at*. The three issues therefore raised by both the parties were first, the status of Ahmadis under the *shari’at*; second, if the *shari’at*

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<sup>137</sup> *ibid.*: 146.

allowed non-Muslims to use Islamic nomenclature and practices; and third, the scope of Article 20 with regard to the present case.

Lahore High Court responded to these claims by first asserting that the only instances of Islamic law that could be enforced by the Courts were the ones that had been specifically made applicable in positive law as for example Muslim personal law. Thus, the word “law” in Article 20 did not refer to Islamic law. Furthermore, Lahore High Court noted that Islamic law was applicable only when both parties were Muslim but that was not the case in the present situation since the Ahmadis were non-Muslim by Pakistani law<sup>138</sup>. Islamic law however could be enforced in a case involving at least one Muslim party claiming a legal right or property, which was not the case. Justice Hussain at a later point in his judgment addressed the issue of whether the *shari’at* could be applied to non-Muslims and concluded that although in most cases it could not, in a case involving Ahmadis it would be justified since “like Muslims this section of the non-Muslims claims to be bound by the law of Koran and Sunnah”<sup>139</sup>. The Lahore High Court was thereby creating legal space for Ahmadis to publicly retain their own Muslim religious identity and practices even though they had been constitutionally declared non-Muslim. By going back and forth between the second constitutional amendment that rendered Ahmadis non-Muslim and the normative position that an individual possessed the right to self-identification, the Lahore High Court created a deliberate ambiguity about the religious status of Ahmadis, at one point deeming this point irrelevant to the case at hand. It is however significant to note that when the Lahore High Court did deem Ahmadis non-Muslim, it was done towards the ends of placing Ahmadis out of ambit of

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<sup>138</sup> *ibid.*: 158.

<sup>139</sup> *ibid.*: 169.

Islamic laws that may potentially threaten the religious freedoms of Ahmadis. That the Court was prepared to go to any length to protect the religious freedoms of the Ahmadis in the wake of the 1974 amendment can be gauged most clearly by the following statement in which the Court attempted to minimize the alleged differences between the two faiths: “Except for some...minor differences the Qadianis do believe in the mission of Prophet Muhammad (peace be upon him), and the Holy Qur’an and traditions. In this view they call their places of worship as *Masjid*, they perform prayers (Namaz) in the manner ordained for the adherents of Qur’an and call their congregation to prayer by shouting *Azan*”<sup>140</sup>.

Did the judges feel that Islamic law could in fact be used to prohibit Ahmadis from engaging in Islamic practices? The answer is no. Lahore High Court conceded that recourse to Islamic law was not without precedent in Pakistan’s case law but noted that Islamic law had been invoked “on the principles of justice, equity and good conscience”. The Lahore High Court discussed at length what it meant by notions of justice and equity and how these notions have been defined and used in the South Asian context. Justice Hussain concluded that “The Islamic Law being divine in character and being based upon natural justice will be found generally to be in consonance with justice, equity and good conscience” and that “the Shariah law wherever possible should be applied on principle of justice and equity in cases where the parties are Muslims in preference to any principle of English Law or any other law”<sup>141</sup>.

The Lahore High Court judgment explicitly dealt with the issue of the rights of non-Muslim minorities in an Islamic state. The Lahore High Court noted that “the

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<sup>140</sup> *ibid.*: 188.

<sup>141</sup> *ibid.*: 168, 169.

constitutional declaration [of 1974] brings the Qadianis at par with other non-Muslim minorities to whom are guaranteed *inter alia* the right to profess, practice and propagate his religious institution. The same are the rights of the *Zimmis* [non-Muslim minorities] in an Islamic State. In Muslim States all the non-Muslim subjects are known by the name of *Zimmi*”<sup>142</sup>. Lahore High Court drew upon *Sunnah* and authoritative commentaries of the Quran to conclude that “The rights of non-Muslims are in all respects at par with those of Muslims. They are in fact superior in some respects since all Muslims are required even to fight in their defence...and the Holy Prophet is reported to have said that ‘their property is like our property and their blood is like our blood’”<sup>143</sup>. The following statement by Justice Hussain is worth quoting because of its interpretation of Islamic history:

“Islam leaves non-Muslims free to profess and practice their religion and enjoy complete autonomy in regard to their religious tenets and institutions...I have not come across a single instance in the Islamic history when the non-Muslim subjects or non-Muslim conquered in war have been subjected to religious intolerance or their freedom to practice their religion has ever been curtailed or interfered with. I asked the learned counsel for the respondents-defenders to show me a single instance where any sect calling itself within the fold of Islam but declared heretic by the Government was ever prohibited from performing their prayers in the manner as provided by the *Sunnah* of the Holy Prophet in their mosques or from calling Azan but no such instance from the Islamic history could be quoted.”<sup>144</sup>

The Lahore High Court therefore struck down the plaintiffs arguments on the grounds that first, they were able to produce “neither an Qur’anic injunction nor any tradition, nor even any opinion of Imams” as proof of their argument that the use of Islamic practices by non-Muslims was prohibited by *shari’at*. Second, Lahore High Court noted that while the plaintiffs had demonstrated how infidel groups had existed (or been

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<sup>142</sup> *ibid.*: 181.

<sup>143</sup> *Ibid.*: 182.

<sup>144</sup> *ibid.*: 185.

declared as such) under different Caliphs, “not a single instance of interference with the prayers or places of worship of such persons, was quoted”<sup>145</sup>. Thus, “It is one thing to establish that all these [Islamic] institutions originated with Islam but it is altogether a different proposition that Islam made these things so exclusive that no non-Muslim, even though a believer in the Holy Qur’an or traditions of the Holy Prophet, may utilize them as a means to his spiritual advancement”. Lahore High Court also rejected the implicit claim that there was a “single”, easily identifiable design of mosques within the Islamic world. Thus, the question of whether non-Muslims could use “Muslim” architectural designs in the construction of their places of worship did not arise since there was no one basic, universal building model of a mosque. Similarly, judges maintained that “No instance of any prohibition against the calling of *Azan* by a non-Muslim was cited” by the plaintiffs. With regard to the issue of Ahmadis engaging in Muslim forms of prayers in public places, Justice Hussain noted “I do not see how a person who can without objection offer his prayer in private in a particular mode can be stopped from adopting the same mode in public. It appears to me that the main object of the respondents is only to seek prohibition of construction and use of Masjid by the Qadianis”<sup>146</sup>.

Again, the *grundnorm* held was the 1973 Constitution (in particular the fundamental rights guaranteed to all citizens therein) and akin to the earlier case of *Kashmiri*, Islamic law was invoked as an aide to bolster the former. Justice Hussain held that prohibiting Ahmadis from engaging in Islamic practices

“will amount to interfering with their religion, which Islam, the religion of tolerance, does not allow. On the other hand Islam leaves the non-Muslims free to profess and practise their religion...The Constitutional guarantee in Article 20 of the Constitution is to be interpreted in this light. In my view, the fundamental rights should be interpreted as

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<sup>145</sup> *ibid.*: 170.

<sup>146</sup> *ibid.*: 181.

far as possible in the light of injunctions of the Holy Qur'an and ethical values of Islam. Constitutional safeguard guaranteeing freedom to all including non-Muslim to profess, practise their religion and manage their institutions, is in consonance with the Qur'anic guarantee."<sup>147</sup>

For example, Justice Hussain engaged with several verses from the Quran cited by non-Ahmadis, who argued that non-Muslims were not allowed to construct or enter mosques. Furthermore, he noted that "I have come across several *Fatawas* [Islamic legal interpretations]...from which it is clearly established that there can be no objection to the construction of a mosque by a non-Muslim and it is permissible to recite one's prayers in those mosques. In fact there are instances of construction of mosques by Hindu Rajas for their Muslims subjects....The argument that non-Muslims cannot be allowed to construct mosque is contrary to these Fatawa and the Hanafi<sup>148</sup> view"<sup>149</sup>. In short, the Lahore High Court did not find any evidence in the Quran, *fatawas* or Hanafite jurisprudence that could lead to the conclusion that non-Muslims were forbidden from constructing mosques.

### Legal Precedent III: Mujibur Rehman

Before approaching the Supreme Court, the Ahmadis challenged the 1984 ordinance before the Federal Shariat Court. The findings of this case are significant because the Supreme Court would later draw heavily upon the arguments made in this case to decide upon *Zaheeruddin*. In *Mujibur Rehman v. Federal Government of Pakistan* ('*Mujibur Rehman* ') <sup>150</sup>, the petitioners challenged the 1984 Ordinance on the grounds that "the impugned Ordinance violates the Sharia and the Constitutional rights of the Ahmadis

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<sup>147</sup> Ibid.: 188.

<sup>148</sup> Hanafi Law is one of the four main schools of Islamic jurisprudence and is the one that is the most adhered to in South Asian Islam.

<sup>149</sup> Ibid.: 175.

<sup>150</sup> PLD 1985 FSC 8.

to profess, practise and preach or propagate their religion”<sup>151</sup>. Mujeeb-ur-Rehman, the counsel for petitioners (as well as one of the petitioners), requested Federal Shariat Court to be given permission to argue the religious status of Ahmadis from the perspective of the *shari’at*, which was granted to him. The final judgment was written by the then Chief Justice of the Federal Shariat Court, Fakhre Alam, the senior-most of the four judges who heard the proceedings. During the proceedings, six *ulama* and “Jurist-Consults” were invited by the Court for assisting it in religious matters. The final judgment, which I will discuss in some detail below, rejected the Ahmadi claims and upheld the validity of the 1984 Ordinance from the standpoint of the *shari’at*.

One of the most significant aspects of *Mujibur Rehman* was that at the start of the proceedings, there were five judges hearing the proceedings and the senior presiding judge was the then Chief Justice of Federal Shariat Court, Aftab Hussain. As mentioned above, Hussain had been the senior judge in the case of *Mobashir* and had written the judgment in that case. Hussain’s legal inclinations with regard to the Ahmadi question, the relationship between Islamic and codified law, and most significantly his views about minority rights can somewhat be gleaned from *Mobashir*. After the conclusion of the proceedings and while the judgment was being drafted by him, Hussain was removed from his post as the Chief Justice of Federal Shariat Court and replaced by Fakhre Alam, one of the other judges hearing the case and bringing the total number of judges to four. This change was mentioned to me by a number of interviewees, thereby alerting me to its potential significance and as providing an instance for inquiring into the Federal Shariat Court’s relative autonomy from the state under the Zia-ul-Haq regime.

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<sup>151</sup> Ibid., p. 17.

The first mention of the significance of this change was first made to me by Mujeeb-ur-Rehman<sup>152</sup>. An imposing personality, Rehman is an Islamabad/Rawalpindi based lawyer known for his expertise on both theological and legal matters<sup>153</sup>. Rehman told me that he argued his case for fourteen days after which a judgment was drafted by Justice Aftab Hussain and circulated within the Federal Shariat Court. Rehman claims that his own personal information was that Justice Hussain was personally critical of the 1984 Ordinance but in the judgment that he drafted, he attempted to take a middle ground whereby while restricted, Ahmadis would get a greater space to conduct their religious practices than permitted by the 1984 Ordinance, such as, for example, not using loud speakers to call the *azaan* (a common practice in Pakistan), only propagating the Ahmadi faith through written literature and not oral encounters etc. Furthermore, some of Justice Hussain's interpretations of Islamic thought were in direct opposition to the mainstream *ulama*, which did not make him popular with the latter. Rehman claims that Justice Hussain was going to take a more liberal approach based on the premise that the fundamental religious rights of citizens could not be denied but could be regulated. Thus,

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<sup>152</sup> Interview with Mujeeb-ur-Rehman, Rawalpindi: 21 January 2008.

<sup>153</sup> This combination of expertise on both "worldly" and "theological" matters is characteristic of educated Ahmadis and is generally acknowledged by most of mainstream Muslims (minus the *ulama*) that I encountered during my field work. For example, the Speaker of National Assembly in 1974, Sahabzada Farooq Ali, informed me that during the secret National Assembly proceedings in which the Ahmadi leadership was questioned by MNAs on their religious views, the Ahmadi leaders were extremely well-informed about theological discourses. For example, when questioned about the meaning of an Arabic word found in the Quran, Mirza Nasir Ahmad not only told the meaning but also the number of times it had been used in Quran and at what places. When asked to explain the meaning of a Quranic verse, the Ahmadi leadership would first give the orthodox interpretation/s and then follow it with their own interpretation, explaining why theirs differed from the mainstream ones. Seeing this on the first day of the proceedings, Farooq Ali decided to adjourn early for the day. Later, he called Prime Minister Bhutto and told him how "our" most able *ulama* were being completely "made zero" by the Ahmadis. It was then decided that the method of cross-examination would be adopted, with all *ulama* submitting their questions to the Attorney-General Yahya Bakhtiar who would screen the questions and then cross-examine Ahmadis. The dominance of Ahmadis with respect to religious capital thus had to be countered by a juridical method in which a juridical mode of reasoning was pitted against theological issues. According to Farooq Ali, both he and Yahya Bakhtiar undertook intense study of the theological issues involved. (Interview with Interview with Sahabzada Farooq Ali, Multan. 8 April, 2008.)

Justice Hussain asked Rehman during the course of proceedings if the Ahmadis were willing to accept regulations such as clearly indicating outside their mosques that it was an Ahmadi mosque etc. Rehman did not claim to know for a fact that Justice Hussain's removal as Chief Justice was because of this particular judgment he was going to give but he strongly believed that it was one of the major causes of his removal.

In his book *Error at the Apex: Invasive Interpretation of Human Rights* (2002), Rehman undertakes an analysis of various cases (most notably *Zaheeruddin*) in Pakistan's superior courts about the Ahmadi issue from both a legalistic and political viewpoint. Regarding Justice Hussain's removal, Rehman writes that Hussain was given a transference order by Zia-ul-Haq from his post as Chief Justice of Federal Shariat Court to the position of an Advisor to the Ministry of Religious Affairs. Justice Hussain refused to accept the latter position and thereby stood retired. Rehman writes:

“The Chief Justice who was ceremoniously sent home during the period when he was to hand in the detailed judgment in the [*Mujibur Rehman*] case, subsequently went on record and stated that Zia-ul-Haq had tried to have his judgment changed. Justice Aftab stated that after a tour of Sudan he was staying in Saudi Arabia for Umra where he received the information that he had been relieved from the Federal Shariat Court and had been appointed as an Advisor to the Ministry of Religious Affairs. On his return to Pakistan he declined to accept this position.” (Mujeeb-ur-Rehman 2002: 23).

Rehman does not provide any citations for this supposed public declaration nor have I been able to find any record of such a statement. However, I am inclined to believe the veracity of this account based on the interview I conducted with Sharifuddin Pirzada, the Minister for Law and Parliamentary Affairs during that time<sup>154</sup> (I have referred to this interview in the previous chapter). According to Pirzada, Hussain's judgment in *Mujibur Rehman* was kept in a box in his office and while Hussain was out of the country, the acting Chief Justice of Federal Shariat Court [Fakhre Alam] opened the box and read

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<sup>154</sup>Interview with Sharifuddin Pirzada, Islamabad: 12 March 2008.

Justice Hussain's judgment in which it was written that once the 1973 Constitution was revived, the 1984 Ordinance would become repugnant to the fundamental rights protected by the constitution and would stand abrogated. The acting Chief Justice reported the contents of the judgment to Zia-ul-Haq. Following this, in Pirzada's words,

“General Zia and two to three ministers met and they decided that he [Aftab Hussain] should not be continued as the Chief Justice and he was dispensed with. Aftab was a good friend of mine...I induced him to take the position. When he returned, he was sent on deputation to someplace else, and portions of his judgment were deleted and rest of the judgment was taken by the other judge and pronounced.”

Pirzada told me that he had “glanced” at the original judgment and thereby knew that the final judgment passed by Fakhre Alam contained elements taken directly from the judgment written by Aftab Hussain, even though the final decision was changed. Mujeeb-ur-Rehman also questions whether the judgment was written by Justice Fakhre Alam, “who did not know anything about Shariah”. Rehman claims he had learnt through his sources that it was written by someone outside the Shariat Court. The veracity of the account of the proceedings of the case in the judgment in *Mujibur Rehman* is also questioned by Rehman who claims that he did not say some of the things that are attributed to him in that judgment. He made a formal request to Federal Shariat Court to release to him the audio-taped minutes of the proceedings of *Mujibur Rehman* so that he may correct the record but was denied the request.

Doubts about the authorship of the *Mujibur Rehman* judgment as well as Justice Hussain's removal from Federal Shariat Court after he had written the judgment has raised questions about whether this judgment followed a properly juridical reasoning or if it was dictated by the political context of its time. The *ulama* claim that the reasoning in *Mujibur Rehman* flows directly from accepted principles contained in Islamic law. My interview with Mahmood Ghazi, one of the *ulama* who was invited to assist the Federal

Shariat Court with *Mujibur Rehman*, denied that Justice Hussain's removal had anything to do with this case<sup>155</sup>. According to Ghazi, Justice Hussain had shown him the judgment he had written and it was identical to the official judgment of *Mujibur Rehman*. According to him, Justice Alam directly took Justice Hussain's judgment and put his name under it. With these claims, Ghazi attempted to dispel the notion that recourse to *shari'at* could lead to the abrogation of the 1984 Ordinance in any way.

I argue that this event surrounding the *Mujibur Rehman* case (i.e. the dismissal of Chief Justice Aftab Hussain during the proceedings) is significant not just because of the ways it shaped the legal normative repertoires that the final judgment contained and which I will discuss next but also because it reveals what is at stake for a state-employed legal actor within the juridical state subfield who attempts to articulate legal decisions that are contrary to the views of the dominant actors within the state field. As I have argued above, the juridical space constituted by state-appointed judges (and other professionals) begins to feel the pushes and pulls of statist politics more strongly under authoritarian regimes. Under Zia-ul-Haq regime, the juridical state subfield in Pakistan had to navigate between maintaining its juridical autonomy and powers of judicial review as well as making important compromises (such as endorsing the legality of martial rule in the *Begum Nusrat Bhutto* case) that would allow it to play its historical role of ensuring fundamental rights of citizens in a political contexts that is marked by frequent regime transitions, suspension of constitutions and army rule. The position of legal professionals, especially judges, within the juridical state subfield was further complicated by the formation of the Federal Shariat Court which essentially placed judges and other legal professionals – trained in the Anglo-American legal tradition and working within a

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<sup>155</sup> Interview with Mahmood Ghazi, Islamabad:

juridical field defined by highly codified and mostly secular positive law – in an ambiguous legal space since they were now *required* to accumulate knowledge about Islamic jurisprudence alongside possessing and depicting juridical capital. According to Anita Weiss,

“One problem with the new judicial structure concerns the expertise of lawyers practicing before the shari’a courts. The majority of lawyers conversant with Western law are unfamiliar with Islamic law [...] People who have an inclination to study Western jurisprudence are, by and large, not interested in studying Islamic law, and vice versa. Therefore, it is difficult to find lawyers conversant in both forms of law.” (Weiss 1986: 13)

However, the issue was not that these trained legal professionals had to draw upon a body of law, Islamic law, that they were not acquainted with. As the cases of *Kashmiri* and *Mobashir* reveal, the judges in Pakistan’s juridical field have historically been adept at creatively drawing upon Islamic history, legal thought and values to supplement and strengthen their legal judgments based on the *grundnorm* of constitutionally protected fundamental rights. Furthermore, these judges were knowledgeable about Muslim personal law which had been codified under colonial rule and which continued to function in Pakistan after independence such as through the Muslim Family Law Ordinance (MFLO) that I have discussed in the previous chapter. Asad A. Ahmed refers to this discursive tradition as “state-*sharia*” and contrasts it with the other discursive tradition “grounded within traditional Muslim jurisprudence, [which] is the preserve of the *ulama*” (Ahmed 2010: 280). According to Ahmed, “Despite the traffickings and translations between these two traditions that enable points of mutuality to be articulated and convergences to be made they are, nonetheless, epistemologically and historically different. Processes of translation thus operate not just to make equivalences, but can also highlight points of irreducible difference”. I further argue that what makes the distinction

between the Islamic legal discourses held by the juridical field in the pre-1984 Ordinance and the post-1984 Ordinance sociologically relevant is the different normative repertoires they contain with regard to issues of minority rights and relationship between individual, state and the national community. The transformation that the juridical field underwent during the Zia-ul-Haq regime was significant not only because it led to the strategic employment of Islamic law as the *grundnorm* but because it dictated the employment of a discursive tradition of Islamic law that was contrary to the dispositions of legal actors such as Justice Hussain through bringing the *ulama*-centered traditional, Hanifite jurisprudence to dominance within the juridical field. The Pakistani society thus witnessed the ascendancy of the orthodox *ulama* as a significant social group under the Zia-ul-Haq regime by which is meant that it accumulated greater symbolic power in the field of power in the 1980s than in any period before. In the competitive struggles characterizing the field of power in the 1980s, the *ulama* as a social group emerged as the biggest winners by converting their religious capital into both juridical capital and political capital. *Mujibur Rehman* and *Zaheeruddin* are the clearest expressions of the ascendancy of new normative repertoires within the juridical state subfield. Their discursive content is significant because of the way it re-articulated the symbolic terrain on which nationalist discourses would be carried out from that point onwards.

Acting Chief Justice of Federal Shariat Court Fakhre Alam commenced the *Mujibur Rehman* judgment by discoursing on the theological meaning of the term *Khatam-e-Nabuwaat*, commonly translated as “seal of prophecy” in English. Justice Alam cites the only verse in the Quran that explicitly uses the expression “Khatam” for

describing the Prophethood of Muhammad. The English translation of the verse favored by Justice Alam is:

Muhammad is not the father of any man among you but he is the Messenger of Allah and the seal of the Prophets and Allah is aware of all things”. (33:40)

Justice Alam cites at length from various theological sources such as *Hadith* and commentaries on the Quran, which he argues leave no doubt that the word “*khatam*” in *Khatam-e-Nabuwaat* refers to a closure – a seal, or termination, or the end. He contrasts this understanding with that of the founder of Ahmadi religion, Mirza Ghulam Ahmad, which holds that the word *khatam* in this verse does not foreclose the appearance of those Prophets who recognize the final authority of Prophet Muhammad as the carrier of God’s laws and whose arrival moreover has been foretold by the Prophet Muhammad himself<sup>156</sup>. Justice Alam refutes this Ahmadi interpretation that *khatam* refers to the closure of “a particular branch of knowledge” that was held exclusively by Prophet Muhammad and not to the closure of Prophethood itself.

Following these theological arguments, Justice Alam proceeds to discuss Ghulam Mirza Ahmad’s family origins. He draws attention to the allegiance of Ghulam Ahmad’s father to the British colonialists, and concludes that “The tendency to eulogize the British Government was, therefore, ingrained in Mirza Sahib from his boyhood and continued till death”<sup>157</sup>. He then proceeds to outline, through referencing and quoting from Mirza

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<sup>156</sup> The Ahmadi position stems from some traditions of *hadith* which hold that Prophet Muhammad himself foretold the second coming of Jesus, a view which is held by a large number of Muslims, and one which has been used by Ahmadis to justify Ghulam Mirza Ahmad’s claim to Prophethood. Alam, however, rejects this argument by claiming that the Muslim belief holds that “Jesus will appear in this world as a member of the Muslim Ummah and a follower of Islamic Sharia” (20). The starting assumption here is that Ghulam Mirza Ahmad is not a member of the Muslim Ummah, therefore making a consideration of his claim to Prophethood redundant.

<sup>157</sup> PLD 1985 FSC 8: 32. At one point, Alam notes, “the Ahmadi Movement had the blessings of the Government and was started on their instructions and under their blessed protection. The interest of the

Ghulam Ahmad's writings, the latter's religious evolution as he went through a series of religious claims, ending finally with the claim to Prophethood through receiving divine revelations in a manner very similar to that of Prophet Muhammad. Using similar sources, Justice Alam draws attention to various prophecies that were made by Mirza Ghulam Ahmad and which have remained unfulfilled. Justice Alam's account is interspersed with tales about Mirza Ghulam Ahmad's personal life, his character, his marriages, intrigues, and so forth. Following this, Alam draws extensively from Ahmadi literature to establish that Ahmadis consider Mirza Ghulam Ahmad "a perfect prophet like the Holy Prophet" and that in fact Mirza Ghulam Ahmad "was considered to be higher in status than all other Prophets"<sup>158</sup>. In other word, Mirza Ghulam Ahmad usurped the status of Prophet Muhammad.

This rendering of the Ahmadi religious claim is then followed by the Justice Alam's elevation of the notion of the "Muslim *ummah*", or community of Muslims, through arguing for the importance of the cohesion of this community that is based foremost on every single Muslims unflinching love and respect for Prophet Muhammad, manifested fore mostly through belief in one of the most basic articles of Muslim faith, i.e., the belief in the finality of Prophet Muhammad. From this, Alam concludes:

"The Qadianis are not a part of the Muslim Ummah. This is amply proved by their own conduct. In their opinion all the Muslims are unbelievers. They constitute a separate Ummah. The paradox is that they have substituted themselves for the Muslim Ummah and turned the Muslims out of that Ummah. The Muslims consider them beyond the pale of Muslim Ummah and curiously enough they consider the Muslims out of the pale of that Ummah. Clearly the two do not belong to the same Ummah. The question who are members of the Muslim Ummah could be left unresolved because of the absence of forum in British India but in an Islamic State in which there are institutions to determine

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Government after the war of independence of 1857 was to cause disintegration and disharmony in the Muslim Ummah and carving out a new religion out of Islam served that purpose" (ibid.: 84).

<sup>158</sup> ibid.: 59.

the issue, this matter does not present any difficulty. The Legislature as well as the Federal Shariat Court are competent to resolve it.”<sup>159</sup>

Mujeeb-ur-Rehman, who presented the Ahmadi case, presented the following questions before the Court:

- “(1) Does Islam entitle or allow a non-Muslim to declare the unity of Allah?
- (2) Does Islam entitle and allow a non-Muslim to acknowledge the Holy Prophet (p.b.h.) as truthful in his claim?
- (3) Does Islam entitle non-Muslim to acknowledge the Qur’an as furnishing a good Nizam-e-Hayat i.e., way of life and to treat it as worthy of obedience?
- (4) Is this permissible or not for a non-Muslim to act upon the Injunctions of the Holy Qur’an if he so likes?
- (5) If the answer be in the negative where is the injunction in the Qur’an and the Sunnah in support of the negation?
- (6) What course of action does the Qur’an propose or provide for a person who is not considered Muslim nor has any right to be so considered by believers, in the truthfulness of Qur’an, in the Prophethood of Muhammad Rasoolullah (p.b.h.) and the oneness of Allah?”<sup>160</sup>

Relying upon Islamic theological principles, Rehman summed up the following precepts based on the injunctions of Islam according to which the above questions should be responded to:

- “(i) there should be no compulsion for accepting religion;
- (ii) there should be no restraint against voluntary conversion to it;
- (iii) no one may be turned out of his religion by use of force; and
- (iv) no one who does not want to stick to his religion should be stopped from forsaking it.”<sup>161</sup>

Regarding the questions posed by Rehman, Justice Alam notes that

“The first four questions posed...have to be answered in the affirmative. There is no bar – Constitutional, legal or Sharii against the right of a non-Muslim to declare the unity of Allah, to acknowledge the Holy Prophet (P.B.H) as truthful in his claim, to acknowledge the Qur’an as furnishing a good way of life and to act upon its Injunctions. The 5<sup>th</sup> question does not arise in view of the affirmative answer of the 4<sup>th</sup> question. A clear answer to the 6<sup>th</sup> question is that such a non-Muslim is to be dealt with like other minorities, subject to the conditions imposed by the Qur’an and the Sunnah which shall be considered at the appropriate place.”<sup>162</sup>

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<sup>159</sup> *ibid.*: 80.

<sup>160</sup> *Ibid.*: 89.

<sup>161</sup> *ibid.*: 89.

<sup>162</sup> *ibid.*: 93.

Regarding Rehman's principle (iii), Justice Alam notes that in his written arguments, Rehman followed the sentence "no one may be turned out of his religion by use of force" with the phrase "as we have been turned out". Alam holds that "There is nothing in the impugned Ordinance that they have been turned out from their religion". What the ordinance does restrain them from doing is "calling themselves what they are not; since they cannot be allowed to deceive anybody specially the Muslim *Ummah* by passing off as Muslims". However, Ahmadis have the right to profess their faith however they choose, for "the Muslim Sharia affords full protection to the practices of religion by the non-Muslims as well as to its profession".

At one point, in response to a reference made to the 1974 constitutional amendment, Rehman argues that "the Constitution merely declared the Qadianis as non-Muslims but did not impose any liability upon them to treat themselves as non-Muslims"<sup>163</sup>. The judgment disagrees, arguing that the Ahmadis' "insistence on calling themselves Muslims" was "clearly unconstitutional" in the light of the 1974 amendment. In fact, it holds, what makes the present case difficult is the Ahmadi persistence in calling themselves Muslim and their faith Islam, thereby "trying the patience of Muslim *Ummah*". Justice Alam insists that the use of Muslim epithets and words of respect reserved for Prophet Muhammad, his companions, and wives in connection with Ghulam Mirza Ahmad, and his companion and wives amounts to defiling Prophet Muhammad. Furthermore, the ban on propagation and preaching religion by Ahmadis was motivated by the fact that Ahmadis declare that the other person would be converting to Islam, when in fact what they are propagating is not Islam. When they try to spread their brand

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<sup>163</sup> *ibid.*: 99.

of Islam among Muslims, the feelings of the latter get outraged which gives rise to law and order problem.

The judgment concludes with the following:

“As a result of the declaration which was the result of a unanimous demand of the Muslims it was not possible for the Qadianis to call themselves Muslims or to propagate Islam of their concept as true Islam but they showed the least respect for the Constitutional Amendment and continued as before to call their faith as Islam. They continued to propagate their religion freely by publication of books, journals, etc. as well as among individual Muslim to create resentment which obviously was likely to create law and order situation and all this continued till the present ordinance was passed and promulgated. In these circumstances the Ordinance appears to be covered by the exception in Article about its being subject to maintenance of law and order.”<sup>164</sup>

As I have mentioned above, *Mujibur Rehman* is striking because of its appropriation of an orthodox and traditionalist Islamic discourse that has historically been propagated by *ulama* outside the state law. These *ulama* have centrally defined themselves by their opposition to the Ahmadi interpretation of Islam since the inception of Pakistan. The Islamic discourse privileged by judges within the juridical field however has protected the rights of Ahmadis to practice, profess and propagate their interpretation of Islam based on what I have termed a normative legal repertoire of abstract citizenship. One of the striking things about *Mujibur Rehman* is that it conceptualized the Muslim individual as belonging first and foremostly to a transcendental community – the Muslim *ummah*. The judgment is informed by two assumptions that re-constitute the normative repertoire as privileging an ethno-national identity centered on religion. First, it assumes that the “Muslims of Pakistan” hold a privileged space within the national community whose sensibilities need to be safeguarded and protected by the courts. Second, non-Muslims are themselves responsible for their exclusion from the national community. For example, the Ahmadis themselves necessitated the 1984 Ordinance by continuing to call

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<sup>164</sup> *ibid.*: 119-120.

themselves Muslim and practice Islam despite the 1974 amendment. The judgment explicitly places a shared religious identity above shared formal citizenship in a state as the true basis of community. Second, it refuses to engage with the Ahmadi interpretation of Islamic principles in any meaningful way, instead regarding it through the prism of anti-Ahmadi narrative of the religious right that is more aptly described as hate literature rather than a theological debate. The result is the legalization of a symbolic order that accepts Ahmadis as devious imposters, traitors not just to Islam but also Pakistan. Most significantly, it strips heterodox and non-mainstream Muslim ‘sects’ and communities of the right to publicly proclaim their interpretations of Islam.

#### **6.4.2. Arriving at *Zaheeruddin*: Reconsidering the Hierarchy of Norms**

Upon failing in the Federal Shariat Court, the Ahmadis challenged the 1984 Ordinance in the Supreme Court of Pakistan. In *Zaheeruddin*, the appeals brought under the Court’s consideration were summed up as follows by Justice Shafiur Rahman, the only judge who accepted the Ahmadi petition (in part) and delivered the minority judgment: “[The 1984 Ordinance] is oppressively unjust, abominably vague, perverse, discriminatory, product of biased mind, so mala fide, and wholly unconstitutional being violative of Articles 19, 20 and 25 of the Constitution”<sup>165</sup>. Furthermore, the 1984 Ordinance seeks “to distinguish from among non-Muslims the Qadianis and Ahmadis with a view to impose on them prohibitive restrictions, on their religious practices, utterances and beliefs”. This, it was claimed, “amounts to a serious inroad on the right of speech, on the right to profess and practice one’s religion and amounts to serious discrimination”.

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<sup>165</sup> 1993 SCMR 1718: 1736.

The case of *Zaheeruddin* was a high profile one, especially because of attention given to it by the *ulama*. An account of the environment within the courtroom during the proceedings of *Zaheeruddin* was provided to me by Fakhruddin G. Ebrahim, the lead counsel retained by the Ahmadis for the case. Ebrahim was one of the judges of Supreme Court who refused to take oath under Zia-ul-Haq's PCO of 1981. Ebrahim was surprised that he was approached by Ahmadis in the case of *Zaheeruddin* since he did not have experience with criminal cases. Upon learning that several prominent lawyers had outrightly refused to take the case, Ebrahim became interested in the case and was "shocked" and "amazed" to learn about the 1984 Ordinance, in particular about the reference to "posing as Muslims" in it, which Ebrahim argues carries no legal meaning whatsoever. He took on the case "as a matter of principle" and because he felt emotional and passionate about the issue, being an "irreligious person" belonging to the minority community of Dawoodi Bohras, a splinter *Shi'ite* sect of Islam. However, he did not fully realize what he was taking on at that time:

"I had no idea about what I was taking on because I found at the trial...when I came, there was a lot of crowd and these fellows were trying to sort of [erect] some kind of a shield around me, these Ahmadi gentlemen. I didn't understand that at all, why is that so. There were a lot of *maulanas* [*ulama*] in the courtroom, extremists, and they [Ahmadis] thought that they might even attack me. I had no idea that I was doing something...that I would invite somebody to attack me."

The ethical and legal dispositions of Ebrahim, a former judge of Supreme Court, are instructive because of the vast difference between these and the ones that would be upheld in the *Zaheeruddin* judgment. Ebrahim maintains that he took on *Zaheeruddin* because it was a case of "grave injustice" and he took it on knowing that he himself, "a secular person", knows next to nothing about Islam. One of the things that amazed him

was the extent to which Islam was central to the case. About the judges in the case of *Zaheeruddin*, Ebrahim voiced his impressions as follows:

“Judges were throughout on the defensive. They would not say anything one way or the other. Their attitude was like what is this pain that is being inflicted upon us, having to hear this case. They knew full well that it was a case of grave injustice. This was a cruelty towards an entire community. They were afraid...afraid of being called pro-Ahmadi.”

Ebrahim strongly stated that “I am not prepared to believe that they [the judges] were against Ahmadis as such. I think they were afraid...of becoming unpopular.”

Ebrahim explained their attitude by talking about the social meaning of staying in power in Pakistan:

“In Pakistan, it is very important to stay in power. Power has a different connotation in Pakistan. Please understand that. Power makes me a different person. Power gives me status...opportunity to make money, what not, you see, and what is worst, if I am not in power, I am in jail. You follow me? So either I will go for power...or if I am there in power, I will see that I remain in power.”

I interviewed one of the judges in *Zaheeruddin*, Justice Salem Akhtar, who gave an account of the environment in which the proceedings, which lasted only two to three days, took place. According to Akhtar,

“It was a very charged case because the followers of both sides were always present in Court with good strength and sometimes Court had to control them because sentiments were running high on both sides. But in any case, the proceedings went for a few days and very peacefully and calmly.”<sup>166</sup>

Akhtar informed me that

“One very significant thing was that during the judgment – during the hearing and before pronouncing the judgment – we were...all the judges probably but myself I can talk of myself...flooded with letters and telegrams from both the sides. They were pressing their views. Giving arguments so that...with the intention to help me, not to influence. This is what I feel.”

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<sup>166</sup> Interview with Salem Akhtar, Karachi: Karachi: 10 March, 2008.

It is with this context that I now turn the legal proceedings in *Zaheeruddin*. For Ebrahim, the primary legal point that had to be considered was the phrase regarding Ahmadis posing as Muslims. Ebrahim told me:

“I was looking at the case purely as that posing as a Muslim is so vague a law that a criminal offence cannot emanate from that....in relation to crime, it must be specific. Posing can mean one thing to you, another to me.....my ground was purely...I don't know religion much. I cannot justify or condemn anything on the reason of Islamic principles....I am not really competent to do that. My argument was about the word itself. By saying that, I attacked Zia's power by questioning if he could pass a law like that.”

Ebrahim still maintains that “Law has to be precise. If you are convicting me for an offense, that offense must be precise. I must now refrain from doing that thing which you are now saying is an offense. So kindly please define the offense in a manner whereby it is understood [by me].”

I have broken down the arguments made by the counsel for Federal Government, Syed Riazul Hassan Gilani, thus:

1. The decision of Federal Shariat Court is binding and is not open to examination or review by the Supreme Court;
2. The 1984 Ordinance is “a mere logical consequence” of the 1974 amendment;
3. The expression “subject to law” in Article 20 of the Constitution refers to the shari'at from which it follows that constitutional provisions regarding fundamental rights can be contained through the shari'at;
4. In light of the 1974 amendment, Ahmadis cannot be allowed cause “annoyance, detriment and subversion of the Islamic faith”;
5. The fundamental right enshrined in Article 20 of the Constitution does not allow “the subversion and mutilation of somebody else's right”;

6. State power can be used to avoid “clash of ideologies” in religious matters, especially in preventing those who are likely to create law and order problems for the community at large; and

7. 1984 ordinance is consistent with the shari’at because it protects the finality of Prophethood and the sanctity of prayers and mosques, prevents subversion of religion, and protects against “hurting the religious feelings of others in majority”<sup>167</sup>.

These arguments rely on the assumption, first upheld in *Mujibur Rehman*, that “Muslims” have a privileged place within Pakistani society by virtue of the state being an Islamic state and that if there is an hierarchy of group rights, those of Muslims prevail.

Justice Shafiur Rahman made the following counter-arguments and responses:

- 1) Fundamental rights are not constitutionally subordinate to and controlled by the injunctions of Islam;
- 2) Making a right “subject to law” does not amount to abolishing the right altogether, which is what is being argued by the petitioners in this case;
- 3) 1984 Ordinance was promulgated by a President who “suffered from no Constitutional restraints of Fundamental Rights or other provisions”;
- 4) Calling their place of worship “mosque” and giving the call for prayer have been the religious practices of the Ahmadis since the inception of their religion and it therefore cannot be argued that such practices have been expressly taken up by them to annoy or outrage the feelings and sentiments of non-Ahmadis;
- 5) The 1984 Ordinance violates the Fundamental Rights of Ahmadis and not other religious minorities;

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<sup>167</sup> Ibid., p. 1740.

- 6) A public proclamation by an Ahmadi that he is Muslim is in fact a constitutional violation in light of the 1974 amendment;
- 7) The clause in the 1984 ordinance that prohibits Ahmadis from outraging the religious feelings of Muslims does not stand in violation of fundamental rights as “nobody has a Fundamental Right or can have one of outraging the religious feelings of others while propagating his own religion or faith”;
- 8) Prohibiting Ahmadis from propagating and preaching their faith violates “the Fundamental Right of religion’s freedom and of equality and of the speech” in so far as it prohibit only one religious community from propagating their faith; and
- 9) That some Ahmadis choose to wear badges containing the *kalma* on them does not amount to posing as Muslims since it constitutes a practice not followed by mainstream Muslims do not in fact practice in Pakistan.

Justice Rahman clinches his arguments by noting that “our difficulty in handling these appeals has been that the respondents have by and large argued that matter as if...[the clauses of the 1984 Ordinance] are being tested for their inconsistency more with injunctions of Islam than for their inconsistency with the Fundamental rights”. Where Justice Rahman upheld the validity of the 1984 Ordinance, it was done on the grounds that it violated a Constitutional provision. The crux of the matter, however, was the question of the order of priority between Islamic law and constitutionally guaranteed fundamental rights. Justice Rahman drew on the legal precedent found in *Hakim Khan v. Government of Pakistan* (*‘Hakim Khan’*) in which all the judges of the bench had unanimously struck down the claim that fundamental rights were constitutionally subordinate to and controlled by the injunctions of Islam. He invoked other legal

precedents to argue that the conditionality of “subject to law” in Article 20 cannot be invoked to abolish the right contained in it.

The majority judgment in *Zaheeruddin* delivered by Justice Abdul Qadeer Chaudhary relied on the following arguments:

- 1) Islam, like all religions, has its own words, names, epithets, descriptions etc. which carry special meaning for Muslims, and when others who are not Muslim use them, they give the wrong impression that “they are concerned with Islam when the fact may be otherwise”. Laws all over the world protect words, for e.g., Company brand names, and it is the duty of an Islamic state to protect words associated with Islam. By using Muslim words and epithets, Ahmadis defile Islam and deceive ordinary people as to their true identity;
- 2) Ahmadis are not barred, either constitutionally or under Islamic law, from coining their own nomenclature. The 1984 Ordinance also does not encroach on their right to religious freedom “for it only prohibits them from using those epithets etc., on which they have no claim of any nature. It does not prohibit them from coining their own”;
- 3) Federal Shariat Court has ruled that *shari’at* does not permit non-Muslims to adopt distinctive characteristics of Islam and that an Islamic state that fails to check this practice is failing to discharge its duties;
- 4) Findings of the Federal Shariat Court are binding on the Supreme Court and cannot be ignored;
- 5) Article 20 has been constitutionally made “subject to law, public order and morality” and such qualifications can be found in most constitutions of the world. Hence,

freedom to act with regard to religion cannot be absolute since “conduct remains subject to regulation for the protection of the society”;

5) Freedom of religion covers only those practices that “are integral and essential part of the religion”. It is the function of courts to draw on authentic sources of a religion and to determine which practices are in fact integral to a religion. The appellants however have been unable to show in their arguments what the integral parts of their religion are and why a public performance of their rituals and ceremonies and use of Muslim epithets are integral to their religion;

6) When a law is invoked in the interest of maintenance of law and order, then the question of denial of fundamental rights may not arise since a state cannot “permit anyone to violate or take away the fundamental rights of others, in the enjoyment of his own rights” and “no one can be allowed to insult, damage or defile the religion of any other class or outrage their religious feelings, so as to give rise to law and order situation”;

7) Muslims believe that the birth of the Ahmadi religion under colonial rule “was a serious and organized attack on its ideological frontiers” and that Ahmadis are a threat to the Muslim *ummah* and to the socio-political organization of their society which is based on Islam;

8) Ahmadis themselves have highlighted the separatism between themselves and non-Muslims and have gone so far as to declare all non-Ahmadis infidels; and

9) Ahmadis are non-Muslims as declared in the Constitution, and therefore have no right to Muslim terminologies and epithets, and their using Islam’s distinctive characteristics cannot be construed as anything but an attempt on their part to pose as

Muslims, which amounts to desecration. When an Ahmadi publicly displays his religion, he is in effect defiling Prophet Muhammad and Muslims are justified at this point in getting angry. Given this, any prohibitions made by law officers regarding freedom of religion is permitted.

The majority judgment concludes by equating Ahmadis with Salman Rushdie:

“So, if an Ahmadi is allowed by the administration or the law to display or chant in public, the Shaair-e-Islam’ [characteristics considered unique to Islam], it is like creating a Rushdi’ out of him. Can the administration in that case guarantee his life, liberty and property and if so at what cost? Again, if this permission is given to a procession or assembly on the streets or a public place, it is like permitting civil war.”<sup>168</sup>

A small note was added by Judge Salem Akhtar that he concurred with Justice Chaudhary’s judgment with the exception that he upheld the judgment in the case of *Hakim Khan* i.e. that Article 2A could not be employed to override the rights enshrined in the constitution. The qualification in Article 20 – “subject to law, public order and morality” – however could be employed to legally uphold the 1984 Ordinance. Justice Akhtar thereby took a middle ground that did not commit him to either side with regard to the hierarchical relationship between fundamental constitutional rights and Islamic law, a view he refers to as “liberal”. According to Akhtar,

“The propagation of religion by the appellants, who as distinguished from other minorities have a different background and history, may be restricted to maintain public order and morality. Therefore...you see there is a background to this. Both the parties have a claim in which there is an overlapping of ideas and thoughts and rules. If both say the same thing and yet are different, there are clashes and fights and many riots have taken place and peace and order has remained so disturbed so far as that in the beginning a martial law was imposed, the first martial law in Pakistan. In these circumstances, peace and order need to be given the most importance.”

If 1974 constituted a moment in Pakistan’s history in which the margins of the ‘Muslim nation’ were symbolically (re)constructed to exclude the Ahmadis from the boundaries of Muslim citizenship, *Zaheeruddin* constituted one in which Ahmadis were

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<sup>168</sup> *ibid.*: 1777.

excluded from Pakistani citizenship. In the latter instance, Ahmadis were excluded from the regime of rights that are enjoyed by ordinary Muslims and other non-Muslim minorities. An examination of *Zaheeruddin* and *Mujibur Rehman* reveals that the Court appropriated a political discourse that was previously employed by Islamist organizations to cast the Ahmadis not only as heretic but also as disloyal and traitorous, the enemy within, which had to be curbed by the state in order for both a true Muslim state to be realized, and equally importantly, for the dream of independence from colonial rule to be realized. In the 'state space' constituted by the courtrooms, what was questioned was not only the religious status of the Ahmadis, but also the role of the nation-state in curbing the threat to the moral community of the nation. The use of law to legally enact sanctions against the Ahmadis served to re-situate the state, in its capacity as an Islamic state, as the primary institution of moral regulation with the power to articulate and instate the 'exception', which, according to Giorgio Agamben, is always founded upon the exclusion of 'bare life', or simple biological life, the figure of which is historically varying. In the case of the Pakistani state, this figure came to be embodied by the Islamic 'heretic' who quite literally had to be disciplined into shedding Islamic symbols from their public religious practices (Agamben 1998).

Around *Zaheeruddin* crystallized the practical effects of the program for the bifurcation of the courts undertaken by Zia, a project made all the more complicated by the 1985 ordinance that introduced the Objectives Resolution into the Constitution, with the result that it brought constitutionally guaranteed fundamental rights at loggerheads with Islamic law, as interpreted by the Federal Shariat Court. Here, a variety of sources, ranging from theological texts to popular histories of the Ahmadiyya religion, were

drawn upon to arrive at a judgment that was in stark contrast to *Mobashir*, which too drew upon theological sources but with the end of minimizing the religious differences between Ahmadis and non-Ahmadis.

## **6.5. Conclusions: After *Zaheeruddin***

In this chapter, I have investigated the origins of state legal pluralism, i.e. why the Pakistani state under Zia-ul-Haq was invested in institutionalizing multiple legal orders; how social and legal actors navigated between these different legal orders; and how these different legal orders have constituted and shaped one another and the juridical field at large. I have argued that in Pakistan, internal legal pluralism within the state was introduced through the creation of the Federal Shariat Court as a part of the larger process of Islamization of Pakistani state and society. Its creation was also a strategic tool employed by Zia-ul-Haq to exert control over the entire juridical field through instituting an informal system of rewards and punishments for the judges. Its creation significantly altered the discursive-legal terrain on which the question of the religious rights of Ahmadis was legally contested. By considering Ahmadi challenges to the 1984 Ordinance and the response of Pakistani courts in *Mujibur Rehman* and *Zaheeruddin*, I have shown how notions and assumptions about order, justice, moral community, hierarchy and difference have been contested by different social actors. On the one hand, the formation of Federal Shariat Court has given greater room to citizens to bring their concerns to the Courts. During my interview with Mujeeb-ur-Rehman, I explicitly asked him if he had expected to win the *Mujibur Rehman* case resulting in the 1984 Ordinance getting revoked. Rehman replied that he had believed he would win: “My confidence was

that I will keep them [the court] within the circle of Quran and Sunnah. They left the circle of Quran and Sunnah. They did not decide within that". Rehman attributes his formal defeat in the case to the hostile propaganda and literature of the religious right-wing establishment that was given "seal of the court" so that "the things which the *mulla* used to say in the street, they made it a part of the judgment of a court". Informally, though, Rehman maintains he won the case because most of the theological points he argued in it were accepted by the Court and the others left unanswered. Similarly, Rehman regards *Zaheeruddin* as revealing the Court's contradictory and highly problematic legal reasoning since it was the only case in which it was ruled that Islamic injunctions took precedence over constitutional rights.

Access to courts upholding different normative ideals gave the Ahmadis an opportunity to publicly contest the symbolic order upheld by the state from multiple discursive claims, in effect revealing the inconsistencies, discontinuities and contradictions latent in the juridical field of Pakistan. The other side of the same coin however is that the political embeddedness of the courts has meant that the opening afforded by multiple legal orders within the juridical field has ultimately lead to significant symbolic closure. This closure has resulted from the dominant social religious groups investing previously contested signifiers – nation, Muslim, community, moral, heretic – with meanings from multiple normative ideals, thereby consolidating their symbolic order as the hegemonic one. For example, having the Ahmadis lose in both *Mujibur Rehman* and *Zaheeruddin* has given the religious right as well as a populace increasingly influenced by right-wing Islamist ideologies additional symbolic resources and institutional protection with regard to marginalizing the Ahmadis. The very

functioning of the juridical field and its relative autonomy has meant that the courts have continued to rule against Ahmadis based on the symbolic ordering and the principles of vision and division upheld in these cases.

By drawing on interviews with state and legal actors, I have attempted to give an account of the practical functioning of the juridical field through an actor-based approach towards norms that follows Bourdieu in combining a political-institutional approach with a discursive approach, in effect moving the discussion away from studies that erect binary b/w discourse and practice. A legal-pluralist perspective coupled with a Bourdieuan analysis of the juridical field allows me to investigate the origins of state legal pluralism, i.e. why the state is invested in sponsoring and institutionalizing multiple legal orders, how citizens draw on the two, how and if the two constitute a single “field”, and how the different legal orders constitute and shape one another and the juridical field at large. Bourdieu provides important conceptual resources for understanding the fluidity characterizing different legal modes operating within the same overarching juridical sphere. For example, in the present case, what characterizes this fluidity is the ways in which the same actors – judges, lawyers, and citizens – move across these different spheres, revealing that these different legal spaces do not constitute separate “fields” in the sense of actors having different “dispositions” or class/social backgrounds. Instead, they draw on different normative ideals to form coherent and self-enclosed normative repertoires through which the meanings of key signifiers – community, state, citizenship etc. – are contested. Thus, rather than drawing an artificial binary between Islamic and secular discourses or modes of legal reasoning, it is more useful to analyze how both are utilized by the same or similarly-placed actors to give novel legal interpretations to the

recurring problem of the identity of the nation. Even in political contexts in which the autonomy of the juridical field is ostensibly constrained, acts of participating in legal struggles over the content of law are socially significant because they generate discourses and practices that require a sociological explanation and cannot be simply reduced to their discursive affinities with the state's symbolic order. These competing normative discourses are products of social practices that transcend the immediate political context in which they compete with each other. This is what is suggested by the notion of a sociology of normative legal repertoires – norms as resulting from previous social practices which form the basis for the codification of norms into state laws. Federal Shariat Court's ruling in *Mujibur Rehman* and the contradictions and ambiguities surrounding the ways in which it was implemented also bespeak the institutional and political pressures on this institution to uphold a particular normative approach towards Islamic law and values.

In the title of this chapter, I refer to the 1980s as “the long 1980s”. The subject that has been made the focal point of this paper – the landmark case of *Zaheeruddin* – in fact lies outside the 1980s as the judgment was delivered in 1993. And yet, *Zaheeruddin* remains firmly within the 1980s as it is around this case that all the contradictions inherent in General Zia-ul-Haq's policies, especially with regard to his measure to Islamize the juridical field, coalesced. And, I argue, the 1980s have yet to come to an end. I want to conclude by looking at some of the practical effects that the legal precedents created by *Mujibur Rehman* and *Zaheeruddin* have had in the everyday lives of Ahmadis. Out of the many cases that have been filed against Ahmadis, I have chosen a few that I

feel most adequately convey the socio-legal milieu in which Ahmadis today can expect to find themselves in Pakistan's courts.

*Mirza Khurshid Ahmad vs. Government of Punjab*

The Ahmadiyya community since the death of its founder Mirza Ghulam Ahmad has engaged in the social practice of organizing an annual function in which Ahmadis from all over the world gather to celebrate their religion. This social event took place in the city of Qadian before the independence of Pakistan and in Rabwah after independence. In 1989, Ahmadis decided to organize a more elaborate gathering to celebrate the centenary year of their faith. They were however ordered by the provincial and district authorities to remove all outward manifestations of their celebration such as ceremonial gates, banners, illumination of buildings, distribution of sweets, holding of processions and meeting etc. under section 144 of Code of Criminal Procedure that allows local state authorities to restrict personal liberties on the grounds that such action “is likely to prevent, or tends to prevent, obstruction, annoyance of injury to any person lawfully employed, or danger to human life, health or safety, or a disturbance of the public tranquility, or a riot, or an affray”. The Ahmadis complied but later questioned the order in the Lahore High Court in *Mirza Khurshid Ahmad vs. Government of Punjab*<sup>169</sup>. The petition was denied on grounds that the Ahmadi celebration would have “tend[ed] to cause annoyance by outraging religious feelings of the predominant majority of citizens” who seek “to keep the mainstream of faith pure and unpolluted and also to maintain the integrity of the Ummah”. Banners such as “One hundred years of truth” amounted to the

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<sup>169</sup> PLD 1992 Lahore 1.

propagation of Ahmadi faith and thereby violation of the 1984 Ordinance which could “endanger public peace”.

*State v. Attaullah*

In *State v. Attaullah*<sup>170</sup>, complaint was launched by the local branch of MTKN about an Ahmadi place of worship having noted similarities to the architecture of mosques e.g. presence of minarets, arches, and crests. The manager of the Ahmadi place of worship was charged under the 1984 Ordinance for 2 years of rigorous imprisonment and a fine of Rs. 2000 for deceiving the ordinary Muslims, many of who cannot read or write and thereby see the notice board outside conveying that it is an Ahmadi place of worship. The judge held that “The non-Muslims cannot be allowed to adopt symbols of Islam without abandoning their faith and converting to Islam. If a building is constructed according to the common and familiar design of a “Masjid”, and persons congregate and pray in the manner of Muslims then it can be thought that they are Muslims”.

*State vs. Javaid Ahmad*

In *State vs. Javaid Ahmad*<sup>171</sup>, an Ahmadi was given 3 years rigorous imprisonment and a fine of Rs. 3000 for propagating Ahmadi faith and distributing Ahmadi literature under the 1984 Ordinance.

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<sup>170</sup> In the court of Mehomood Ahmad Shakir Jajja, Magisterate Section-30 Haroonabad, CrI. Case no. 1/1-1/2/200. Copy retrieved from the library of *Majlis-e-Tahaffuz-e-Khatame-e-Nabuwwat* (MTKN), Multan.

<sup>171</sup> In the Court of Mirza Manzoor Hussain Baig, Magistrate 1st class Khushab. Copy retrieved from the library of MTKN, Multan.

*State v. Waheed Ahmad*<sup>172</sup>

An Ahmadi filed the census forms for 22 non-Ahmadis since the latter were not literate in reading and writing. The Ahmadi marked 19 of these villagers as “Qadianis” in the census forms. This was discovered by the villagers who filed a case against the Ahmadi under section 295-A of the Pakistan Penal Code which relates to “deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious belief”. The judge maintained that the accused had “highly injured the religious feeling of Muslims at Golarchi [the village] and other places” and sentenced the Ahmadi to 10 years rigorous imprisonment and a fine of Rs.10,000.

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<sup>172</sup> Special Court Anti-Terrorism, Hyderabad and Mirpurkhas Division, Hyderabad, Special Case no. 9/1998. Copy retrieved from the library of MTKN, Multan.

## **Chapter 7**

### **Conclusions**

On 28th May of 2010, a group identifying as the Punjab provincial chapter of the Pakistani Taliban took responsibility for attacks on two Ahmadi mosques in the city of Lahore that killed at least eighty people and wounded many more. Newspapers across the country reported this news as an instance of “terrorists” attacking Ahmadi “places of worship” even though Ahmadis themselves regard these places as mosques. The difficulty faced by newspaper reporters arises from the enactment of the 1974 Constitutional Amendment and the subsequent promulgation of the 1984 Ordinance that not only forcibly rendered the Ahmadis non-Muslim but also made referring to the Ahmadis as Muslims (and thereby to their places of worship as mosques) a criminal act liable for punishment. When former Prime Minister of Pakistan Nawaz Sharif Khan and the leader of the Pakistan Muslim League (Nawaz) Party (PML-N) publicly condemned the attacks, stating that “Ahmadi brothers and sisters are an asset” and full citizens of Pakistan, his statements immediately drew criticisms from various religious and political groups, most notably the Islamist parties JI, JUI, and MTKN. JUI leaders called Sharif’s statement a “violation of the Constitution” and demanded that “The PML-N chief should seek forgiveness from Muslims all over the world”. Some *ulama* threatened to launch a

campaign against the PML-N if Sharif did not retract his statements (*Dawn*, Karachi: 10 June 2010).

In the May 28 attack on Ahmadis are implicated issues that are central not only to the contemporary Pakistani society but to our global world at large: the rise of religious militancy in the form of extremist outfits like Pakistani Taliban; religious intolerance; the move towards ‘purification’ of national communities; the structures of opportunities and constraints facing political actors that define and limit the practical world of political claims-making; and of course, the role of the state in protecting fundamental citizenship rights. Religious parties such as JUI delicately straddle the line dividing patently militant organizations – such as *Sipah-e-Sahaba* (*trans.* Corp of Mohammad’s Companions), a prominent *Sunni* organization known for its central role in anti-*Shi’a* sectarian violence among other things and *Lashkar-e-Jhangvi* (Army of Jhangvi), both offshoots of JUI – from conservative parties such as the PML-N itself, which although not a religious party is widely recognized as upholding the same brand of orthodox religious values characteristic of the JUI. The Pakistani state is today engaged in an alliance with the United States to ostensibly curb the militant activities of various religious groups, most notably in Pakistan’s Northern-Western provinces. The challenge is an especially difficult one for the Pakistani state because of the historical alliance of key political regimes such as that of military ruler Zia-ul-Haq with the very religious actors that the Pakistani state now *claims* enmity with.

As we have seen, anti-Ahmadi measures undertaken by the Pakistani state through legislations and ordinances have consistently been preceded by vocal anti-Ahmadi demands levied to the state by the religious establishment. In fact, the militant religious

establishment in Pakistan has come to age through its engagement with the Pakistani state on the issue of the religious status of the Ahmadis. The successful opposition of the *ulama* towards the Ahmadis has served the role of the “sectarian upbringing” and the radicalization of prominent leaders of both *Sunni* and *Shi’a* militancy in Pakistan<sup>173</sup>. For example, many of the leaders of the *Sipah-i Sahaba* began their careers agitating against the Ahmadis (Zaman 2002). The present dissertation can be construed as an attempt to understand the mechanisms that have led to the entrenchment of this radical sectarianism which forms the background to the May 28 situation whereby the condemnation by a popular political leader of a violent and unprovoked attack by a known militant organization on a peaceable civilian community engaged in Friday prayers<sup>174</sup> itself becomes a point of contention.

The attack on Ahmadi mosques by the Punjab wing of the Pakistani Taliban is a result of an intersection of various national and international factors and trajectories that must be situated in a post-9/11 context that significantly re-shaped forms of sectarian and anti-state violence by militant groups in Pakistan. My dissertation cannot give a complete account of the attack itself, which surely has a history that is beyond the scope of the present empirical case. However, it has attempted to give an account that is able to explain the constitutional, political and nationalist factors behind both the popular media’s hesitance to refer to the buildings attacked as “mosques” (which is how they are

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<sup>173</sup> According to Zaman, “the Ahmadi controversy has contributed to a sectarian discourse by forcefully raising, and keeping alive, such questions as who a Muslim “really” is (irrespective of one’s own claims in that regard) and what position a Muslim (and those who are not Muslim, or are not recognized as such) has in that state” (Zaman 2002: 114).

<sup>174</sup> The Friday afternoon prayers, referred to as *Jumah*, has a special significance for Muslims as there are specific injunctions in the Quran that make it incumbent on Muslim males to congregate in the local mosque for these. Also, various Islamic traditions hold that they confer greater rewards than other routine prayers. The Friday prayers are preceded by a sermon and the attendance for Friday prayers is significantly higher than the other routine prayers. A militant attack right after the Friday prayers was an act aimed at taking the maximum number of lives.

understood by a majority of Pakistanis despite the 1974 Constitutional Amendment and the 1984 Ordinance) as well of the religious establishment's challenge to Sharif.

What then are the main conclusions and contributions of this dissertation? Most significantly, this dissertation has advanced an understanding of modern states that captures the inherent de-centralization of the state, both in its institutional aspect (multiplicity of sub-state sites) and in its functional aspects (multiplicity of 'state effects'). I have argued that such an approach is necessary for theorizing nationalist policy outcomes because it brings both the spaces of intra-state and state-society interactions into sociological vision. I have shown the usefulness of drawing on Bourdieu's field theory for specifying dynamics of intra-state and state-society interactions implicated in shifts in nationalist policy outcomes by the state over time. I have offered a new theoretical framework for studying the state by conceptualizing it as a social field in which different state actors located within specific institutional sites or state subfields confront and contest their ideas, both with each other and with non-state social actors, about what constitutes the cultural boundaries of the nation with the end of accumulating symbolic capital (hegemony). By thus approaching different state 'subfields' that have been involved in the task of formulating nationalist policies – including the political subfield, the bureaucratic subfield, and the juridical subfield – I have highlighted the causal impact of intra-state dynamics of contention and collaboration in nationalist policy formation. Such an approach also allows a comparative examination of the cultural dispositions of different state subfields towards managing relations between state and society on which policies of nation formation are contingent.

My dissertation has also examined how ‘repertoires of contention’ of social actors vis-à-vis the state impact nationalist policy outcomes. Social movements launched by religious associations and political parties demanding that the state exclude the Ahmadiyya community from the national Muslim community have been a recurring feature of the cultural and political landscape in Pakistan. I have conceptualized the contentious repertoires of these movements as moments of state-society interaction and have shown that legibility between social movement’s cultural frames and the dispositions of state actors framing nationalist policy is a key variable in determining policy outcomes.

Theorists have differentiated social movements along a number of dimensions ranging from organizational capacities, resource mobilization, communication networks, political alliances, presence of political opportunities etc. To these, I add the centrality of the notion of relationality among relevant state and social actors, by which I mean that any of these ‘fixed’ characteristics of a social movement are not sufficient in themselves for explaining outcomes of success or failure. Rather, we have to be mindful of how the repertoires employed by social groups articulate the state, nation and citizenship and how these accord with the habitus of relevant state actors.

Third, I have analyzed the shift in the Pakistani judiciary’s attitudes towards religious rights through examining the conjuncture among political, institutional and cultural processes that had the effect of re-constituting the ways in which Islamic discourses and practices were appropriated by secular courts to dispense justice. I have advanced an understanding of the relationship between the legal sphere and the state that neither reduces legal judgments to the ‘ideological apparatus’ of the state nor approaches

juridical discourses as operating within a self-referential and enclosed “system”. Drawing on court cases and files and in-depth interview, I have advanced a theory of the juridical field in Pakistan that specifies the causal impact of the imbrications among institutional transformations in the judicial sphere instituted by the state, the practical workings within this field, and the meanings held by legal and social actors operating in it.

In a recent article, De Leon, Desai and Tugal have advanced the notion of and “political articulation” to argue that rather than reflecting the existing social divisions in society, political parties are active agents in the creation of these divisions. According to De Leon et al, “political parties reconstruct certain issues as grievances through the differential interpellation of subjects, defined as the process of recognition of an individual as a concrete subject by ideological-political practice” (De Leon, Desai and Tugal 2009: 198). The present study validates this analysis. In 1974, the symbolic boundary of Muslim citizenship was legally re-inscribed by the state, with the political field at the forefront, to exclude the Ahmadiyya community from the already tenuous citizenship regime enjoyed by mainstream, orthodox Muslim population of Pakistan. This issue of the religious status of Ahmadis was not a novel one and in fact predates the formation of Pakistan in 1974. The politicization of a religious controversy was actively and oftentimes belligerently undertaken by Islamist parties and religious groups, most notably *Ahrar* and *Jamaat-e-Islami*, in effect naturalizing the Ahmadi/Muslim distinction. However, I have argued that attributing agency to politicians as an essential attribute does not do justice to the structures of opportunities and constraints as well as externalities outside the political arena, all of which are differentially felt by specific position holders in the political field. Rather, I have suggested the importance of

theorizing the historical variability of an experiential agency and autonomy that in themselves require an explanation.

Furthermore, the increasing ‘naturalization’ of Ahmadis as non-Muslim and heretics proceeded within the milieu of the state and shifts within both the state and the political field between 1947 and 1974 were significant in shaping this naturalization. One of my main conclusions is that the political field is situated within a larger encompassing state field which political parties both inherit and shape and within the dynamics of which they have to function<sup>175</sup>. Thus, shifts in the state field, as for example redistribution of statist capital that often accompanies regime changes, are crucial for determining the outcomes of struggle for ethno-national capital. This explain why, for example, while Bhutto and his close secular-socialist aides were personally not in favor of the state intervening in what they understood as a fundamentally personal choice, they had to undertake a mode of action that allowed them to compete in the field itself.

Gil Eyal has aptly noted that the usefulness of the concept of political field – and I argue of the broader state field concept – lies in the way it “prompts us to think how the various oppositions operative in social space are mapped onto a set of political relations that may reflect, invert, condense, or polarize them” (Eyal 2005: 151). Furthermore, it alerts us that “political ideologies do not simply “reflect” the social bases of political action – if anything, the opposite is true: political struggle is precisely a fight over the capacity to impose a legitimate vision of social space and its relation to the political field, i.e., to convert political capital (control over the instruments of political representation) into symbolic power (the prestige of being the effective “delegate” of a social group” (ibid.: 153). I have argued that at certain historical moments, political struggles over symbolic capital are carried out within the larger state field, such that the

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<sup>175</sup> In similar vein, Raka Ray (1999) has argued that different social and political orientations of women’s movements in Calcutta and Bombay in India can be attributed to differences in the political fields in these two cities, a crucial space within, or in opposition to, which these movements operate.

struggle for symbolic capital may be an aspect of a broader struggle over the distribution of various subfield-specific state capitals.

During the time period under consideration in this study, the Ahmadiyya community was symbolically constructed not only as heretic but also as disloyal and traitorous to Pakistan. In an important sense therefore, the Ahmadiyya issue is fundamentally a post-colonial one, where the “post” implies that the present can only be understood in relation to the (perceived) past (Cooper 2005). It opened up a space for religious groups and Islamist parties to debate the nature of the Pakistani state by pitting the Ahmadis as the loyal servants of the British colonial state, an assertion that glosses over a complex history of interrelationships among a fragmented colonial state and a dynamic religious movement in its infancy strategically moving between negotiation, resistance and accommodation with this state. This relationship recalls James C. Scott’s analysis of the ways in which subordinate classes are able to penetrate and demystify the prevailing ideology through “hidden transcripts” that emerge from the very routinization of submission itself (Scott 1985: 317-8).

Next, I have suggested that is commonplace to simply suggest that states and nationalisms are fundamentally exclusionary and that such exclusions constitute an important part of our political modernities. I have argued that a focus on minorities, margins and subalterns brings a critical edge into scholarship with which to locate and question the dominant hegemonic discourses and practices that are employed by the power elite to maintain and reproduce the social order (e.g. Omi and Winant 1986). My contention is that the Ahmadiyya community has been pivotal in questioning the hegemonic discourses about Islam, colonialism, and nationalism in post-colonial Pakistan. The Pakistani state has, over the course of its history, legitimized and

reproduced itself by keeping alive the myth of a homogenous nation defined by its orthodox Muslim identity and by recalling the basis of its very being in its founders' historical opposition to both colonial oppression and the Hindu-majority in British India. The Ahmadiyya community, by virtue of its religious beliefs and tenets; its spatial location in special enclaves such as the city of Rabwah where the law of the state is bypassed in the name of the autonomy of the community; and by its symbolically constructed role as the collaborators of British colonialists has provided a fundamental challenge to the mainstream hegemonic narratives about Islam, colonialism, and the nation-state space. A focus on the state's relationship with the Ahmadiyya community brings into sharp focus how these narratives have been historically constructed, contested, and negotiated, and how they have led to institutional transformations. Specifically, they problematize the specific meanings that notions such as 'Islam', 'Islamic statehood', and 'Muslim citizenship', etc. have acquired in processes of state formation, and what relationship these concepts and meanings have in relation to other such as sovereignty, democracy, citizenship, and rights.

The Pakistani state has, over the course of its history, negotiated the question of the boundaries of the Pakistani nation in different ways at different times. The key to answering this question of the state's changing relationship to Islam in defining the contours of "Muslim citizenship" cannot simply be located by looking at articulations of nationalism in the body politic and locating the symbolic construction and institutional discrimination of minorities in the "evils" presents in all modern nationalisms (Kedourie 1960), more specifically religious or ethnic-based nationalisms. Scholarship that engages with public visibility of Islam in states such as Pakistan by attributing it to a lack of

secularization ends up regarding “Islam” as a monolithic religion supporting an ahistorical system of thought that is perceived to be easily locatable through a highly limited nexus of “Islamic” discourses and practices. The main problem with this position is that even the most seemingly entrenched and doctrinal Islamic laws in fact are socially constructed and emerge from historical contexts of power relationships and social structures of authority and domination (Zubaida 2004). Thus, the dichotomy between religious and secular discourses is misleading since so-called secular discourses may be intimately informed by religious motivations while religious texts always go through interpretation and human agency (An-Na’im 1995). Rather, I have argued for the importance of examining how the very idea of the Pakistani state was contested and negotiated by different actors in the imagined political community of the nation.

Instances of nationalist policy formation are moments of symbolic violence that limit the polysemy of signifiers such as nation, state and citizenship. In the present empirical case, moments of nationalist policy outcomes have also entailed attempts at constricting the over-investment of meanings in signifiers such as ‘Muslim’ and Islamic state and are a product of complex interactions between modes of intra-state and state-society interactions. In order to systematize these interactions, I have suggested the usefulness of Bourdieu’s field theory and some key interventions in state theory, social movements theory, nationalism theory and law and society literature

## **Appendices**

### **Appendix 1**

#### **Objectives Resolution**

The Objectives Resolution was unanimously passed by Pakistan's first Constituent Assembly on 12 March, 1949 to serve as a Preamble for Pakistan's Constitution. It was inserted into the Pakistan's Constitution by a Presidential Order in 1985. The text of the Objectives Resolution is reproduced below.

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Whereas sovereignty over the entire universe belongs to Allah Almighty alone and the authority which He has delegated to the State of Pakistan, through its people for being exercised within the limits prescribed by Him is a sacred trust;

This Constituent Assembly representing the people of Pakistan resolves to frame a Constitution for the sovereign independent State of Pakistan;

Wherein the State shall exercise its powers and authority through the chosen representatives of the people;

Wherein the principles of democracy, freedom, equality, tolerance and social justice as enunciated by Islam shall be fully observed;

Wherein the Muslims shall be enabled to order their lives in the individual and collective spheres in accordance with the teachings and requirements of Islam as set out in the Holy Quran and the Sunnah;

Wherein adequate provision shall be made for the minorities to \_\_\_\_\* profess and practice their religions and develop their cultures;

Wherein the territories now included in or in accession with Pakistan and such other territories as may hereafter be included in or accede to Pakistan shall form a Federation wherein the units will be autonomous with such boundaries and limitations on their powers and authority as may be prescribed;

Wherein shall be guaranteed fundamental rights including equality of status, of opportunity and before law, social, economic and political justice, and freedom of thought, expression, belief, faith, worship and association, subject to law and public morality;

Wherein adequate provisions shall be made to safeguard the legitimate interests of minorities and backward and depressed classes;

Wherein the independence of the Judiciary shall be fully secured;

Wherein the integrity of the territories of the Federation, its independence and all its rights including its sovereign rights on land, sea and air shall be safeguarded;

So that the people of Pakistan may prosper and attain their rightful and honored place amongst the nations of the World and make their full contribution towards international peace and progress and happiness of humanity.

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\* The 1949 text had the word “freely” at this point which was omitted from the 1985 text.

## Appendix 2

### Ordinance no. XX of 1984<sup>176</sup>

In the Pakistan Penal Code (Act XLV of 1860), in Chapter XV, after section 298A, the following new sections shall be added, namely:

“**298B.** Misuse of epithets, descriptions and titles, etc., reserved for certain holy personages or places.

(1) Any person of the Qadiani group or the Lahori group (who call themselves ‘Ahmadis’ or by any other name) who by words, either spoken or written, or by visible representation;

(a) refers to, or addresses, any person, other than a Caliph or companion of the Holy Prophet Muhammad (peace be upon him), as ‘Ameerul Mumineen’, ‘Khalifa-tui-Mumineen’, ‘Khalifa-tul-Muslimeen’, ‘Sahaabi’ or ‘Razi Allah Anho’

(b) refers to, or addresses, any person, other than a wife of the Holy Prophet Muhammad (peace be upon him) as ‘Ummul-Mumineen’

(c) refers to, or addresses, any person, other than a member of the family (Ahle-bait) of the Holy Prophet Muhammad (peace be upon him), as ‘Ahle-bait’; or

(d) refers to, or names, or calls, his place of worship as ‘Masjid’;

shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.

(2) Any person of the Qadiani group or Lahori group (who call themselves Ahmadis or by any other name) who by words, either spoken or written, or by visible representation, refers to the mode or form of call to prayers followed by his faith as ‘Azan’ or recites Azan as used by the Muslims, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

(3) **298C.** Person of Qadiani group etc., calling himself a Muslim or preaching or propagating his faith.

Any person of the Qadiani group or the Lahori group (who call themselves ‘Ahmadis’ or by any other name), who, directly or indirectly, poses himself as Muslim, or calls, or refers to, his faith as Islam, or preaches or propagates his faith, or invites others to accept

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<sup>176</sup> Reproduced from <http://www.thepersecution.org/50years/paklaw.html>. Retrieved on 7 July, 2010.

his faith, by words, either spoken or written, or by visible representations, or in any manner whatsoever outrages the religious feelings of Muslims, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.”

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