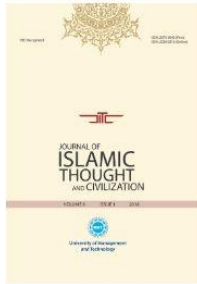


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Concept of *Shūra* in Fazlur Rahman's Political Ideas at Practical Level

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Abstract

The term *Shūra* has become an important term in modern political history of Islam. Its importance and centrality can be gauged by the fact that Muslim modernists, traditionalists and fundamentalists use it equally to propound and promote their own political ideas. This term and concept were part of Fazlur Rahman's political thought and central to his overall idea of an Islamic State. However, with the passage of time his arguments changed corresponding to the changes in the prevailing situation. The current article focuses mainly on his thought on *shūra* in his early writings from 1950s and 1960s. Though in the first decade of his career he had no independent views of his own on *shūra* and he based his arguments on the subject mainly on the arguments of classical thinkers such as Sayyid Ahmad Khan, Shibli, Hali, Chiragh Ali, Amir Ali and Iqbal at home and Jamal al-Din Afghani, Muhammad Abduh, Namik Kemal and Zia Gokalp abroad. On the contrary, during the 1960s he developed his independent thoughts on *shūra*. The current work will highlight the fact that his ideas were grossly influenced by the prevailing socio-political conditions in Pakistan at that time and he appears to contradict himself on some of the arguments about the authority of the head of the state. This situation also highlights the dilemma of a thinker who also has to play the role of a reformer at the practical level in a given political situation.

Keywords: democracy, *shūra*, political Islam, *ijma*, Fazlur Rahman, Syed Abul Ala Maududi

Introduction

Shūra is a pre-Islamic Arab institution in which the elders of the tribe used to gather to consult each other on important socio-political and economic matters. A number of different types of deliberations were conducted in the meeting place, including deliberations about issues related to marriage, matters of commerce, war and peace.¹ "Given its pre-Islamic use the custom of consultation was not necessarily a religious impulse, but connected to a social or political impetus since consultation inevitably involves a social structure."²

In the Holy Qur'ān, the term *shūra* appears at three different places, 2:233; 3:159 and 42:38. The 42nd *surah* is called *ash-Shūra*. It is possible that this *surah* has derived its name from the word *shūra* mentioned in its verse 38. The expression "consultation" occurs in 42:38 and is understood in the context of verses 37-9 as one of the series of attributes of Muslims, "They shun great sins and indecencies, forgive when angry,

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¹Ahmad Mubarak Al-Baghdadi, "Consultation," *Encyclopedia of the Qur'ān*, ed., Jane Dammen McAuliffe, Vol., I, (Leiden: Brill 2001), 406.

²Ibid.



answer their Lord and persevere in prayer. Their rule is to consult one another, spend out of what God provides, and when tyranny afflicts them defend themselves.”

The second use of the term is made in *surah* 2 of the Holy Qur'ān known as *al-Baqara*. A reference to consultation appears in 2:233: “If the two parents concur on weaning the child from the breast of its mother before the child is two and there is no obstacle to this, then it is legally permitted on condition of consultation and mutual satisfaction between the parents.”

The third use of this term is in *surah* 3 of the Holy Qur'ān named *Al-i-Imrān*. This *sura* contains the term “consultation” in the form of a command given directly to the Prophet Muhammad (SAW) in the context of Medina's society. The term is found in 3:159 and refers to the Battle of Uhud fought after the Battle of Badar in which the Muslims met their first defeat. There were different social groups in Medina; the Helpers, the Emigrants, the Jews, the Hypocrites etc.; all were further divided into different sub-groups. After the event of the Battle of Uhud, the nascent Muslim community experienced a period of communal tension. The verse 3:159 addresses this situation, “This is due to mercy from God that you treat them lightly, for had you been heavy and hard-hearted, they would have left your side...pardon and forgive them, and consult with them in the matter.”

These three instances apply to different situations and categories of Muslims and it could be gathered from these Qur'ānic passages that they expound the concept of an egalitarian society for Muslims where their matters in general should be sorted out through consultation. But nowhere has it meant to create a political system based on modern democratic style. It can be assumed that it was in this general spirit of egalitarianism and consultation, more as the continued Arab practice than the Qur'ānic injunction, that the caliphs after the Prophet Muhammad (SAW) consulted their near companions on important matters to run the affairs of the nascent community.³

But with the passage of time and because of political exigencies this initial Arab practice lost its importance. For the emperors of Umayyad and Abbasid dynasty, it remained as an informal practice to take advice from their close associates on military, economic and legal matters. However, the idea of *shūra* as a means of selecting caliphs and other rulers in the state, that is the principle of election, seems to have been especially attractive during the Umayyad period for zealots and rebels. The concept also appealed to sectarian groups with egalitarian ideas such as the Kharijities.⁴

Ibn Taymiyya goes further than most of the Muslim thinkers of his age and the earlier ones. Citing Qur'ān and *Hadīth*, he insists that the ruler must consult not only with the ‘*ulama*’ and with his political and military officials, but also with spokesmen of the general population.⁵

However, as the nineteenth century approached the Muslim world came into contact with the European ideas about political institutions. By this time, a large part of the European world had decided in favor of a constitutional-republican form of government. Some of the modernists reformists of the forward Muslim lands, for

³*Encyclopaedia of Islam*, eds., C. E. Bosworth (Leiden: Brill 1997), 504-505.

⁴*Ibid.*

⁵*Ibid.*

example Ottoman Turkey and its provinces like Egypt, associated European material success with its political system and started to argue in favor of such political system for their own countries. They also tried to search the base for this type of concept in the sources of Islam. Hence, "many a Muslim medieval social and political terms reemerged with their new western meaning. The same was the case with the term *shūra* and *mashwara* and logically it was Turkey which adopted it at first."⁶

Elsewhere, the term *shūra* and its derivatives appeared occasionally in titles of governmental institutions reflecting the essentially restricted role prescribed for them, such as in Morocco, Egypt and Pakistan.

2. *Shūra* in Muslim Political Thought of Sub-Continent

Against the forward lands of Islam, in the Indian subcontinent the debate on an Islamic political system was generated very late for the obvious reason that it was in complete political control of Britain. It was only after the demand of a separate Muslim country in India became a reality that Iqbal started to talk about the supposed political system it should adopt. It was in this context that he presented some of his political ideas which, however, could not form a blueprint to run the business of a government.

2.1. Iqbal's Idea of an Islamic State

Iqbal's idea of an Islamic state can be discussed at two levels, ideal and practical. At an ideal level, Iqbal envisaged an Islamic state as a practical means of making the principle of '*Tauhīd*'⁷ a living factor in the intellectual and emotional life of mankind, which in itself is a principle of world-unity.⁸

According to Iqbal, the state to which the universal Islamic society can belong to is so far an unrealized ideal Muslim state. A great deal of effort is devoted throughout his works to the attempt to define this ideal state in terms of modern ideologies.⁹ But to Iqbal no modern ideology, such as national democracies and socialism, can be completely identified with this ideal Islamic state. Rather, nationalism of the modern kind is antithesis to this universal Islamic state. He also rejects the modern western concept of the duality of church and state.

Giving the reasons for this bifurcation in European history, he argues that Christianity at its origin was not either a political system or a civil unity, but it was a "monastic" order in a "profane" world. It was based on Roman authority in all the worldly affairs. As a result, when Romans converted to Christianity, there was a conflict between church and state for authority and power.¹⁰

⁶A. Ayalon, *Encyclopaedia of Islam*, 2nd edition., "Shūra" *Encyclopaedia of Islam* 2, vol. IX (Leiden: Brill, 1997), 506.

⁷Elsewhere, in the same lecture explaining this term further Iqbal says, "The essence of *Tauhīd*, as a working idea, is equality, solidarity, and freedom. The state, from the Islamic standpoint, is an endeavor to transform these ideal principles into space-time forces, an aspiration to realize them in a definite human organization." Muhammad Iqbal, *The Reconstruction of Religious Thought in Islam* (Lahore: Institute of Islamic Culture, 1989), 122-23.

⁸Ibid., 117.

⁹Aziz Ahmad, *Islamic Modernism in India and Pakistan: 1857-1964* (London: Oxford University Press, 1967), 158.

¹⁰Muhammad Iqbal, *The Reconstruction of Religious Thought in Islam* (Lahore: Institute of Islamic Culture, 1989), 122-123. Emphasis is added.

This continuous tussle between the church and the state, according to Iqbal, finally led the Europeans in the modern times to conclude that religion is a private affair of the individual and has nothing to do with a man's worldly life. As far as modern democracy is concerned, he rejects it as "essentially plutocratic and based on racial inequality and the exploitation of the weak."¹¹ However, according to Iqbal, in Islam there is no such bifurcation between religious authority and political powers. Rather, in Islam the "spiritual" and "temporal" are two sides of the same image. All the acts of an individual and/or a society are measured by the yardstick of the attitude of mind with which the agent acts. If an act is performed with the spirit of detachment from the "infinite complexity," it will be seen as a temporal act only but it will become spiritual if it keeps that "infinite complexity" in mind.¹²

While this ideal state is Iqbal's dream for the future, his immediate concern remained the fate of the Muslims in the slowly emerging pattern of self-government in India. Strikingly, here too he did not find the principal of European democracy suitable for the Muslims of India. According to Iqbal, the communal divide of India was a reality and the British government should have had realized and accepted this reality. He suggested, "I would like to see the Punjab, North-Western Frontier Province, Sind and Baluchistan amalgamated into a single state. Self-Government within the British Empire, or without the British Empire, the formation of a consolidated North-West Indian Muslim state appears to me to be the final destiny of the Muslims at least of North-West India."¹³

Thus, the above ideas marked a retreat from Iqbal's original position, that is, his idealistic denunciation of regionalism. He came to the conclusion that a universal Muslim caliphate was impracticable in the modern world. Indeed, the only tangible form the political expression of pan-Islamism could take was that of multi-nationalism, realizing itself into regional nation-states. Justifying his stand in its Indian background he argued that:

Islam, regarded as an ethical ideal plus a certain kind of polity—by which expression I mean a social structure, regulated by a legal system and animated by a specific ethical ideal—has been chief formative factor in the life-history of the Muslims of India. It has furnished the basic emotions and loyalties which gradually unify scattered individuals and groups, and finally transform them into a well-defined people possessing a moral consciousness of their own.¹⁴

Does the above argument by Iqbal suggest that he is in favor of a theocratic government? The answer is definitely a "No." "Iqbal makes a distinction between Islam conceived as the legal basis of the state and theocracy which connotes fanaticism. A separate Muslim state within the subcontinent would not be a theocracy. It would provide, on the other hand, an opportunity for Islam "to rid itself of the stamp that Arabian imperialism was forced to give it, to mobilize its law, its education, its culture, and to bring them into closer contact with its original spirit and with the spirit of modern times."¹⁵ Therefore, according to Iqbal an Islamic state is a theocracy in this sense alone

¹¹ Aziz Ahmad, *Islamic Modernism in India and Pakistan: 1857-1964* (Karachi: Oxford University Press, 1967), 158.

¹² Muhammad Iqbal, *The Reconstruction of Religious Thought in Islam* (Lahore: Institute of Islamic Culture, 1989), 122. Emphasis is added.

¹³ Aziz Ahmad, *Islamic Modernism*, 162.

¹⁴ *Ibid.*, 160.

¹⁵ *Ibid.*, 162-163.

and not in the sense that there would be some individual who may claim himself as the representative of God on earth, "who can always screen his despotic will behind his supposed infallibility."¹⁶

However, it leads to the question that if the Islamic state envisaged by Iqbal is not a theocracy, in the sense Iqbal mentions above, then what system should it adopt to legislate in accordance with the so-called 'Original Spirit' of the Islamic Law? Here the contradiction in Iqbal's thought is quite prominent. As against a united India under the Hindu majority where he found the European style democracy unworkable for the Muslims of India; once a separate state for Muslims which he suggested above comes into being then to him, "The republican form of government is not only thoroughly consistent with the spirit of Islam, but has also become a necessity in view of the new forces that are set free in the world of Islam." He wants to invoke the old Islamic institution of *Ijma* to justify his view. After stating the reason for historically ignoring this very important notion of *ijma* for the personal interest of the ruling Umayyad and the Abbasid Caliphs he says that:

It is, however, extremely satisfactory to note that the pressure of new world forces and the political experience of European nations are impressing on the mind of modern Islam the value and possibilities of the idea of *Ijma*... The transfer of the power of Ijtihad from individual representatives of schools to a Muslim legislative assembly which, in view of the growth of opposing sects, is the only possible form *Ijma* can take in modern times will secure contributions to legal discussion from laymen who happen to possess a keen insight into affairs.¹⁷

In the above debate on Iqbal's political ideas we have noticed that he invokes another medieval Muslim political term *ijma* to practically achieve the same results that the other modernists try to achieve through the term *shūra*, that is, people's representation in law making. Both are medieval terms for consultation and advice to the ruling elites. However, we believe that if it is taken at its face value the term *ijma* is more elitist and exclusive as compared to the term *shūra*, as it has been explained in the beginning of the article.

3. Fazlur Rahman's Ideas with Reference to the Concept of *Shūra* as the Legislative Organ of the Islamic State

When India was partitioned and gained freedom in 1947, Fazlur Rahman was a grownup man of 28 years. He witnessed the political upsurge with his own eyes, particularly the unprecedented outburst of the emotions of the Muslim peoples in favor of a free Muslim country of their own and their aspirations and argumentations for an Islamic state. It was against this background that Fazlur Rahman's political thought was formulated. So, when he started to write on the issues of a contemporary, reformed Islam, it was but obvious that he would deal with the issues of political Islam too.

3.1. Fazlur Rahman's Views of an Islamic State at an Ideal Level

In the following discussion, we will notice that Fazlur Rahman's idea of *shūra* would evolve with the passage of time and would take a major turn during his stay in Pakistan in the 1960s for practical purposes.

¹⁶Muhammad Iqbal, *The Reconstruction*, 122-123.

¹⁷*Ibid.*, 173-174.



In 1950s, when Fazlur Rahman started writing on the issues of contemporary Islam, he was living in Britain and was teaching at Durham University. He started talking on different forums on these subjects. But he was then still in the process of learning things through the writings of his western teachers like Gibb and also through the writings of the earlier Muslim modernists of India and of other Muslim countries; such as Sayyid Ahmad Khan and his associates like Shibli, Hali, Chiragh Ali, and also of Amir Ali and Iqbal at home and Jamal al-Din Afghani, Muhammad Abduh, Namik Kemal, and Zia Gokalp abroad. He was also acquiring a refined understanding of the fundamentalist and traditionalist view points and thus was writing about *Ikhwān al-Muslimīn* and *Jam'at-e-Islami*.¹⁸ According to him, "It is obvious that in so far as this term—Islamic Republic—expresses a genuine concept, i.e., has an intellectual content as a whole, the idea is new. For in the past Islam as a state concept has existed but no republicanism (in the modern sense of the word) existed, while now republics exist but Islam as a state concept does not."¹⁹

Discussing the Muslim revivalists' and conservatives' views on the subject, Fazlur Rahman found Muslim Brotherhood of Egypt and *Jama'at-i-Islami* of Pakistan as the two most representative movements of this group. Of these two, according to him, "The most stringent and rigid doctrine of an Islamic state is that formulated by Maududi."²⁰

According to Fazlur Rahman, one of the most important fundamentals of the political system advocated by the Ikhwān is the institution of *shūra*. Ikhwān sets the main responsibility of legislation on the *shūra*. Thus, according to Fazlur Rahman, though the Ikhwān assert that the *shari'ah* is defined by the Qur'an through the agency of the Prophet Muhammad (SAW), and all of its aspects—criminal, civil, and personal—demand absolute and unconditional allegiance, they still admit that the *shari'ah* does not provide detailed legislation for each and every occasion.²¹ Therefore, according to Fazlur Rahman, the Ikhwān believe that, "[T]he right of the community legislate and practice *ijtihad* stretches over a vast range of affairs for which the Qur'an and the *Sunnah* provide no express legislation... The legislation in these affairs must, nevertheless, be in complete harmony with the express legal texts of the *Shari'ah*, its basic principles and its legal spirit."²²

Comparing this point of view with that of Maududi's, Fazlur Rahman asserts that Maududi believes that "the term Islamic Democracy is a contradiction in terms. To recognize the people's right to legislate for themselves is to commit *shirk* for to legislate

¹⁸He discusses these ideas in his articles written in 1950s, i. e., "Internal Religious Developments in the Present Century Islam," *Journal of World History* 2, no. 4 (1955): 862-79; "Muslim Modernism in the Indo-Pakistan sub-continent," *Bulletin: School of Oriental and African Studies*, vol. XXI, part-1 (1958): 82-99; "Al-Ikhwān al-Muslimūn: A Survey of Ideas and Ideals," *Bulletin: Institute of Islamic Studies* 2, no. 3 (1958): 92-102.

¹⁹Fazlur Rahman, "Muslim Modernism in the Indo-Pakistan Subcontinent," *Bulletin: School of Oriental and African Studies*, vol. XXI, part:1 (1958): 96.

²⁰Fazlur Rahman, "Internal Religious," *Journal of World History* 2, no. 4 (1955): 878.

²¹Fazlur Rahman, "Al-Ikhwān Al-Muslimūn: A Survey of Ideas and Ideals," *Bulletin: Institute of Islamic Studies* 2, no. 3 (1958): 98.

²²*Ibid.*, 98-99.

belongs to Allah alone. As an illustration of the disastrous moral effects of democracy he points to the anti-alcoholic legislation in America and its subsequent reversal.”²³

Fazlur Rahman observes that there seems to be some confusion between the recognition of moral values or principles and the actual legislation in Maududi's mind. According to Fazlur Rahman, it seems that Maududi believes that Islam is a monolithic type of system in which almost every aspect of a Muslim's life is determined once and for all. Therefore, Maududi believes that the right to legislation belongs only to Allah Almighty and “the only form of Islamic rule is a Caliph who is chosen by the people and who, the community will ensure, will rule according to the Divine Law [with the aid of his advisory council].”²⁴

Following the above assertion, Fazlur Rahman concludes that “Thus the man who denies the community as a whole the right to legislate ultimately vests this right in one individual.”²⁵ One wonders why Fazlur Rahman could not see this flaw in the Ikhwān's thought since they too give a vast legislative power to the head of the state, as mentioned above.

Approaching Muslim modernists, Fazlur Rahman is of the view that the modernists have been unable so far to elaborate their stand intellectually, that is, to integrate traditional Islam with modern values. “Indeed, the strength of Maududi's case and the power he has over the public in general are due, not to the fact that he is right, but to the intellectual failure of the Modernist.”²⁶ The faint argument of modernists in favor of democracy, according to Fazlur Rahman, is based on the view that Islam does not recognize church as a centre of infallible divine authority; hence, Islam is not a theocracy. Therefore, adopting some kind of representative government is not a deviation from Islamic principles. Rather, it would be a kind of realizing these principles which actually “demand the government to be based on *mutual council and consultation*.”²⁷

²³Fazlur Rahman, “Muslim Modernism in the Indo-Pakistan Subcontinent,” 96. The example of the legislation on alcohol Maududi cites in his *The Political Theory of Islam*, ed., Khurshid Ahmad (Lahore: Islamic Publication Limited, 1960), 22.

²⁴Fazlur Rahman, “Internal Religious,” 878.

²⁵Fazlur Rahman, “Muslim Modernism in the Indo-Pakistan Subcontinent,” 97. To get a better idea of Maududi's thought we are quoting here a lengthy extract from his writing. Comparing the concept of theocracy common in the western secular mind with the Islamic theocracy of his own he says, “[T]he theocracy built up by Islam is not ruled by any particular religious' class but by the whole community of Muslims including the rank and file. The entire Muslim population runs the state in accordance with the Book of God and the practice of His Prophet (SAW). If I were permitted to coin a new term, I would describe this system of government as a “theo-democracy,” that is to say a divine democratic government, because under it the Muslims have been given a limited popular sovereignty under the suzerainty of God. The executive under this system of government is constituted by the general will of the Muslims who have also the right to depose it...Every Muslim who is capable and qualified to give a sound opinion on matters of Islamic law, is entitled to interpret the law of God when such interpretation becomes necessary. In this sense the Islamic polity is a democracy.’ *Political Theory of Islam*, op cit., 20.

²⁶Fazlur Rahman, “Muslim Modernism in the Indo-Pakistan Subcontinent,” 97.

²⁷Fazlur Rahman, “Internal Religious,” 877. The italics are mine.

Fazlur Rahman's own view at the time was that for the survival and development of the ethos of Pakistan and to bear the targeted results, the term "Islamic Republic" must be applied in its true sense and can be given real content. The modernists must show their confidence when they argue for a progressive Islam; otherwise, there is a great chance that it will be buried in all kinds of extremes such as revivalism, communism, etc. Fazlur Rahman was not sure at that time which one of them would be more successful.²⁸

We have noticed in the above discussion that both the modernists and the revivalists invoke the institution of *shūra* to support their political stand. Though the purposes of these two are quite the opposite of each other. While the modernist, through the institution of *shūra*, tries to prove that the modern republican or democratic systems of governments are quite according to the spirit of Islam; the revivalist tries to use *shūra* to prove the opposite, that is, the Islamic system of government is a unique system as such and could not be compared with any of the modern systems of government.²⁹

Coming back to Fazlur Rahman, we find that it was in the 1960s that his idea of an Islamic state and the role of *shūra* in the state political system emerged of its own. It is interesting to note that, like Iqbal, Fazlur Rahman's idea of an Islamic state also can be discussed at two levels, that is, ideal and practical.

According to Fazlur Rahman, the goal of an Islamic society is to create cooperation, brotherhood and a feeling of self-sacrifice in its members; it can be achieved only when all members of the society have been provided with socio-economic justice and are freed from all exploitation, viz., spiritual, economic, and social. To achieve this goal, Islamic society strives to establish some institutions, such as defense, development and welfare. Islamic state is the authority which creates and runs these institutions with the help of its citizens.

Fazlur Rahman, like Iqbal, finds fault with both communism and capitalism as systems of governance. According to him, "As against the communist totalitarianism, the capitalist camp proffered the ideology of 'freedom.' But this means, among other things, that a poor person is free to go and hang himself, while the capitalist is free to add to his

²⁸Fazlur Rahman, "Muslim Modernism in the Indo-Pakistan Subcontinent," 98.

²⁹This difference of opinion of these two groups actually based on an interpretation of a verse of Qur'an i.e., 3:110, which says, "You are the best nation ever brought forth to men, bidding honour, and forbidding dishonor, and believing in God." For detail see: A. J. Arberry, *The Koran Interpreted* (New York: 1955), 87; While Fazlur Rahman as the representative of the modernist translates this verse in these words, "You [Muslim] are the best community brought out for mankind: you command good and prohibit evil and you believe in God." (Fazlur Rahman, "A Recent Controversy over the Interpretation of *Shūra*," *History of Religion*, Vol. XX, no. 5 (1980-81): 294; Whereas, as the representative of the fundamentalists/conservatives, Abul A'la Maududi translates this verse as "You are now the best people brought forth for (the guidance and reform of) mankind. You enjoy what is right and forbid what is wrong." (Sayyid Abul A'la Mawdudi, *Towards Understanding the Qur'an*, translated by Zafar Ishaq Ansari, 1, 278; The populists gather from this verse the meaning that this verse speaks of the entire community and not of an elite thereof, the fundamentalists/conservatives contend that *shūra* is restricted to certain special groups in the community that are capable of this task.

millions. 'Freedom' by itself, of course, does not mean anything, and you have to ask: 'Freedom' from what? And, 'freedom' for what?"³⁰

As to an ideal Islamic society, the first criterion is the equality of all human beings. Fazlur Rahman's expounds that, "The Qur'ān seems to say that since God is one, there can be no essential divisions and disparities among human beings, who are the highest of God's creation. Thus, monotheism becomes meaningful in the eyes of the Qur'ān only if it results in the moral consequence of the basic equality of mankind."³¹

The second criterion, according to Fazlur Rahman, is of social justice. About social justice, Fazlur Rahman believes that it is so central in Islam that the major theme of the farewell sermon of the Prophet (SAW) [commonly called *kutba Hujja tul-wida*] was social justice. Islam thus may be described as a social reform movement whose centre of interest lies in the welfare and wellbeing of man "provided this term is understood to include moral welfare as well and is not just restricted to the provision of basic necessities as they are understood today."³²

The third characteristic of his ideal Islamic society is the eradication of exploitation of human beings in all its forms, that is, economic, social and political. Fazlur Rahman includes in it moral and spiritual exploitation as well. He strongly believes that the demand of social justice cannot be met unless all forms of exploitation of man by man are eradicated totally.

3.2. Fazlur Rahman's Idea of an Islamic State at a Practical Level

After surveying briefly Fazlur Rahman's idea of an ideal Islamic society and state as its working instrument, we must turn to his idea of an Islamic state as he envisaged in the given Pakistani milieu of his own time, that is the practical situation of Pakistan during Ayub Khan's reign, which was a given situation for Fazlur Rahman to work with. Here, we will avoid the factual details and directly discuss Fazlur Rahman's practical contribution in the situation.

To relate the *central government* and the concept of *centralized authority* of the Prophet's (SAW) time with Ayub Khan's presidential form of government,³³ he argues that, "In an Islamic society, particularly, with its highly centralized governmental institution, it would be quite wrong to insist that only a certain procedure is advisable or that the Government must be on the pattern of a Parliamentary system."³⁴

He goes on to say that, "In fact, the parliamentary system is obviously unsuitable for such a strong executive as is envisaged by the Qur'ān." It might be because of the fact that he was so sure of Ayub Khan being the right person and his policies in the interest of the people that he could not envisage the dangers hidden in such a centralized system. While explaining the reason to support such a centralized government system, he argues

³⁰Fazlur Rahman, "Islam and Problem of Economic Justice," *Pakistan Economist*, August 24, 1974, 23.

³¹Fazlur Rahman, "Some Reflections on the Reconstruction of Muslim Society in Pakistan," *Islamic Studies* 6, no. 2 (1967): 105.

³²*Ibid.*, 106.

³³More or less on the patron of American system.

³⁴As practiced in the Great Britain.

that developing countries like Pakistan are likely to face the delicate and sensitive issues related to socio-economic development programs. Since the masses will not be able to understand such an issue of capital importance, hence, "it is the duty of the government to safeguard the larger interests of the public and not to succumb to the protestations of the *educated minority groups*."³⁵

Fazlur Rahman argues that Arab society was facing certain difficult issues due to the expansion of Islamic land through conquest during the rule of the second Caliph Umar (RA). Hence, on some major issues of policy, "Umar reversed the policy of the Holy Prophet (SAW) himself under the radically changed circumstances and despite heavy opposition, defended his position successfully aided by a small group of his advisers from among the Companions of the Holy Prophet" (SAW).³⁶ If we keep here in mind the reforms initiated by Ayub Khan in most of the issues of capital concern, that is, the Family Law Ordinance, Family Planning, Land Reforms etc., and the opposition it faced we would understand Fazlur Rahman's purpose behind citing this example. Besides, Fazlur Rahman always admired Caliph Umar (RA) for his bold steps taken in the interest of the Muslim community in the long run.

When the issue of decision making in its political sense is being discussed, it logically leads to the very central question of sovereignty. Fazlur Rahman says the following about this issue:

[T]he term "sovereign" as a political term is of a relatively recent coinage and denotes that definite and defined factor (or factors) in a society to which rightfully belongs *coercive force* in order to obtain obedience to its will. It is absolutely obvious that *God is not sovereign in this sense* and that only people can be and are sovereign since only to them belongs ultimate coercive force, i.e., only their 'Word is law' in the politically ultimate sense.³⁷

Realizing the importance of the concept of sovereignty of God in Islam, and keeping in view how Maududi was interpreting it and using it for his own political interest, Fazlur Rahman thought it important to further explain it. He argues that, "It is, of course, patently true that the Qur'an often makes statements to the effect that God is the

³⁵Fazlur Rahman "Implementation of the Islamic Concept of State in the Pakistani Milieu," *Islamic Studies* 6, no. 3 (1967): 207-8; Italics are ours. The point is that even in the western countries from where these modern political ideas, e.g., republicanism, democracy, constitutionalism, and sovereignty etc., initially emerged, these ideas are not very clear. And since running the state on this complicated system requires some especial kind of technical knowledge, only those trained in these fields could understand and take part in the business. And of course the risk of the exploitation of the masses from this group is always there. But we find in many places in this article and elsewhere too that Fazlur Rahman criticizes the educated class of Pakistan. It is not denied that the educated class of Pakistan including the bureaucracy—both civil and military—the intelligentsia, and the politician could and have exploited the masses, but we think one of the reasons of Fazlur Rahman's attack on this educated class is because the educated class of Pakistan did not accept Fazlur Rahman, a person who was called in by Ayub Khan from outside, amongst their ranks since the beginning. This issue forms the central theme of Aliya Iqbal's Bachelor's thesis from Harvard University entitled "Never Quite at Home: The Mystery of Fazlur Rahman's anonymity in Pakistan," 2000.

³⁶*Ibid.*, 208.

³⁷*Ibid.*, 208-209. Italics are mine.

most Supreme Judge and that His alone is the power over heavens and the earth...The Qur'ān sometimes asks Muslims that when they decide matters, they should do so in accordance with the Qur'ān and at other times, that Muslims should decide matters in accordance with justice and equity."³⁸

From this perspective, Fazlur Rahman draws the conclusion that Muslims should follow the dictates of justice whose principles have been enunciated and illustrated in the Holy Book and the practice of the Prophet (*SAW*). This is the meaning of the Sovereignty of God, "since the standards of justice are objective and do not depend on or even necessarily conform to, the subjective wishes of a people."³⁹

Once it is established that the Muslim people are sovereign and law-maker, the next question is logically the process of this law-making in actual practice, or rather, through which institution would they make the laws. Fazlur Rahman argues that the democratic state, which is based on people's rights of law making, is to be structured through the working of the *shūra*. According to him, "The *Shūra* will ensure the necessary mutual consultation required for working the Islamic structure of democracy. In *Shūra* people consult one another and discuss the issues constructively with a mutual purpose and do not confront each other as is often the case in certain democratic societies of the West."⁴⁰

So, this type of *shūra*, according to Fazlur Rahman, "both sustains and presupposes a high degree of social cohesion based on mutual confidence and a high sense of responsibility."⁴¹ And if there is no such confidence and sense of responsibility there would be no *shūra*, nor there would be any chance for the survival of democracy in such a society. The government on its part should, through various policies and processes and most importantly through the behaviour of the administrative staff, show that it considers itself as the servant of the people. "The people, on the other hand, must positively and actively cooperate with the Government in all its undertakings."⁴²

Fazlur Rahman believes that the Islamic *Shūra* institution allows full scope for criticism, and "indeed, no voice is to be stilled and no expression of opinion is to be suppressed."⁴³ However, what is not to be tolerated, according to him, is "an attitude of subversion or disaffection or inviting people to unconstitutional means to overthrow a government or instilling them a spirit of hopelessness and despair."⁴⁴

Fazlur Rahman believes that all human rights, universally recognized, are automatically vouchsafed and guaranteed by a government based on *shūra*, "for mutual confidence entails respect for each other's rights of a free conscience, life, property, honour, etc."⁴⁵ Nevertheless, he also admits that people need training to run such a government.

³⁸ Ibid., 209.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Ibid., 209-210.

⁴² Ibid., 210.

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ Ibid.

These views of Fazlur Rahman on *shūra* seem abstract ideas, even more abstract than what he blames Maududi for in his writings of this period.⁴⁶ To make sense of these ideas we have to place this idea of *shūra* into the whole scheme of Fazlur Rahman's arrangement of working of the three basic institutions through which a modern government runs its business, that is, the executive, the legislature, and the judiciary.

Fazlur Rahman vests all the administrative powers into one strong head of the state. Since the person of the executive head or the chief executive is so central in Fazlur Rahman's theory, to fully understand his role we will try to make it understandable by eliciting replies to some questions. The first question in this regard is who can be a head of the state? Or, in other words, what would be the criteria to become a head of the state? The criteria given by Fazlur Rahman for a person to be the head of the state suggests that the person should be,

- 1) capable of effectively running the affairs of the state
- 2) hard working
- 3) a person whose centre of interests lies in the interest of the community and the country
- 4) he should command the respect of the people
- 5) sincerity and efficacy are both equally important for this office⁴⁷

The next question is how would this head of the state be elected to the office? Now we are engaging ourselves with the question of the process of election. Fazlur Rahman agrees that elections may be direct or indirect, depending on prevailing conditions. But in the then prevailing situation he thought that an indirect election would be more suitable. The reason given by him was that the vested interests of the educated class would manipulate the "dumb masses" to use incorrectly their right to vote, therefore, in such a situation, "the only direct method of giving participation to the people in the running of their own affairs is a system which starts from the grass-roots like the Basic Democracies."⁴⁸

The above statement of Fazlur Rahman is controversial and contradictory in nature. First of all, if the masses are dumb how they would be able to participate and select the right candidate at grass-root level? Would not they be exploited by the educated people of their village or constituency? And if they are clever enough to elect the right person there why cannot they do the same at a higher level? Besides, this assertion goes

⁴⁶Fazlur Rahman, "Internal Religious," 878-879.

⁴⁷Maududi's main criterion of the head of the state is piety. According to him, "only such a person will be elected to this position who enjoys the full confidence of the Muslim public on the basis of piety and good conduct." Maududi, *The Political Theory of Islam*, 34. Equally a very vague and general criterion. However, we believe that except for the first criteria, i.e., capability of effectively running the affairs of the state, which might require some training and past experience of running the business successfully, the other items are very general and any one can claim them. But has it ever happened in the history of Islam that first of all, an ordinary man has dared to claim these capabilities, let alone has been given, on the basis of above criteria, to rule an Islamic state. Neither it was allowed in *Saqifah* where the claim to the office of the Caliph from Abu Bakr was on the basis of being a Quraish as against the claim of Sa'ad bin Ubada, a Medenian in creed, nor has it ever allowed in the history of Pakistan, where the concentration of all these abilities is, mostly, in a military dictators or the ruling elites.

⁴⁸Fazlur Rahman, "Implementation," 205.

against Fazlur Rahman's own argument that in Islam it is the people as who are the sovereign.

We believe that these views were not the true representative of Fazlur Rahman's own thought, but were the need of the hour.⁴⁹ And, if at all, these were his own actual independent views then one has to think that, at least, this viewpoint is common between Fazlur Rahman and his arch rival in Pakistan, viz., Maududi. Criticizing the modern western type of democracy Maududi also opines that:

[T]his is also a fact that only those persons generally come to the top who can dupe the masses by their wealth, power, and deceptive propaganda. Although these representatives come into power by the votes of the common people, they soon set themselves up an independent authority and assume the position of overlords...thus, it has been established by experience that the great mass of the common people are incapable of perceiving their own true interests.⁵⁰

Thus, the only difference that remains between Maududi and Fazlur Rahman is that the former does not make any distinction between educated and uneducated masses, while the later does. Fazlur Rahman seems to be against multi-party system elections, his views on this matter is that the multi-party system of modern democracies is not equal to the Islamic concept of *Shūra* and *Ijma*. Though the criticism of all kinds to the ruler is not only acceptable but also been encouraged in Islam, "it appears to us to be avers to the creation of parties simply for the sake of opposition."⁵¹

Before discussing the scope of the power of an executive head, who in this case was the president of Pakistan, we put the question that how this head of the state would, if ever, be deposed if he loses the confidence of the masses? According to Fazlur Rahman, "Since the Head of an Islamic State is the concentrator of such colossal powers, which are vested in him Islamically to safeguard the interests of the Muslim Community, he is directly responsible to them."⁵² Thus, "For any major breach of public confidence, the Head may be deposed after an overwhelming vote of the Legislature against him on

⁴⁹Why we have given this rather harsh comment on Fazlur Rahman's thought of the decade of 1960's is because in his later writings we have found him defending strongly the masses as the only authority in all matters. He says that "in the eyes of the Qur'an the idea of elitism is so abhorrent that it explicitly and unequivocally states that all Muslims (*mu'mins*) are the bearers of the responsibility of prohibiting evil and commanding good, including both men and women." For detail see: Fazlur Rahman, "The Principle of *Shūra* and the Role of *Umma* in Islam," in *American Journal of Islamic Studies* 1, no. 1 (1984): 2.

⁵⁰Maududi, *The Political Theory of Islam*, 21.

⁵¹Fazlur Rahman, "Implementation", 206. It seems that Maududi did not believe in party politics at all, at least before partition. He says, "[T]he very idea of three or four persons offering themselves as candidates for a post and then duping the voters by issuing posters and play cards, holding public meetings, engaging in press propaganda, and adopting other methods of this nature, is repugnant to the Islamic mentality." And, "There can be no parties or groups in the Islamic advisory council. Every individual will be an independent entity and will express his opinion freely without being influenced by party considerations. Islam does not permit you to take sides in party politics without considerations of truth and justice." *The Political Theory of Islam*, 36-37. But it was the same Maududi who's party contested the presidential elections of 1965 under the joint candidature of Fatima Jinnah as the candidate of the aligns of five major opposition political parties against Ayub Khan.

⁵²*Ibid.*, 213.

that score.”⁵³ Fazlur Rahman argues that such a breach, on the basis of which the head is deposed, should be of “some capital breach of trust affecting the life of the country.”⁵⁴

The question could be asked here is that with one party rule and an indirect form of election put in place, and keeping in view that on the past two occasions of the elections for the candidacy of Ayub Khan, the elections of Basic Democracy were held to bribe and guaranty the loyalties of the electoral college, is it ever be possible that the legislative assembly would be in a position to move any motion of no confidence against such an executive head? Besides, who will decide which one of the breaches of trust was of capital nature? The history of Pakistan shows that politicians have always been deposed on charges of corruption, but the military dictators were never deposed, even if they engaged the nation into a full-scale war, as was the case with the India-Pakistan war of 1965. And only after a mass agitation like the one in the case of Ayub Khan, and an accident such as in the case of Zia al-Haq, the military regime came to an end. However, Fazlur Rahman further safeguards the position of the head of the state by arguing that the head of the state is elected for the limited time period and not for his whole life time. Hence, he can be harassed by any interest group on even a very trivial issue. Therefore, the head of the state should be exempted from any lawsuit against him during his office years.⁵⁵

Interestingly, as compared to Fazlur Rahman, Maududi's views are quite contradictory and seemingly more democratic as he argues that, “He [the head of the state or *Amīr*] can be sued in a court of law and will not be entitled to any special or privileged treatment in this respect.”⁵⁶ The difference in this regard between the two, in our opinion, is because one [Maududi] was talking on an ideal plane and he had nothing at stake when he was making this type of argument, since neither any Jamat-e-Islamic person nor Maududi were in power. Whereas, for the other [Fazlur Rahman], it had direct negative implications for the head of the state he was trying so eagerly to support.

Coming to the powers of the executive head, Fazlur Rahman gives all the civil and military powers to the executive, he is both Chief Administrator and the Supreme Commander of the Armed Forces. He adds to this list the “religious” powers too.⁵⁷ However, he clarifies that, “His being head of “religious” matters does not imply that he is a kind of an Islamic Pope. He does not lay down or define the theological dogma by himself as is done by the Pope in Christianity.”⁵⁸

Therefore, what actually is meant by Fazlur Rahman as being the religious head includes mending and running of the mosques, deciding the function and curricula of religious schools etc.⁵⁹ Fazlur Rahman feared that, “If this is not done, the State cannot avoid a bifurcation of functions into secular and religious which is the essence of a *Secular State*.”⁶⁰ The bifurcation of the function into a secular sphere and religious sphere is the case with most of the Muslim countries and especially with Pakistan. Fazlur

⁵³ Ibid., 213-214.

⁵⁴ Ibid., 214.

⁵⁵ Ibid.

⁵⁶ Maududi, *The Political Theory of Islam*, 56-57.

⁵⁷ Fazlur Rahman, “Implementation,” 212.

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ Ibid. The italic is mine.

Rahman considers it as the “[U]gly un-Islamic legacy of medieval-cum-foreign rule’, which has to be eliminated now, according to him...And the Head of State, i.e., government machinery, must take over full reins of total, indivisible, rule.”⁶¹

We find that in the history of Pakistan, since the period of Ayub Khan, a cardinal issue between different governments and religious groups has been the control of the mosques and of the religious schools and their curricula. Despite the desire of the governments, it has not become possible for them to control the madrasas. It is due mainly to the severe opposition it would generate from the religious leaders; besides, the government and the bureaucracy has never showed any genuine political will to resolve this issue. It is also because of the fact that it would become a financial liability on the government. And then, how the government, which is unable to properly provide the minimum financial requirements of the secular schools run by it, would finance the religious schools in huge numbers.

As far as the legislative powers of the head of the state are concerned, before approaching the then Pakistani situation, Fazlur Rahman cites some examples from Islamic history to argue in favor of his own point of view. His propositioned process of law making is very intricate and comprises various stages. At the first stage comes the general moral principles of the Qur’ān deduced through a very technical process which he later develops into his “double movement method.” We will not go into the details of the process and it would be enough here to note that according to this method the Qur’ān gives Muslims certain basic moral principles on the basis of the spirit of which they can make laws for themselves. According to Fazlur Rahman, “[T]he Qur’ān is not a book of laws but is the Divine teaching and guidance for humanity. Such quasi-laws as do occur in the Qur’ān are not meant to be *literally* applied in all times and climes; the principles on which these legal or quasi-legal pronouncements rest have to be given fresh embodiments in legislative terms.”⁶²

With this limitation of taking into account the basic principles of the Qur’ān, the Muslims are completely free in law making. This law making would be done, according to Fazlur Rahman, through the twin principles of *Ijtihād* and *Ijma*.⁶³ First comes *Ijtihād*, which means “that individuals ‘exercise themselves’ to think out new solutions of problems on the basis of Islamic Principles.”⁶⁴ And this activity naturally demands that the participants should be both learned and have insight into the teachings of Islam. On this basis, the *ulama* claim that since it needs “some peculiar unknown kind of capacity,”⁶⁵ no one except *ulama* are capable of it. Fazlur Rahman rejects it offhand and argues that, “What is required is a good acquaintance with Islam—the closer the acquaintance, of course, the better—and a power of thinking. There is no definite point at which some mysterious “*Ijtihād-capacity*” arises; indeed, skill in the Islamic field is just like skill in any other field.”⁶⁶

⁶¹Ibid.

⁶²Ibid., 216. Italics are Fazlur Rahman's.

⁶³These principles of *Ijtihād* and *Ijma* and their relations Fazlur Rahman explains in detail in his book *Islamic Methodology in History* (Karachi: Islamic Research Institution, 1965).

⁶⁴Fazlur Rahman, “Implementation,” 216.

⁶⁵Ibid.

⁶⁶Ibid.



Naturally, through Fazlur Rahman's suggested process of free thinking, there would emerge various forms of *Ijtihād* about different issues. He argues that all these various types of individual *Ijtihād* then would be put before the community at large and especially to the educated masses through various means of communication. "The more an issue is important and fundamental, the more it is likely to involve the entire community."⁶⁷ The example Fazlur Rahman cites here is the event of creation of Pakistan, where the community overruled the voice of the *ulama*. "This crystallization is called *Ijma*,' i.e., the consensus of the voice of the Community. It is this voice of the Community which shall determine legislation."⁶⁸

Hence, Fazlur Rahman gives the authority to legislate to the people; however, how this will of the people should be translated into actual legislation is quite another thing. Fazlur Rahman seems to be clear on one thing that the institution of the *Shūra* of the bygone days is today's legislative assembly. He says that, "Islam commands that the affairs of the Muslim should be run by *Shūra* or mutual consultation. It is necessary, therefore, that the Head of the State be aided by a Legislative Assembly which should represent the will of the people."⁶⁹

Hence, both the legislative assembly and the head of the state form a *shūra* and have the authority to legislate according to the will of the people. The members of this assembly would be elected, as mentioned earlier, through non-party indirect elections. And their main function would be to ascertain which *Ijtihād* has reached to *Ijma* level or, in other words, which *Ijtihād* has the support of the majority of the people. Fazlur Rahman agrees that, "It is quite possible, nevertheless, that a minority view on a certain issue is the better opinion and nearer to the truth. But so long as the law remains in force, it will be regarded as the *Ijma* of the people and as such commanding obedience from every citizen."⁷⁰

Here, our concern is not the obedience of the will of people but is the formation of the legislative body, which comprises both the administrative head, that is, the head of the state and the assembly. However, Fazlur Rahman does not find here any point of concern, rather he is confident that, "Since a *Shūra* or *Ijma* institution, i.e., a national legislature, has come into existence, which represents the will of the people, and since the Head of the State also has in the Legislature members who can put forth and explain his views effectively, the decision of the Legislature in law-making should be final."⁷¹

However, if a difference of opinion between the head of the state and the legislature as a whole on a capital issue affecting the nation arises, what would be done? Although, Fazlur Rahman suggests in such a situation referring to the people through a referendum but, "when the Legislature is not in session the Head of the State can always issue orders carrying full legal force until they are confirmed or dropped by the Legislature in their meeting at the proper time."⁷² As it is, there are clear chances that this authority can be misused by the head of the state. However, Fazlur Rahman goes further

⁶⁷ Ibid.

⁶⁸ Ibid., 217.

⁶⁹ Ibid., 206.

⁷⁰ Ibid., 218.

⁷¹ Ibid., 213.

⁷² Ibid.

and suggests that, "At times of national emergency, of course, the Head assumes total powers of legislation in the interests of safeguarding security and integrity of the State and the territories of Pakistan."⁷³

4. Conclusion

We have observed in the forgoing pages that on the matter of Islamic State and the power of the head of the state, and especially on the issue of the institution of *shūra* in Islam, Fazlur Rahman's views are very confused and contradictory. At an ideal plane, he has a concept of Islamic state with all its ethical Islamic values, converging into a *shūra*-based modern day democracy. However, at practical level his thoughts of an Islamic state and polity, one might well say, were hijacked by then political situation of Pakistan and he came out with some very contradictory views.

However, once free from the bondage of a particular government and a certain personality, Fazlur Rahman could and did develop his thoughts on these issues at an intellectual level all anew. Thus, the debate about Fazlur Rahman's thought during the latter part of his academic career can form the material of another article and should be avoided here.

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⁷³Ibid.

