La Legitimidad del Pasado:
Las Funciones Sociales y Políticas en Pakistán

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The Legitimacy of the Past:
The Social and Political Functions in Pakistan.

by
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Abstract:

The argument developed in this thesis sustains that the political and social functions in Pakistan need to be understood in the light of the traditional *Herrschaft* according to Max Weber (1985), Vindicatory justice as defined by Terradas (2020), and the horizontal and vertical alliances as established by Hamza Alavi (1973). Within this theoretical triangle, the political, social, legal, religious, and moral functions merge into a process of traditional mediation which is collective, bound to custom, with interpretative knowledge as understood in the Islamic tradition (Calder 2006), and led by the logic of reciprocity. The consistency of this theoretical approach is put to test with case studies, court reports, and observations applying an analytical method that measures reality according to the actors consent to what is perceived as normal (Goffman 1956).
Summary:

It is true what they say, that one does not finish a thesis but surrenders to it, filled by an overwhelming sensation of defeat and unexpected little relieve, shaken by the realization that the sources that used to be brimming with new ideas, now only lead to the same path where all arguments have been explored. What saddens me is that this path has been riddled with negative evaluations of Pakistan, not of the people, but of their capacity to 'do things right'. What satisfies me is that I have kept my word in doing a positive reading, establishing an argument that explains how the political and social functions in Pakistan work, and NOT how they are misused, misguided, corrupted, or distorted. This study is a long due response to unsustainable evaluations based on dichotomies such as traditional-rational or local-state, and the presumptuous presumption (it needs to be said twice) that the people of Pakistan are too oppressed or to uneducated to know what is best for them.

The thesis has been written, in its method, style, language, and analysis, to build up an understanding in the reader that is useful, not only for the well informed academic, but also for those who might have never heard about Pakistan before. The information is handed out in small digestible sections, and then revised, to further be build upon. There is not a single sentence I don't understand myself and it is an honest study aimed at changing people's minds away from the many negative assumptions that are made about Pakistan.

Anthropologists are anthropologists because they understand that there is an order, a reason people do what they do; a man made order that has been labelled as culture, identity, ethnicity, values, religion, or any variations of the above, bearing a logic and able to define normality. Based on this assumption, one cannot accept social studies to conclude that, yes, there is an order, but people don't follow it because they are illiterate, selfish, hypocrites or live with double standards. To the outsider it might seem true that people in Pakistan say one thing and do the total opposite, but there is a reason for that and it is not weakness or any other malfunctioning. It is related to the fact that they have been told, for hundreds of years now, that the winner looks into the future and not into the past, that laws are right, and progress is better. To counter the pressure of this global discourse, a social mechanism can be observed that takes place and takes over, that weakens that discourse and fortifies tradition and knowledge. The surface might appear contradictory, but beneath it lies a process with an order, a truth, a logic, and most of all, a legitimacy that is able to connect the past with the future and procure continuity.

The introduction of this study contains the layout of the basic concepts and why and how the
research has been carried out, leading to the hypothesis that the political and social functions in Pakistan are defined by the Soziologie of the traditional Herrschaft, with a legitimacy and an authority anchored in the past, fundamentally opposed to the legal Herrschaft with its legitimacy linked to law and a sovereignty placed in the nation-state. The presence of Vindicatory justice in Pakistan, based on reciprocity and collective consent, with no divides between the moral, the legal, the political, the religious or the social, further define the political and social functions, within their own logic and rational, as a collective process that produces the norm, contrasting with societies of codified law.

The first two chapters expand on those concepts, the significance of Vindicatory justice, and the relevance of caste and biradari alliances for the continuity of the social order. The third chapter is focused on knowledge, how this knowledge is construed and how it is connected to the past, exploring its methodology and seeing colonial rule as the bearer of modern thought and modern institutions but not necessarily as the end of traditional thought. Chapter four till chapter seven deliver case studies that allow for a more detailed ethnographic and theoretical analysis of the functioning of the process, creating a more comprehensive and visual picture, dismissing preconceived notions and contributing to the understanding of the argument made in this thesis.

The study explains why the declaration of the Ahmadi community as non-Muslims still persists in Pakistan, or how blasphemy accusations are handled, whilst giving a picture of the process as an expression of itself, of everything it stands for: an overall Soziologie with a legitimacy based in the past, with social interaction based on reciprocity, and with a perception of the person as a member of the collective, bound to custom and not law. This becomes even clearer in the last chapter, when the process counters Islamists' demands to execute a woman accused of blasphemy. Far from being a contradiction, it proves this thesis, that the Islamists' aspirations to gain state power and impose their idea of sharia-state-law, is a non-traditional perception of legitimacy. Islamists demands can only be understood in the light of a sovereign state, individual responsibility and individual accountability, in addition to the superiority of law over custom and, therefore, their demands are opposed to the legitimacy, justice, tradition and types of social alliances that are predominant in Pakistan, and Islamists themselves actually belong to, too.

But beyond suggesting a theoretical model for a more accurate perception of Pakistan's society and a more accurate reading of how the country is ruled and how justice is understood, reflecting on this study should also make our heads turn towards ourselves and question the legitimacy that truly dominates us.
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Glossary:

_Barkat_: good fortune, blessing, grace.
_Biradari_: kinship group.
_Charpoy_: wooden-frame bed with string woven mattress, common in India and Pakistan.
_Darbar_: shrine complex, court.
_Dera_: meeting place for socializing, agreements, and dispute settlements.
_Diyya_: material restitution made by an offender and his/her kin to the injured party.
_Duppatta_: big scarf which is wrapped loosely around head and shoulders, worn by women out of modesty and to cover their head during prayers or _hazaan_.
_Dholki_: two-headed hand-drum from the Indian subcontinent.
_Fiqh_: Islamic jurisprudence.
_Hadith_: traditions attributed to the Prophet Muhammed, regarded by Muslims as second to the Quran as source of religious guidance and law.
_Hazaan_: Call for prayers (it starts with with Allauakbar)
_Hijab_: scarf tightly fastened around the woman's head to make sure her hair remains unseen, as a sign of respect to God, of modesty, and when worn in Pakistan it can be seen as a religious statement linked to reformist Islam as modesty and respect to Allah were already assured with the traditional _duppatta_.
_Idda_: a period of time during which a divorced wife is not allowed to remarry.
_Izzat_: honour and respectability.
_Jamaat_: school of thought.
_Jirga_: the same process as the _panchayat_ but more often used to refer to the the justice system in the northern areas of the country.
_Jumma_: Friday, day of rest. Though shops and business are open on a Friday, everything closes during jumma prayers from midday to 2pm.
_Karo-kari_: Honour killing, the death of a member of the offending party restores the honour of the offended party.
_Madrassa_: institution of traditional Islamic learning.
_Masjid_: mosque.
_Mehndi_: decorative body paint made of the leaves of the henna plant.
_Molvi_: used in Pakistan to refer to a person who acts like a priest in contras to the _ulama_ who are
versed in the Islamic Tradition. Not exclusively, but generally, used to refer to Islamists.

**Mufti**: a jurisconsult with the authority and formation to issue a fatwa, an juristic opinion. Though *fatwas* have been issued by Islamists for political purposes or to eliminate their enemies.

**Nazim**: district governor and head of the council.

**Panchayat**: dispute settlement through a third party authority which is often the biradari elders but it can be just one man 'of honour'. It can also be five people (*panch*=5), normally two selected by each party, and those four select a fifth person they perceive holds the highest authority.

**Pandit**: a learned person.

**Pir**: spiritual guide, Sufi master.

**Qazi**: a judge.

**Qisas**: retribution or talion, a class of punishment that requires equivalent damage to the perpetrator; an eye for an eye. Those who are entitled to *qisas* have the option of receiving monetary compensation (*diyya*) or grant pardon to the perpetrator instead.

**Shalwar kameez**: baggy trousers worn under a long blouse or shirt

**Sunnah**: the normative example of the Prophet Muhammed, typically expressed in the form of reports relating to his teachings and conduct.

**Talaaq**: divorce.

**Taweez**: amulet with verses of the Quran inside.

**Ulama**: scholars of the Islamic Tradition.

**Vani**: girls, often minors, are given in marriage or servitude to an aggrieved family as compensation to end disputes (often caused by murder).

**Zamindar**: landholder.
Introduction:

Object of Study

Eisenstadt\textsuperscript{1} made the assumption that if underdeveloped areas or new nations were given the infrastructure of the nation-state, a transition from the traditional to the modern society would follow. Though, he himself recognized later on that his analysis was flawed by ethnocentrism, the assumption in general prevailed. There had to be a transition. What was being studied now were the bumps on the road. Why did the transition fail? In the case of Pakistan, much has been said about the causes of a delayed or failed democracy. This study is set on defining the political and social functions in Pakistan in order to find an answer to this much debated question.

Early social analysts, such as Ashis Nandy, sustained this faith and insisted that the process of modernization would proceed and local distortions would gradually be ironed out, and that the state would truly represent the interests of the majority of its citizens\textsuperscript{2}. Though he referred to India, numerous parallels can be drawn with Pakistan. The pre-colonial and colonial experience weighs heavily and equally on both countries that have been for ever one and only divided since 1947. In India, as well as in Pakistan, the state's capacity to realize the democratic principles and aspirations of the Constitution were chronically impaired by the power of other dominant groups. According to Sudipta Kaviraj, the anglicized state elite, left to rule by the British colonisers, began to seek alliances with pre-capitalist forces that imposed their own interests and became counter-effective to development projects and other capitalist interests they were pursuing\textsuperscript{3}. Further, the fact that on the lower level of bureaucracy those policies were reinterpreted beyond recognition\textsuperscript{4}, implied that the boundaries between state and society were permeable on all levels, and that the state-system was profoundly influenced by social forces\textsuperscript{5}. According to him, it was not that the state, in Weberian terms as a system of administration and legal order, was incompatible with the local knowledge and beliefs of authority and legitimacy, or that the state simply didn't exist, or was weak. The state as an idea and as an institution did exist, but it existed as an experience where knowledge about the

\textsuperscript{1} Eisenstadt.1964
\textsuperscript{2} Fuller and Harris.2001:6, citing Nandy, A. 1989:4 in “The political culture of the Indian state”. Daedalus 118, pp.1-26
\textsuperscript{3} Fuller and Harris.2001:8, citing Kaviraj, S.1984 in “On the crisis of Political institutions in India”. Contributions to Indian Sociology 18, pp.223-43
\textsuperscript{5} Fuller and Harris.2001:10
system allowed to successfully secure its own resources as well as the capacity to subvert 'official' procedures. To further quote Kaviraj⁶, the state's domination of Indian society was historically irreversible and all those everyday structures and bureaucratic procedures were now extremely familiar, to the point that the democratic discourse about government was at least as much modernist as traditionalist.

Partly as a result of their familiarity (and contempt that it may have bred), bureaucratic procedures can also be readily distorted and subverted by groups which demand their 'democratic' share of public resources (or more than it), and by individuals – mostly politicians and officials – who know how to work things to their personal advantage.⁷

Mosse's approach in “Irrigation and Statecraft in Zamindari South India,” is a step further away from the type of analysis that regards the state as the only possible institution at work. Considering the local values and history, he gives the example of water tanks being presented by the state as village resources to be efficiently managed by autonomous water user's associations. By doing this, Mosse says, the state ignores the fact that common property continues to be ruled rather than managed. “In pre-colonial and zamindari times, this domain – the tank, temple or threshing floor – was a point at which local authority, unequal access to resources and social hierarchy were validated by their connection with the state, expressed in the form of material or symbolic shares,” like, for example, the position one might hold on the stage in a village ceremony. What his ethnography shows is that, “Individual big-man have not been displaced or lost their capacity to control and redirect state resources, but have instead begun to pursue these aims through the control of new local institutions.” The water tanks were neglected because under the centralised state authority they failed to function as a resource of political authority. Instead, the 'tank users association' was able to deliver new linkages to external authority and access to material and political resources.⁹

Das and Poole position these inconsistencies with the state outside the state and they put forward the analytical concept of 'margins', “Sites of practice on which law and other state practices are colonized by other forms of regulation that emanate from the pressing needs of populations to secure political and economic survival.” This space is easier found in those countries where state, law, administration, and capitalism have taken over the mainstream activities but where part of the

⁷ Fuller and Harris.2001:25
⁹ Mosse. 2001:182
¹⁰ Mosse. 2001:184-5
¹¹ Das and Poole. 2004:8
population is still “insufficiently socialized into the law”\(^{12}\).

In this sense, one has to include Gupta's highly recognized *Blurred Boundaries: The Discourse of Corruption, the Culture of Politics, and the Imagined State*\(^{13}\). It is yet another attempt to compartmentalise modernity, an attempt very much shared by the Pakistani academia.

Keeping close to Mosse's analysis, is Nadeem Malik who demonstrates how the Pakistani government Devolution Plan 2000, meant to decentralise state administration and provide people at the local level with better services and opportunities for development, resulted, however, Malik laments, in landlords now occupying modern offices. Though the policy was reversed just after a year, the results were irreversible. With the landlords in power, democracy had no chance to reach the peasant population.

All of the above approaches seem to coincide with Kaviraj: that the state, in Weberian terms, as a system of administration and legal order, was compatible with the knowledge and beliefs of authority and legitimacy\(^{14}\), and this knowledge about the system allowed to subvert it. When asked why, the answer is for personal interests, corruption, bribery, survival. Though Malik, Mosse, and Gupta point in the right direction when addressing local forms of authority, they still draw boundaries between the local and the state, implying, in a way, the margins of the state.

Other theoretical attempts made in this direction with regards to Africa and South America are also worth considering. Arce and Long, for example, contemplate how modernity is 'reworked from within' by local actors who appropriated the symbols, practices and trappings associated with it, combining 'modern' with so called 'traditional' features\(^{15}\). Further, they suggest that the notion of 'modernity' and 'tradition' intersect and intertwine in the everyday encounters and experiences of the people. This idea is central to the understanding of the blending and juxtapositioning of elements of modernity and tradition in the creation of various modernities, or multiple modernities\(^{16}\). On this level, the focus is not on state or bureaucratic policies that are reinterpreted beyond recognition, but on how a new modernity is created through fusion. But this angle of analysis only allows us to understand how the different discourses and discursive practices interrelate or interface, stating the obvious, that there is no transition from traditional to modern as the evolutionist had hoped for. Or do we have to look at the field of rituals, as suggested by the Comaroffs, where the experimental practice, subversive poetics, creative tension and transformative action allow for new signs and

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\(^{12}\) Das and Poole. 2004:9
\(^{13}\) Gupta. 1995
\(^{15}\) Arce and Long. 2003:2
\(^{16}\) Eisenstadt. 2002
significance to emerge\textsuperscript{17}? Appealing as those theories are, and useful to describe the observable, we still need to define 'tradition' in the context of our research, and question if we can talk of 'fusion' at all. Maybe, the total opposite occurs, as Pierre Clastres claimed, that the rationality and forms of life proper to our non-modern ethnographic subjects are best understood as expressions of a collective desire to fend off the imminent emergence of the state\textsuperscript{18}. In our case, though, the state has existed in the Subcontinent for a long time, just not in the modern sense. As Weber pointed out, and it might still stand, only the West knows the state in the modern sense\textsuperscript{19}.

The approach proposed in this study, though innovative as it is, builds upon well established theoretical steppingstones. The idea is that the society of Pakistan can not be divided into local and traditional as opposed to state and modern. The study will show that there is a shared logic and rational that runs through the horizontal alliances of reciprocity and vertical alliances of patron/client relationships that are not marginal, nor local, but define the whole of society. The presence of Vindicatory justice, from the village \textit{panchayat} to the supreme courts, also based on reciprocity, further implies a collective perception of the people (not individual), and that the truth, as is the norm, and as is the authority, derive their legitimacy through a process linked to custom, and not through positive law. In this sense, we can establish that Pakistan can be described as a traditional \textit{Herrschaft}, fitting one of the three models of domination as defined by Max Weber. In addition, all the traits coincide with the construction of truth intrinsic to the Islamic Tradition, which explains its entrainment in custom and society. The theoretical framework to this preposition is therefore, Foucault's (1991) analysis of the construction of truth in post-Enlightenment Europe, Hamza Alavi's (1973) theory on primordial loyalties, the types of domination established by Max Weber (1985), the discursive tradition of Talal Asad (1993), Vindicatory justice defined by Ignasi Teradas (2020), and the Islamic Tradition (Calder 2006) as opposed to Islamism, which is, no doubt the modern version of Islam and build on different premises.

\textbf{Theoretical Framework}

\textbf{Hamza Alavi} proposes to take into account economic, kinship, political and social ties, in what he calls horizontal and vertical alignments, which don't rule each other out but are mediated in a complex process as "resources to be exploited\textsuperscript{20}". In this way, the individual "for whom words and

\begin{footnotesize}
\begin{enumerate}
\item[17] Comaroff, J. And Comaroff, J. 1993: xxix
\item[20] Alavi.1973:58
\end{enumerate}
\end{footnotesize}
actions have meaning\textsuperscript{21} is not eliminated - as in the holistic structural-functional analysis – but is inserted into a matrix. His theory of primordial loyalties, and the recognition of horizontal and vertical alliances, allow us to dispute, for once, the construction of the 'local' or 'margins' or 'blurred boundaries', admitting, instead, to extensive networks that range, mediate, negotiate, and influence far beyond any line that can be drawn to separate the state from the people. As the individual is inserted in a matrix, a web made of the horizontal alliances marked by reciprocity, and vertical alliances marked by cast and kinship, the concept of 'citizenship' also needs to be approached with a critical eyes.

\textbf{Foucault} described European post-Enlightenment knowledge as observable, categorizable, and examinable, capable of fabricating a specific form of power called discipline\textsuperscript{22}. The modern instructions of knowing, mastering, and examining, normalizing individuals, space, and time are not becoming to the kind of knowledge we will encounter here in this study which is rather interpretative, bound to the collective, flexible, produced through a process, bound to the past and shaped by authority.

\textbf{Talal Asad}: He brings forth the idea of 'discursive tradition'\textsuperscript{23}, a discourse that seeks to inform practitioners regarding the correct form and purpose of a given practice, relating to a past from where this knowledge was transmitted, to a future and how this practice can be best secured, and to a present, connecting with other practices, institutions, and social conditions. This conceptualization establishes a common denominator between liberalism and the ideology present in Pakistan, turning them both into discursive traditions and allowing us to leave evolutionist theories behind.

\textbf{Islamic Tradition}: By analysing the Islamic Tradition we establish how truth is build and how it is linked to authority, and how both are inseparably linked to the past. It is achieved by placing truth in the sphere of the divine and unobtainable by man, only approachable through interpretation, through a chain of scholars leading back in time. Interpretative truth becomes compatible with multiple other versions, as long as it follows the same methodology. This allows for flexibility without breaking the unity. At the same time, it becomes obvious that interpretative truth is incompatible with the idea of truth obtainable by man through nature, therefore incompatible with the post-Enlightenment ideology and understanding of truth. The divine, in Pakistan, remains sovereign, not the state, and positive law is just one of the multiple versions of law, adding another

\textsuperscript{21} Alavi. 1973:34
\textsuperscript{22} Foucault. 1991:194
\textsuperscript{23} Asad. 1986:14
impediment to the realisation and understanding of the nation-state.

Max Weber and the Traditional Herrschaft: Weber establishes three types of legitimate domination, or Soziologie der Herrschaften, each rechtsgründig - that have the right to rule or dominate - herby also making a distinction between power and domination. This study will only focus on the first two. The Legale Herrschaft (legal domination) sets itself apart from the Traditionelle Herrschaft (traditional domination) in that in the first it is law that is being obeyed, and those who need to be obeyed are legitimised through law, whereas, in the second type, obedience is given to a person that is intrinsically sanctified by custom: out of piety - as in respect or regard, and obedience is bound to tradition. Each type, Weber says, has a form of management, Verwaltungsstab und Verwaltungsmittel, of profoundly different underlying sociology. The first one is based on competence, specialized knowledge and contract, whereas the second type is based on loyalty and personal complaisance, be it from office holders, family, friends or other dependants like servants and clients.

In Pakistan, caste and kinship ties, or primordial loyalties, have remained throughout the centuries the basis for social organization and legitimacy. It will be established that it is the kind of traditional Herrschaft that will allow for the empirical reality we have here to be ordered intellectually in a valid manner. And as legitimacy is traced backwards in time it connects with what we have established with the Islamic Tradition, herewith, connecting past, with authority, with legitimacy, with truth, and with custom, and custom with honourable and what is right, defining in more detail the Soziologie in Pakistan which in turn defines its social and political functions.

Vindicatory Justice: It is defined by Terradas as the most ancient form of justice, a system in itself, with its own logic and an all encompassing model of social repair, acknowledged collectively and reciprocated collectively. It is a process which is concerned with the repair, compensation and reconciliation, and dependent on the consent of the whole community. As its main concern is social continuity, the 'how' of the process is an expression of society itself, of its knowledge and understanding of legitimacy, which in turn shapes the political and social functions, its hierarchy and its authority.

26 Weber. 1985: 475
27 Alavi. 1973
29 Terradas. 2019: 25. The author refers to Tacito who discovered this trait of composition amongst the Germanic tribes and translated it as vindicare, as in, claiming injury or loss, similar to what the Romans knew as Sacramento actio.
At the very heart of this kind of justice is the fact that the offence is perceived as a social matter and that the process, that follows to repair the damage done to the concerned social part, will bring forward the norm that has been disregarded causing the offence in the first place. It is not a law imposed upon a crime but a norm that evolves out of the process meant to repair the offended party and procure the continuity of social relations. The norm is not 'applied' upon the situation but emerges out of it\(^{30}\), which is very different to positive law and crucial to define the social and political functions in Pakistan.

**Methodology**

The methodology employed for this study is based on Goffman's methodology of theatrical performance that looks “at the kind of social life that is organised within the physical confines of a building or plant”\(^{31}\). Within the context of a situation, the actors are framed in an observable space where their attempts to establish or re-establish normality can be noted. Though, a seemingly micro social approach, Goffman's realisation that the performance carries the ideals most valued by its members celebrated in everyday's life, establishes an uninterrupted flow of meaning between the micro and the macro level. Also, the balance Goffman finds between the social restrictions and the actors individual intentions, falls into place with the matrix the individual is inserted into according to Hamza Alavi, or the man 'suspended in webs of significance he himself has spun' of Max Weber\(^{32}\), and therefore suited for this study.

By using this methodological platform, the acquaintance with normality is basically demanded. However, in a country declared to be the Islamic Republic of Pakistan the experience I was gaining was marked by an ever growing gap between what people 'say' and 'do', turning normality into a sea of contradictions where I was drowning. In this sense, it was the methodology that determined the need of an ethnography capable of unmasking a reality in disguise; capable of allowing me to 'find my feet'\(^{33}\), through an ongoing conversation filled with critical considerations about matters as trivial as a 'wink'\(^{34}\) or as far reaching as the political formula\(^{35}\), leading the way to a general, yet profound, understanding of normality as perceived by the people in Pakistan.

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30 Terradas. 2019:19
31 Goffman. 1956: Preface
32 As cited by Geertz. 1973: 5
34 Geertz. 1973: 6, referring to Gilbert Ryle's 'thick description'
35 Mosca, Gaetano. 1939
**Ethnography**

The ethnography was collected through participant observation, though it can be more accurately described as just observation. For one to participate the normal has to be understood. I didn't, I only copied what others were doing, and I didn't do very well at first. It was not until I understood what normal was that I could imitate it. But even now, my understanding of normality does not allow me to perceive their normality as mine, starting by the fact that I can not be hierarchical superior or inferior. Living in Lahore the last three years included living with family and friends, social gathering, conversing with clerics, watching and listening to judges, reading about politicians, and eventually also talking to them, reading, learning, and teaching, asking and observing again.

There is no one case study as such. The ethnographic task has been directed towards understand normality in any context and beyond any specific social sphere. A brief example is given here to be more specific (as the methodology and ethnography will be made clearer from chapter one onwards). As Geertz refers to the experience of the wink, I shall use the example of the silence: when in social gatherings, vivid as they may seem, serving tea, people coming and going, jokes and songs, poetry and anecdotes, one always comes across the odd moment of silence. I say 'odd' because I perceived it as uncomfortable, sometimes as long as half a minute, and as such I tried to fill it, keep the conversation going, talk about the weather, change the subject, anything. How embarrassing it was when I realised that silence is meant to reinstate authority and visualize hierarchy. The silence acknowledges the head of the gathering by allowing him to be the guide of the conversation, either by continuing the discussion, or asking for tea, offering food, or simply saying that it is time to go. Me jumping into those moments of silence, offering further conversation, was seen by them that I felt I was the head of the gathering, which was welcome when talking to my students, but met with discomfort when in the presence of others who were older or of a higher rank than me. This example alone, shows how a simple gesture of silence is connected to the highest ideals of society, the centrality of hierarchy and its force in shaping social interaction. The journey of the anthropologist is to find those connections, through study and experience, which also includes relying on ethnographies collected by other sources, partly to argue against them, partly to support them. In my case, the journey has been long, eventful, and in hindsight, balanced. From the initial sensation of utter chaos and perceiving myself painfully as an outsider, I gradually managed to find answers, guide my perception, and increase my understanding. In this interplay from observation to theory and from the concrete to the general, a process emerged, that was not only essential to understanding how conflict is solved, but ultimately to understand the social and political functions in Pakistan.

I believe 'interpretation' is the most accurate concept for the work of an anthropologist, but
understood in an active way, involving intense learning, always out to find an explanation that makes sense beyond a particular situation, fitting in the overall order one tries to envisage. The reason, for example, I became interested in the molvis was because of their bad name and yet, the call for prayers, announcements of death and funerals, sermons and admonishments, all launched into the sky through amplifying speakers from the top of the mosques' roof, achieving an intrusive presence at all hours, was considered normal. There was something about them that gave them the right to do so, and not only that, it was felt necessary. It didn't matter how overpowered the speakers were or how shrill their voices, their call was welcome, and I had no explanation for that. Neither the reading material nor the people I asked could give me a positive answer. It was regarded as something that just is, or that molvis were just idiots. Which is like the people in Spain considering politicians idiots, and yet there they are. It is not a valid answer. The answer came to me only by the end of this study, through a completely different line of approach that explained the overall order, and only then I was able to explain the role of the 'molvis' and the authority they wield. My interest in the judges can really only be explained after I read a Court Report, and I would have never realized the information it contained had I not been aware of the Islamic tradition. The importance of Goffman's methodology surrounding 'normality' and the need to find an overall order, is often undervalued in favour of concrete case studies. But the concrete is only valuable if it can lead to the overall; observations, conversations, incidents, readings, and ordinary everyday experiences, have to be seeped, like sand for gold, gold being the right questions. It is not, why do people not mind molvis screaming into the blue sky, but what happens when they do so, what exactly happens when their voices flare up and their thunder fills the air? Why does this not happen in Istanbul, for example? Why are politicians in Pakistan so dismissive of molvis, but not a single law is issued against the speakers? There is no specific technique to obtain an answer, most certainly not asking the question directly. It is an intellectual effort that explores the micro level and envisages a possible macro level and then fine tunes them with time and patience, till they are on the same frequency.

The Hypothesis

The political and social functions in Pakistan are defined by the Soziologie of the traditional Herrschaft, with a legitimacy and an authority anchored in the past, fundamentally opposed to the legal Herrschaft with its legitimacy linked to law and a sovereignty placed in the nation-state. The presence of Vindicatory justice in Pakistan, based on reciprocity and collective consent, with no basic divides between the moral, the legal, the political, the religious or the social, further define the political and social functions, within their own logic and rational, as a collective process that produces the norm, contrasting with societies of codified law.
Maps and Charts:

Without going into detail explaining each chart and map, which would be futile with regards to the purpose of this study and everything that will be said here, it has been added as a necessary reference for the reader unfamiliar with the official government and judiciary. With regards to the ethnic differences, I am very much aware of them. Having worked at a Government College University Lahore where students are selected from the top lists of all provinces, I was fortunate enough to have in my class not only Punjabis, but also Pushhtuns, Baluchis and Sindhis. Though, proud of the customs that differentiated them, they displayed a solid common understanding of caste and kinship and a knowledge that didn't differentiate between moral, religious, legal, political or social.

Though the chart shows Pakistan as a federal republic and a parliamentary democracy, this is precisely what will be debated here, as with the judiciary. Rather than explaining how the government or justice should work, according to their post-Enlightenment heritage and colonial transference, the social and political organizations in Pakistan will be explained in their actual functioning.
Chapter One: From the Beginning

The Ethnographic Experience, Theory, and Methodology, in detail

From the beginning, my research gravitated around the paradox of Pakistani modernity. I arrived in Lahore in 1995 with a scholarship from the Generalitat de Catalunya to fund my six month PhD field trip, which ended three years later, my notes and books lost in the monsoon floods, and still no answer to my main question: How could men from the political and industrial elite function in a global market and, at the very same time, be committed to the traditions of their families and community?

Pakistan had existed as an independent nation-state for nearly half a century by then, yet the social disparity that surrounded me didn't seem to diminish. I hadn't seen the whole country, but I travelled enough to realise that the hundred and sixty million people were comprised of the very poor and the very rich, and nothing resembled even closely the modern world I came from. The electric cables criss-crossed the city roofs, roads riddled with potholes, dust and mud, shops small and open like market stalls, and towns of local industry and dingy workshops spilling over hundreds of thousands of square kilometres of fertile land, hiding large deposits of rich minerals\(^{36}\). Endless fields that harvested not once but two or three times a year; endless rivers, endless mountains, endless jungles, and even in the cities, no piece of land that didn't go green after the rains. The colour green of a Muslim country ruled by an oligarchy of army, bureaucrats, and landlords, holding an outward hand for loans in exchange for progress, and an inward smile that acknowledged that neither heaven nor earth is ever going to change. From an Anglicised elite that was left behind by the British Raj, to a new generation of Pakistanis, government and constitution was done and undone, while the people stood by, sometimes in fear, sometimes in tears, but always supporting their rulers, no matter who they were because they were always part of them. What once had been part of Hindustan was now a nation with a religious identity, but still holding its uncategorizable variety of old ways.

Early on a puzzled Eisenstadt recognised that,

\[\text{The optimism which guided many of the studies of underdeveloped areas or new nations, and which assumed that these countries were advancing -- even if slowly and intermittently -- towards full-}\]

\(^{36}\) Syed. 2018. The country has the world’s second largest salt mines and fifth largest copper and gold reserves, and second largest coal deposits, as well as estimated billions of barrels of crude oil.
fledged modernization and continuous growth, has lately given way to a much more cautious and even pessimistic view. This pessimism has been mainly due to the fact that in many new nations, where initially modern frameworks were established in different institutional fields, especially in the political one, the progress towards modernization was not only slow, but also these constitutional regimes faltered giving way, in their place, to various autocratic and authoritarian or semi-authoritarian regimes. Indonesia Pakistan, Burma and Sudan are perhaps the most important recent examples of this trend.\textsuperscript{37}

The liberal gaze flinched with disappointment. Development seemed to have triggered poverty, finding it rather than replacing it. And the reason was quite too obvious to me. There was a resistance hiding under a dominant discourse that was irritating to those who wanted change, to those who could actually visualize what modernity was, and see no trace of it in Pakistan. I remember sitting one night with a group of young politicians, one member of the senate, and the heir to a fan factory, discussing politics, civil rights and education when, days later, they were all roaring and dancing because Pakistan had responded to India's nuclear test. During the day the roads had been taken over by the army and the tanks were rolling through the streets. The people remained indoors, praying for the success of the explosion of 5 atomic bombs in the Chagai hills of Baluchistan. In the evening, billions of dollars blown into thin air while a frenetic crowd was praising the Almighty, cheering the army, and repeating the words of the late Prime Minister Bhutto who had once said, “we will eat grass and leaves for a thousand years, even go hungry,” to have the atomic bomb. I left shortly after that and was already back in London when the Prime Minister Nawaz Shariff was ousted out of power in a military coup headed by General Pervez Musharraf.

In what followed, I wasn't able to reconcile my faith in progress and education with all I had seen and witnessed. In addition to that, my then supervisor tried to link the argument with Victorian values that had been imbibed during Colonial rule and were now too deeply rooted to let progress pass. This concept of 'stuck in time' was only beginning to be contested by the academia while fighting the liberal discourse that was increasingly focusing on the 'incapacity' of Islamic countries to embrace democracy, but I never got the chance to read any of it. My daughter was born a day before 9/11 and it would take me sixteen years to return to Pakistan and nearly as much before returning to University (UB) and read the likes of Talal Asad or Escobar. I then realised that in my absence Ethnocentrism had been named and shamed, and that new literature and research was giving me a second chance.

In 2016, 'the city of gardens' that Lahore had once been, was now drowned in traffic and

\textsuperscript{37} Eisenstadt. 1964: 345
cement, pierced by barbed wires, underpasses and flyovers slicing through its history, with endless security posts, and a permanently polluted sky. The fight against terrorism and the eagerness of successive governments to stamp the city with the grey cement of modernity, had made a violent impact. The fear of bombs, 2,545 victims in nine years, was faced by thousands of soldiers and policemen, checking car boots, handbags and running their metal detectors at every school, office or house entrance that could afford to pay them (more drastic measures were employed by the army and the intelligence services). The Kalashnikov culture was now wearing bullet proved vests and foreign multinationals had abandoned Mall Road in favour of glass buildings on Main Boulevard. Liberty Market had outgrown itself into a gallery for the rich where even the poor wore shoes.

But despite the misery, the war, the growing population, fifty million more than when I left, the people hadn't changed. They were still exactly the same, and I soon learned to find the hidden gardens, look past the armed fences, and enjoy the closeness of my friends I had missed so much. Somehow, in a yet inexplicable way, I was still considered part of their lives. Who, years ago, had been just a history teacher at Government College was now the Dean of the Department, and Government College had turned into a semi-privatized University, known now as Government College University Lahore (GCU).

Build in 1877 in the Indo-Gothic style preferred by the British architects during the 19th century for all government buildings, the university is a solid legacy of the past. Tahir Kamran, who appears on
the second picture, welcomed me back with open arms, and I spend 6 weeks in his office just listening and observing everything that was going on. Besides the embarrassment of being considered an intruding observer with no business, I was able to lay the basis for a completely new approach to the presence of modernity. Within this short time frame, I witnessed an administrative procedure that made me question the apparent willingness of progress everybody so emphatically expressed. The High Commission of Education delivered a manual\textsuperscript{38} that was to be implemented immediately. It was a photocopied dossier laying down a method of evaluation, not only for students, but also for teachers, teaching programs, facilities, research, and most of all, admission and examination, pointing out the need of quality assurance and merit. It laid out a very detailed hierarchical and bureaucratic process while, at the same time, aiming at fair assessment. In less than 10 days teachers and students, strictly following the instructions of acting through committees and sub-committees, filled several plastic bags with favourable assessment sheets for teachers, students, and teaching in general, and the matter was closed. What I had envisaged as a long process that would change teaching and learning, measuring and evaluating, ultimately, only reinforced the already existing system. What I witnessed and observed was not the 'incapacity' to change but the 'ability' to preserve, a very significant difference that would put my initial research on its head\textsuperscript{39}.

The fact that I was able to make those observations was because I was aware of my desire to see education linked to merit, research, and new methodologies; because I thought it was better than what they were doing before. I realized, it was me who thought they were doing something wrong and judging them for not taking the chance the dossier was offering them. I was the only person in that room seeing it that way. I had been brought up in Germany; work, merit, efficiency, discipline and punctuality validated me, but it was not something that validated them. As an anthropologist, I wasn't required to think like them, to be them, but I had to be able to observe outside my box, drop my moral contents, take off the lens that evaluated them, and narrow down my observations to the 'how', leaving the 'why' for later. Doing this is not an easy process and involves the courage to admit to the possibility of observing people who are not doing things 'wrong' but 'different' and sadly, for us brought up in the West, 'different' has always meant 'less well' if not 'totally wrong'. Only when the observer doesn't feel the need 'to help' anymore, he or she has the chance to focus on the 'how' properly, with no moral distortion.

The tool for a neutral observation has been, for me, Goffman's theatrical performance methodology\textsuperscript{40}, that allows to observe how the individual presents himself and his activities to

\textsuperscript{39} In this sense, one should remember Tomasi de Lampedusa's famous, “Se vogliamo che tutto rimanga come è, bisogna che tutto cambi.”
\textsuperscript{40} Goffman. 1956: Preface
others within a framed environment, like the office of the Dean. Such a space, according to Goffman, is filled with signs that inform the actors of what they may and may not do, and informs everybody involved of the appropriateness of the performance. 'Normality' can be filtered from the actors performance, rather than from the observer's own perception or understanding of 'normality', focusing on what they are agreeing on, what are disturbing incidents, and by whom and how they are corrected; what makes them uncomfortable; what makes them happy; what is praised, and what is dismissed. Those small gestures, Goffman recognized, are part of an ongoing process of social interaction that celebrates its ideals and everything they are making out to be, beyond the individual himself: “Thus, when the individual presents himself before others, his performance will tend to incorporate and exemplify the officially accredited values of the society, more so, in fact, than does his behaviour as a whole.41” The individual finds himself in a space that is already organised by existing rules and conventions, with a shared understanding of what is normal, in a dimension that connects the micro with the macro level, a dimension that connects the ideals of society with the smallest of gestures, like a crinkled smile of disapproval. In Jenkins words:

The individual does not have to be perpetually re-negotiated or re-invented anew every time face-to-face dealings takes place. There is an established, and generally taken-for-granted, solidarity to the human world as it is routinely encountered by participants in everyday life as normality, as 'how things are'. There is considerable stability, there is even order. Situations are generally likely to be framed by existing local – and supralocal – histories and staged within existing rules and conventions that are, at least in part, shared by other protagonists. Individual actors are also likely to develop their own routines, as they engage in recurrent interactions with the same people. Procedural forms – are not only unavoidable, they are actually necessary, if the face-to-face business of the interaction order is to be possible42.

Far from diminishing the individual as a being inserted in a structure that controls the individual, this method also allows to look at the individual and his ability to influence the situation in his favour. In her article43, Roger approaches Goffman's dramaturgical framework to point out that there is a rather far reaching commentary on power based on intentionality. It is in his “consistent, explicit attention to the role of intentionality” that the individual becomes a bearer of power.

Thus, when an individual appears in the presence of others, there will usually be some reason for him

41 Goffman.1956: 23
42 Jenkins. 2008: 162
43 Roger. 1977
to mobilize his activity so that it will convey an impression to others which it is in his interest to convey.\footnote{Goffman. 1956: 3}

According to Rogers, intentionality involves a goal-orientedness which rests on the actors capacity to assess and manipulate each other, turning social life into a field of strategic and non-strategic interaction\footnote{Roger. 1977: 88}. Though Goffman never provides an explicit definition of power, he uses the term to refer to the capacity or potential to act effectively in social situations\footnote{Rogers. 1977: 91 citing Goffman.1967, \textit{Interaction Ritual}. Garden City: Anchor}. Power is a resource that can be instrumental, like the position one holds, or it can be a skill, like character, composure and knowledge, but it is also access, as in ‘...he must be there in flesh if the moment is to be his at all\footnote{Rogers. 1977: 92},’ but most of all, and that gives him a transcendence over most conceptualisations of power, it is the ability to apply sanctions and exercise control.\footnote{Goffman. 1956: 4} The performance of the Dean was important, because he was the Dean but also because he acted in a way that earned him a response from his staff. His words and gestures had an impact on how action was taken. I could see 'how' they shared a common understanding and a common goal. They responded to him because he had the right to expect a response from them, beyond any regulations, based, what seemed to me, on moral grounds\footnote{Rogers. 1977: 91 citing Goffman.1967, \textit{Interaction Ritual}. Garden City: Anchor}. They knew something I didn't know. Their understanding was not overlapping with mine. But can we talk of overlapping at all? Shall we say, commensurable, translatable, or synthesizable? From a theoretical point of view, I tried to connect it with studies that dealt with modernity in post-colonial states where bureaucratic policies were reinterpreted beyond recognition\footnote{Fuller and Harris. 2001: 9 citing Kaviraj, S. 1991 in “On state, society and discourse in India” in J.Manor, \textit{Rethinking third world politics}, pp. 72-99. London: Longman.}. Some implied that the boundaries between state and society were permeable on all levels, and that the state-system was profoundly influenced by social forces\footnote{Fuller and Harris. 2001: 10}. In those lines, important field research has been made in India, as well as in Pakistan, that have resonated with my ethnographic experience. Nothing indicates that the differences between the 'old ways' and the modern state will eventually be ironed out. Generation after generation, the state resembles less a system of administrative and legal order, which claims binding authority, not only over the members of the state, the citizens, but also over the actions that take place in the area of jurisdiction\footnote{Fuller and Harris. 2001: 1 citing Weber, M. in \textit{The theory of economic and social organization}. 1964. New York: Free Press}. it resembles
less the distant and silent guarantor of justice and order, and more a captured, entity. But it was not the Dean or the History Department that had captured a bureaucratic procedure and deformed it beyond recognition; the bureaucratic policy was never intended to be carried out the way I expected it. It was intended to end up in plastic bags. How do I know this? Because it was discussed in the Dean's office. One of the teachers had been terribly furious about the hypocrisy of it all, dangling a program of innovative guidelines in front of their noses whilst no funds were made available. From my perspective, the changes could have been made despite that, but for everybody else his point of view was just a different wording for 'it can't be done'. Nothing was being deformed. The meaning of the dossier had been clear from the beginning. It was only me who could not see it.

Another theoretical approach creates a new space: the margins of the state. This space is easier found in those countries where state, law, administration, and capitalism have taken over the mainstream activities but where part of the population is still “insufficiently socialized into the law”\(^53\). In Pakistan, however, we find contradictions with modernity at the very core of its political and social functions. Government College Lahore University is one of the most valued educational institution and prides itself for preparing students for the Civil Service examination with a high rate of success. They are not at the margins of the State, on the contrary, they stand at the very centre of the system, HEC included. From the Chief High Commissioner, to the Vice Chancellor, to the Dean, down to professors and teacher, all have government pay slips and none of them felt either outside the realm of the state or in a void of state power. I could, however, observe the urgency of the matter in the meetings that followed the arrival of the dossier; like “the pressing need to secure political and economic survival,” which is how Das and Poole describe the motives of those who find themselves in the margins of the state\(^54\). So what was threatening their survival?

As I advanced, the ethnographic experience made me consider the kind of European knowledge Foucault described as observable, categorizable, and examinable, that fabricated a specific form of power he calls discipline\(^55\), as a possible threat. Was there an alternative form of knowledge that fabricated a different kind of power that felt threatened and needed to be protected? Should we consider the dossier a 'polluted' policy that needed to be discarded? Were the instructions of knowing, mastering, and examining, aiming at normalizing individuals and making them compatible to a power that was unacceptable, repulsive, or even so sacrilegious that they didn't even deserve a folder? Was it a cleansing ritual?

A year later, I returned on a more permanent basis, accepting a job at GCUL, renting my own flat and getting a car. Inserting myself into teaching was going to be as important an experience

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53 Das and Poole. 2004: 9
54 Das and Poole. 2004: 8
55 Foucault. 1991:194
as inserting myself into traffic. Both contributed to reinforce the realization of an existing kind of order I was not part of. The assumption that a traffic light is a traffic light, the same for everybody in the world, is correct. But the assumption that the response to that traffic light is the same everywhere in the world, is not correct. The same goes for the white stripes on the road that are meant, in my understanding, to keep traffic in queues. But here, I observed that the denser the traffic the more those lines, or the response to those lines, disappeared. On heavy traffic tracks, a two lane road turned into a four or five lane road. This, I was able to assimilate, and I learned to squeeze my car through gaps I never realized had existed before. But it was not all about pushing and squeezing. Anybody who has visited India or Pakistan, knows that the streets don't belong only to cars or motorcycles, but to people, donkey charts, overloaded vans and trucks, six or seven member families on one motorbike, man-pushed charts with dry fruit or vegetables, 4x4s the size of tanks, and rickshaws in all forms or shapes. Young or old, fast or slow, nobody who would pass the risk assessment of an insurance company. I believe this is one of my best pictures.

The road belonged to all, any spot of the road could be a zebra crossing, and anybody or anything could be a speed limit. If somebody decided to cross five lanes horizontally to avoid missing the right exit, it was accepted, maybe with a bit of tutting and honking, but traffic didn't stop because of
this, on the contrary. The traffic of a ten million people was flowing, and I was part of it. I soon realized, I was part of it for how I was able to respond. I didn't reason the way I drove but I learned, observed, and copied, not because this is the person I am, but because it was the only possible way to survive in the traffic. Using the indicator before turning is a plus, but if people don't, it's ok, too. That was something I found impossible to accept, however, I learned to drive expecting any element in my vision to make unannounced changes of direction or speed. I learned that the reduction of speed was often associated with the fact that the driver was taking a call or texting. The outrage I experienced was phenomenal, however, I soon challenged myself to text and drive myself. I could be part of it only if I let my reasoning process out. I could only function within by copying but not through understanding or reason. In a way, one can say, I borrowed responses to survive in given circumstances, but they didn't belong to the order all my other responses were connected to. What I did realize was that an old man on a bicycle or a baby dangling from his mothers arms on a motorcycle, or children driving a donkey cart, could make hundreds of cars slow down. There was no outrage against risk or traffic regulations, but concern, the type of moral concern that could make drivers pushing and squeezing for the extra mile, stop in their tracks and patiently let way.

On the other hand, inserting myself in teaching at GCUL was the most gratifying, soothing and invigorating experiences of all my field research. Of course, I love teaching, but it wasn't because of this, because students didn't do as I say, I have to admit. But they accepted me. I was a teacher and they were my students. It was the only space of social interaction where I was an insider, where I had a role that was part of a whole and I was able to participate and interact as what I really was. It
compensated for the depressing role of the observer I had to carry out all the other times. But I still didn't share the same kind of knowledge. This was made particularly clear to me when writing essays. The first essays I collected were unreadable, and through all four semesters I taught MA and MPhil students, essays remained unreadable. I tried my very best to explain how to structure an essay, how to express a main thought and develop the thought in subsequent paragraphs. To no avail. The essays students wrote seemed to go back and fourth and round in circles. It seemed to have one idea, and it was expressed again and again with different wordings, even with different meanings.

I shall mention one more event that made me realize I knew very little about my student's way of thinking: After the first semester, I had passed all my students except one because of his absence, no coursework, and a very poor performance in the final exam. The day the results were pinned in the hallway, the students surrounded me after class and begged me to raise this student's grade. They did it with love and respect and giving me many reasons why he deserved to pass: that he had a job, that he was married, that he needed to get his MA, that his English was poor, and that he was a good person respected by all. I gave in. My mind told me to go with the flow, the same as with the traffic. Without knowing, and against my reason, I had made the right decision. There was an understanding of evaluating people that was not measurable in terms of grades. His right to pass was regarded as a moral issue, a morale connected to an order of things I was yet to understand, but needed to follow.

I have laid out experiences that allowed me later on, when I looked into the concepts of legitimacy and knowledge, realise they meant something different here in Pakistan. It was not just some literary form or traditional social understanding, but profoundly rooted into their daily life and of major importance in their social interaction. The following year, I read about Islam, religious sects, and the development of the Islamic tradition. It was the latter that opened my mind to the possibility that there was a complete different process of construction of knowledge here at stake. It wasn't Islamic knowledge, not in the sense that one would expect, accompanied by a language with Arab or Islamic signs. It was contained in the language but only recognizable when the logic of its construction is understood. The concept of legitimacy was tied into this construction of this knowledge but it wasn't until I read about Weber's types of *Herrschaft* that I was able to discern what defined legitimacy in Pakistan, and how exactly it was linked into the construction of knowledge.

In November 2018, Asia Bibi was acquitted of blasphemy charges. The same day the country was taken over by men who felt that the offence she had committed ten years ago needed to
be repaired. The lack of this retribution unbalanced and outraged them and they set up road blocks, burned tyres, and waited, with hardly any food or water, for negotiations with the government to bring forward an alternative solution. During those days, battles were fought on social media between those who defended human rights and advocated for a secular state where this 'barbarity' should be eliminated once and for all, and those who reiterated the voice of those who were on the streets and their political ambitious leaders, who demanded her execution. The Government however, together with the army, remained put. Only the the road block to the airport in Lahore was flushed away by police and powerful hoses. After three days an agreement was reached and protesters went back home. An appeal at the Supreme Court was going to be allowed and Asia Bibi was to remain in custody till the end of the trial. Weeks later, the revision of the courts decision finally led to her release. The key to this outcome lay in the Court Report itself that addressed a sense of justice and authority everybody was familiar with. The arguments were constructed with the logic capable of harvesting the general consent that was required. This only became apparent to me because by then I had understood that I was dealing with a different construction of knowledge, which entailed a different understanding of legitimacy and authority, and justice. Had I not been aware of this fact, I just would have seen an ordinary court report written by a judge very inclined to literacy. The Court Report was a living example of how authority and truth and legitimacy are build in the Islamic Tradition. It had all the necessary elements. What did throw me off balance, though, was the fact that his voice, which echoed the popular understanding, was spoken from the pulpit of the state itself, defending state's authority and Statutory Laws:

It is worth mentioning that it is a matter of great pride and satisfaction that we are governed by a written Constitution and Statutory Laws. The Constitution, as per Article 4 thereof mandates that “to enjoy the protection of law and to be treated in accordance with the law is an inalienable right of every citizen, wherever he may be, and of every other person for the time being within Pakistan. In particular (a) no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law (b) no person shall be prevented from or be hindered in doing that which is not prohibited by law; and no person shall be compelled to do that which the law does not require him to do”. As per Article 37 of the Constitution, it is the duty of the State to ensure that justice is dispensed inexpensively and expeditiously to the People of Pakistan 56.

I left Lahore in February 2019 but returned in October for two month. During this time Nawaz Sharif, who had been removed from office by the Supreme Court in 2017 (his third time he

56 Court Report 1, page 13 section 15
was ousted as Prime Minister), and in 2018 disqualifies to hold any public office, and sentenced to ten years of prison for corruption in connection with the Panama Papers, was now released by the Supreme Court, on grounds of health problems, and allowed to go to London for better medical care. Though a Board was established to verify the medical records and a surety bond of 34 million pounds was demanded as guaranty, a healthy man was now running the opposition from his London flat. Again, I seemed to be the only person around who had a problem understanding. Somehow, my expectations were kept high by the fact that Imran Khan was the Prime Minister and I expected the back and forth between Bhutto's and Nawas' party had come to end. I had learned so much and yet wasn't able to predict anything yet. But the missing pieces to the puzzle were close and they were all related to the panchayat57.

During the years I spend in Lahore, I had heard people talk about the panchayats and I had formed a mental image of village elders deciding about local matters with the kind of authority I had witnessed among families, where the decision of the elder, parents or grandparents, are not disputed or questioned. Despite several conversations I had with the purpose of gathering information about the panchayat, I had not been able to picture it beyond a judge, a panel, and a culprit. Everything I was told was being filtered to match the one concept of justice I could understand. I was told panchayat comes from the number panch (five), those are the amount of village elders that form the panel. I was also told that it is a village thing, something people only do when they are too 'uneducated' to go to court, too far away, or too poor; like a local remedy. Then again, local remedies survive because they work.

Further, I read Antiquity, Custom, and Power in Eighteenth-century India58, where Guha describes the multiplicity of legal authorities, and also how antiquity was the source of right, and how honour was connected to right. I then related these aspects with what I had learned so far from the Islamic Tradition, and the construction of authority and truth. I considered the possibility of connecting justice with knowledge, power, authority, and legitimacy. If the Islamic Tradition was present in a state document so important as the Supreme Court Judge's report, why would I not find traces of a panchayat, too?

I spend several weeks wondering through the Lower, Higher and finally also a session at the Supreme Courts, and I was overtaken by the experience. It was like being in traffic, it was like being at GCUL, it was like being with the family during their many and populated gathering. The main traits and elements were the same. It was like looking at a different painting but from the same

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57 Nasir at al. 2015:1591. “Panchayat system has been operational as the lowest administrative unit since pre-partition ancient medieval times. It has been an influential tool for bringing justice to the local communities, as a conflict resolution body for village level disputes and to systematize social, cultural and religious activity.”

58 Guha.2013:15
artist. What in the West was clean, sterile, silent, rigid, and very much focused on mechanic individual roles played out neatly, here, in the courts of Lahore, was, no doubt, also people playing their roles, acknowledging the power of the courts, their immeasurable power of deciding over people's lives and properties, but there were no individuals, there were groups, two or three lawyers, sometimes six or seven, three or four clerks sitting next to the judge, cables running haywire, no contained files but heaps of paper pouring over one another, paint peeling from the walls, mould stains, and newspaper pages taped over the office windows going yellow. There was a motion of negotiation that seemed to circulate like a growing tornado with the purpose of involving more and more people that were being gathered from all corners of the buildings. There always seemed somebody's something missing: a statement, a phone number, a signature. It was less about stamps and papers, and more about those who stamped and signed, and agreed, and were not convinced, and later, gave in. There were the little gestures, like the crinkled smile, moments of silence, hushing and whispering, shoulders dropping, heads bending, that went like electrical currents all the way from the micro social level to feed the macro level, to energize it, to renew it, or to deplete it.

It had become a matter of precedence now to be able to participate in a panchayat. It somehow had to be connected with what I was witnessing in the courts, and it had to do with people, all those people. But weeks passed and people seemed to want to talk me away from the panchayat. What had been described as something normal, and of common practice, became, upon my insistence to actually be part of it, something not worth witnessing, something for the poor and uneducated. People even went so far as making fun of me to make sure I stayed away. But there was one person who talked, and he told me everything.
Chapter Two:
The Building Stones of Society

Vindictory Justice

My final hope was pinned on getting access to a panchayat. I was sitting in my favourite coffee shop off Main Boulevard, asking the person who had proven to be my main, and most valuable, informant, more pressingly than ever before, to see if he could gain me access. Like everybody else, he had said, a month ago, it would be no problem, but now, he reverted, like everybody else had, saying that there was no way I would be able to sit in a panchayat and, “Anyhow, it was not really worth it.” When I pressed him further, reminding him he had been called to panchayats many times, he said, “Yes”. “So tell me, give me an example,” I urged him. He bend his head down realizing that there was no way out, that this was the most important thing for me, and that I wasn't going to let go, and he started to talk:

This is a murder case. It had happened 4 years previous to the events that took place I am going to tell you about now. The boy had been sentenced to the gallows by the High Court and now the appeal was pending at the Supreme Court. The father of the boy and a member of the Union Council who was a lawyer, approached me saying that they will do anything I say. I was the Nazim of Gujrat then59. I told them that 'You should go to his family and ask for forgiveness' (to the family whose boy his son had murdered). This is done to 'cool off'. The old man did as he was told and he and other male members of his family approached the other family's house and begged to be forgiven, but they were rejected. That was to be expected. Then I told him, 'The women have to go now', and they did. They threw their dupattas on the ground and said, 'Here is our respect, at your feet'. They were also rejected. Then the cousin of the boy who had been killed, approached me with a group of relatives and said, 'I will go along with what ever is decided but don't interfere in the Court proceedings'. On the other hand, the brother of the murderer had been seen carrying arms and displaying provocative behaviour. He acted like he was not sorry and not ashamed. I was worried it could end up in another act of violence. I had given him a job some time ago and he was indebted to me and thankful. I told him, 'It is my decision that you leave the village, the whole family', and the family did as I said. They had a small house, maybe 3 rooms and some land, far less well off than the victim's family, who had

59 During the time my informant was Nazim (executive mayor) of the district of Gujrat, the government of General Musharraf had launched the Devolution 2000 policy, decentralizing state administration and giving more independence to the local governments. A new local government system was established by dismantling the national and provincial parliament (though it was subsequently re-instituted in 2003), meant to empower the locals and allowing, for example, the Nazim to decide over criminal cases.
a very big house in the same village, a lot of land, and money coming from abroad. Though they left, they were angry at me, they said it was 'Because we are poor that we are the ones who have to leave', but I did it for things to calm down. Then the appeal at the Supreme Court was rejected. Six or seven month had passed since the father had come to see me. Now it was time to act. The initial meetings brought forward that the injured family wanted the house and land of the offender to be sold and the money given to them. That the family should never come back. Then they would pardon them. I told them that that was not going to happen and that I had the possibility of asking a presidential pardon, which I would if necessary, so it was better and more honourable for the pardon to come from the family. I asked all to come to my house. In one of the big drawing rooms both parties came together. The atmosphere was very charged and they were throwing insults at each other. 'Your son spat on our motorbike', 'You did this to our servant', and so on. It is good to let them bullshit each other. When the injured family said they wanted their properties, I said, 'You have money coming from abroad, foreign currency, why bother with worthless rupees?'. I said, 'Its enough now, the men have come to your house to beg for forgiveness, the women have come to your house to beg for forgiveness. I will assign three people to assess the value of the property and you can buy it, or they will sell it to somebody else, but they will get the money and settle somewhere away from the village'. I knew the murderer's family didn't want to go, but they were already away and they should stay away to avoid further trouble. 'When this is done', I told them, 'You will go to the Courts and give a written pardon'. And so it was done and I am still in contact with both sides, and no more disturbances have been heard of. The murderer was set free and send to Italy, 'Maybe there he becomes a better person', I thought. His father still comes to see me on special occasions and prays for me and so does the other family.

I rested my pen. What the nazim had told me was nothing more and nothing less than the process of Vindicatory justice, what Terradas named and defined as the most ancient form of justice, a system in itself, with its own logic and an all encompassing model of social repair and continuity. The case described the offence, the collective acknowledgement, the third party authority, the norms, the procedures, the mediation, the circumstances that lead to the exile, and the role of the Supreme Court in accepting the validity of the pardon above the death penalty decreed by the justice system. Not only was the case an example of Vindicatory justice but it further contained the particularities of the Vindicatory justice found in Islamic societies in coexistence with State justice.

Vindicatory justice oscillates around the understanding that an offence needs to be acknowledged collectively and reciprocated collectively. Because of this understanding it is an all

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60 Terradas. 2019: 11
61 Terradas. 2019: 25. The author refers to Tacito who discovered this trait of composition amongst the Germanic tribes and translated it as vindicare, as in, claiming injury or loss, similar to what the Romans knew as the process of
encompassing process that is concerned with the repair, compensation and reconciliation, and dependent on the consent of the whole community. As its main concern is social continuity, the 'how' of the process is an expression of society itself, of its knowledge and understanding of legitimacy, which in turn shapes the political and social functions, its hierarchy and its authority.

At the very heart of this kind of justice is the fact that the offence is perceived as a social matter and that the process, that follows to repair the damage done to the concerned social part, will bring forward the norm that has been disregarded causing the offence in the first place. It is not a law imposed upon a crime but a norm that evolves out of the process meant to repair the offended party and procure the continuity of social relations. The norm is not 'applied' upon the situation but emerges out of it\(^{62}\). This fundamental difference with regards to positive law, derives, according to Orestano, from the social capacity to acknowledge the duality between what \textit{is} and what \textit{should be} in a much broader sense\(^{63}\). Interests, desires, needs, all that can awaken an accusation based on what \textit{is} and what actually \textit{should be}, is narrowed down in the sphere of positive law, leaving no room for the moral perception of the here and now. Vindicatory justice, on the other hand, acknowledges it, accepting the duality, and accepting all those traits of human behaviour that endanger social continuity. This allows for a more realistic perception of conflict, including a moral and circumstantial approach capable of taking into consideration 'everything that matters' to procure a solution that will count with the general consent. I was able to extract another \textit{panchayat} account from the \textit{Nazim} that illustrates this aspect further:

Another case was concerning a young boy and girl. They were in love and she had left her parents house and gone to the boys house and now they wanted to get married. I was approached by the family of the girl who wanted her to come back. Though, when a girl leaves her parents house she is not supposed to come back, they would kill her. I decided to meet with the boy and the girl and the meeting was arranged. The girl said straight to my face, 'I will take poison if you send me back to my parents house'. Either way, she was in danger and I didn't want her blood on my hands. She was too full of love to make her see reason or change her mind, and her family had made it clear that 20 slaps will bring her out of this nonsense, so there was no way I could protect the girl if she was to return to her home. Again, the two families were told to come to my house, same drawing room. Again, the atmosphere was tense and things were said on both sides, and I let some time pass. At some point the presence of the girl was requested. I said ok, and she was brought into the room. Again, she stood there and said she would take poison if she has to go back to her parents house. Her mother started to

\begin{flushright}
\textit{Sacramenti actio.}
\end{flushright}

\(^{62}\)Terradas. 2019: 19

scream and wail and I told the women who were in the room to make sure the mother is looked after and calms down. Then I decided that a wedding shall be arranged away from the girls family and without any involvement of her family. It was done. Now she lives with the boy in his parents house.

Generally, marriage is an agreement reached by both families. This picture was taken during the officiation of a marriage decided by the family elders. I have known this family for decades and I spoke to the bride in several occasions. Though it was not her decision nor the groom's, they both were truly excited about getting married. The marriage was going to happen because it had been arranged, not because the two fancied each other, however, it was expected, encouraged and hoped for them to enjoy a happy life together.

Besides any specific criteria on which marriage decisions are made, it is a livelong engagement of reciprocal relations, initiated by 'giving' the daughter to her in-laws. From that moment onwards, their lives are marked by reciprocal visits where all matters, good or bad, are shared collectively. It is in the light of these collective ties that caste and biradari alliances are important, and where individual decisions or self interests have less room. At this point we need to understand biradari and caste (quoms) as markers of social divisions and subdivisions which
organise society horizontally and vertically in terms of linage and occupation. Social continuity is assured by endogamy within patrilineal kinship groups, and a perception of pollution and shame which keeps those parameters alive.

In the case of the panchayat discussed here, love had taken precedence over all social barriers. Love is not ignored or rendered insignificant, on the very contrary, everybody is well aware of the danger it supposes to the established order. Therefore, the severity of the outrage and the severity of the response. What is and what should be are clearly acknowledged, yet returning the girl home seemed out of the question. The nāzīm didn't want “her blood on his hands” and he realised, though it was an offence to his authority, that she wasn't going to obey his orders because she is “too full of love”. She was ready to submit to the process but she was also prepared to kill herself if she was told to go back.

After weeks of mediation amongst the families and concerned relatives, the nāzīm invites both parties to his house where he lets them say things to each other. According to the nāzīm, it is to “clear the air”, though, I suspect that it is probably to calculate also what way the process should go in order to harvest sufficient consent and sustain his authority. He gives in to the demands of those who want to see the girl and hear from her own lips what she has to say, to witness with their own eyes her defiance to all authority. But the nāzīm also orders the mother to stop crying and makes the people around her take care of that. He orders for the wedding arrangements to be made, and imposes the absence of the bride's family. What I want to emphasize here is that, despite the nāzīm's authority as the chosen third party, his power is not absolute and his decisions, too, have to emerge out of the process. On the one hand, his legitimacy derives from his biradari and the position he holds within, and the political post he holds. On the other hand, he needs to keep up a reputation of being capable of managing the situation, but the situation involves people and their intentions. Their intentionality involves a goal-orientedness which rests on the actors capacity to assess and manipulate each other, turning social life into a field of strategic and non-strategic interaction, like with the determinedness of the girl, the anger of the relatives, or the wailing of the mother. Those aspects can't be ignored and the nāzīm needs to take them into account, yet, being careful not to fall into favouritism or biasses as the process is about repairing and not creating further offence. His reputation depends on his success. His success is measured with consent, and consent implies sharing a common knowledge with the people involved, a common understanding of what is right and what is wrong. Which is exactly what Vinogradoff points at when he launches his criticism towards the universality professed by the Anglo-Saxon positive law of his time. He rescues 'common sense' as the underlying morality and custom that allows for conflict solving and social consensus.

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64 Roger. 1977: 88, on Goffman's interpretation of power.
continuity. He points out how custom and morality contain social, political, religious and economic information that 'make sense' for the community, and that laws follow out of this sense, and are not universal laws carved out of nature. The laws that emerge out of the social can accommodate change and are in a constant process of renewal. This way, the process connects the norm with the social perception, and at the same time, confirms the legitimacy, not only of the authority, but of the process itself. Gluckman, too, reaches a similar conclusion when he defines the 'reasonable man' as a point of reference. It is not a model individual, but a shared understanding that allows people to agree, for example, that the girl will be better off not returning to her family, or that the murderer and his brother have condemned their families to exile. And within this process of agreement lies the authority, and with authority legitimacy itself, which again, reinforces the system as a whole. As Goffman already said: “To the degree that a performance highlights the common official values of the society in which it occurs, we may look upon it, in the manner of Durkheim and Radcliffe-Brown, as a ceremony—as an expressive rejuvenation and reaffirmation of the moral values of the community". It is a process that feeds upon itself, incorporating the is and should be, reproducing itself and the knowledge it sustains in the manner of a rejuvenating ceremony, where “the mingling of law with politics, religion, morals, economic and social needs, and powers is a constant”. What we see here is the invisible line between the micro and macro level of society and the interplay of the social, the political, the economical, the moral, and the religious. The process allows all 'levels and categories' to incorporate what is into what should be. It is through the social interaction within this process that society as a whole reproduces itself. This space for personal manoeuvring and rupture with normality is kept within boundaries in a system based, above all, by a particular kind of knowledge. This is why custom fortifies the process which fortifies the norm, connected by the same logic and knowledge.

Now, lets go back to the definition of the panchayat offered by four Pakistani anthropologists:

Panchayat system has been operational as the lowest administrative unit since pre-partition ancient medieval times. It has been an influential tool for bringing justice to the local communities, as a conflict resolution body for village level disputes and to systematize social, cultural and religious activity.

65 Terradas.2015
66 Gluckman.1955
67 Goffman. 1956: 23
68 Terradas. 2020:10
69 Nasir at al. 2015:1591
Their research finds the *panchayats* self-regulatory and autonomous, providing the community with workable solutions to their problems and keeping the social cohesion alive. At the same time, articles such as this one published by *Dawn Newspaper*\(^{70}\) together with this picture, inform the reader that the Supreme Court in Pakistan rule the system of *jirgas*\(^{71}\) and *panchayats* in violation of human rights, urging for the necessary improvements to give everybody access to courts and tribunals. Unrealistic as that might seem, especially for the tribal areas where neither the Supreme nor the High Courts have jurisdiction, this discourse has to be seen in relation to national and international organizations who, together with the media, persist in regarding Pakistan a state comprised of citizens with equal rights. This article in particular, reports that the courts provide guidelines for law-enforcement agencies all over Pakistan to bring unreported crimes to justice, and only arbitration, mediation, negotiation or reconciliation forums between parties involved in civil disputes who willingly consent to the same, will be permissible within the limits of the law. It is the perfect example of the 'yes, but no' response to the pressure of liberal forces, the staging of a legal legitimacy to allow for the continuity of traditional legitimacy and custom from 'within the system'.

This is supported by Shinwari's extensive inquest into the informal justice system in Pakistan,

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70 *Dawn*, Jan. 17, 2019 “SC holds jirgas violative of Pakistan's world commitments”.
71 *Jirga* is the expression used by the Pashtoons for *panchayat*, therefore bound to their customs.
which concludes that the results were “full of surprises” as the majority of the respondents have faith in the informal justice system\textsuperscript{72}, finding it intelligible, quick, and fair. The results of the interviews point towards an awareness that the informal justice system is entrenched in custom, and therefore effective, but also perceived to be under “political influence”\textsuperscript{73}. This last aspect is, according to an anonymous thesis, traceable back to a weak land reforms made in Pakistan (in comparison to India) allowing landed power structures and their presence in the National and Provincial Assembly to maintain customary justice, “openly defending century old traditions”\textsuperscript{74}, connecting the “political influence” with the state and the persistence of informal justice\textsuperscript{75}. Shah and Tariq\textsuperscript{76} also recognise this entrenchment in custom but, following the liberal discourse, urge to put an end to this institution as it hinders the uniformity of law and, therefore, the uniformity of justice, creating a state within a state, where human rights are violated and justice goes unrecorded. The solution, they point out, is to make the state justice system swift and accessible and remove the \textit{jirga/panchayat}, coinciding with the article mentioned above, making it a matter or organization rather than legitimacy. The \textit{karo-kari} and \textit{vanni} practices are repeatedly pointed out to qualify traditional justice as inhuman, backward, and especially degrading and dangerous for women. Accusations of infidelity that result in revenge rape, giving a woman in compensation, or beating and killing, are some of the practices that are still reported in Pakistan and weigh heavily against the informal justice systems, at least on the discourse level. However, as Shinwari points out in his interview results, the majority is in favour of restorative justice where the offender compensates the victim and the focus is on reconciliation, and not like the state's retributive system which only punishes the culprit\textsuperscript{77}. It is safe to say that the Pakistani academia and the population in general are aware of the the traits of Vindicatory justice the \textit{panchayat} has and it is only the voice of the liberal discourse that regards this system as informal, local, unpredictable, unrecorded, violating human rights, degrading women, and a menace to the unity and functioning of the state. Not surprisingly, the same 'faults' were put forward by the pioneers of the French Revolution during the eighteenth century when initiating the demands of equal rights and human right.

But the question remains: If the \textit{panchayat} falls into the category of Vindicatory justice, as we have seen, and the Vindicatory justice is a system within itself, sustained by its own logic\textsuperscript{78}, are

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\textsuperscript{72} Shinwari. 2015: 91
\textsuperscript{73} Shinwari. 2015: 111
\textsuperscript{74} Anonymous Thesis. London University. 2012:12
\textsuperscript{75} This criticism runs in the lines of Ignacio Iturralde's perception, expressed in his dissertation, considering “usos y costumbres” as “abusos y costumbre”, evaluating old habits as bad habits.
\textsuperscript{76} Shah, Ali Shan and Tariq, Shanaz. 2013.
\textsuperscript{77} Shinwari. 2015: 93
\textsuperscript{78} Terradas. 2019:11
we to understand that this logic is only functional on the local level?

**Biradari and Caste**

A step back is needed here to give way to a second angle, departing from conflict solving and zooming in on the social components and their relation to one another. Over the decades social scientists have shown considerable interest in the political behaviour of rural Punjab, as the most populous and politically important province. From the wide range of research material resulting from this interest, it is peculiar to note the lack of disagreement on society's main traits and beliefs, with only minor differences. Statistics, interviews, and historical reviews show, again and again, the importance of *biradirism* and caste in the political field and that negotiations dominate this scenario between peasants, village *biradari* heads, political middleman, landlords, and the middle and higher officials of the government. I shall relate to those findings establishing common ground to further elucidate a path that shall allow us to answer the questions posed in the previous section.

Hamza Alavi has proven to be the standing authority in this field and, as we shall see, his research initiated in the early sixties, has not been overruled by the most recent findings. Interestingly, his theoretical approach starts off in forgoing the conceptual problems in structural-functional holism and methodological individualism. By looking into the progress of farm mechanisation and the response from landowners and sharecroppers, he concludes that decisions are not based within a static framework of norms and rules of the established social structure or the appropriate behaviour linked to status and kinship, but needs to be referenced to the “power of classes of people in the local and the national political system”. He proposes to take into account economic, kinship, political and social ties, what he calls horizontal and vertical alignments, which don't rule each other out but are mediated in a complex process as “resources to be exploited”. This way, the individual “for whom words and actions have meaning” is not eliminated - as in the holistic structural-functional analysis – but, is inserted into an ongoing structure of society that exists prior to him. He takes his place in a society.

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79 Over 40% of the population is in the province of Punjab
80 There is a long list of authors that have contributed to the understanding of rural Punjab, Hamza Alavi, Andrew Roberts Wilder, Ali Chema, Ayesha Jalal, Ian Talbot, Abid Ghafoor Chaudry, to name a few, but for the purpose of this research I have chosen the undisputed “matrix” made by Hamza Alavi and a follow up made by Mohmand.
81 Interesting in the sense that we have already established how the process connects between the micro and macro level by a common knowledge; understanding, morality, and custom.
82 Alavi.1973:36
83 Alavi.1973:58
84 Alavi.1973:34
with an initially given set of social relationships and allocation of resources, which offer him certain opportunities and impose upon him certain necessities, independently of his actions or his will.  

Though Alavi includes the social experience that informs individual decisions, he maintains that economic, political, and kin relations are like ties that pull men in different direction, and ultimately condition the path they choose. The scenario where this occurs is in “informal private gatherings to consult with each other either to act in concert or to part in disagreement,” and where,  

Influential landlords set themselves up as political middlemen and mediate between members of the village individually as well as collectively, and the government. They establish a wide network of links with government officials which enable them to extend their mediating roles. The government, on the other hand, has traditionally relied on influential landlords to establish links with the local level power structure. Its interest in strengthening the links is no less than that of the landlord. The structure includes links with political parties and urban political movements. Factional alliances above the level of the village are institutionalised as political parties; or the latter induct faction leaders, the local power-holders, to establish their local base. Revolutionary political parties, on the other hand, seek to change existing alignments and break the domination of the power-holders.

As we can see, Alavi lays out the ground work for this study to go beyond the common approach that assumes that if there is a state it should work like a state, and if it doesn't it is because people are corrupt, dishonest, or ignorant and selfish, and that those people are found, more often than not, on the local level, with their local values. Alavi, in line with Mosca and Mills, chooses the path of political realism, looking at what really is being said and done instead of what is supposed to be happening; what politicians, landlords, and judges actually do, where they meet, how they are connected, and how they agree or disagree; an intellectual effort capable of going beyond the confusing and contradicting conclusions brought forth by post-Enlightenment premises, to then describe a reality that makes sense, that has always made sense to the people here, but has been misinterpreted by those who want to see a state where there is none; a scenario where the

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85 Alavi.1973:34
86 Alavi.1973:55
87 Alavi. 1973:55-56
88 Mills.1956
89 What I intend to say here is that Mosca and Mills, for example, uncovered a political reality of their own time and people. The difficulties I have encountered in my research, with few exceptions like for example Alavi, was to reinterpret a reality that seemed perfectly clear to the people who were emerged in it. They might say it is all in Allah's hands yet they will make sure they visit the nazim every time he comes to Gujrat. They know what is at stake when the police stops them, and they know that a Prime Minister will never last long in prison.
importance of mediation, patron/client and *biradari* and caste alliances and loyalties, are not only revealed but explained; a scenario I have tried to clarify further in this study whilst finding myself in the advantageous position (as Mosca had once been) of observing decision-making first hand, be it the Dean at the University, the *nazim* of Gujrat, the judge in court, or the *mufti* at his *masjid*.

Over four decades later, Mohmand takes a new approach to feudalism, kinship and clientelism, trying to demonstrate empirically, through quantitative and comparative methods, which of those linkages is the most important one, and how much agency rural citizen of the Punjab have vis-a-vis their landlords, kin brothers and patrons, in making electoral decisions.\(^90\) Her first finding very much coincides with Alavi's with regards to their active involvement. Gatherings to consult with each other and negotiations remain part of the decision making process. Secondly, she points out that voting is collective and hierarchical. This ties in with the configuration of gatherings, and the way gatherings are the expression of the hierarchical order, which connects with the next point\(^91\). She also coincides with Alavi's horizontal and vertical alliances, defined by social solidarity, and patron/client relations aimed at material benefits, and not political party support. Her research further explains the weak influence of political parties due to the lack of direct linkage with the voters. As Alavi pointed out, and Mohmand's research confirms, landlords set themselves up as political middle man to negotiate between villagers and government. Votes are traded for services. The state only offers two universal services, a primary school in each village and a health centre in each union, all other services are targeted\(^92\). Therefore, road repairs, water pumps, tractors, libraries, doctors, electricity, buildings, equipment, etc., need to be requested by the villagers, through middlemen, to the government officials. Though Mohmand says that this set-up disempowers the rural population, one should ask if this process also disempowers the State? What could be, and has been, regarded as the 'malfunctioning' of the State, is clearly pointing to an agency working in favour of the *biradari* system where men like our *nazim* who, in a manner of speaking, can approach the 'royal court' (Chief Minister's office) and request a *chit* (a written recommendation) which allows for jobs, transfers, fund allocation, permits, or even obtain a pardon for a death sentence. A state, yes, but not in the modern sense. The acknowledged possibility that the *nazim* was able to obtain a presidential pardon, reverse a legal situation, and lead from retributive action to restorative action, points towards a theory that would lie outside the modern understanding of state justice. However, before we venture into any new theoretical proposals, a closer analysis of what

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\(^90\) Mohmand. 2011: 7

\(^91\) In a book she has published in 2019, *Crafty Oligarchs, Savvy Voters: Democracy under Inequality in Rural Pakistan*, based on her thesis, she actually starts by describing how one of those gatherings at a landlords home shows, by the seating arrangements, the different divisions and subdivisions of the villages in terms of cast and biradari.

\(^92\) Mohmand. 2011: 211
we have assumed so far as the 'basic social relations' is required.

We have established a social matrix of vertical and horizontal alliances that displaces political agency away from the state system. Now we need to look at what we understand with biradari and caste and how these concepts are used in this study, and secondly, what is the role of the lower castes in this whole non-state system.

Numerous studies show a general agreement on biradari and caste definitions in the main categories, but when it comes to subdivisions and how they interact with each other, opinions and research findings diverge. Usman refers to Lyon's\textsuperscript{93} definition of castes as hierarchical groupings of various quoms or zats on the basis of their birth-ascribed standing. According to Usman\textsuperscript{94}, biradaris are divided by caste into biradaris that can aspire to rule and those who can't. Zamindar biradaris may hold land and power, whereas ammis biradari (service providers defined by their ancestors as as potters, cobbler, carpenters or blacksmith, etc.) can never aspire to any ruling status, even if they buy land\textsuperscript{95}. Mohmand, in her glossary defines quoms as “Hierarchically arranged, endogamous status groups that involve a notion of occupational castes. The three main quoms are zamindars, kammi, and musalli (in order of rank). Within each quom, there are sub-quoms or biradaris that are also, often, ranked hierarchically.”\textsuperscript{96} Usman mentions Syed, Malik or Jatt as caste categories. However, when I asked the nazim which biradari he belonged to, his reply was Jatt. What appears ambiguous, contradictory, and probably not true, is in fact a perception based on modern premises people in Pakistan don’t share. The absence of 'our' logic does not make it neither ambiguous nor wrong. If not, see how four Pakistani anthropologists stand their ground, “In Pakistani society, the biradari system is dominant and well embedded. The Arains of central Punjab, the Makhdoom of Hala, and Jatts of Gujrat, generally vote for their own cast and Biradari.”\textsuperscript{97} Some researchers have concluded that zat, quom and biradari are interchangeable categories, yet others say there can be more than one biradari in one quom\textsuperscript{98}.

A point which is made clear, though, and meets no controversy, is that due to biradari loyalties and caste pride, part of the population is excluded of political agency and others are entitled to it. Even if a kammi member would have the means to contest elections his own biradari would not vote for him. Not only because of fear of zamindari reprimand but also because of caste

\textsuperscript{94} Usman. 2016: 607
\textsuperscript{95} Usman. 2016
\textsuperscript{97} Chaudhry et al. 2014: 57
\textsuperscript{98} Usman. 2016: 608
pride.\textsuperscript{99} However, it is an exclusion of them as voters, not a complete social exclusion. It is an exclusion of the sphere of rule, not an exclusion of the overall social hierarchy. They are very much visible and acknowledged.

Voting behaviour of \textit{kammis} is strongly influenced by their subordinate standing in the caste hierarchy. Being collective service-providers of the villagers, every \textit{zamindar biradari} of the village claims a right on their votes. During the election campaign, \textit{zamindar biradaris} would traditionally invite the representatives of \textit{kammi biradaris} at a collective sitting place in village to ask for their votes. \textit{Kammis} do not usually refuse to any of them but abstain from favouring a \textit{zamindar biradari} openly. \textit{Kammi} respondents mentioned that if they openly support a \textit{zamindar biradari}, the other \textit{zamindar biradaris} get annoyed and may oppress them. For example, one of the \textit{kammi} respondents said that: “We visit every doorstep in village for livelihood. If we declare our support for any \textit{zamindar biradari} in elections, we might never go at the doorstep of many other \textit{zamindars}. So we keep it hidden.”\textsuperscript{100}

Given the fact that vindicatory justice contains the logic of reciprocity, we can appreciate how the system between \textit{biradari} and caste ties into the same logic. Terradas points out that the beginning of the Vindicatory itinerary is the fact of recognition. An offence is responded with acknowledgement. This can only be explained through the principle of reciprocity and obligatory solidarity. Further, justice is not about punishing the offender but about repairing the damage. “The urgency is to give a gift to calm down, temper and compensate for the offence. It is not a price adjusted to the calculated value of the altered or destructed goods.”\textsuperscript{101} I believe that the vote can be regarded in the same manner. It is taken away from its original meaning within the frame of democracy, state sovereignty and citizenship, and inserted into a system of reciprocity and gift giving\textsuperscript{102}. The relationship between state and citizens is altered because it can only be understood within the logic of reciprocity. A collective process of obligatory solidarity where the vote is not a final recognition but is meant to “keep the vitality”\textsuperscript{103} of the process with regards to future obligations. And the vitality of the process is relevant because it is the expression of what needs to continue: the people, their relationship, the hierarchical composition, and their mutual dependency. That is, why up until today, the citizen-state relationship has not replaced a hierarchical relationship

\textsuperscript{99} Usman. 2016: 611  
\textsuperscript{100}Usman. 2016: 613  
\textsuperscript{101} Terradas. 2020: 6  
\textsuperscript{102} Similar observations have been made in Galicia where votes are counted as favours. See “Votos por favores, el clientelismo político en la actualidad. Estudios de caso en la Galicia rural. Thesis by José Manuel Pantín Morado presented in 2017. UAB, Bellaterra.  
\textsuperscript{103} Ibid.
based on those who rule and those who don't, something that has been said or could be said, to a
certain degree, in Europe if we look at the analysis made by Mosca, or later on by Mills, for
example.

Those networks of reciprocity can extend beyond their local ties. The somewhat outdated
slogan of Pakistan being ruled by 22 families still reflects an ongoing reality where the majority
of land and industry is owned by a few. Lyon has dedicated part of his research in Pakistan to prove
how marital alliances among some of the most prominent elite families cut across lineage and
sectarian divides and help to explain notable levels of stability despite the fragility of the state and
other public institutions. According to him, Pakistani politics are characterised by strong corporate
social links through kinship and caste that impose reciprocal obligations and rights. The example
Lyon gives relates to the family of my informant - the person who told me about the panchayats of
the murdered boy and the eloped girl - the Chaudhries from Gujrat. This district, which lies between
Lahore and Rawalpindi, has been landlord dominated and elections have been marked by a sharp
emphasis on biradari networks and broader patron client networks, Lyon writes. On the one hand
biradari stability was maintained by marriages within the lineage. The founding brothers, Chaudhry
Manzoor Elahi and Chaudhry Zahoor Elahi married their elder children among themselves.
Manzoor Elahi’s son, Chaudhry Pervez Elahi, married Chaudhry Zahoor Elahi’s daughter.
Chaudhry Zahoor Elahi’s son, Chaudhry Shujaat Hussain, married Chaudhry Manzoor Elahi’s
daughter. But the other children were married among prominent figures in the armed forces and
government, outside caste, biradari, and district, to foster a more solid network, beyond any other
biradari competition. For example, my informant, the youngest son of Zahoor Elahi, Chaudhry
Shafaat Hussain, is married to Gul Hameed Rokri’s daughter. Both families are from different
castes. The Chaudhries are Jatts and the Rokries are Niazis. Regardless, their marriage has proven
to be an alliance of two networks otherwise geographically separated, providing the opportunity for
multiple gestures of support within a varied network of reciprocity and a number of useful channels
for informal negotiations that might otherwise trigger undue attention.

We can conclude that caste and biradari are understood as a DNA telling people who they
belong to and how to behave; it is a birthmark one carries till death. Yet, this does not lead to

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104 Dr. Haq, Chief Economist of the Planning Commission in Pakistan identified in 1968 the families that owned most
of the land and industry.

105 Lyon. 2016: 114-115

106 Member of the Punjab Provincial Assembly

107 Chairman of the Gujrat District Board, Director of the National Bank of Pakistan, Member of the National
Assembly

108 Leader of the Pakistan Muslim League (Q), Speaker of the National Assembly

109 16th Prime Minister of Pakistan

110 District Nazim and Member of the National Assembly

111 Lyon. 2016: 117-118

48
absolute categories, on the very contrary, social realism exposes a society inclined to malleable relations. But as is the norm, so are relations: process bound, custom bound, consent bound, and most of all, bound to the past.

**Authority**

We can conclude that there is a solid network which operates in the state or through the state, but with a logic, a legitimacy, and an authority, that is not understood by the logic and knowledge that conceived the modern state in the first place. We find prime ministers, provincial and national assembly members, high court judges, and nazims, that govern, rule, and run, the country and its people, but the citizen-state relation hasn't been able to replace the century old relationship of reciprocity between those who rule and those who don't. The question is then, if the state is present, as in, there is a government, a parliament, a court, police, army, bureaucracy, a Vice Chancellor, a Dean, etc., how do people do what they are told to do if it is not through laws and sanctions?

Malik's description\(^{112}\) of a district nazim's office and what happens there, coincides very much with my observations in the Dean's office at GCUL, with Gupta's description\(^{113}\) at a local land registry office, and of course, the comments the nazim has made to me over the years\(^ {114}\). Though Malik describes what he sees as wrong, because he realizes that that is not how the political functions of the state should be carried out, it is still an accurate observation that reflects the everyday reality in Pakistan.

First of all, he refers to the *dera*, which is where the zamindar\(^ {115}\) receives his visitors. To understand the concept of 'visiting' correctly we have to look at the comparison Malik very correctly draws with the Mughal *darbar*. It was at this Mughal court that the Emperor would listen to complaints, settle disputes, hand down justice, and take decisions of governance\(^ {116}\), where “matters of the state were discussed and important decisions of governance made”\(^ {117}\), and where the aristocracy, government officials, and other influential individuals would pay tribute to the Emperor. Those visits used to be mandatory and “if someone from the ruling class could not visit the darbar, the Emperor would enquire about them, fearing that the missing person might be sick or facing some difficulty”\(^ {118}\). The visits established the emperor as the most honourable and superior person;

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112 Malik. 2009
113 Gupta. 1995
114 I don't make any mention of those comments but they did help me to realise the importance of 'visiting'.
115 We have already identified the zamindars as belonging to a biradari of land-holding and ruling cast or quom, in contrast to those other biradaris that fall into the non-ruling casts or quoms, known as kammi and musalli. The zamindar (singular) would be the head of the biradari.
the social interaction that took place in the *darbar* not only solved conflicts and procured governance within the realm of reciprocity, but it also re-enacted the social hierarchy and etiquette as part and parcel of this process of social continuity. It is therefore not surprising that the tea drinking and *huqa* smoking is still a practice found at the zamindar's *dera*, where villagers, government officials, and local politicians come to honour the zamindar with their 'visit' and discuss land disputes, crimes, marriages, and any other matter which is considered the zamindar should be knowing of.

In those six weeks I spend at the Dean's office at GCUL, I remember asking myself why his office was so big and always full of people. What bemused me most, though, was that the people coming and going, discussing matters, or asking for favours, or thanking for something the Dean had done for them, were not students nor teachers. They were relatives of students, government officials, professors and students from other Universities sometimes, but mostly just people who knew the Dean, or his father (a high rank Civil Service officer). And us, teachers and students from his department, we were participants on this stage of visual and oral hierarchy that seemed indispensable. Important people were seated closer to the head and less important people took the seats further away. If somebody joined the meeting people stayed seated or stood up according to rank. If somebody important joined the room and it was already full, the least important person left. The more important people led the conversation or discussion, the less important people were less vocal. To whom tea and food was served first was also a marker of honour and hierarchy. Amidst such formality it struck me that conversations were interrupted, left hanging in the air, maybe picked up later. Discussions on current events could end by somebody reciting poetry or making a joke; other conversations might just end in silence, with people not saying anything for a while. As with the essay writing of my students, it seemed to me there was no structure. But on hindsight, there was, there is. Every single move has a meaning to me now, so much so that I can predict who will leave the room, who will talk, and who will keep the gaze on the floor.

This is what Gupta writes when describing the going-ons at a land registry office:

It was here where Sharmaji sat and held court, and it was here that he kept the land registers for the villages that he administered. All those who had business to conduct came to this "office." At any given time there were usually two or three different groups, interested in different transactions, assembled in the tiny room. Sharmaji conversed with all of them at the same time, often switching from one addressee to another in the middle of a single sentence. Everyone present joined in the discussion of matters pertaining to others. Sharmaji often punctuated his statements by turning to the others and rhetorically asking, "Have I said anything wrong?" or, "Is what I have said true or not?"
And this is how Malik describes the Nazim's office, where he receives his 'visitors':

In the first place there are no set working hours for the Najm, as would be expected in a modern public office. Second, his visitors do not need to have an appointment. Anyone can enter the office at any time, depending on the Najm's availability. Like an emperor's court, the Najm's office is a huge hall that contains at least 100 chairs lying in rows and against walls. The Najm sits on one side of the hall behind a huge desk. There are seldom fewer than 30 to 50 people sitting in his office at one time, and the Najm is obliged to entertain all of them. The Najm is charged with satisfying each person's concern (which is often impossible; and many people leave after sitting for an hour or two to return the next day). Tea is always served to all, just as it is served at the dera, as though the visitors are the Najm's personal guests.

When I visited the tomb of the Mughal Emperor Jahangir at Dilkusha Bagh, I found it was build amidst the gardens he had once lived in and held court. The big court yard was surrounded by a gallery sectioned into smaller cells but open towards the court yard. Those cells were meant for the many visitors to seek shelter, sleep and cook their food whilst waiting, sometimes for days, before getting their case heard by the Emperor. Others would wait outside before even being admitted into the darbar.

In his research, Malik points out that even when the official function of the nazim has more of a supervising nature, all the complaints, quarrels and queries, go to him personally. Malik recalls a zamindar walking into the nazim's office with a complaint about his kammi's stolen motorcycle.  

119 Belonging to the lower cast of menial labour. Interesting how he is referred to as 'his' kammi.
The nazim immediately called the Superintendent Deputy Police and agreed with him over the phone how “carelessness can bring dividends” and to take care of the matter. Another example of personal involvement and the danger of thinking one can get away without 'visiting', is given by the incident where the nazim wants to clear the roads of mobile fruit vendors\(^{120}\). A street protest is organized by the shops (who were losing the fee they charge the vendors to park in front of their shops), which didn't meet with any response from the nazim's side:

On the fifth day of the protest, I asked the TMO (Tehsil Municipal Officer) why the Nazim was not negotiating with the protestors. He said it was because they did not consult the Nazim before organising the protest. If they had contacted him beforehand, he would surely have negotiated with them. Now it had become a matter of the Nazim's honour.\(^{121}\)

When I started teaching at GCU, I requested a sticker so I could get passed the guards with my car without having to show all my credentials. The secretary of our department said I needed to fill in some forms and he would take care of it. After several weeks, the secretary said he had done everything possible, and maybe I should go to the security office myself. So I went to the small building next to the main gate where the head of the armed police had his office. His secretary didn't find any forms with my name or my car registration. By then I had learned that getting angry and complaining about 'things not being done right' didn't take me anywhere. So I sat down. I admired the neatness of the office. I sat in silence while the head of security was dealing with some students who were apologizing to him for something, and I stayed seated for another while, until I was told that a sticker was now available. I had 'visited' enough, I had shown my respect, I had honoured enough, to now receive a sticker that would give me security clearance.

From ethnographic material and observations it is clear to me that, with bribes and forms and fees and stamps and authorizations, the 'visiting' is sometimes neglected because people come to feel that it is either one way or the other as both just seems too much. But it is not:

A contractor came to the office and, ignoring everything and everyone else, complained to the Nazim that he had finished a certain sanitation project but had not yet been paid. The Nazim asked the contractor to come some other time, as he was dealing with an important issue. The contractor, however, insisted that the Nazim should listen to him and solve his problem. Eventually, the Nazim agreed to accommodate him, but he said: 'Your bills might have been held, as you might have not fulfilled the requirement or followed the procedures correctly. I will have to ask the concerned

\(^{120}\) Normally carts pulled by donkeys or motorbikes. “Clearing” them from the roads has been an ongoing issue in Pakistan but so far, street stalls are very much part of the countries landscape.

\(^{121}\) Malik. 2009: 1005.
persons first.' The contractor replied: 'No no, Nazim Sahib, I fulfilled all the official requirements. People sitting nearby laughed. While the Nazim was trying to hide his reaction, his lips betrayed him and brought a tiny smile to his face. The laughter of the guests and the Nazim's smile instantly gave a different meaning to the sentence: 'I have fulfilled all the official requirements'. While the contractor might have meant simply that, the laughter transformed the words 'official requirements' into a double entendre. The alternative reading of the statement is that he had 'greased the palm' of all the officials concerned, but still his bills were not cleared.\textsuperscript{122}

Gupta offers us the following example from his experience:

One day, when I reached Sharmaji's house [the land registry office where Sharmaji and Varma work] in the middle of the afternoon, two young men whose village fell in the jurisdiction of Verma were attempting to add a name to the title of their plot (...) They appeared ill at ease and somewhat nervous in Sharmaji's room, an impression they tried hard to dispel by adopting an overconfident tone in their conversation. Although I never did find out why they wanted to add a name to the land records, I was told that it was in connection with their efforts to obtain fertilizer on a loan for which the land was to serve as collateral. When I arrived on the scene, negotiations seemed to have broken down already: the men had decided that they were not going to rely on Verma's help in getting the paperwork through the various branches of the bureaucracy but would instead do it themselves. Sharmaji and the others present (some of whom were farmers anxious to get their own work done) first convinced the young men that they would never be able to do it themselves. This was accomplished by aggressively telling them to go ahead and first try to get the job done on their own and that, if all else failed, they could always come back to Sharmaji.\textsuperscript{123}

\textsuperscript{122} Malik. 2009: 1004-5
\textsuperscript{123} In order to avoid lengthy citations, I print the rest of the episode in this note: "If you don't succeed, I will always be willing to help you," he said. Thereupon one of the farmers present told the young men that Sharmaji was a very well-connected person. Without appearing to brag, Sharmaji himself said that when big farmers and important leaders needed to get their work done, it was to him that they came. Perhaps because they had been previously unaware of his reputation, the nervous clients seemed to lose all their bravado. They soon started begging for help, saying "Tau [father's elder brother], you know what's best, why should we go running around when you are here?" Sharmaji then requested Verma to "help" the young men. "Help them get their work done," he kept urging, to which Verma would reply, "I never refused to help them." The two patwaris then went into an adjoining room, where they had a short whispered conference. Sharmaji reappeared and announced loudly that they would have to "pay for it." The young men immediately wanted to know how much would be required, to which Sharmaji responded, "You should ask him [Verma] that." Shortly thereafter, Verma made a perfectly timed reentrance. The young men repeated the question to him. He said, "Give as much as you like." When they asked the question again, he said, "It is not for me to say. Give whatever amount you want to give." The two clients then whispered to each other. Finally, one of them broke the impasse by reaching into his shirt pocket and carefully taking out a few folded bills. He handed Rs. 10 to Verma. Sharmaji responded by bursting into raucous laughter and Verma smiled. Sharmaji told him, "You were right," laughing all the while. Verma said to the young men, "I'll be happy to do your work even for Rs. 10, but first you'll need the signature of the headman of your village, that's the law." Sharmaji told them that they didn't know anything about the law, that it took more than Rs. 14 just for the cost of the application because in order to add a name to a plot, the application would have to be backdated by a few months. At the mention of the headman, the young men became dismayed. They explained that relations were not good between them and the headman and that they were in opposite camps. I sensed that Verma had known this all along. Sharmaji then told the young men that they should have first found out "what it
The different materials brought together here have served the purpose of creating a visual image of social interaction the reader might not be familiar with, not because it doesn't exist but because its existence is denied: a hierarchical order that wishes to be acknowledged; that demands to be acknowledged, and not just by those who want to be acknowledged but by everybody else on the stage; even the cook wants the apprentice to bow to the king, should he not, he shall get a slap around the ears. In Pakistan slapping is a very common social correcting mechanism, or the throwing of a slipper, but most interestingly, I found mockery to be the popular tool to signal when somebody is going down the wrong path, as can be seen from the ethnographies above. It is a mechanism of social interaction which can be coercive, supportive, or cruel, whatever is felt necessary or convenient. As Goffman recognized, the 'normality' of a situation is sustained by all the participants. It is a collective effort, expressing a collective understanding, a collective knowledge, and a shared notion of legitimacy. The nods, the smiles, the complicit glances, are shared and meant to be seen. Therefore, the answer to our question about legitimacy, authority, and 'doing what one is told to do' in the absence of the legitimacy of the law, lies in a collective process of hierarchical dimensions based on reciprocity. It is not surprising then that the court rooms were full of people, that the Dean's office was full of people, and that the nazim's office was full of people. The acknowledgement of honour, of hierarchy, and with it, the acknowledgement of what is right and wrong, has to be public, constantly reenacted, like a never ending rehearsal; a collective process, alive, uncodified, malleable and yet faithful to its past. Without it, society would collapse, and so would the state.

One would expect that opening a bank account should be different, that urban life, modern buildings and high-tech, displaced from the zamindar and the process of reciprocity, hierarchy and authority, give way to some solid rules and time efficient productive interaction (in the capitalist sense). But it is not the case. Having been a banker for many years before making my way back to Anthropology, I thought opening a bank account in Lahore would be a piece of cake, but already my first attempt failed miserably. When entering the branch, I was confronted with an unexpected amount of people, and a disorder that took my breath away. Everybody was wrong. Their postures, cost” to "get a name added to the register" these days. "Go and find out the cost of putting your name in the land register," he told them, "and then give Verma exactly half of that." He immediately turned to one of the farmers present and asked him how much he had paid ten years ago. The man said it had been something like Rs. 150. Then both Sharmaji and Verma got up abruptly and left for lunch. The young men turned to the other people and asked them if they knew what the appropriate sum was. All of them gave figures ranging from Rs. 130-150 but said that their information was dated because that is how much it had cost ten or more years ago. The young men tried to put a good face on the bungled negotiation by suggesting that it would not be a big loss if they did not succeed in their efforts. If they did not get the loan, they would continue to farm as they usually did—that is, without fertilizer. No one could tell them what the current figure was. Even Man Friday, who was still sitting there, refused to answer, saying it was not for him to intervene, and that it was all up to Sharmaji and Verma.
their clothing, the groupings of people, even the people behind the desks were wrong, standing instead of sitting, with a performance unsuited for clerks. It just wasn't right and I became painfully aware that my perception and knowledge was of no use here and that I wasn't going to do this on my own.

I tried again with my father's old friend. They had been at school together and they had stayed in touch over the years. Even when my father was still alive, I always stayed in his home when in Lahore. After my father's death Jamil and his wife Sajjda had taken it upon themselves to be my “adoptive” parents. So, wherever we went, I was introduced as “my friends daughter” and “adopted daughter”, never just as Yasmin, as there always had to be a link to the past. However, this weak, dead resurrected link was not enough for the bank. We had gone to Jamil's bank, where he had several accounts. When taken to the director's office at least twenty people were seated there, having tea and smoking. The director assigned us a clerk, and after several attempts on the clerk's computer, many times interrupted by other people who wanted his attention, he said he couldn't open a bank account for me because I had a Spanish passport where my name was Yasmin Katherine Syed Mannaerts but my Pakistan Residency Card was Yasmin Syed. I told him that the Residency Card did not allow for two surnames to which he replied that I should change my passport. That was it. End of discussion, out into the bright daylight.

Finally, a nephew of Jamil, who had been school friends with one of Silkbank’ CEO, arranged for a bank manager and two clerks to be sent to our home. This opportunity arose, not because of me, but because of a niece who lived in Australia and was currently visiting Lahore. She had inherited some money and wanted to deposit it into a bank account. Knowing I wanted a bank account, too, I was told to tag along. In the long process that took up most of the day, we had tea and we talked, photographs of our documents were taken and forms filled in, then we were driven to the branch where we spent the rest of the afternoon, together with the director and most of the staff and security personal, trying to get the bank accounts active. What had taken me, when I was a bank manager, less than ten minutes, alone, at my desk, with my computer, took close to six hours, and the attention of over a dozen people, and innumerable calls to the bank's help-line and head offices. Forms were filled in again, then onto the banking system, printed and scanned, then invalidated, printed again, invalidated, then data was reintroduced again, rejected, phone calls, waiting, typed in again, printed and scanned … all I could think of was, how can this be so difficult? It was difficult because I was alone, and my “unrelatedness” had to be be absorbed into the collective process. My status as an individual and an outsider had to be counterbalanced and that is why the process needed to draw in as much collective and affirmative energy as possible. Had I asked the nazim to get me a bank account it would have been done within minutes, but I already had
asked for his help when the application for my residency card had been stuck for month, and I wasn't going to burn this informant for a simple bank account.

I was made aware that there weren't any blind spots for the process, even the banking system was part of it. As Terradas pointed out, “the mingling of law with politics, religion, morals, economic and social needs and powers, is a constant”. Alliances and actions of any kind are part of the same process, and it is therefore not surprising that somebody with weak alliances can hinder it. For the sake of continuity they need to be malleable and prone to change, adaptable and uncontainable. My bank account application was accepted once my alliance, through our contacts to the silk bank's CEO was made sufficiently clear, through time, through our presence, through 'visiting' and through uncountable electronic setbacks that evidenced how delicate the whole situation really was. But like the white stripes that separate the lanes on the road, and disappear when the traffic is dense, so did my unrelatedness. A Punjabi poem goes, “Last year I was a Jullaha [weaver], this year I am a Sheikh [disciple of the Prophet Mohammad], and next year, if the prices rise, I will be a Syed [descendent of the Prophet Mohammad]”. Though exaggerated as it may seem, it does hint at the fact that new realities can emerge when existing ones are not suited, new relations can be accepted if in need, for the sake of continuity. To further delve on this matter, I shall refer to Lawrence Rosen who published his book *Bargaining for Reality. The Construction of Social Relations in a Muslim Community* after spending years in the sixties in Sefrou (Morocco). He wrote about the “astonishing malleability of social relations”, and that one has to “take seriously the idea that the open-ended quality of Moroccan concepts is integral to the shape of Moroccan social relations”. His observations ingeniously connect malleable or open-concepts with social relations themselves and he manages to describe something so intangible with minute accuracy:

It was not that people failed to acknowledge perduring ties with others, but that their actions could not be contained by a set of limitations associated with familial or tribal affiliation. It was not that people failed to evince a definite set of ideas about the nature of humanity and their ties to each other, but that the concepts themselves, far from being closed and ready for application, were no more severely constricted than the arrangements people created through them. Everywhere I looked I was struck by the extent to which social life and the ideas that informed it possessed an open, malleable quality that took shape only as these concepts and relationships became attached to and identified with the lives of individual men and women.

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124 Terradas. 2020: 10
125 Mohmand. 2016: 61 citing Ahmad, 1973: 207 (no concrete bibliographic reference available)
126 Rosen. 1984: 4
127 Rosen. 1984: 1
His description carries a familiar ring that refers our mind to the logic of Vindicatory justice and how it is not law which is applied upon a crime but the norm that evolves out of the process, therefore nothing is abstract or unconnected,

in politics or social relationships, culturally ascribed qualities were seldom referred to in the abstract, unconnected from a particular person; rather they came to mean something, to count for something, to be something only as they formed part of an amalgam that rested in and characterized the relationships of a named individual.128

These are some of the pictures I took of shops in Lahore which are, as we now know, much more than just shops:

128 Rosen. 1984: 2
With regards to everything said so far, it is fair to assume for now that a society that is driven by a kind of social interaction that is collective, reciprocal, and uncodified, with relations defining what can be done and what cannot be done, is bound, not only by a common logic, here defined as Vindicatory justice, but also by horizontal and vertical alliances that obey to this same logic. Those alliances, as has been shown, spread countrywide and through all spheres of society. Therefore,
regarding the *panchayat* as the preferred form of justice practised only on the local level, seems highly unlikely. Which begs the next question: Do we have to understand Islam as part of this process, too? For now we will limit this question to the Quranic concepts of *qisas* and *diya*.

**Qisas and Diya**

At the very centre of the order of Vindicatory jurisprudence lies homicide which functions as a dogmatic reference against which all other ill doings are measured. The loss or the offence is felt by the whole group, in the case of Pakistan the whole *biradari*, and has to be acknowledged by the offender's *biradari*. Another universal trait of this kind of justice is a third party authority that is addressed the moment the process of vindicatory justice begins, and who will conclude the process with a decision all will adhere to. As in our *panchayat*, the *nazim* starts the narration of the case by telling us he was approached by the father who said, “We will do whatever you say,” and later by the brother of the victim who also said, “We will do what ever you say.”

We have already established that this kind of justice is a collective process out of which the norm evolves that will have to meet with the collective consent. Consent, as we have also mentioned, is only possible through shared knowledge, shared customs, and most importantly, shared logic. The logic of the society, we have seen so far, is marked by the traits of reciprocity, mostly expressed by the act of visiting, to honour and acknowledge the existing hierarchy or power structure of a non-egalitarian society. It is in this frame, where honour, hierarchy, right and wrong, reciprocity, and the norm evolving out of a collective process met by consent, that the connection between Vindicatory justice and the Quranic concepts of *qisas* and *diya* can be appreciated. *Qisas* stands for ‘an equal response’ or ‘an eye for an eye’, or the law of retaliation, meaning that equal harm will be inflicted to the offending party. *Diya*, on the other hand, is translated as 'blood money' and has to be understood as a gift, as an offering, not to 'clean the slate', but towards a continuity of social interaction with the recognition of the offence that was made and

129 Terradas. 2019: 34
130 See Terradas. 2019: 125
131 Besides visiting, there are also elements of gifts, money, sweets, and food involved. When somebody is sick, friends and relatives go to his/her house and bring food and money. When people get married they receive money from every guest, and there is an important exchange of jewellery, clothes, appliances, furniture, money and food, between the two families linked through marriage, besides the already mentioned fact that the bride 'is given' in marriage. When somebody dies, friends and relatives visit and get food, and if circumstances require, they will give the family money. When you visit, because you just want to visit, you are given tea, and if accepted, also food, but the visiting party doesn't bring anything (because they are already giving honour). Students visit teachers, not for any queries, or at least, that is the lesser part. When I was a teacher at GCU, students would just come to me, walk with me, wait for me in the hall to say 'salam'. I remember feeling overwhelmed with love, but it wasn't love, it was honour...expecting good grades in return. When a baby is born, exams passed or for getting a job, sweets are given. Lahore is full of sweet shops to cater for those occasions. Flowers are also given, but at grave yards and weddings, and it is not a 'bunch' of flowers but the petals. The bed of the newly wed is covered in petals, as are the graves.
the response given. Its intention is to recompose, compensate, knowing that what has been taken can never be returned in full. It is the acknowledgement of a debt that can't be repaid. Both terms were already present in Arab pre-Islamic society; Muslims, not only in Arabia, but also in North Africa, Spain, in the Middle East, and in South Asia, engaged in a cultural synthesis with the existing traditions, norms and practices in the idiom of Islam, or in relation to it. It was through Islam that the already existing compositional traits were acknowledged and reinforced by giving preference to diya. And even further, by making pardon a gift of God. Pardon became a powerful gift, strongly connected to honour and right, and rejecting a pardon became an offence to Allah himself. It contributed to weakening the feuding traits and strengthening ongoing alliances by bonding the concept of pardon with gift and reciprocity, and also aiming at rooting the teachings of the Quran into custom and shape its continuity. In the panchayat that has been explained at the beginning, the collective process redefines a situation from retribution to recomposition, from death penalty to pardon and exile. The nazim told the brother of the murdered boy, “Or you forgive him or the President will, and if it is not you, it will bring shame and dishonour to you”. By saying this, by defining the situation in this manner, not only for him but for everybody involved, pardon and recomposition became a matter of honour. The person who behaved with dishonour was the murderer's brother. By waving his guns he earned the disapproval of the collective, of the families involved and all those who witnessed his behaviour. The nazim was informed and decided that pardon was not going to suffice to guarantee continuity and so he exiled the whole family. What I'm trying to say is that pardon is not a law but a matter of honour and a gift. Consent is bound to it, not as an unanimous vote, but as what the nazim perceived was the right thing to do; common sense. He made his decisions with regards to what will be considered just by the people. The judge, aware of the binding force of a panchayat, accepted the pardon, because he too, understood that it had emerged from within the process and therefore was connected to right and honour and carried the best chances of procuring social continuity.

The fact that in 1990, the Qisas and Diyat Ordinance was introduced after the Supreme Court declared that its absence would be repugnant to the injunctions of Islam, only comes to show the strength custom holds, on all levels. There was no possible legal impediment any more to allowing the victim or the heirs of the victim to inflict on the offender identical injuries or to absolve themselves of the crime by paying compensation to the victim's family if they are willing to accept. I personally witnessed how the two people who killed a friend of mine were set free after compensation was paid to the victim's mother. He had been killed by his ex-girlfriend and her

132 Terradas. 2019: 126
133 Zubaida. 2003: 18
134 See Terradas. 2019: 130, Terradas. 2008: 398
I had met them when they were still together. We had been to movies and lunches. She had just become a doctor and he was working for an American company. One day, her family decided she was not to continue with this boy, or he did not propose when he should have, I'm not quite sure. She was then engaged to a police officer but she still stayed in touch with my friend. We don't know to what extend her fiancé got jealous or if it was really planned by the two of them, but one night she called him and picked him up from his home with the pretence that she had something important to tell him. The next day he was found in another city with several bullets in his chest. The girl and the police officer confessed to the murder (all the leads were pointing towards them). After several month in prison, a sum was agreed and paid to the victim's family and the couple was released. Much can be argued from a post-Enlightenment point of view, and much can be argued against, questioning the concepts of incarceration and discipline. But here, what were we looking at is a process that aims at continuity and not retribution, at the collective and not the individual.

**Traditional Herrschaft**

So far, we have looked at the very basic and fundamental traits of society in Pakistan, and realised that it is misleading to separate political and social functions. Even economic, moral, and religious functions seem to be better understood when seen as interconnected and not as separable. It is therefore reasonable to assume that we do have, state included, a order that runs on different premises than the Western order or, in other words, different to the order that emerges out of the period of European Enlightenment. It is in this period that a new kind of understanding of humanity was formed, placing man in the centre and leaving the divine to hand down his sovereignty to the state. As the state became the new regulator of social order, so became law the new bearer of legitimacy. In India (and most of the rest of the world), however, this revolution never took place, and though it was forcefully implanted, it seemed to have failed to overthrow divinity and the authority it procures.

Weber’s *Herrschaftssoziologie* and the types of *Legale Herrschaft* and *Traditionelle Herrschaft* allow for the empirical reality we have here to be ordered intellectually in a valid manner, providing us with the necessary theoretical framework to better understand 'what was imposed on what' during the British colonisation of India; the institutional changes that were made, the destruction and extermination of existing ones, and the erection of new ones.

Weber establishes three types of legitimate domination as *rechtsgründig* - that have the right

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135 This study will not go into the charismatic type as it is not relevant to the argument which is sustained by this approach.
to rule or dominate - hereby also making a distinction between power and domination\textsuperscript{137}. Power, or \textit{Macht}, was for Weber, \textquotedblleft{jede Chance, innerhalb einer sozialen Beziehung den eigenen Willen auch gegen Widerstreben durchzusetzen\textsuperscript{138},	extquotedblright to impose one's own will within a social relation despite unwillingness. In this sense we can reconcile it with Goffman's intentions, personal interests and individual will. Weber also distinguished two kinds of \textit{Handeln}, human behaviour, one, is driven by a subjective understanding of the individual himself, the second, is driven by a shared, social understanding:

\begin{quote}
Handeln soll dabei ein menschliches Verhalten heißen, wenn und insofern als der oder die Handelnden mit ihm ein subjektiven Sinn verbinden. 'Soziales' Handeln soll aber ein solches Handeln heißen, welches seinem von dem oder den Handelnden gemeinten Sinn nach auf das Verhalten anderer bezogen wird und darin in seinem Ablauf orientiert ist\textsuperscript{139}.
\end{quote}

As did Goffman, Weber recognizes two angles to human behaviour and chooses to study the latter, the social angle, therefore \textit{Herrschaft} needs to be understood not only as domination but also in the context of shared knowledge.

The \textit{Legale Herrschaft} (legal domination) sets itself apart from the \textit{Traditionelle Herrschaft} (traditional domination) in that in the first it is laws that are being obeyed, and those who need to be obeyed are legitimised through those laws, whereas, in the second type, obedience is given to a person that is intrinsically sanctified by custom: out of piety - as in respect or regard\textsuperscript{140}, and obedience is bound to tradition. Each type, Weber says, has a form of management, \textit{Verwaltungsstab und Verwaltungsmittel}, of profoundly different underlying sociology\textsuperscript{141}. The first one is based on competence, specialized knowledge and contract, whereas the second type is based on loyalty and personal complaisance, be it from office holders, family, friends or other dependants like servants and clients. In Pakistan, caste and kinship ties, or primordial loyalties\textsuperscript{142}, have remained throughout the centuries the basis for social organization and legitimacy. It will be established that it is the kind of traditional \textit{Herrschaft} that will allow for the empirical reality we have here to be ordered intellectually in a valid manner\textsuperscript{143}.

\textsuperscript{138} Weber. 2015:28
\textsuperscript{139} Ibid:1
\textsuperscript{140} Weber. 1985: 478. Own translation of \textquotedblleft{Gehorcht wird die Person kraft ihrer durch Herkommen geheiligten Eigenwürde: aus Pietät.\textquotedblright
\textsuperscript{141} Weber. 1985: 475
\textsuperscript{142} Alavi.1973
As Weber unmistakeably points out, the first is bound to law and the latter to custom. According to Weber, the importance of law was born in Western feudalism. Though Weber positions feudalism under the conceptual tool of *Traditionelle Herrschaft*, he also distinguishes it from patrimonialism, which he sees as another sub-type of the same concept, but with fundamental differences that ultimately led to the *Legal Herrschaft Soziologie*. While in patrimonialism the notable's dependency on the ruler and the ruler's discipline over the notables were absolute, Weber writes, the right to hold office in the feudal structure was a legal title, usually transmitted by a legal act including privilege, concession, purchase, rent, etc. Once transferred, the ruler had no power to withdraw the title, which belonged now to the office-holder. This legal situation created and perpetuate political independence and economic prominence of the members of the feudal administrative staff. Also, while all means of administration in patrimonialism belonged to the ruler (benefices), in feudalism the means of administration belonged to the feudal aristocracy in the form of their private property (fiefs). The absolute personal power of the ruler in patrimonialism was opposed to the ruler's helplessness against the impersonal aristocratic solidarity in feudalism based on the social status and honour of the *Stände* (estates), the feudal aristocracy, a religious power separated from the political power by an independent and powerful clergy, and the economic power monopolized by the burghers of the free towns and cities. This separateness (*Scheidung*) between patriarchal-patrimonial and *ständisch*-feudal social organizations was to Max Weber of most fundamental significance for the entire political *Soziologie* before the emergence of the modern bureaucratic state. It is only when rights of government, and not merely political influence, are attached to lordship and fiefs that we can speak of fully developed feudalism in Western Europe. It is the possession of rights of government by feudal lords and the performance of most of the functions of government through feudal lords which clearly distinguishes feudalism from other types of organization, and makes it unique to Europe. It turns into a new form of government where “the feudal lord is the government to his people in his own territory, not merely one of the members of the government.” This strong legalistic and impersonal tendency was, in Weber's opinion, brought about by the early trend within the Church to separate church law from secular law and strengthen the early medieval towns and cities, with charters of privileges such as trade unions and citizen rights, distancing themselves from feudal dominion and, herewith, setting the base for

146 Murvar. 1964: 38-383
the modern legal-rational type of authority in the West.\(^{147}\)

The new professional sodality of university trained jurists or legal experts was independent from existing *Stände*, but interdependent with the community of burghers, the religious orders and universities. As Max Weber put it very forcefully, the veritable revolutionization of political structures steadily pushing toward the development of the Western legal-rational state was carried every-where in the West by these formally trained legal professionals. They have modified the Roman legacy by adopting in the secular and Canon law the theories and concepts of the natural law. The natural law theories were originally conceived in juristic, Stoic and early Christian thought and later secularized. The specific product of Western culture, the full rationalization of procedural law, or in Weber's terms 'logically formed rationality' in law, was made possible through the reception of Roman jurisprudence, first by the Italian legal professionals (notaries), and later in the North by the learned judges. This logical formalism of legal procedure cannot be found in the legal system of any other culture of the time.\(^{148}\)

For Weber, it was only in the West that the state in the modern sense existed, with its professional administration, specialized officialdom and law based on the concept of citizenship, with its rational laws, made by jurists and rationally interpreted and applied.\(^{149}\) In the Orient, however, he saw an unchecked, arbitrary, and unlimited configuration of political, religious, and economic power of the one godlike ruler, towering equally above all his subjects. As the principle of residence never superseded the significance of the kinship ties as a basis for social organization, the Oriental city represented a more or less loose collection of kinship and tribal groups, who monopolized particular skills and trades for themselves.\(^{150}\) In contrast to the Western law, he saw 'reinterpretation' as the means to maintain traditional, unchangeable norms.\(^{151}\) With staggering accuracy Weber recognised different rationalities underlying the different types of *Herrschaften*, correlated to their own *Weltbilder* (view of the world)\(^{152}\), though, one can not fail to notice an evolutionist eye that saw the traditional world left out on the practicalities of the *Zweckrationalität*. Having said that, I don't mean to imply the *Herrschaften* to be mutually exclusive, but rather, and as will be shown further on, they have to be understood, and especially in the case of Pakistan, as


\(^{148}\) Murvar. 1966: 389


\(^{150}\) Murvar.1966:386


\(^{152}\) Kalberg. 1980: 1155
articulated against or with each other. The fact that a judge can withdraw a death penalty based on a panchayat outcome shows as much as the amount of social energy and resources that need to be delivered to do so.

But the differences are clear now, and we have seen how the traditional Herrschaft applies to Pakistan with regards to the importance of family ties and how authority is linked into those ties. We have also seen that activities, authority, and custom are regulated through a social process that produces norms and relies on consent and not on laws. In the West, persistently strong legalistic and impersonal tendencies in feudalism anticipated the future development of the modern legal-rational type of authority. In Pakistan, on the other hand, caste and kinship ties, or primordial loyalties, have remained throughout the centuries the basis for social organization and legitimacy.

The following chapter will look into the British colonial rule in India, zooming into the areas the British were particularly keen to transform. Looking at those areas we will find what was perceived as obstacles that needed to be eradicated and the aversion the colonizers felt for everything that openly challenged their kind of knowledge, as if they needed to protect it.

Weber's big question always had been: why did these civilisations, which had the pre-requisites in terms of civilizational capacities, not make the break-through from traditional Herrschaft to legal Herrschaft, to modern capitalism and its surrounding institutions. Half of the answer he gave himself.

154 Alavi. 1973
155 See Whimster. 2018.
Chapter Three:
Islam, Colonialism, and Reform

Islam as a Discursive Tradition and its connection to Vindicatory Justice

Weber's frustration needs to be understood in the frame of his time and the optimism that surrounded European knowledge. There was something clear, rational, categorizable, scientific, and ultimately, superior about it. The impression of its efficiency was closely linked to the advance of technology and the growth of wealth. The advance was for all to see and their superiority made clear, if not by force, then by credit. British expansion was driven not only by the search for new markets, but most of all by the right they felt they had over the rest of the world in a paternalistic gesture of self interest. It is said that the first British to settle in India were of a rather aristocratic nature who felt at ease with the life style of the Mughal rulers. But times changed and so did the people. The British officials who were sent to govern and administer India were not only met by heat and dust but by a way of living and thinking that was considered inferior and therefore in need of upgrading. The lack of success of this endeavour was marked by growing disdain towards anything that was Indian. What once had been admired was now detested. This chapter will look at the British presence, their rule and their intervention over the local population with regards to land, law, and education, and how, two centuries later, and despite all the institutional changes, legitimacy still remains in the realm of tradition and not law: in the realm of the Mughal *darbar* and not the state. We have seen the *nazim* act, not only in a problem solving process but also in his office, in what can only be considered a custom bound manner - in terms of the *Soziologie* of the Traditionelle Herrschaft. What needs to be seen now, before we go any further, is how legitimacy is connected to custom.

We have established, so far, that progress is not something that naturally occurs in a forward motion of evolution, and neither can we go along with the argument of 'being stuck in the past' as observation of social interaction makes us aware of the transformation of the social body as part of its own continuity. So what distinguishes progressive, liberal, or modern, from traditional?

The closest to truth, according to the Islamic tradition, is the *Quran*, the divine revelation received by the Prophet Muhammad to guide the Muslim community. The *sunnah*, on the other hand, are the anecdotal accounts of the Prophet's sayings, deeds, views, habits or disapprovals, understood as 'the way'. While the *hadith* are the written records of what he did or said as

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156 See Kumar. 2007. The author centres his argument around the fact that the British in India were members of a dying aristocracy in England, who saw, in the first stages of the colonial experience, the revival of the 'good old times'.
transmitted by his companions, who in turn would relate it to someone belonging to the following generation\(^\text{157}\). When Al-Shafi, one of the early scholars of Islamic jurisprudence and responsible for establishing its fundamental traits, declared both these sources (and no further) as divine and primary, he drew a line between general customs (urf) and Islam, positioning Islam above custom, while at the same time, giving way to a methodology that made custom and Islam inseparable. I shall explain this further by referring to the two main characteristics of the Islamic tradition and how they interlaced with the already existing custom.

First and foremost, to establish the authenticity of the hadith, the classical formula of isnad was employed, that goes as follows: “It has been related to me by A on the authority of B on the authority of C on the authority of D that Muhammad said [...]”\(^\text{158}\). The closer the source is to the divine the more authority it contains, connecting, this way, the divine with the past and the past with authority. As Calder put it, the exegete didn't stand alone before the text. He doesn't discover the meaning of the Quran through a direct and unmediated reading of revelation, but first through the citation of authorities. His subjectivity, or abstract objectivity, is denied in favour of a connected diachronic community\(^\text{159}\). This is just one breve example extracted from *Tafsir ibn Kathir*\(^\text{160}\) to give credit to Calder's main argument:

**Virtues of Surat Al-Baqarah and Surat Al Imran**

Imam Ahmed said that Abu Nu'aym narrated to them that Bishr bin Muhajir said that 'Abdullah bin Buraydah narrated to him from his father, “I was sitting with the Prophet and I heard him say,

*Arabic text followed by translation.

“Learn Surat Al-Baqarah, because in learning it there is blessing, in ignoring it there is sorrow, and the sorceresses cannot memorize it.”

He kept silent for a while and then said,

*Arabic text followed by translation.

“Learn Surat Al-Baqarah and Al Imran because they are two lights and they shade their people on the Day of Resurection, just as two clouds, two spaces of shade or two lines of (flying) birds. The Quran will meet its companion in the shape of a pale-faced man on the Day of Resurrecion when his grave is opened. The Quran will ask him, 'Do you know me?' The man will say, 'I do not know you.' The Quran will say, 'I am your companion, the Quran, which has brought you thirst during the heat and made you stay up during the night. Every merchant has his certain trade. But, this Day, you are behind all types of trade.'


\(^{158}\) Bakircioglu. 2018: 27

\(^{159}\) Calder. 2006:17

\(^{160}\) Tafsir. 2003
Kingship will then be given to him in his right hand, eternal life in his left hand and the crown of grace will be placed on his head. His parents will also be granted two garments that the people of this life could never afford. They will say, 'Why were we granted these garments?' It will be said, 'Because your son was carrying the Quran.' It will be said (to the reader of the Quran), 'Read and ascend through the levels of Paradise.' He will go ascending as long as he recites. Whether reciting slowly or quickly.”

Ibn Majah also recorded part of the Hadith from Bishr bin Al-Muhajir, and the chain of narrators is Hasan, according to the criteria of Imam Muslim.

A part of this Hadith is also supported by other hadiths. For instance, Imam Ahmad recorded that Abu Umamah Al-Bahili said that he heard the Messenger of Allah say,

*Arabic text followed by translation.

“Read the Quran, because it will intercede on behalf of its people on the Day of Resurrection. Read the two lights, Al-Baqarah and Al Imran, because they will come in the shape of two clouds, two shades or two lines of birds on the Day of Resurrection and will argue on behalf of their people on that Day.”

The Prophet then said,

*Text in Arabic followed by translation.

“Read Al-Baqarah, because in having it there is blessing, and in ignoring there is sorrow and the sorceresses cannot memorize it.”

Also, Imam Muslim narrated this Hadith in the Book of Prayer.

Imam Ahmad narrated that An-Nawwas bin Sam'an said the Prophet said,

*Text in Arabic followed by translation.

“On the Day of Resurrection the Quran and its people who used to implement it will be brought forth, preceded by Surat Al-Baqarah and Al Imran.”

A-Nawwas said, “The Prophet set three examples for these two Surahs and I did not forget these examples ever since. He said,

*Arabic text followed by translation.

“They will come like clouds, two dark shades or two lines of birds arguing on behalf of their people.”

It was also recorded in Sahih Muslim and At-Tirmidhi narrated this Hadith, which he rendered Hasan Gharib."161

For Calder the formal articulation of the message lies in the way that exploration and articulation of meaning is achieved, that is, through the citation of authorities:

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161 Tafsir Ibn Kathir 2003: 98-100
The exegete cites authorities. The authorities include the Prophet himself and his companions and successors, but also succeeding generations of scholars up to each receding present. The meaning of the Quran was not the meaning it had once, even as articulated by the Prophet himself, but the meaning that has been discovered in it, after and including the initial input of the Prophet, through the efforts of scholars, through centuries. It was the interpretative experience of the historical community (represented by its scholars) that counted, not merely that of the individual.  

As such, this should be understood, I believe, as integral part of the discursive tradition responsible for the configuration and transmission of knowledge, authority, time, and use of language. A discursive tradition that was already in place amongst the Arabs for Islamic scholars to build upon. Conventional wisdom already dictated that the precedence of ancestors was to be revered and imitated, connecting past with right, honour and legitimacy.

This is one of many boards that can be found at GCUL. It lists the Presidents and General Secretaries the Garret History Society has had over the years. The Deans office has one too, recording with dates all the Deans that have occupied his office before him, making it an honour to be added to this chain that reaches out to the past.

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162 Calder. 2006: 12-13  
163 Bakircioglu. 2018: 27
This 'building upon' took place in a gradual process. During the first two centuries after the Prophet's death, juristic literature, though yet informal and undefined, already carried this style of backward projection of authority. According to Calder\textsuperscript{164}, merchants, craftsmen, even soldiers, judges and princes, elders and notables, who enjoyed dignity and respect in the community, gathered in mosques, shops, markets, or princely courts, to debated legal issues and listen to authoritative voices. In fact, those gatherings were called majlis, meaning somebody with authority - though mostly open, those meeting were not egalitarian. Some of the listeners kept notebooks called sama (that which is heard), that required to be read a posteriori to the speaker to confirm that what was recorded in the sama was indeed accurate. Having obtained the approval, the note-taker was free to disseminate the contents. Others would acquire and collect those notebooks, sometimes adding more information, contributing to the building of a compendia of legal traditions, which, under the influence of an increasing formalization of political authority, became more and more professionalized.

The third century sees a movement from jurisprudence which is a predominantly oral and socially diffuse informal process towards a jurisprudence which is a complex literary discipline, the prerogative of a highly trained and socially distinct elite. That movement (not transition, for the end of the process was centuries off), signalled by the terms professionalization and bureaucratization, was no doubt part of a natural process but was also affected by school competition and government policies.\textsuperscript{165}

This movement, as Calder calls it, shifts from 'opinions' backed by the authority of the speaker, to challenging the legitimacy of opinion if not backed by prophetic precedence. This is, in my opinion, the moment Islam is definitively connected to custom in an inseparable way. Islam, through the growing amount of scholars, and political and bureaucratic authorities, hinge into the already existing discourse and position Islam, the primary sources and the prophet, at the very top of a past that legitimises and authorises.

Secondly, and most importantly, Islam was connected to custom by becoming itself a process; a process of truth, norm, authority, and jurisprudence. This was achieved by maintaining the supremacy of the canonical sources, yet, at the same time, declaring legitimate different interpretations, supported by scholarly literature that was bound to reflection and not codification, providing flexibility yet unity. Al-Shafi named the legitimacy of different interpretations ikhtilaf.

\textsuperscript{164} Zubaida. 2003: 18–19 Calder's sources, biographies, letters and literature from North Africa and Iraq, depict the formation of different schools and traditions that took place in Arabia, the Middle East, North Africa and Spain.
\textsuperscript{165} Calder. 1993: 164-64
Knowledge is of two kinds, Al-Shafi wrote in his *Risala*, the certain, the explicit in the canonical sources, and the probable, *zann*, the product of deduction and analogy. This argument provided the basis for the mutual tolerance between the schools and the legitimacy of differences.\textsuperscript{166}

Not only was the Islamic tradition equipped with a method of critical assessment which defined authority, but it was also able to perpetuate the afterlife of an event by constant interpretation, creating a process that involved a diachronical community and a kind of knowledge that was never absolute. This was best expressed in what is known as commentaries, a literary form of the Islamic discourse, consisting in comments added to the margins of the founding texts. Generation after generation scholars of the different schools added commentaries in the nature of explication and amplification.\textsuperscript{167} Those layered texts allowed for different interpretations, even contradicting statements, to lie side by side, and at the same time, maintain the authority of the canonical texts as well as the jurist's authority, giving them room to adjust to the changes of time.\textsuperscript{168}

The possibility of a single meaning was lost, thus expressing preferences within a tradition rather than pinning down the meaning of the Quran by one single person. Islamic hermeneutics was bound to be derivative in nature, contingent on the absolute authority of God. This meant that there was no automatic validity accorded to the declarations of the jurist, who could only assert that what he formulated flowed from divine law. Regardless how rigorous the reasoning, the outcome of the derivative process constitutes mere opinions (*zann*), as opposed to definitive knowledge (*ilm*).\textsuperscript{169}

In so far, it also makes sense that the articulation of orthodoxy is a discursive exploration of the boundaries that separate the orthodox tradition from those traditions that are acknowledged to deviate from it. This is achieved, Calder says, through the intertextuality, with texts that refer to other text. By reference to a deviating text it is, at the same time included and necessary to express the tradition's own boundaries. Calder illustrates this particular point by making reference to the Hanafi jurist Ibn Abadin who writes in a commentary on a commentary on an epitome of the law making explicit reference to the authors of the Sufi tradition and their works, calling them 'the noble friends of God' citing their works and herewith establishing that they too belong to the constellation of authoritative sources that validly tell us about the experience of the (Sunni) Muslim community.\textsuperscript{170}

The predominance of exploring over defining is also sustained by the *tabaqa*. This literary

\textsuperscript{166} Calder. 1993: 242.
\textsuperscript{168} Zubaida. 2003; Calder. 2006; Zaman. 2002.
\textsuperscript{169} Bakircioglu. 2018: 34
\textsuperscript{170} Calder. 2006: 79-82
genre, as defined by Calder, chronicles the transmission of knowledge through generations, exemplifying the style of transmission of knowledge, “Sometimes witty, through poetic citations, through the recognition of scholar-heroes, through wondrous resolutions of tricky problems, and through vocabulary of description which carries subtle messages about the aims of the tradition”. Here is one short example:

The same Abu Hanifa was holding a session one day in Mecca, when he was approached by a man from Khurasan. “I am owner of considerable wealth,” said the man, “and I have a son. I am inclined to provide him with a wife and to set him up in comfort. But I fear he will divorce her and so squander my wealth. I could buy him a slave-girl and provide him thus with a household, but he might free her and so again squander my wealth. What shall I do?” “Take him to the slave-market,” said Abu Hanifa, “and when a particular girl catches his eye, buy her for yourself, and then marry her to him. If, then, he divorces her, she returns to your ownership; and if he frees her ...well, he can't, for she is yours.”

As Calder points out, no conclusion can be derived from this text about marriage practices or family problems as the story's sole purpose is to be a show-case to explore concepts related to marriage and slavery and legitimate sexual intercourse. The legal concepts are embedded in a narrative with humour and skill. Law is not the search of rules but the search of understanding. Mitchell further elucidates this argument by stating that, “Islamic law was never understood as an abstract code setting limits within which behaviour was to be confined, but rather a series of commentaries on particular practices, and of commentaries upon those commentaries.” And that, “The great teaching mosques of Cairo and of other large towns in Egypt, like those elsewhere in the Islamic world, were centres not of education, or even learning per se, but of the art and authority of writing.”

On my last visit to Lahore, the Chairperson of the Islamic department at GCU, Dr. Hafiz Muhammad Naeem, accompanied me to interview Muhammad Hashim, a mufti at the Data Darba mosque. On our walk back to University Dr. Hafiz said,

171 Calder. 2006: 982. Those chronicles not only deal with jurists but also with experts in hadith or with all types of scholars, offering a diachronical realization of Islam.
172 Calder. 2006: 983
173 Calder. 2006: 983
175 The Data Darba is one of the most sacred sites of Lahore build in the eleventh century, shrine to the Sufi saint Abul Hassan Ali Hajveri, also known as Data Ganj Baksh, and visited by hundreds of thousand of people each year.
There is no precedence in the Quran or in the sunna for the punishment for being drunk, but we know this. One day Khalif Umar Bin Khatah was approached by a group of people who asked him what the punishment for being drunk should be. Umar said, “let it be 80 lashes”. This was met with astonishment by the people, “80 lashes is a very severe punishment!”, they said, “That is only given to somebody who falsely accuses a chaste woman and is not able to produce four witnesses to proof the accusation.” “Yes”, said Umar, “And it is a drunk man who is capable of making such accusations, that is how dangerous alcohol is.”

My first reaction was to try and figure out where this bold statement was coming from. Was it because I'm Western and he thinks I drink? Was it to show me the severity of Islamic law? Was he under the impression I was handling it too lightly? I felt embarrassed and uncomfortable. But after a while, I was able to step out of my discursive tradition and locate myself in his, and understand how his narrative, following Islamic jurisprudence and its discursive format, had been only meant to make me think and reflect on the concepts in relation to one another, alcohol and the harm it can cause, dishonesty, and the fragile position of women and honour. I can't describe it as anything less than a magical experience, when going from the discomfort of what I thought he first had implied, to realizing the beauty of what he was sharing with me, and the fact that I had now enough understanding to step across that line that had separated me from them for so long, even if it was just for a short intellectual experience.

To conclude this section, I would like to say, one more time, how Vindicatory justice is a process of social repair and continuity, as we have already established, which is achieved, precisely by creating a space and a time where the people involved come to act out what authority, legitimacy, justice, custom and morality mean to them. There are no laws but norms, and the norms evolve out of this process. We have now seen how the Islamic tradition and the methodology it developed for its jurisprudence, is based on authority and legitimacy directly connected to the local custom, and that it is fundamentally based on unobtainable absolute truth and obtainable interpretative truth, which leaves ample room for evolving, adapting, repairing, and continuity. But most of all, consent is a fundamental element to both, Vindicatory justice and Islamic jurisprudence. Though not found in the Quranic text, it is attributed to the Prophet to have said, “My community will not agree on error.”176 which is read to mean that after the Prophet the Muslim community could concur with man-formulated doctrines and practices that were not in the Quran and the sunnah. Ijma, which is the concept of juristic consensus, “generally involved lengthy debates conducted by jurists over

legal, moral, and practical matters. The norm created through this process was considered “binding”\(^{177}\). The parallels, if not straight interconnectivity, with Vindicatory justice are obvious since the onset of the Islamic tradition and it has contributed, no doubt, to the expansion of Islam beyond Arab land and to its ability to anchor at the grassroot level of other communities.

Such are also the traits to be found in pre-colonial India during Mughal rule along the sixteenth and up to the mid nineteenth century. The administration of the empire was carried out as much as possible by the lowest levels, where the *jagidars* and *zamindars* were responsible for collecting the taxes from the locality\(^ {178}\) and crime, disputes, and financial issues were solved ad hoc in context with the local custom, with what Bayly called “the sense of neighbourhood”\(^ {179}\), baring in mind the best interests of the community and its continuity\(^ {180}\). Guha mentions the considerable range of authorities, the multiplicity of scriptural and customary sources offering some type of justice, litigants could invoke, though in general, *qazis* (Muslim judges), *muftis* (Islamic scholars with the knowledge of all four schools of law) and *pandits* (Brahmins), followed local opinion more than any scriptures\(^ {181}\). The Mughal state, says Kugle, did not prosecute unless a victim (or their family) came forward with a complaint. If not, crime was understood as an affair between two interdependent parties. “It was not the role of the Mughal state to repress crime but rather to see that an aggrieved party had a chance to achieve retribution,” and where the victim could offer pardon at any stage of the trial and the parties would be released\(^ {182}\). The Mughal court reserved for itself exclusive jurisdiction only in matters of crimes against rulers or fiscal administration\(^ {183}\). And referring to the *qazis* in particular, he further says, they tended to shy away from committing the mistake of awarding one party and aggravating the other, seeking rather a compromise or deferred judgement in the hope the contestants would cool off or lose interest\(^ {184}\). In other words, the ways of the *panchayat* and Vindicatory justice, as confirmed by multiple sources, and in no contradicting terms, was comfortably established in Mughal India and displayed all the traits we have already observed in the Nazim's cases at present times.


\(^{181}\) Guha. 2013 :4-5

\(^{182}\) Kugle. 2013: 53

\(^{183}\) Tewarie. 2013: 29

\(^{184}\) Kugle. 2013: 55. See here the expression of 'cooling off' also used by the Nazim, once more, a tactic that shows the knowledge of human nature and taking into account the here and now of the situation.
Colonial Rule: Law, Schools, and Land

In 1765, the British East Indian Company acquired authority to collect and administer revenues of Bengal, Bilhar and Orissa, as well as responsibility for overall judicial administration of Muslims as well as Hindus. In 1783 the Company was made subordinate to the British Crown and the East India Company Board of Control was set up and answerable to the British Cabinet, who rejected the notion that India should maintain political and legal autonomy. In 1818, the British supremacy in India was complete, and in 1858, all the functions of the Company were transferred to the British Crown who was to rule over India till 1947.

From the first year of the Company's rule, the Weber's Zweckrationalität was to see its way into India by bringing humanity and natural law for its protection and survival. Colonialism was pursued by scientific minds who measured and categorized land and people, constructing a new reality that was to be ruled by new laws:

Under the East India company state the British notion of 'natural law' or 'humanity' replaced Mughal custom as the vehicle through which Sharia was administered. 'Humanity' assumed that people acted principally as individuals, rather than as religious or corporate groups; 'natural law' presupposed the existence of society in an abstract sense, which can be disciplined into efficiency and productivity. Resting government on 'natural law' means setting up the channels through which individuals can take their place in such a society. The Anglo-Muhammadan courts were one of the chief channels by which the state enacted this vision of society.

The British perceived the existing diversity of scriptures and procedures as “corrupt”. According to Metcalfe and Metcalfe, Warren Hastings, the Company's first Governor General in Indian Territories, was convinced that an original body of fixed laws and codes had existed but that additions, interpretations and commentaries, had put an end to that unity. Colonizers searched for sources of authority similar to the canon law only to find none, “There was no single or uniform body of canon law or Hindu pope to legitimize a uniform code for all the diverse communities of India, no Shankracharya whose writ ran all over the country. But that did not prevent the British from searching”. When 'experts' were called into place, Islamic clerics and Hindu pandits, their differing and conflicting interpretations on specific laws of marriage, inheritance, dispute

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185 Malik. 2010: 51
187 Kugle. 2013: 52
188 Malik. 2010: 51 citing Metcalfe and Metcalfe. A Concise History of Modern India. p.57
settlement, castes, and others, further encouraged the colonizers in their mission of pursuing codification to replace a justice system they regarded more and more as: rude and capricious, a matter of chance, and depending on the temper of the individual judge. Between 1765 and 1871 the British judicial administrators produced the Indian Penal Code and the Anglo-Muhammadan law (and its sister Hindu version 'The Digest of Hindu Laws on Contracts and Succession') that made crime a matter of the state and personal laws related to what they perceived as original texts of Muslims and Hindus. What they did, in reality, was to establish 'Shastric' laws of strong neo-Bhramanical ruling ideologies based on a rigidly defined caste system, and Hanafi Laws, which under the Mughals had been confined to urban gentry groups and interpreted liberally. By replacing the qazis, muftis and pandits, they broke the careful balance that weaved the Islamic and Hindu tradition with local custom and kingdom. What was perceived as diverse and arbitrary was replaced by predictability; local, plural, reparatory, and reconciliatory justice was replaced with a justice of retribution eager to display itself as a public symbol of deterrence. British Magistrates felt that the amputation of feet or hands was not only inhuman, but it also made the culprit a burden on society. Instead, they showed preference for hanging in public squares during business hours, considering it painless for the individual and instructive for society. The concepts central to Vindicatory justice such as qisas and diya were also ignored. If a victim expressed the desire to pardon their aggressor, the magistrates simply filtered the facts as if the victim did not desire pardon, since they considered this not to be the legitimate role of the victim. The social background of the victim became irrelevant, too. Mughal criminal proceedings had distinguished different levels of punishment according to the social origin of the victim, but the British magistrates refused to recognize different standards of justice declaring all individuals equal to the law, further disconnecting justice from the social habitation it once had belonged to. Another important category that was introduced to the new justice system was private property in connection with theft. In fiqh (Islamic jurisprudence) theft is defined by the common experience surrounding the events that led to the theft and not by external legislation of what constitutes theft. If stolen goods were returned prior to the trial it was not considered a crime any more. It also took into account the adult responsibility of the thief, condition of coercion, the value of the stolen object and the location of it. In order for a theft to occur the object had to be located within the families...

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190 Tewarie. 2013: 31 citing Allibone, Samuel Austin.1880. *Prose Quotations from Socrates to Macaulay: With Indexes. Authors,544; Subjects 571; Quotations, 8810*. J.B. Lippincott Company. p.46

191 Zaman. 2002: 22


ownership and protected as such.

Islamic law maintains a sense of things being properly in their ordinary place of safekeeping, such as goods in a shop, personal possessions in a house, and animal in a fold... however, household goods and clothes are not secure in a stable, nor are gold and silver coins that safe in a courtyard of a house.194

A large responsibility for determining property rights, ownership, and protection, was delegated to the families themselves. Only if the families regulated their sphere of safekeeping could a thief be punished195. Property, in India, had to do with social groups and boundaries. For the British, however, the theft of private property was an offence towards society. This was based on the perception of the bourgeois social order established in England from the seventeenth century, where private property, including one's life and labour, defined people and their relationships to one another and the role of the sovereign state who was responsible for its safekeeping196. The zeal to extend this world, or Weltbild, had no limits, or at least it seemed that way, when one looks at the legacy of barely two hundred years. Only in Lahore, countless buildings, which are still central to the running of the country, were constructed during British rule. The courts, schools, universities, hospitals, roads, governor house, clubs, sport centres, churches and graveyards, race courts, train and bus stations were part of a vast British India administration that included thousands of bureaucrats being shipped from London, together with an imperial army and a police force that absorbed, all together, close to forty percent of the British income in India. Millions of pounds that previous rulers of India had never required, were now deemed necessary to 'convert' India.

Besides the law, where all the changes mentioned here can not be explained only for economic gain, it was education the British targeted with utmost fierceness. We have already established the common logic society and Vindicatory justice share. Together with this logic, we have also seen a kind of knowledge or understanding that flows with the process or is a process. From the glimpse we have had of the Islamic tradition, we have seen how interpretative truth and layered opinions shape a world of reflection, rather than extracting positive rules and laws. In this same context, one has to understand the functioning of the many madrassas that were the centres of learning all around the country. There, the ulama educated the Muslim literary classes, scholars, teachers,

195 See when the Nazim Malik describes in Chapter 1. was told about the theft of a servant's motorcycle, the police said that the motorcycle was probably left somewhere and how 'carelessness' could be profitable.
scribes, court officials, muftis, and qadis. It was there that a tradition of knowledge and understanding was forged, developed, and passed on, which was part and parcel of the whole construct of the logic that ran through people's perception. But, from the early onset of the nineteenth century, the British administration, who could not conceive the madrassas as anything else but 'religious', set about to dismiss them as useless. As Thomas Macaulay wrote, “the entire native literature of India and Arabia is not worth a single shelf of a good European library.” Any sense of admiration the Orient had once awoken had been replaced by the urge to 'civilise'. As with justice, the British saw in the madrassas another obstacle in the way of a new path Indian people needed to be led through. New schools and Universities were built and many madrassas were closed. The first Director of Public Instruction in the Punjab ordered all village schools to be removed from the precincts of mosques and other buildings of a religious character, and if no other location was available, they were to be shut completely rather then continue to function in religious surroundings. Also, were all books of religious character disallowed to be used in schools. Tied into the idea of 'civilising' was not just the separation from education and madrassas but also the separation from 'religious' and 'useful'. As the Education Report of 1858-59 on the “very inefficient” Madrasa-i A'zam of Madras tells us:

The amount of useful instructions imparted was extremely limited. The business of the Institution, like the one of its namesake at Calcutta, was teaching the Arabic and Persian languages, and the doctrines of the Mahommedan religion. All this has been altered. An efficient Master has been placed at the head of the School; and the teachers, generally, have been replaced by more competent ones.

But many madrassas stayed open and even received government funding, provided they could assure their capacity in teaching 'useful' subjects. The impact was felt more ideologically than in numbers. The ulama had suffered a severe hit in terms of authority. Not only had they lost their influence in the Mughal courts as scholars and advisers, but they were now ruled by non-Muslims in a modernizing world that shunt them, and their past. Left to this new and hostile environment, they realized they were intellectually sufficiently well equipped to reinvent themselves. Though the Islamic tradition, with its scholarly practices, was never put on hold, a new 'layer' of Islam emerged, forged by modern precepts, ready to print, codify and make laws. These developments need to be

198 Zaman. 2002: 63
looked at in more detail as they are fundamental to understanding a reality in Pakistan that has been misinterpreted and misrepresented.

Under colonial rule a Muslim identity had emerged that needed guardianship, and the *ulama* had the tools to do so. The different laws that were drawn for Muslims and Hindus imposed social categories that can only be conceptualised in liberal terms and interests, that had not existed in India before, and that were to lead to the creation of Pakistan in 1947. Malik points out that, “it is not surprising that within a decade of the introduction of these 'religious codes', officially for the first time, the colonial authorities classify the population on a religious basis – Hindu and Muslim, Sikh and such – in the census of 1871”.

Hindus and Muslims shared the same villages, the same communities, and within one family it was not unusual to have Muslim and Hindu practices.

What had once been inclusive became, through British intervention, exclusive. By imposing the category of 'religion' and separating the population into Muslims and Hindus, separate identities were implied, sharpening opposing and contrasting features. Their identity was not so much defined, as it had been before, by geographical provenance, caste or *biradari*, but by differences in their day to day lives, like eating meat or not eating pork, and increasingly more, by irreconcilable social, political and economic interest.

Connected to this new Muslim identity, was the work dedicated by the *ulama* to participate in its construction. It was their way to respond to a world that was becoming increasingly unfamiliar. In order to find a place within, they build an image capable of mirroring the new kind of knowledge colonialism had brought forth; it was build out of the colonial experience with the purpose to regain their lost authority. The debate generated by this reform was represented by a movement launched towards the end of the nineteenth century named *Nadwat al-Ulama*, where the divergent voices with regards to the direction this reform should take, were heard and discussed. It was the arena where the Islamic tradition was defended while, at the same time, acknowledging the changes that needed to be made to bridge medieval and modern education. Not few advocated for the study of the 'original' texts or primary sources, leaving out the commentaries and the discursive tradition, or process, that went with them. This debate not only reflected an active concern to find a unified response to change but also the beginning of the 'Islamists' who would finally break away and forge an Islam with strong political ambitions. The disappointment of those

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200 Devji. 2017: 2  
201 See Bayly. 1985.  
202 Malik. 2010: 53  
203 I was made aware of this fact by a conversation I had at Government Collage where teachers related to me their family backgrounds before partition.  
204 See Bayly. 1985.  
205 Zaman. 2002: 69
who were committed to the centuries long discursive tradition and aware of its value, is expressed by this comment made by the end of the nineteenth century by Shibli Nu'mani after undertaking a journey to Constantinople, Egypt, and Syria:

What constantly spoiled all my happiness during these travels was the degradation of this education. This issue is also being much discussed in India at present, and the decline of traditional education (\textit{ta'lim-i qadim}) is often lamented. But my regret is of a different sort. For when those educated in the modern system lament the decline of traditional education, they are not really lamenting but rather only ridiculing and condemning it. Although I like the new education, and I like it with all my heart, I am also a strong supporter of traditional education. I believe traditional learning is absolutely essential for the preservation of Muslim nationhood (\textit{qawmiyyat}). But to see the useless and meaningless way in which this education is imparted is deeply distressing. In India, I could console myself with the thought that this sorry stage is only natural where governmental protection and patronage are lacking; but to see this condition in Constantinople, Syria, and Egypt was extremely painful.\footnote{Zaman. 2002: 73 citing Shibli Nu-mani, \textit{Safarnama-i rum wa misr wa sham} (Lucknow: Anwar al-matabi, nd.) p.58}

At present, most of the \textit{madrassas} of India and Pakistan build their curriculum around the corpus of \textit{Dars-i Nizami}, texts composed between the ninth and the eighteenth century, largely by scholars of Iranian, Central Asian, and Indian origin. The contents had been, till the middle of the nineteenth century, considerably fluid, but in response to Western institutions of education in British India, they acquired a more standardized form to adjust to the idea of 'curriculum'. Around the same time, the set-up of the \textit{madrassas} also underwent changes aimed at emulating the British bureaucratic style.\footnote{Zaman. 2002: 68} What once had been multiple groups of pupils studying, eating, sleeping, and praying, interspersed with teachers bending over texts and vendors hawking their ware in the courtyards of the mosques\footnote{Brown. 1997: 369 describing describing a \textit{madrassa} during the 19\textsuperscript{th} century in Egypt.}, became separate classes for students of different levels, with a syllabus, an annual examinations, and a network of affiliated schools\footnote{Zaman. 2002: 68}. This is a picture from the Wazir Khan mosque located in the old city of Lahore. One can appreciate the little stalls (now closed) occupied by vendors that surround the ground. It gives testimony of the multidimensional activities that take place there, rendering, once again, 'religious' too small to fit.
Less fluidity and more formality were the compromises the ulama seemed to be willing to make. Within those same parameters, four main schools emerged, representing the different tendencies as how to connect the past with the present. The very first one in South Asia's Sunni Islam was the Deobandi school, established in 1866, with the purpose to offer a realm where Islamic identity could be reinvigorate\textsuperscript{210}. This, they thought, could be done by learning to be true to their Islamic commitments and by inculcating proper Islamic norms on those associated with the madrassas. However, their primary concern was, and remains, the conservation of the classical Islamic texts and sciences as studied in madrassas, and not textual innovation\textsuperscript{211}. Shah Wali Allah (d.1762), one of the most important precolonial scholars and link in the chain of identifiable authorities that make the connection between the present and divine revelation (which we have seen is integral part of how the hadith is narrated), is one of the central figures of the Deobandi school and their scholarly work.

A second school were the Barelawis, also with their own madrassas and teachings of the hadith, Islamic law, and other religious sciences. Incorporating Sufi and other devotional practices, they professed a more enchanted world were the Prophet was not just deemed a source of normative teaching but a living presence, and were supplications to the saints were common. Less puritanical than the Deobandis, they did take it upon themselves to distinguishing Islamic practices from Hindu

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\item \textsuperscript{210} Zaman. 2018: 15
\item \textsuperscript{211} Zaman. 2002: 69
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ones. But all in all, Zaman concludes, Barelawi was a new name for an already existing complex of long standing devotional and customary practices\textsuperscript{212}. Further, both schools adhered to the Hanafi school of Sunni law and the legal tradition that has guided Muslim societies since the ninth century.

Less traditional was the third school that emerged from the Sunni orientation, the \textit{Ahl-e Hadith}, who rejected the authority of all legal traditions and in theory disregarded the authorities of the Islamic tradition as fallible humans. According to them, the authority belonged to God alone and the Prophet Muhammad, and pretending to be part of that authority was as bad as worshipping saints (a common practice in the Sufi tradition\textsuperscript{213}). Having said that, they printed, disseminated and wrote comments on the \textit{hadith} themselves\textsuperscript{214}.

Shia madrassas emerged, too, emulating the same tendency towards formalizing an identity and adjusting to a world that was now connected and reachable through railway and print. This was, no doubt, a very important factor to allow for those less in numbers to make a name for themselves and to attract followers and funding beyond their local boundaries. Another group that emerged out of one single person were the Ahmadis who distinguished themselves for considering their founder, Mirza Ghulam Ahmad, a prophet, and therefore breaking with the longstanding premise that Muhammad was the last of all prophets.

As it has been done when referring to caste and \textit{biradari}, these schools do not have to bee seen as categories that divide society into different groups, but need to be seen for the understanding they stand for, fluid and informal, and intertwined with \textit{biradari} and caste. Their differences, rarely matched in practice since subjects constantly exhibit tendencies that are not doctrinally approved. Sectarian identities are constantly being formed and negotiated and are rarely stable. Further, the assumption of an ideal-type Barelawi and Deobandi identity itself depends on the presumption that the tradition from which it emerges is monolithic. This is not the case. Thus, apart from adherents of militant sectarian parties, whose purpose is to ensure that their members stick to doctrinal positions through the combination of institutionalized practices, indoctrination, and acts of violence against the 'other', one can argue that for the majority of Pakistanis, religious practice are more or less Deobandi or more or less Barelawi.\textsuperscript{215}

Beyond the \textit{ulama} and the schools they founded to bring forward their knowledge to a

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\item [212] Zaman. 2018: 17
\item [213] I just want to add a breve comment here clarifying that in my experience the praying at a pir's tomb is very popular and a matter of joy. I had several chances to do so with my students, who all are from different backgrounds and schools, and for them it did not conflict with monotheism, nor did anybody show any disregards for this practice.
\item [214] Zaman. 2018: 18
\item [215] Ahmed.2006:238, note 45
\end{footnotes}
changing world and foreign rule, tendencies emerged from a non-scholarly background, focused more on tuning in with modern political expectations, and establishing a direct relationship between the sources of revelation and the individual. On the one hand, there were the modernist, an upcoming political elite that was to take over the government of India and Pakistan after partition, addressing an Islamic identity suited for the nation state. Muhammad Iqbal, “the single most important modernist intellectual of the late colonial India” came from the ranks of GCU. In 1930, he wrote that, “Islam, regarded as an ethical ideal plus a certain kind of polity, is a social structure regulated by a legal system and animated by a specific ethical ideal that has been the chief formative factor in the life-history of the Muslims of India” 216.

On the other hand, were the Islamists. The most flagrant example, Abul ala al-Mawdudi, a self-proclaimed leader, and founder of the Jama'at-i Islami party in 1941. He criticized the ulama for being barren and lifeless and incapable of offering solutions to modern times and he strongly opposed the government for being man made and therefore heretical. What he envisaged was a society based solely on the sharia - in the shape of fixed and codified laws that were to regulate collective life as an organic whole. In this sense he couldn't be further away from the original tradition of fiqh (schools of law) which was derived through interpretation and community bound by consent 217. What he designed was a fascist organization most fitting to the nation-state and its need for a legitimising and defining identity, “The sort of individuals Mawdudi wanted to train in bringing about the desired social and political transformation would replace both the Western modernists and the ulama, for he regarded both as impediments to the Islamic state” 218. Neither the modernist, the new anglicised political elite, nor the ulama, he saw, were committed enough to create this new order.

Though the different Islamic schools evolve in contact with modern thought, they have to be understood as a response to it. They can be compared to the commentaries, layered interpretations that maintain and continue the chain of authoritative sources, linking them with the present. Those schools continue to perceive truth as divine and therefore, unobtainable, only approachable through a process, the same process that is required to rule and to impart justice. The Islamists, however, or militant sectarian parties as Ahmed calls them, such as the Jama'at-e Islami, the Ahl-e Hadith or the Sipah-e-Sahaba, are offshoots of these schools which have taken a deeper modern approach, even protestant in a sense, with its main focus on the individual as the responsible, not only for his own personal righteousness, but also for social righteousness; the eternal justice, the absolute truth, is

217 Ahmad, Aziz. 1967: 371
218 Zaman. 2002: 103
brought down to men for them to execute. This, of course, is very much in tune with the modern political model and its attachment to a binding social identity which is considered superior. Hence, the Islamists eagerness to obtain political power and their lack of support from the general public that has not been indoctrinated as such. Being the closest to modernity, Islamists have been the material Islamophobia was build upon, possibly because they were the only ones the Western minds, in need of an enemy, could relate to. And as such, these groups have received fundings and weapons that have allowed them to become, not only extreme activists, but also terrorists.

In order to further understand today's reality, we have to go back to Colonial rule, one more time, as the British ambitions were not satisfied with the changes made to the justice system or education, but land, too, was perceived as being in dire need of more 'efficient' handling. Leaving aside the fact that British intervention caused 35 famines, twenty five more than recorded during Mughal rule, forcing the cultivation of indigo and opium required for the British trade with China at the expense of much needed food, systematically destroying the local textile industry and imposing exorbitant taxes on machine-made products and handicrafts, that all together stopped the export of manufactured goods and let to export of mainly raw materials, not counting all the men that were taken to fight two wars that had absolutely nothing to do with India, decimating the population by millions, it was the Zweckrationalität that drove them to design new policies that were to 'improve' India. We shall zoom onto West Punjab here and see, as an example, the British policies in the Canal Colonies.

From 1885 onwards, non-cultivated land in Punjab was classified as crown wasteland – disregarding the claims of tribesman over their grazing areas as proprietary rights - and distributed by the British administration to agricultural castes for agricultural use and to military casts for the breeding of horses and recruiting of men. This was done in exchange of contractual obligations, as specified in the Land Alienation Act of 1900, provided to bind this new gentry tighter into state interests. The land was owned by the state and obliged its tenant grantees to meet their conditions of tenure that regulated everything, from sanitation to water resources and home sites, and with the administration's reserved right to supervise the maintenance of minimum standards for those colonies. It also enforced permanent residence (to avoid absent tenants which was perceived as less efficient) and primogeniture succession (in order to preserve the size of the land and a more profitable exploitation). However, this was not embraced by the grantees as expected. Even punitive measures weren't able to persuade the people to leave aside their customary

219 Ali. 1988: 18
practices for the sake of innovation. Finally, when the Colonization Bill of 1906 was put on the table, making it clear that the state had the power to take the land back if conditions were not met, such fierce protest was expressed that the British saw themselves, not only retracting and granting proprietary rights at extremely low rates, but in order to assure an ongoing political support, the Colonisation Act of 1912 was sealed, allowing for customary practices to prevail. Though Imran Ali laments that those policies led to the consolidation of a landed elite and the perpetuation of a landless peasantry, I believe that the strength shown by the Indian people to maintain the customary law and subvert all innovating policies, is far more significant and requires further consideration. Illicit cultivation, for example, which was the cultivation of land that had not been granted under any agreement, was punishable by fines, or confiscation of crops, or the levy of punitive rates of rent. But registers and files were improperly maintained, sometimes missing entirely. With regards to land transfers the same absence of bureaucratic rigour occurred. The forms were inconsistent or had meaningless information and persons with short-term tenancies were left to carry on, for as long as ten or twenty years. Even people who never had been granted land were allowed to occupy land and were treated as established tenants by the subordinate bureaucracy. In some places, demands and payments for shop sites were never scrutinized by any gazetted officer. Towards the 1930s, the impossibility of raising the standards of bureaucratic management in the canal colonies was recognized and led the state to drop any further reform. Though the British had realised the importance of dealing with the population through middlemen, they failed to value an already existing type of society no tenant agreement or law was able to replace. Michael O'Dwyer recognised in 1914,

In the Punjab sectarian feelings often run very high but it rarely leads to riots or bloodshed because the local authorities know on whom to depend to compose matters. These are not politicians but quiet men of local influence.

The supposition that dealing with the men of influence on legal and market economic terms was going to generate an automatic response on legal and market economic terms was a mistake. A mistake that, seeing the World Bank and IMF's terms and conditions, is still being made today. No doubt, circumstances can be severely altered, but not the response mechanisms. The lower bureaucracy and police, as we shall see in the coming chapters, respond to a logic that is deeply

221 Ali. 1988: 80 It is interesting to note how he blames the landed gentry for the stagnation of social and economic reform presupposing some capitalist mentality already existing in the landless, suppressed by their lack of means.
223 Talbot. 1988: 48 citing Michael O'Dwyer
rooted in their relationship with one another and with the higher and lower echelons of society, where land, honour and loyalty are inseparable. Demanding the landlords to supervise the doings of the people of the villages was not considered their business. Their business was to rule. That is what land meant and still means. We have seen it with the *nazim* and the *zamindars*. They don't ask for balance sheets. They ask for loyalty, and the lower bureaucracy and the police are the people these values are articulated through; their function is connected to rule, not the management aiming at capital gain.

I shall add one brief ethnographic experience. In a conversation with the *nazim*, he told me he had given some men land and money to plant roses. I asked him if he had received any return payments on that loan. He said that the harvests had been poor so far and he had received no money. When I said he was probably not going to see a penny, he looked at me with disregard, as if I had insulted him by not taking what he had done seriously. In my mind, it was a simple transaction: you give somebody money for an investment, and you get repayments. In my experience, the bank doesn't care if your roses grow or don't. For him, however, it was not about the money, but a bond that had been made, a relationship that was kept alive by visits, by loyalty, by the acknowledgement of that gift, and by any bureaucratic proceeding or police affair related to him and them that would be acknowledged in those terms. The British administration, on the other hand, perceived India through their census, maps, and knowledge on scientific farming, with the assumption that this knowledge would allow them to rationally manage the land and control the population\(^{224}\). They 'mapped' the reality around them to be comprehensive and translatable to their own discursive tradition, and allow them to design strategies of political discipline that were concurrent with the reality they had established\(^{225}\). Only it wasn't. Land simply meant something different. Land is often referred to as *patlaj*, a word similar to *izzat* which means honour\(^{226}\), but also power and respect\(^{227}\).

From what has been said in chapter one, we have recognised the social order as hierarchical, where honour and power lie with the *biradari* heads and upper castes who have the authority to mediate, intervene, and decide; that's what makes them the 'men of influence'. It is the interconnectivity of all those elements, understood here as inseparable, that allows for a process of social interaction and continuity, run by a logic that we have found consistent with Vindicatory justice and a customary relation of reciprocity. As we have seen with the *nazim*, as related by Nadeem Malik, and also observed by David Mosse with the *zamindari* of South India, “Individual big-men have not been displaced or lost their capacity to control and redirect state resources, but have instead begun to

\(^{224}\) See Scott. 1998
\(^{225}\) See Asad. 1994
\(^{226}\) As in European feudalism where land too was identified with honour.
\(^{227}\) Talbot. 1988:17
pursue these aims through the control of new local institutions."

In the same manner, one should also regard the position of *pirs*. As with the zamindars, *pirs* derive their authority from linage, but in this case, of a linage connected to a 'saint', or a man of *baraka*, of spiritual power and blessing as understood in the Sufi tradition. This connection is further enforced by being the guardians of his tomb, enclosed in a shrine where people gather to derive from this *baraka* fertility, health, peace, or other blessings. People from all backgrounds go to the shrine to name a newly born, to procure an amulet for protection, a funeral or a marriage, food, but also, to learn or solve a feud.

The shrine I visited with my students was in the heart of Lahore. When we reached the place and left our shoes at the entrance, we were split, as men and women had a separate sections. We went straight to the queue to gain access to the tomb where we were allowed to throw rose petals and pray for a few short minutes. After that we sprawled on the marble floors and watched the sky for it was getting dark and the moon was towering above us. It was time for *namaz* and the girls prayed in an area that had carpets and was covered by white arches. The many women gathered there were all involved in doing one thing or the other. Some were giving out sweets, juices and dry fruits; some were rolling the names of Allah over their dry lips while letting the wooden beads slide through their fingers; some were just there with their children; some were deep in conversation. All I could

228 Mosse. 2001: 185
229 The Data Darba, the same place I went with the Chairmen of the Islamic department a year later to interview a mufti.
feel, and my eyes still fill up with tears, was that I did not want to leave that place. The boys used their mobiles to film their part of the visit, and they were as happy and filled with love as we girls. I don't know how to explain this but maybe there is nothing to explain, and nothing to understand, except that it was a better place and people could exhibit practices that were less doctrinally approved, even beyond, “more or less Deobandi or more or less Barelawi”\textsuperscript{230}, informal yet closer to heaven.

It is therefore understandable that a lineage of a family connected to a world beyond the mundane and mortal and closer to heaven, like that of the \textit{pir}, is endowed with an authority of its own. In addition, these families have had the ability to forge alliances amongst themselves and with other families\textsuperscript{231} – as we have seen with the political alliances of the Chaudhry family – and establish themselves, long before colonial times, as powerful landlords. During the British Raj they bargained land in exchange of popular support, and herewith incorporated themselves into the state apparatus, in similar manner as the agricultural and military castes had been weaved in. All of them are, up till today, strong players during elections, “achieving their aims through new local institutions”\textsuperscript{232}, and as we have seen, receiving votes as gifts, in a relation that ties the spiritual with the earthly and the mystic with the ecstatic. Despite demands to 'clean' the shrines from its not so orthodox activities, like keeping animals, women (Data Darba was once a place where prostitutes were at home), dancing and music, the shrines and the authority of their guardians, has prevailed.

\begin{center}
\includegraphics[width=0.45\textwidth]{image.png}
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\textsuperscript{230} Ahmed. 2006: 238, note 45
\textsuperscript{231} Malik, Adeel. 2017: 1847
\textsuperscript{232} Mosse. 2001: 185
The Traditionelle Herrschaft with its linage and a backwards traceable authority, leading to a past which is the source of all norms and that which is right, is what prevails in Pakistan, beyond any law. It is this authority that is being attacked by the Islamists, for they have broken paths with the discursive tradition of Islam and the custom it is rooted in. The Data Darba was bombed in 2010 killing 42 people, and again in 2019 targeting a police car that was posted there for protection, killing ten people. In 2017 the shrine of Lal Shabaz Qalandar in Sindh was attacked by a suicide bomber and ninety people were killed. This is just a fraction of a terribly long list that uncovers man's greed for power, and at the same time, his ability to recognize the sources of his enemies' authority. This violence, that is felt to be external, usually Indian, Afghan or Iraqi, has not stopped the people from continuing with their lives. Modernist - or today's liberals, with their political parties and discourses of citizen empowerment, education and health care – have achieved nothing more than a marginal support in the true 'western democratic' sense. And those who promise a better world by strict Islamic rules are known for not having 'people power'. The relationship between ruler and ruled remains, and loyalty, land, and honour still go hand in hand.

Knowledge and Power in Pakistan

For colonialism, and later neocolonialism, to succeed, for a deep rooted reform to take place, for the Legale Herrschaft to replace the Traditionelle Herrschaft, for law to replace custom, knowledge had to change, or, in other words, the source of legitimacy of knowledge had to change. What do I mean? I mean that in order for knowledge, or a reality expressed through this knowledge, to be perceived as right, it has to tick some boxes. If it doesn't, it is overruled; a positive response is turned into a negative response, a deactivating response, in this case. When the British higher administration demanded records on the upholding of the conditions for the tenant grantees of land, the local administration deactivated this control mechanism and rendered it ineffective; forms were lost or never filed; entries were ambiguous or made no sense; land registries were neither up-to-date nor accurate. The rule of land was not comprehended in legal terms, therefore, those forms, those administrative mechanisms, didn't evoke a positive response, positive understood here as a response that fulfilled the expectations and necessities of the British administration. On the contrary, the response was a process that, not only deactivated the control mechanism established through legal-bureaucratic terms, but it also reinforced the long time established order of things.

This study is, basically, about how the Legale Herrschaft during colonial rule, post-partition or at present times, is overruled by the Traditionelle Herrschaft in a process that upholds the same logic or Soziologie as the vindicatory justice or the Islamic tradition, where the norm evolves out of
the process and is connected to custom and consent.

The dossier presented by the HEC (Higher Education Commission) mentioned at the beginning of this study, put forward, in no uncertain terms, that teaching programs, methods, results, and evaluations, had to be captured in numeric terms, through tests and statistical evaluations:

In recent years it has become an obligation that institutions of higher education demonstrate the effectiveness of their academic programs in providing high quality education that positively impacts students. Furthermore, most accrediting bodies and others concerned with quality assurance are requesting that institutions assess students' learning outcome as a means of improving academic programs. This has led the Higher Education Commission (HEC) to develop methods for assessing the quality of academic program.

Assessment is a systematic process of gathering, reviewing and using important and qualitative data and information from multiple and diverse sources about educational programs, for the purpose of improving students learning, and evaluating whether academic and learning standards are being met. The process culminates when assessment results are used to improve learning.

A successful assessment program includes the following:

1. Purpose Identification
2. Outcome Identification
3. Measurements and evaluation design
4. Data collection
5. Analysis and evaluation
6. Decision-making regarding actions to be taken.

The purpose of this document is to outline the process of conducting self-assessment (SA) of academic programs. It is HEC that requires universities to conduct periodic self-assessment for its academic programs in order to improve them and ensure high academic standards. Self-assessment is an important tool for academic quality assurance and provides feedback for faculty and administration to initiate action plans for improvement.

The Self-assessment Procedure is detailed in section 3 as follows:

In this section the procedure for conducting a self-assessment is described. Each academic program shall undergo a self-assessment (SA) every two years (assessment cycle). The Quality Enhancement
Cell (QEC) is responsible for planning, coordinating and following up on the self-assessment (SA) activities. The steps of the procedure for SA are as follows:

3.1 The QEC initiates the SA one semester prior to the end of the assessment cycle through the Vice Chancellor / Rector Office in which the program is offered. However, if the program is undergoing the SA for the first time, the department will be giving one academic year for preparation.

3.2 Upon receiving the initiation letter the department shall form a program team (PT). The PT will be responsible for preparing a self-assessment report (SAR) about the program under consideration over a period of one semester. They will be the contact group during the assessment period.

3.3 The department shall submit the SAR to the QEC through the concerned Den. The QEC reviews the SAR within one month to ensure that it is prepared according to the required format.

3.4 The Vice Chancellor / Rector forms a program assessment team (AT) in consultation with the QEC recommendations within one month. The AT comprises of 2-3 faculty members from within or outside university. The AT must have at least one expert in the area of the assessed program.

3.5 The QEC plans and schedules the AT visit period in coordination with the department that is offering the program.

3.6 The AT conducts the assessment, submits a report and presents its finding in an exit meeting that shall be attended by the QEC, Dean, and PT and faculty members.

3.7 The QEC shall submit an executive summary on the AT findings to the Vice-Chancellor / Rector.

3.8 The Department shall prepare and submit an implementation plan to QEC based on the AT findings. The plan must include AT findings and the corrective actions to be taken, assignment of responsibility and a time frame for such actions. Table A.2 in Appendix A provides a format for preparing a summary of the implementation plan.

3.9 The QEC shall follow up on the implementation plan to ensure departments are adhering to the implementation plan. The academic department shall inform the QEC each time a corrective action is implemented. QEC shall review the implementation plan once a semester to assess the progress of implementation. Table A.2 will provide the QEC with guidelines for monitoring the implementation.

In a process that evolved during several meetings, a Quality Enhancement Cell, a Program Team, and an Assessment Team were formed by those who usually visited the Deans office on a
daily basis, and assessment forms were adjusted to the History department. In less than 10 days teachers and students had filled all assessment sheets that evaluated favourably teachers, students and teaching programs in general. The plastic bags containing those sheets were delivered to the Vice-Chancellor and further to the HEC. What I had envisaged as a reform in the educational methodology of the University became a process where the initiative presented in the dossier was deactivated in a series of sittings at the Dean's office, where the process not only confirmed the leadership of the Dean, but the loyalty of his staff through consented action. On wider terms, it also put forward the loyalty towards the HEC who expected nothing less than what had been done. As for myself, I was allowed to assist the first meeting but I was not informed of, or called to, any further meetings. Days later, when I saw the bags and asked how something that hasn't been done can be assessed, I was met with a blank stare. I had not been part of the process. My lack of consenting attitude must have been clear to them from the beginning and therefore I had been politely ignored.

The assessment or examination of faculty, students, and learning is, as Foucault described it, a ceremony of objectification\(^\text{233}\). On the one hand, examination places the individual in a network of writing, where a whole mass of documents with codes of performance and conduct, capture and fix the individual within a power relation\(^\text{234}\). On the other hand, it “eliminates the effects of imprecise distribution, the uncontrolled disappearance of individuals, their diffuse circulation, their unusual and dangerous coagulation.”\(^\text{235}\)

By filling out forms of assessment in a collective action of non-assessment, the assessment or examination of faculty and students was deactivated and turned into a process that brought forward the existing loyalties. It also managed to maintain flexible schedules. With regards to this, I observed the following incident: Zara, the daughter of GCUL's Vice Chancellor started working as a part of the teaching faculty at the History Department during the last year I was there. Having graduated from a London University and having obtained her PhD from Cambridge, she joined our Department and was also made Program Manager. Carried away by her UK experience, she failed to realize that being a Program Manager doesn't mean you actually have to manage, supervise and evaluate how classes are being programmed. Immersed in her sense of responsibility, she set out to check on the classes, teachers, ask students, and compare schedules with the actual teaching activity. Alerted by students complaints (being asked if classes were running as scheduled, students ceased this rare opportunity to criticize their teachers), she showed up unannounced at a class only to realize that neither teacher nor subject coincided with the program. When questioning the teacher, it

\(^{233}\) Foucault. 1991: 187  
\(^{234}\) Foucault. 1991: 190  
\(^{235}\) Foucault. 1991: 143.
turned out that there had been several changes that involved four more teachers, who were all made to feel uncomfortable when confronted. The end result was a chain of events, interventions of the highest ranks, meetings and discussions, where medical appointments, attendance to a wedding, and a sick relative were established as far more important than making classes stick to a piece of paper, leaving Zara embarrassed and the futility of her task obvious. She reminded me of my old self a few years back after the dossier incident: disqualified and deactivated.

One could say, we were both schooled by a different tradition. A tradition born by the individuals that evolved in Europe during the Middle Ages, influenced by a new jurisprudence, and a science and a technology that allowed for a growing economy and private property, favoured by a knowledge that, through measuring, codes and regulations, confined truth, more and more, to the sphere of the absolute, and fortified by the position of power of those who pioneered this tradition. A world were 'sticking to the rules' is right and not doing so is not only wrong but morally condemned. That is the world of Foucault, of the legal Herrschaft, the world and view I refer in this study as 'us', 'our', or 'I'.

In Pakistan, however, or what had been India till the mid twentieth century, knowledge, as we have already seen, was not absolute, and laws were bound to custom and consent. This allowed for the Soziologie of the Traditionelle Herrschaft to remain and survive. As Weber said:

Gehörcht wird der Person kraft ihrer durch Herkommen geheiligten Eigenwürde: aus Pietät. Der Inhalt der Befehle ist durch Tradition gebunden, deren rücksichtslose Verletzung seitens der Herren die Legitimität seiner eigenen, lediglich auf ihrer Heiligkeit ruhenden, Herrschaft selbst gefährden würde. Nues Recht gegenüber den Traditionsnormen zu schaffen, gilt als prinzipiell unmöglich.236

Weber points out that it is by the force of a sanctified honour carried through linage that a person is obeyed. He compares obedience to reverence, piety, and respect. He further specifies that the contents of the order (dictate or command) has to be bound by tradition (custom). Should careless neglect inflict upon this bond between command and custom, it would jeopardize the Herrschaft itself and a legitimacy endowed by honour alone (pointing at the fragile balance that needs to be maintained). Therefore, to impose new rights upon customs is fundamentally impossible. To command something not supported by custom is an injury to legitimacy itself. Weber clearly recognises this safety-lock that connects custom and authority in an unbreakable bond, and is able to answer his question as to why those societies of traditional legitimacy don't make the transition to the legal legitimacy. In the legal Herrschaft, there is no such bond as obedience is not given to a

236 Weber. 1985: 489
person but to law and established regulations:

Gehorcht wird nicht der Person, kraft deren Eigenrecht, sondern der gesetzten Regel, die dafür massgebend ist, wem und inwieweit ihr zu gehorchen ist. Auch der Befehlende selbst gehorcht, indem er einen Befehl erlässt, einer Regel: dem “Gesetz” oder “Reglement”, einer formal abstracten Norm. Der Typus des Befehlenden ist der „Vorgesetzte“, dessen Herrschaftsrecht durch gesetzte Regel legitimiert ist.\(^\text{237}\)

Obedience is not given to a Person, Weber says, but to an established (fixed) regulation that determines who and to what extend obedience has to be extended. Even the commander himself obeys, as his command is in itself a regulation, law or rule, of an abstract norm. The type of the person that commands is that of a higher rank whose right to command is legitimised by law. In the same essay, Weber distinguishes the \textit{sachliche Amtspflicht and Amtsdiszipline} against the \textit{persönliche Dienertreue}\(^\text{238}\), contrasting factual duty and discipline with personal loyalty. Baring this in mind, and before we close this chapter, we should take a look at the concept of citizenship in view of all that has been said about Pakistan. In general, citizenship is understood as the individual within the state. According to Joppke,

Citizenship as status, which denotes formal state membership and the rules of access to it; citizenship as right, which is about the formal capacities and immunities connected with such a status; and in addition citizenship as identity, which refers to the behavioural aspects of individuals acting and conceiving of themselves as members of a collectivity, classically the nation or the normative conceptions of such behaviour imputed by the state.\(^\text{239}\)

The sovereignty of the state, and the laws to exercise this sovereignty, are taken for granted. In Pakistan, however, the Objectives Resolution moved in by Liaquat Ali Khan, the nations first Prime Minister, in 1949, began by declaring that, “the sovereignty over the entire universe belongs to God Almighty alone and the authority which He has delegated to the State of Pakistan through its people for being exercised within the limit prescribed by Him is a sacred trust” to then further affirm the “principles of democracy, freedom, equality, tolerance and social justice, as enunciated by Islam”\(^\text{240}\). What I perceived as a dual sovereignty in my initial analysis, I reconsider now as the beginning of a deactivating process of the state's sovereignty and its legal capacity to govern

\(^{237}\) Weber. 1985: 488
\(^{238}\) Weber. 1985: 489
\(^{239}\) Joppke. 2007: 38
\(^{240}\) Zaman. 2018: 56
citizens. The reason why I first saw it as 'dual' was because the people in Pakistan professed to be citizens and Muslims. My initial observations, however, showed that people could not be categorized as citizens or Muslims, the problem being in 'categorized' not in 'citizens' or 'Muslims'. From what we have seen so far, categorizable knowledge falls out of the Islamic tradition. Citizenship and being a Muslim have to be understood then in a kind of layered sense of truth, like the commentaries. It has been made clear in this study that legitimacy, authority, and right, are tied to a past, which explains why citizenship and Islam have melted so well:

I think the concept of citizenship in Pakistan is that we should be aware of the teachings of Islam because Islam is a complete way of life which makes us aware of every kind of right and duties also because Pakistan was attained on the basis of Islam. (Teacher, Philanthropic School, Lahore).

This was published in an article on contemporary faultlines in Pakistani citizenship. Though it collects valuable comments made by the people interviewed, it fails to see the relevance of those comments. Rather than considering the meaning of this representation it simply disqualifies it as “faultlines” with regards to how citizenship should be perceived. I have chosen this comment as it is a perception expressed by many and not only in recent years. It is a moral and political perception, anchored in the past. It is a reflection: I think. It is expressed as an opinion, not a definition. And ultimately, it derives its legitimacy from the only source of truth possible.

But if nothing is understood in absolute terms and close definitions don't really tick any boxes, then why were the Ahmadiyya community declared non-Muslims by law? This is a crucial episode in Pakistan's history and, though, it happened when I was not present, my close involvement with this community during all these years of field research, twenty years ago, and now, have allowed me to observe that they are generally perceived as non-Muslims but also that their criminalization is condemned. A study of the circumstances that lead to this situation will allow us to deepen our understanding of what has been presented here as interpretative truth, the process that produces the norm, and Vindicatory justice.

241 Lall. 2012: 79
Chapter Four:
The Offence

The Exile of the Ahmadis and Islamization

So far, some of the ground work has been set to approach the social and political functions of Pakistan, starting with an understanding of truth which is only obtainable through a process that builds authority. We have also seen that this process is part of a dynamic used to solve conflicts, that it is linked to Vindicatory justice and to a society led by reciprocal relations. We have also seen how society is stratified by categories that need to be seen as representing an understanding rather than defining a specific quantifiable group. Much of the same can be said with regards to the different Sunni and Shia schools which add to an already existing identity rooted in custom. As a Muslim from Egypt is different to a Muslim from South East Asia, so is the Deobandi from Punjab different to the Deobandi of Sind, yet, in an attempt to define a Deobandi from Punjab, or even from Lahore, one would find, as with the biradari and the caste, that there are too many exceptions to the rule, making a definition impossible or little realistic. Why? Because reality is bound to a process which not only produces norm and authority, as we have seen, but meaning in general. Therefore, meaning, as with norm and authority, is custom bound, consent bound, linked to the past. This also explains why the moral, the legal, the political, and the social can't be defined either, but only elucidated, through a process, again, that does not define but gives meaning. This initial approach could be tagged as socio-political realism, a method were concepts are credited with reality rather than establishing its functions, rules, and boundaries. No definition has been given of the nazim, for example. He is one of the most important man in the scenario of Pakistani politics, yet, he has been presented through a rich ethnographic picture where he is seen as the third authority in two panchayats, in his office (this was a different nazim described by a different author, therefore giving an additional perspective), a slide of his family, their biradari and cast relations, political offices of his father, uncle, and brothers, and several responses given to me during my field research where he knowingly was an informant; a multidimensional picture that finds its way closer to the process and further away from coded definition.

This process is inseparable from the logic of Vindicatory justice in so far as one can not exist without the other. It is therefore impossible to explain any social or political function in Pakistan without those basic terms laid out here. Vindicatory justice, lets remind ourselves, is based on the collective response to an offence. It is bound to reciprocal social relations understood in a collective
and not individual manner. The murderer is seen as the killer but his whole family are to respond collectively to the offence caused to the whole family of the victim.

And last but not least, we have Islam, which we have identified in its correlation to custom and authority. Islam is linked to the past, as is custom, because, firstly, that is where authority lies, and secondly, it is the vessel of the unobtainable truth which can only be approached through a consented process, opposed to the post-Enlightenment truth which is positive and directly obtainable by man.

Bearing all this in mind, this chapter has used sources of historical and social analysis to contest the generally accepted argument that the outlawing of the Ahmadis was the way of the state to create, on legal terms, a unified national identity. Instead, it is argued here that the premises the Amadiyya school was build upon where, not only contradicting the Islamic Tradition but also perceived as offensive and, therefore, evoking a collective rejection of the whole of the Ahmadi community. Despite Pakistan being a nation-state with a democratic regime an laws that protected individual rights of freedom of thought or religion, the Ahmadis were still declared non-Muslims. Later on, during the military dictatorship of General Zia, who used Islam to legitimise his rule of terror, Ahmadis were equally wronged, together with most of the population. Neither Islamists nor Democratic laws have been able to regulate the problem, or put an end to the offence. In the course of this argument, the elite, the state, governors and prime ministers, army and judges, will be important players. Keeping within the spirit of socio-political realism, they are to be understood, initially, in the conventional way, for clarity sake, but will be later on, as events unfold, and in subsequent chapters, further questioned and re-examined.

To start with, the Ahmadiyya Jamaat, sect or school, needs to be explained within the context of colonial rule and the reform carried out by a displaced ulama in the attempt to regain their voice in a modernising world. In this light, Mirza Ghula Ahmad, the founder and leader of this school in 1889, did more than just reform. He put forward the necessary foundations to break away from the past and put an end to how authority had been defined since. Whilst the other schools, like the Barelawis and Deobandis, formulated a discourse addressing modern times by adding another layer to the Islamic tradition, this time, in a less fluid and more formal manner but still connecting to a past of revealed and transmitted sources by a chain of authorities, Mirza declared himself to be a prophet. By doing so, he not only broke away from the source of legitimacy, namely the past, but he also overstepped the line drawn by Al-Shafi in the early centuries following the Prophet Muhammad's demise, between the canonical sources, the Quran and the Sunnah, and those other sources that followed, which were not of divine inspiration but a product of deduction and analogy.
The whole methodology sustained through centuries enabling the Islamic tradition to provided for the legitimacy of differences and the different schools of law, was swept away in a single handed stroke. But more importantly, an understanding linked to a process which only could validate itself through the past, was deactivated by a more valid truth from the present. Mirza claimed for himself, as a messenger of God, the right to rewrite and bring forward new truth. To further legitimise his claim he also reformulated the doctrine of Jesus' resurrection. This, too, needs to be understood against the backdrop of British colonial rule and persistent Christian missionary activities. In their preaching of the Christian faith they contrasted the superiority of the living Christ with the deceased prophet Mohammed, something that had been done since the Middle Ages, by referring to a part of the Quran (Sura 3:55) where it is remembered that God said, “Jesus, I will take thee to Me, and will raise thee to Me and I will purify thee of those who believe not”. The mainstream Sunni interpretation, however, was that he was not crucified nor killed but that God raised him to heaven and that on the day of resurrection Jesus will play a role as a witness regarding the people of the Book. Mirza, on the other hand, read into several different Suras an interpretation confirming that Jesus was crucified but taken down still alive, his wounds treated, and when recovered, he was able to attended a secret meeting with his disciples. He then left for India where he died a natural death at the age of 120 in Kashmir. With Jesus' resurrection denied, a path was open for Mirza to claim for himself the title of Messiah or prophet and be also the Mahdi, 'the one to restore peace and justice on earth'. As scriptural proof of his claim he referred to John 14:16 and 16:7 where Jesus promises the coming of the Comforter, and to the Sura 61:6 where the Messenger is called Ahmad, like Mirza Ghulam Ahmad. With regards to Sura 33:40 known as Katam-an-Nabiyeen, the seal of the prophets, he differed from the traditional interpretation with a highly personal interpretation that saw himself not bringing new laws but carrying the law till the Day of Judgement. This subtlety was way insufficient to safe him from the disapproval of the mainstream Sunni Islam that had seen in Khatam the 'last' and 'embellished ornament', making the Prophet Muhammed the best and most perfect. Mirza further searched for legitimacy by reinterpreting recorded traditions of something said by Hazrat Aisha, the prophet Muhammed's wife, or referring to the writings of eminent Islamic scholars like Abul Hasan Sharif, Abu Abdullah Muhammad Ali Hussain al Hakim of Tirmidhi, or

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242 Beck. 2005: 215
246 Siddiq. 1996: 280, note 17

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Maulana Muhammad Qasim of Nanauta, one of the main founders of the Deobandi school, and numerous others247. On behalf of such grounds, Mirza saw himself as a “shadow prophet” or as “the person spoken to by God”, or a prophet sirat-i-siddiqui, annihilated in the love of the prophet Muhammad248, or as in the Sufi practice of the different stages of fana, negating one's own identity249. He also portrayed himself as a manifestation of Krishna in the shape of Vishnu in an avatar appearance of the supreme God250. He further defined his quest by reinterpreting jihad as a spiritual effort through voice and pen, rejecting any form of violence - coinciding with Modernist such as Sayyid Ahmad Khan-, contrasting peaceful and rational behaviour with the aggressive holy war251. And last but not least, he established to be succeeded after his death by a khalifat, a divinely appointed line of succession, which originated in the 7th century and was taken up by his son and maintained till present day. The khalifa presides today over 12 million Ahmadis252 of which less than 300,000 are in Pakistan. Though the khalifat claims to include the whole Muslim ummah, the rest of the Muslim world has perceived the Ahmadi khalifat never more than a threat and an insult.

In my fieldwork experience, living in close contact with an extended Ahmadi family, originally based in Lahore and now mostly spread over the UK, USA, Canada and Australia, the rejection of the others is perceived, on the surface, as a confirmation of truth; a sign that they hold a truth the others are not willing or not prepared to acknowledge. When discussing their believes it is easy to encounter rehearsed facts, details, and quotations shaped by a modern discourse that sits uncomfortable with those who word it. But on closer observation one doesn't fail to notice shame. A shame that can not be shaken off, a burden for life as one is born an Ahmadi and dies an Ahmadi. A shame that has been hidden under a strive for success that has made them, despite adversity, a strong and wealthy community with a high international visibility. I believe this visibility and capacity to achieve the highest posts and marks, has also given continues visibility to the position of their founding father who thought that the Islam of Muhammad was not good enough for all times and that it needed to be continually retooled to new demands by men like Mirza253. As the poet Iqbal put it,

Any religious society historically arising from the bosom of Islam, which claims a new prophethood for its basis, and declares all Muslims who do not recognize the truth of its alleged revelation as

247 Siddiq. 1996: 280, note 17
248 Valentine. 2014: 102
249 Qadir. 2015: 162, note 4
250 Valentine. 2014:101
251 Beck. 2005: 219
252 The fact that Ahmadis are thriving in the Western world, as a highly educated community but also with growing membership, says much about its relation to the West and its strong link to the present rather than the past.
253 Zaman. 2018: 166.
kafirs must be regarded by every Muslim as a serious danger to the solidarity of Islam.254

To my knowledge, the explanation that regards the disruption of the process of truth and meaning as the cause of collective rejection, has not been put forward by anybody before. It is, however, in my view, the only possible way to explain why the ulama has focused all their indignation and protest around the question of Katam-an-Nabiyeen, the seal of the prophets held by the Prophet Muhammad. Breaking the seal, was breaking the vessel of truth, a past that could only be approached through interpretation. Mirza's claims to accessing this truth directly were perceived as offensive in every possible way, and his followers who defended their right to be called Muslims, as disloyal and untrustworthy. What I assume was designed as an intellectual move to break away from the past in communion with modern thought, yet to remain within the Muslim ummah, backfired and put upon this community the burden of the outcast. Being perceived as offending demanded, within a society led by the logic of Vindicatory logic and reciprocity, for Ahmadis to acknowledge the offence. But the Ahmadiyya Jamaat did not. Their response was reinterpretation of the sources, therefore appealing to a past they had already dismissed, and secondly, appealing to the present, a government, supposedly there to defend their rights. Even when both responses were proven ineffective they persisted about Mirza being a prophet255, and the state, propelled by the ulama's discontent, eventually evicted the Ahmadis from the Muslim community of Pakistan; The Islamists, in their zeal of government attention and having found the Achilles' heel of the young Islamic state, made sure those differences would remain forever irreconcilable.

The Tehreek-e.Khatm-e-Nabuwat, founded in 1889 to protect the finality of prophethood, and the Ahrar school, founded in 1929 to counter the growing presence of Ahmadis in British India, were early warning signs. But encouraged by Ali Jinnah's somewhat ambiguous support declaring that all those calling themselves Muslims would be treated as such in the new Islamic nation, Mirza's son moved the community from Qadian256 (on the Indian side of the border) to Lahore in Pakistan, and later, to a new city to be named Rabwah, on land purchased nearby257. What was to follow was the ongoing expression of their believes, perceived as offensive, but not acknowledged as such by the accused party. The Ahmadis, backed by modern thought, demanded their right to continue calling themselves Muslims. The bigger Muslim community were not comfortable with this and when rallied by the more aggressive parties of the ulama, with an agenda aimed at gaining

254 Zaman. 2018: 167 citing “Shamloo” (ed.) Speeches and Statements. p.120-21. (responding to Jawaharlal Nehru's criticism of his anti-Ahmadi stance)
255 Though there is a community called the Lahore Ahmadis who separated themselves from the general Jamaat on the grounds that they did not recognize Mirza as prophet.
256 The founding place and reason ahmadis are also called sometimes Qadianis.
257 Qadir. 2015: 164
political power within the new state, disagreement was turned into hate. At first, the modernist of the recently born government tried to be faithful to Jinnah's stance,

I cannot emphasise it too much. We should begin to work in that spirit and in the course of time all these angularities of the majority and minority communities, the Hindu community and the Muslim Community – because even as regards Muslims you have Pathans, Punjabis, Shias, Sunnis and so on and amongst Hindus you have Brahmins, Valshnavas, Khatris, also Bengalees, Madrasis, and so on – will vanish … You are free; free to go to your temples, you are free to go to your mosques or to any other places of worship in the State of Pakistan. You may belong to any religion or cast or creed – that has nothing to do with the business of the state.  

But soon a scenario unfolded that showed that for many people this was not acceptable any more. A state unconcerned about matters of Islam was taken as a menace. The country had been formed to protect Muslims from being oppressed by a Hindu majority. Muslim identity was now a reality, unwilling to be put in a box of 'private life' and behave just like a 'religion'. It was still politics, justice, morale, and regulated in many different ways the whole of the social life. The Jamiat Ulama-e Islam (Assembly of Islamic Clerics or JUI), a group of Deobandi ulama that had rallied to the cause of Pakistan and supported Jinnah's Muslim League party in the 1946 elections, had been convinced by modernist rhetoric that the Pakistani state could be steered towards JUI's ultimate objective, namely, the establishment of a worldwide khalifat and the reintroduction of a socio-political order based on the sharia. When Jinnah died barely a year after the creation of Pakistan, Liaqat Ali Khan became Prime Minister and appointed Khwaja Nazimuddin as Governor-General. Under Liaqat's direction the Pakistan's Constituent Assembly appointed a Basic Principle's Committee (BPC) to advise on the drafting of what was going to be Pakistan's first Constitution. This BPC in turn established a board of ulama, with strong JUI presence, to contribute with their expertise. But rather than delivering advise on religious affairs only, they voiced their ideas on the whole government, applying classical medieval theories of jurisprudence pertaining to the khalifat to determine the qualifications and roles of the head of the state and recommending that any bill, law, ordinance, or administrative order should be approved by the ulama. Those recommendations were met with little enthusiasm by the Constituent Assembly. The Muslim League elite and the upper echelons of the Civil Service, imprinted by the British legacy and education, were rather inclined towards a modified version of the Government of India Act of 1933. They found the

ulama's vision inconsistent with popular sovereignty and, this is interesting, they found the ulama incapable of articulating a coherent vision of Islam suited to the moderns state, which is something that should remind us of the British colonial response when asking the ulama for a unified body of laws and receiving many different interpretations and variations instead. At the same time, the Muslim League, uncomfortable with the ulama's state vision, relied, however, on ijma\textsuperscript{260}, which we have already seen refers in the Islamic jurisprudence to making binding norms through consent\textsuperscript{261}, to find a common ground. One of the results of this was the incorporation of the Objectives Resolution into the Constitution of Pakistan, establishing officially that, “sovereignty over the entire universe belongs to God Almighty alone and the authority which He has delegated to the State of Pakistan through its people for being exercised within the limit prescribed by Him is a sacred trust” to then further affirm the, “principles of democracy, freedom, equality, tolerance and social justice, as enunciated by Islam”\textsuperscript{262}.

Despite the apparently opposed stances held by the ulama and politician, my ethnographic experience observing how they have approached political and social conflicts, have shown me they do share the same language and an understanding (which we will analyse further down the line) that has allowed them to work together till the present day. History and media have portrait Pakistani politics as inconsistent, neither secular nor religious, unclear about the path that has been negotiated between these two political and social forces. I suggest there has been an ongoing process of consent at work, indispensable to fit in the many contradictions a society based on traditional Herrschaft faces in the modern world. It is only by acknowledging that legitimacy is connected to the past, hierarchy, honour and righteousness, within a logic that works on terms of reciprocity and consent, that we can appreciate how the society as a whole has achieved continuity. Despite the many divergent voices, the connection to the past has been preserved, and that is precisely why the Ahmadis continue being a problem. They represent the inadmissible break from the ultimate source of legitimacy that would tip the balance in favour of modernisation. For the liberals, however, allowing Ahmadis to stay, would reconfigure the community into a state for individuals with equal rights, something they believe they are well prepared for. However, the fact that the laws against the Ahmadis still stand today only shows how little weight liberalism really has. There is a common ground the ulama and politicians share where matters of the state are conveniently left unresolved, and for good reasons\textsuperscript{263}.

\textsuperscript{260} Tanchum. 2013: 28
\textsuperscript{262} Zaman 2018:56
\textsuperscript{263} While I'm writing this thesis in Covid-19 confinement, Imran Khan, the current PM of Pakistan, announced that Ahmadis are not non-Muslims anymore but a minority and therefore with access to positions in the government and
Prime Minister Liquiat Ali Khan was assassinated in 1951 and succeeded by Nazzimuddin. Commander-in-chief Ghulam Muhammad replaced Nazzimuddin as Governor General. The Constitution was still in the making but in 1952 the first Report for the Constitution was released, which established that the *ulama* was also going to have a saying with regards to laws. They couldn't stop a law but they could raise objections if it was felt repugnant to Islam and the *sunnah*. Encouraged by such concessions they further pressed for some amendments to be added to the Report, one of them being that the Ahmadiyya be declared non-Muslims and given separate seats in the legislature to reflect their non-Muslim status. The new Prime Minister responded by withdrawing the Report, upon which the *ulama* organized a protest-march to his residence and in addition demanded the dismissal of the Foreign Minister Zafarullah Khan and other prominent Ahmadis. When the news spread that the *ulama* was being arrested the public responded with riots, to such an extend and particularly in Lahore, that the Governor-General Ghulam Mohammad ordered the Defence Minister to place Punjab under martial law. The consequences were hard felt and made evident in the Munir Report, where the inquiry held by Justice Muhammad Munir into the riots, reflected a more open opposition and disregard towards the *ulama* than before, portraying them as fractious, fanatic, and incapable of rendering judgements on Islam that are relevant to the administration of the modern state. The Report showed how they were ridiculed for being of the same mind when it came to apostasy deserving the death penalty, but when having to define 'Muslim', they were unable to agree on one answer, suggesting that they would all find each other eligible for the death sentence. A discourse emerged that has grown in strength over the years, blurring the differences between the *ulama* and *molvis* (also called *mullas*) and obliterating the Islamic tradition. *Molvis* are mostly only *hafiz*, with little scholarship beyond having memorised the Quran and no command over Arabic, and other subjects relevant to the Islamic Tradition. They have just enough knowledge to cover the needs of a vast and widespread population with regards to ritual assistance at marriages, funerals, jumma sermons, and teaching at local madrassas. *Molvis*, and indirectly the *ulama*, were represented as, “opportunistc, covetous for material gain, wedded to an anachronistic tradition, indifferent to social welfare and, above all, intent upon creating an perpetuating sectarian divides in the community". An image set to separate Islam from

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scholarship. The Punjab chief minister Mian Mumtaz Daultana himself said that there were two orientations in the country, one was the scourge of mullas which has threatened the state from the very first day, and than there was the proper Islam that does not stand for any nonsense and advocates for a society where there is no dictation from sanctified mullas and wherein every adult Muslim is as good and as much responsible follower of the faith as the other. A statement directed at divesting Islam from the bearers of tradition. Had the ulama been silent, discretely secluded in their own universe, they would have been spared. But they were active, for they did not distinguish between the social, the religious or political, and displayed a great capacity to rally for their causes engaging with social discontent. Back then, food shortage, growing unemployment, unrest in the public services, railways, electricity, telephone and telegraph departments, and the menace of communism, allowed them to drive a desperate population to the point of riot. Today, inflation, unemployment, poor health care and lack of schools, growing taxes, and empty political promises, are still integral part of the many molvi led movements that have taken place in recent times. They have been able to organize and word helplessness and lead people to carry their worries to the doors of the many prime ministers Pakistan has had over the years, but never, ever, have the Ahmadis been spared. And never, ever, has the government not engaged with them in finding some common ground. This is what I have disentangled from my sources, mostly history books and newspaper articles, that demanded the tedious task of filtering facts from discourse. Had I not witnessed for myself several of such protest marches, I could have easily believed the modernist, and now liberal rhetoric, that disqualifies mullas as 'imposters, manipulating the ignorant masses for their own gain'. When that is all you hear, as I did so for many years, it is difficult to make a different reading. This was further sustained by public appearances divulged by a sensationalist media of ulama and molvis asking for volunteers to become martyrs for killing devilish politicians who care nothing about Islam. But I made my way past this conundrum by realising their enduring connection with those in government and with all the levels of the population, and that they were integral part of the horizontal and vertical alliances, bound by hierarchy, cast, biradari, and custom. It was actually something the nazim told me that made me realise this. In August 2014, Muhammad Tahir-ul-Qadri, a Pakistani-Canadian Islamic scholar and politician, led a march of half a million people to the capital. Though in a separate march, he was joined by Imran Khan and his party followers. Once they were all gathered in Islamabad, waiting to negotiate with the government, the government made sure they had no water or food supplies. Qadri encouraged his people to stay, claiming he was surviving on tea and roti, while abundant hot meals were secretly brought to his trailer. The suppliers of those meals where amongst others the nazim’s family, the Chaudhries of Gujrat. It was

267 Zaman 2018: 60 referring to Dawn, December12, 1952,
a story filled with contradiction if looked at from a modern political perspective, but it was unerring when looked at in terms of horizontal and vertical alliances that make for a community unbroken by political differences. What I’m trying to say is that the political discourse in Pakistan needs to be taken with a pinch of salt, and that the liberal discourse is mouthed by a far less liberal population. As I mentioned in the previous chapter, and it will be a recurrent argument in the following chapters, the “yes, but no” is a mechanism meant to deactivate modernity, to join the dominant discourse without letting go from the past, which is, I insist, the real source of legitimacy, truth and right. I believe the writing of the Constitution framed a political ground with opposing stances that has remained up until today, conveniently unresolved. A matter so essential as sovereignty was left in a discursive limbo, and with it, the fate of the Ahmadiyya community. Legislation was neglected in favour of alliances and agreements, negotiations and pacts amongst the traditional Herrschaft, and as we have seen, those depended on the consent of a population that believed that custom, past, honour and right are one. The army has been one of the more successful groups of the ruling elite in doing so. When ruling parties are perceived to weaken they are displaced. In this case it was the bureaucratic and military elite who put an end to the new parliamentary democracy and took matters in their own hands. In 1958, Iskandar Mirza declared martial law and abrogated a constitution that was only 2 years old. A decade later and in a scenario of Islamic socialism, the new Constitution 1973, declared Islam the state religion, and the ulama’s officiated presence through a Sharia Court and a Council for Islamic ideology. The ambitious Zulfiqar Ali Bhutto had already lost East Pakistan and his policies of nationalization, land reform, and education, proved to be more rhetorical than real, and as contradictory as his stance with the ulama. Unrest and strikes, shortage of flour and cooking oil, and India’s first nuclear test, together with government officials openly voicing their discontent towards the ulama and with plans to legislate against mosques being used for political purposes, laid the ground for another Ahmadi episode to shake the ground.

In May 1974, a group of medical students on a train journey, performed an anti-Ahmadi demonstration on a scheduled stop at the city of Rabwah. Amongst others, they shouted slurs and offensive slogans against the Amadiyya. On their return journey, the train stopped again at Rabwah, only this time they were met by hundreds of Ahmadis who set out to beat and injure them with knives, clubs, and hockey sticks. Immediately a violent anti-Ahmadi response broke out across the whole of the Punjab province destroying Ahmadi homes, shops and factories. Ahmadi students were forcibly thrown out of their hostel rooms, their belongings collected and set on fire.

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268 Not one single Prime Minister has completed his or her full tenure without being killed or deposed.
269 Zaman. 2018: 175
270 Rabwah was created by the Ahmadis after partition as their save haven.
271 Tanchum. 2013: 35
272 Tanchum. 2013: 35
According to official reports it led to forty-two murders of which twenty-seven were Ahmadis.273 Though violence was contained after a week, a propaganda campaign was launched by the major Islamists political parties, religious organizations, students and trade unions, intellectuals, and members of the opposition parties in the National and the Provincial Assemblies, publicly demanding the government to declare the Ahmadiyya community non-Muslims, remove all Ahmadis from key positions in state institutions, and declare Rabwah an open city (as it was perceived like a state within a state). In addition, a nationwide movement was launched to boycott this community. The government, on the other hand, restrained processions, arrested student and religious leaders, and banned sectarian news. It also arrested seventy-one Ahmadis for their alleged involvement in the attack on the students at the Rabwah train station.274

In June 1974, The Rabwah tribunal headed by the Lahore Hight Court Judge Samdani, commenced its proceedings. With the recording of seventy testimonies, both Ahmadis and non-Ahmadis, the inquiry revolved not only around the incidents occurred at the Rabwah train station, but also questioned the loyalty of the Ahmadiyya community to Pakistan, their religious status and believes, and the possibility of a larger strategy aimed at overturning Islam and institute the Ahmadiyya religion instead.275 Despite the protest by the lawyer of the Ahmadiyya Jamaat of Rabwah insisting that the issue of the religious beliefs of the community were irrelevant to the case at hand, Samdani asserted that they did form a distinct sect with their own organization and that it was relevant. For the Ahmadis, the cause of the fight had been the students who, besides shouting offensive slogans, had verbally sexually harassed a group of girls at the station. The students denied those charges claiming instead that the attack had been unprovoked and that it was the Ahmadis who had shouted blasphemous slogans, and also, that they had tried to distribute objectionable Ahmadiyya literature to them.276 Besides establishing the number of the attackers, identities, and timing, testimonies were given with regards to the 'heretical' and 'blasphemous' practices of the community and the despotic nature of the khalifa and his close family and associates. One of the witnesses was an Ahmadi by birth who had been dislodged from Rabwah in 1956 on the grounds that he and five others had made critical statements about the khalifa. 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. Further witnesses came forward giving testimony of the Jamaat having its own system of administration, education, policing, and justice, all characterised by despotism and arbitrariness, and

274 Saeed. 2007: 139
275 Saeed. 2007: 143-144
bypassing the state all together\textsuperscript{277}. The danger of the idea of a state within a state was further stressed by the lawyers representing the students arguing that they had formed a quasi-militias ready to strike against the Muslims of Pakistan and that it was all part of a larger conspiracy to collaborate with India and create a 'united India' in the South Asian sub-continent\textsuperscript{278}. By the 20\textsuperscript{th} of August, Samdani presented a 112-page report to the Punjab government\textsuperscript{279}, which was later passed on to the national Assembly. On September the 7\textsuperscript{th} 1974, the Assembly Special Committee declared that “non-believers in the finality of the prophethood of Muhammad (peace be upon him) are outside of Islam”. The Constitution Amendment Bill was passed unanimously and the Ahmadiyya were officially designated as non-Muslims by the Pakistani state\textsuperscript{280}.

According to Stephen Cohen\textsuperscript{281}, 'the Ahmadi question' allowed the state to accommodate Islam within the national narrative and emerge out of this middle position between a liberal-secular state that only pays lip service to Islam, and a nation-state meant to serve the Islamic moral community. Cohen is right in pointing out that conflict is an expression of the social and political functioning, but not in the way he defines them. I don't think there ever was a liberal-secular option nor a moral community in need of a nation-state. The authors eagerness to grasp the countries reality and make it more accessible for US foreign policy, is proof of an ongoing incapacity to view Pakistan from its vertical and horizontal alliances that define its political and social traits and render the concept of citizenship ineffective, and therefore the nation-state empty of its meaning by definition. I also disagree with Saeed, though much valuable material comes from her article, that the tribunal investigation allowed the nation-state to take on the role of protector of the moral community. It is true that the justice system and the National Assembly were the authorities involved but they didn't get any credit for it. It is, still today, a disputed matter that is far from resolved, precisely because state laws don't carry sufficient legitimacy to do so. As long as there is a presence of Ahmadis, they will cause argument and disturbances, not because they don't obey the law, but because their stance in the present, their modern arguments, and their refusal to acknowledge that they are causing offence, will always be perceived as traitorous and disloyal, because that is the real issue at stake here.

It is true, and I side with Qadir\textsuperscript{282} when he says, that heterodoxy, in this case the Ahmadiyya Jamaat, forced orthodoxy, the Sunni majority and specially the Deobandi Jamaat, to pull their weight and proof their authority. Qadir's argument builds on Pierre Bourdieu's idea of doxa in which

\textsuperscript{277} Saeed. 2007: 144 citing Nawa-e Waqt Newspaper, Lahore: 27\textsuperscript{th} June 1974
\textsuperscript{278} Saeed. 2007: 145 citing Nawa-e Waqt Newspaper, Lahore: 20\textsuperscript{th} June 1974
\textsuperscript{279} Ibid.
\textsuperscript{280} Tachum. 2013: 36 citing Dawn Newspaper, September, 8-10th 1974
\textsuperscript{281} Cohen. 2002: 113
\textsuperscript{282} Qadir. 2015: 158
a set of fundamental beliefs, which do not even need to be asserted in the form of an explicit, self-conscious dogma, are questioned by heterodoxy bringing that order of unasked assumptions into an opinion ruled discourse. According to Bourdieu, it is the dominant group that undertakes then the conscious activity of codifying doxic elements into orthodoxy.

My conclusion, however, is that a matter such as the persistence of the Ahmadios in wanting to be considered Muslims demanded an acceptance that was only possible in a modern context of religious freedom of expression. Despite the Pakistani nation-state, National Assembly and Courts, the matter was perceived, inside and outside those institutions, as an offence. The very source of truth, of right, of the most beloved, and of the highest sovereignty was being denied. Such irreconcilable differences could only be perceived as treason and, therefore exile was the only possible solution. This response came from the bottom of vindicatory justice but as the demand for justice had been made to the state – understood here as the third party authority – the response had to be judicial. On a second level, this matter was also used by the Islamists with political ambitions to gain state recognition, a voice they were being denied. This is what renders this aspect rather complex. It was, and still is, a struggle for a new authority build upon the outrage caused by the offence to an old authority. What caused the outrage was not the need to codify or legislate, on the contrary, it was the need to preserve. Islam, we have seen, was able to deeply entrench itself into custom by building upon the same type of authority - a chain that leads to a past, with truth, honour and righteousness, building an authority as defined by the traditional Herrschaft. The Ahmadiyya community represent the break from this authority, not from authority per se, but from the traditional one. They placed authority in the present; an authority so powerful that was able to rewrite dogma. This was perceived as offensive, disloyal and traitorous. As we have seen, Vindicatory justice, embedded as it is into the logic of reciprocity, demands the offending collectivity to acknowledge the offence. But the Ahmadios, after being unconvincing in reinterpreting the sources of revelation and citing Islamic scholars, resorted to position themselves on the platform of human rights and religious freedom, and claim: “who calls himself a Muslim is a Muslim and no other person or group of people can contest this”. They wanted to remain in the community but not recognise the offence they were causing to the community. There was no reciprocity and the circle had been broken. The community's world wide success has been easily accommodated by the West. But Pakistan neither holds their post-Enlightenment logic, nor does law or liberal rights strike a deep chord. Relinquishing the beloved prophet from his position as final and most perfect and replacing him with a voice from the present who pretends to speak for all, was too big an offence. The Islamists and some of the ulama, who were best equipped to divulge this

283 Ibid
offence and hinge into social discontent, rallied the people against the government to seek, on the one hand, the attention the government refused to give them, and on the other hand, to reestablish normality. As we have seen with our first case of panchayat, the offence is seen in a collective way and when the brother of the murderer showed no signs of being sorry it did nothing but increase the offence, leading, ultimately, to the exile of the whole family. In the same way, I suggest, the Bill of 1974 was perceived as an order for exile; to exile from the Muslim community those who commit offence but refuse to seek pardon or even acknowledge the offence they have caused, not in a zeal to punish but with the aim to procure social continuity by avoiding further disturbances. This is one of the main arguments that are still being debated. People accuse Ahmadis for causing disturbances, for it is because of them that riots and protests erupt. The Ahmadis, on the other hand, insist that they are lovers of peace and those who exercise violence against them need to brought to justice.

Far from creating an Islamic identity or political unity, the Bill did little to appease mounting pressure which allowed, one more time, for the army to step in, this time lead by General Zia-ul Haq. In 1977, he put the popular Zulfiqar Ali Bhutto under house arrest, dissolved the National and Provincial Assembly and, without firing a single shot, the whole government was detained. Two years later, and after a fake trial, Bhutto was sentenced to death and hanged. Zia maintained himself in power on postponed promises for general elections, an iron fist, and a self-tailored Islamic legitimacy. Seeing himself as a true soldier of Islam, he gave special patronage to the Jamaat-e-Islami, a party that had been founded in 1941 by Abul al-ala al-Mawdudi in view of an Islamic state with sharia laws. It is significant here to note that Zia inclined himself for a Jamaat that was not build on the Islamic Tradition but focused on imposing sharia-codified-law as means to force the population into an imagined identity of Muslim purity, unmistakably similar to European political entities and their believe in a pure national identity. But more then his Islamists fist, international circumstances played in Zia's favour, allowing for Islamization and army rule to outweigh any opposition the population was able to muster. Pakistan's geopolitical importance during the Cold War, American dollars and a section of the Deobandi ulama with Saudi imprint that didn't hesitate to trade lives for money, would set the ground for terror.

A Marxist revolt in 1978 followed by a Soviet invasion tipped the fragile balance held between Russia and the US. The American response was to give assistance of the kind of 7.2 billion dollars to the Afghan mujahidin, and it was the General's good fortune that the Americans agreed to do this through the Pakistani army and ISI284. Large sums of money were handed out to the Deobandi schools in the tribal areas to make a call for jihad and round up as many men as possible to fight in Afghanistan. US money and the ISI helped to establish thousands of madrassas and turn

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284 Inter-Services Intelligence is the premier intelligence service dedicated to the national security.
them into a weapon that would not only affect the Soviets, but the rest of the world for years to come. Parallel to those transactions, the export of heroin was managed now by Pakistan, too. Though most of it was for export, the internal numbers of addicts went from zero to 1.9 million in just a decade. Another 3 billion dollars are recorded to have been sent annually by the 6 million Pakistanis working in the Persian Gulf. Zia was not short of cash and 6 good harvest seasons made it even more difficult for desperation to rise.

In addition to ideology and money, Zia used the law to smother dissent. In 1978, the General delivered a nationwide address saying that "many a ruler did what they pleased in the name of Islam." Yet, he appropriated for his government the name of the Nizam-e Mustafa movement that had risen during Bhutto's regime, understood as the Islamic System, using it as a personal cover-up to steer away from the Constitution and Common Law and into the direction of codified sharia laws attempting a complete Islamization of the laws of the economic and social life. As preliminary measure, he established the Sharia Benches where, "Every citizen will have the right to present any law enforced by the government before the Sharia Bench and obtain its verdict whether the law is wholly or partly Islamic or un-Islamic." However, the Sharia Benches' jurisdiction was curtailed by the following overriding clause: "(Any) law does not include the constitution, Muslim personal law, any law relating to the procedure of any court or tribunal or, until the expiration of three years, any fiscal law or any law relating to the collection of taxes and fees or insurance practice and procedure." It meant that all important laws which affect each and every individual directly remained outside the purview of the Sharia Benches. And even the Sharia Benches needed to be personally curtailed by him. When they declared rajm or stoning to be un-Islamic, Zia-ul Haq reconstituted the court, which then declared rajm as Islamic.

Further, the country's civil courts were basically replaced by Islamic and military tribunals. Military courts were given jurisdiction over trial and punishment of civilians found guilty of violating martial law regulations. The verdicts could not be appealed to a higher civilian court. Moreover, a provision of the 1973 constitution establishing that judges could be removed only by the supreme judicial council, consisting of the chief justice and two ranking judges from the supreme court and the high courts, was revoked by the military government in June 1979. Under the 1981 interim constitution, a new oath was imposed on all Supreme Court, High Court, and sharia Court judges, and all laws promulgated by the martial law regime were exempted from judicial

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285 Jalal. 2014: 242
286 Tabarani. 2011:120
287 Ispahan, Farahnaz. 2017: 96
288 Tabarani. 2011: 120
review. The supreme court chief justice and several other judges were replaced after refusing to take the oath. By 1982, Zia had the power to make any changes to the Constitution.

It is in the light of these circumstances that one has to evaluate the fatal Martial Law Ordinance XX of 1984 aimed at the criminalization of the Ahmadiyya community. Ahmadis were not allowed to “pose” as Muslims. They were not allowed to call azan or call their place of worship masjid, nor pray according to Islamic custom, nor pronounce the kalima, nor inscribe Quranic verses on their mosques, houses or tomb stones. They were not allowed to call themselves Muslims nor greet with Assalamu Alaikum. The very basics practices of any Muslim, if done by an Ahmadi, could lead to imprisonment or death. In 1986, the Criminal Law Act Section 295C was added to the Pakistani Penal Code, also called Blasphemy Law, that explicitly defined Ahmadis professing to be Muslims as blasphemous and punishable by death only. By then Zia had added the 8th Amendment to the Constitution which gave him such control over the entire government that he could afford to lift martial law. He, more than anybody, had understood the working of the nation-state and the kind of power it could yield, and he didn't shy back to use it. In a true Agambenian sense, he turned the Ahmadi into the killable heretic, or Wajibul Qatl, those who are liable to be killed, as they are still called in some places of Pakistan. “We will persevere in our effort to ensure that the cancer of Qadianism is exterminated,” he said as recorded by the U.N. as a Human Rights violation. As with the Jews in Nazi Germany, I believe that it was their similarities that brought upon them such hate. There can't be more than one 'chosen people' in a nation. There is only room for one identity. One also has to remember that Zia wanted to be seen as Mahdi, the saviour, like Mirza had portrayed himself. Both had broken away from the past and were sailing on modern political grounds. Whereas Ahmadis were peaceful and became the victims, Zia, together with Islamization and a Cold War in his favour, used force and any means at his disposition to impose his new order. But Zia failed. It would be erroneous to conclude that his legal reform carried true legitimacy or that the population ever regarded him as Mahdi. Laws were changed, the whole Constitution was changed, but the rule was really that of force. People did what they were told to do out of fear. Trade unions and civil rights were oppressed. News and television were censored. Teachers, students, doctors, lawyers, artists and intellectuals expressed their indignation in one way

290 Valentine. 2014:106
292 Valentine. 2014: 110
or the other, but there was not much they could do. I spend some month in Lahore in 1984. In order to keep me busy I was allowed to take art lessons at GCUL. A student was appointed to supervise my drawings. One day, he pulled out a portrait of Zulfiqar Ali Bhutto and tears rolled down his face. I was stunned. I didn't understand. Then he explained to me how great and good Bhutto had been and how he had been killed by Zia. When I returned home I told my uncle about the incident. I was not only forbidden to return to my classes but also interrogated as to why the student had felt confident enough to share these kind of thoughts with me. Oppression triggers down.

In 1988, after the inspection of a parade of American tanks in Bhawalpur, General Zia, together with the most senior rank of his army, and the US ambassador to Pakistan, died in a plane crash. Two years before, the daughter of Zulfiqar Ali Bhutto, Benazir, had returned to Pakistan and was received in Lahore by a sea of 4 million people who covered her in rose petals. Shortly after Zia's death she became the first elected woman prime minister of a Muslim country.

The discourse pronounced by historians portrays Pakistan governed by the Bhuttos (her, later her husband, and then her son), the Sharifs, and the army (who never let go of that iron fist), with a Bureaucracy and a Judiciary caught up in the same game for gain, leaving the population unattended and in despair. This analysis, however, presupposes that the institutions of the state are understood as modern institutions and are being abused by people with modern minds who are corrupt. It is a reading of what is but fails to function. Bearing in mind a population of over two hundred million with an economy equally vast and growing all along the last seven and something decades, I find this negative reading unsustainable. Instead, I suggest to look at the political and social functions from the perspective laid down by Alavi, with regards to the horizontal and vertical alliances, the biradaris and the castes, that have, through all periods of time, worked for their continuity, within a rational and logic which sees itself reflected in Vindicatory justice, in a reality that derives its meaning from a process, where land is bound to honour, and honour to past, and past, as is truth, is the vessel of legitimacy. That is, above all, how truth is constructed, and how the state has been incorporated in this construction. And in this construction, for the sake of continuity, some matters need to be left unresolved. Being a modern democracy fending for human rights yet perceiving and offence as something that has to be acknowledged collectively and dealt with in order to procure continuity, keeps Ahmadis in 'exile'.

The *Dawn* Newspaper from the 27th of May 2012 reported that those responsible for the militant attack on two Ahmadiyya places of worship in the city of Lahore, with guns, grenades, and suicide bombs, killing 94 people and wounding well over 100, were not brought to justice yet. Though two
men were captured during the attack and the Punjabi Taliban have openly claimed responsibility, the government has failed to make progress on their trail, seeking repeated adjournments from the court as their defence.

The harshness of this exile changes with every period in history, but even the most recent attempt made by Imran Khan during the Covid 19 quarantine declaring Ahmadis a minority instead of non-Muslims, and therefore granting them access to political positions, was revoked after just a few days.

This is a picture of an Islamists with anti-Ahmadi propaganda.

As a final comment, I want to make the following observation. The Ahmadis I have encountered and lived with are Ahmadis because their parents were Ahmadis, and they continue this truth that comes to them from their past because they can't break away from it, because it is their past and it is their truth. They are also part of the horizontal and vertical alliances and the logic of reciprocity that defines those alliances and relations, and as such they are integrated in society, hold jobs and run their businesses. As social beings, as socially interacting humans, they are integrated into society, but they live in a contradiction they can live with because it is part of their past, but outsiders can't.
Chapter Five:  
Hierarchy and Reciprocity

In the last chapters, the approach to the hypothesis of this study has been made from a more general, one could say, macro perspective, though, many micro-social elements have been included as the argument itself binds them together, like, for example, the approach to interpretative truth and my walk back from the Data Darba with the Chairmen of the Islamic Department. He made me understand that the 80 lashes were not a fact or a codified punishment designed by law, but had to be understood within the package they were delivered, the literary tradition that brought forward the authority and its source, a construction of knowledge that obtained its legitimacy from the past and its connection to the divine.

This chapter will further explore this interconnectivity by focusing on hierarchy and reciprocity as one of the main traits that define Pakistan's social and political functions. A micro-social exploration of the prosecution of those accused of attacking a Christian neighbourhood, the escape of the ex-prime minister from prison after being found guilty on corruption charges, a judge challenging the prime minister's cabinet and the army, and two contributions from my ethnographic research at the High and Supreme Courts in Lahore, are all attempts to step away from an institutional definition of what a judge or a policeman is, and via an already hinted at socio-political realism, reflect upon what they actually really do.

The first case not only illustrates caste as a type of social organization, to be seen as binding rather than dividing, but it also illustrates how the caste society deals with the impact of modern identities. In addition, this case delivers a significant performance of a judge that draws parallels with all to the other cases, proving it is inaccurate to define a judge in the frame of positive law and the idea of the judiciary of the nation-state. But far from viewing Europe, for example, and Pakistan as opposed, this chapter will invite the reader to reflect upon the real extend of the 'informal', more often than not called 'corrupt', and the possibility of a more accurate analysis were the terms to be reversed. What if the 'informal' or 'corrupt' were actually to be the 'formal' and legitimate way? Is the West really that opposed to the traditional Herrschaft as it pretends to be, or could this study allow us to recognise some of the traditional Herrschaft through the fissured walls of its system? One even might think that the intention here is to mirror Pierre Bourdieu's covert approach to French society when analysing the male dominance of the Berber of Kabylia in northern Algeria.²⁹⁴ Or even more to the point, the wish to portray the workings of the elite as it was done by Federico

²⁹⁴ Bourdieu. 2000
de Roberto in *The Viceroy*²⁹⁵, when the young aristocrat assures his desolated aunt that what had once been counts and dukes are now members of the senate and the parliament and that she needed not to worry about modern times. Maybe the elites in Pakistan are a more blunt version of some of the big families in Europe who have maintained their supremacy by secretly acting outside the law and denying an egalitarian society.

**Dumont and Caste Solidarity**

We find ourselves at the same junction as Louis Dumont when trying to explain caste. He realized, he first had to reflect about the persona as an individual with all its connotations and voices that had contributed to its construction, before being able to explain a persona outside that individual perception.

For the moment, our first aim is to come to understand the ideology of the caste system. The ideology is directly contradicted by the egalitarian theory which we hold. And it is impossible to understand the one whilst the other – modern ideology – is considered as universal truth, not simply *qua* a political and moral ideal – which is a declaration of faith beyond dispute – but *qua* and adequate expression of social life – which is a naïve judgement.²⁹⁶

Further, he felt the need to defend caste from those who could only see it as an aberration, denying the rights of man and an obstacle to their economic progress:

The caste system is so different from our own social system in its central ideology that the modern reader is doubtless rarely inclined to study it fully. […] The reader, even on the assumption that he is more moderate in his opinion, cannot be expected to consider caste other than an aberration, and the very authors who have devoted books to it have more often tried to explain the system as an anomaly than understand it as an institution.²⁹⁷

Eight decades later, one should have thought, this is not necessary any more. Yet, the need is felt even more, to the point that one is inclined to call out the hypocrisy of those who shake their heads when studying a hierarchical society. As Dumont points out, referring to Durkheim, it is society that makes us perceive ourselves as individuals, that obliges us to be free, the same way as it is the traditional society that has forged the collective idea of man. As such, Dumont says, it is the

²⁹⁵ Written in the early twentieth century narrating the history of the family of the Viceroy of Oceda in Sicily
²⁹⁶ Dumont. 1980: 4
²⁹⁷ ibid:1
appreciation of man as a social being which links us all\textsuperscript{298}.

Despite the awareness that he has to move outside his own social precepts, Dumont's study on castes is still an attempt to define, to retain, to categorize, in a modern fashion that is ill suited to describe a social reality that establishes itself through a process, linked to authority, consent, and custom. I have added this picture I took on the road (hanging out of the car window) because it captures the inseparable difference and unity at the same time.

However, Dumont's observations on caste are of immense value to us, as he sees the connection, as has been shown here already, between cast, authority and justice. He does not see the process nor does he contemplate the possibility that a type of justice might be at hand with a completely different logic, but he does recognise the main traits of vindicatory justice:

When, in a village, members of a dominated or dependent caste come to ask a notable of the dominant caste to settle a difference, they recognize his authority as arbiter or judge.\textsuperscript{299}

Sometimes the reciprocity of the services is in dispute, sometimes the privileges of the caste itself are attacked and it defends them indirectly by putting an end to one of the other services.\textsuperscript{300}

\begin{flushleft}
\textsuperscript{298} ibid:8
\textsuperscript{299} Ibid:167
\textsuperscript{300} Ibid: 176
\end{flushleft}
The caste solidarity operates even against the power of the state, says Dumont, referring with a note to a quote by Abbe Dubois written in 1825:

On the one hand, caste authority is often a check against abuses which the despotic rulers of the country are too apt to indulge in. Sometimes one may see, as the result of a caste order, the tradesman and merchants of a whole district closing their shops, the labourers abandoning their fields, or the artisans leaving their workshops, all because of some petty insult or of some petty extortion suffered by some member of their caste; and the aggrieved people will remain obstinately in this state of opposition until the injury has been atoned for and those responsible for it punished.\(^{301}\)

Dumont also recognises the authority as plural rather than singular. As a general rule, he observes, there is no single chief, explicit or otherwise, but several more or less rival leaders. This comment links us directly to an authority that is defined by the process that evolves in each situation. He further notices that the headman, if chosen by the State, only has real authority “if certain local conditions are fulfilled”\(^{302}\). He also distinguishes the kind of justice as non-penal, arbitrary, by conciliation, tending both to re-establish harmony within the group and maintain the authority of the *panchayat*.\(^{303}\)

Bearing all this in mind, the following three cases presented in this chapter should serve to visualise further the interconnectivity of the social and the political, under what premises they work, and what conclusions beg to be drawn.

**The Christian Sweeper**

During the time I was teaching at GCUL, one of my subjects was 'Religious Pluralism' for MPhil students. In my first assignment I asked them to explain what the subject meant to them. The unanimous response was a modern discourse reply they read out without knowing what they were saying – or rather not knowing how I was understanding it -, and personal comments evaluating sectarian violence as a 'tragedy'. There was no connection between what they read out and what they felt; one was factual and the other moral. Realizing this, I started to look into actual cases that were reported in the news and on the internet. I immediately came across an astounding amount of


\(^{302}\) Ibid: 183

\(^{303}\) Ibid: 180
“Christian sweeper accused of burning pages from the Quran” and subsequent rioting, more than twelve similar cases in the last years, mostly in Punjab, mostly in areas of rapid urbanization and population growth. The class picked the Sanda incident as our case study on the grounds that one of the students (the one they had begged me to pass despite his low grades the previous semester) lived there and had been witness to the rioting. We dedicated the whole semester to this case and established the following.

The Sanda case occurred on the 24th of May 2015 in Lahore, when a Christian sweeper was accused of burning pages that contained verses from the Quran. According to eyewitnesses the young Humayun Masih was saved from an infuriated mob by the swift intervention of the police force, who took him into custody. Deprived of the possibility of burning and killing the blasphemous offender, the women and men ran into the narrow streets of the Sanda neighbourhood towards the Christian block. There they caused serious damage to the Christian homes and church by smashing windows and doors with sticks, firing guns, looting, burning, yelling, and scaring the helpless inhabitants into fleeing and hiding. The press strongly condemned the behaviour of the attackers for causing injuries to the police when trying to protect the Christians from the mob; for being so out-of-hand and so numerous that the Rangers304 had to be called in; for not realising that Humayun was 'mentally disturbed'; for causing important material damage to Christian property; and clearly pointing the finger at the local Jamaat-e-Islami leader Liaquat Jutt for instigating the mob.

More for my own benefit, as my students were familiar with this or similar neighbourhoods, we went to Sanda and visited the streets where the violent attack had taken place. We found quiet, narrow allies which neatly separated the areas belonging to the different castes. We saw that except for the Christians, all the other streets had covered drainage. We saw the bullet holes in the gates of the church. What I had imagined to be a 'proper' church with a bell-tower and an arched wooden door, was a plain urban construction, two stories, high ceilings, a space for one or two cars, protected by a high iron gate, and no windows to the reachable exterior. The children playing in the allies, and some leaning out of their gates to look at us pass, were dark skinned with black eyes looking straight at me; rubber slippers, bats, and self made cricket balls. They were the untouchables. The lowest of casts, in their own words,

I was born as a sweeper from the very inception of opening up my eyes. The so called humane society introduced me as a son of sweepers. My faith has it my parents were sweepers. In the past

304 They are a section of the army under the authority of the Interior Home Secretary of Pakistan and are employed to assist the police during disturbances.
my, parents were sweepers, in the present we are sweepers and in the future our children will be
sweepers. It is our final destiny, we were born sweepers and we will die sweepers\footnote{Christian interviewed by a student for the class assignment.}

Low-cast Hindus converted to Christianity in the late 19th century to escape the cast system, but
notions of uncleanliness have ensured that all sanitary jobs are reserved for non-Muslims now\footnote{Eqbal Ahmed Centre of Public Education. 2016 Video: Pakistan Untouchables – the Christian Sweeper Community.}

The vast majority of cleaners are Christians who were once the untouchables and traditionally
cleaned the latrines of the houses before running water and drainage had been installed. I remember
I was ten, that is 1976, when I was spending some time with my grandmother in Lahore and a
woman with her little child would come every day and clean the latrines. The house then had only
one tab with running water and that tab was in the patio. It was not the suburbs, or somewhere in a
village, but right next to the Civil Courts and not far away from GCU, which is in the centre of
Lahore.

Since our work is considered unclean, people tend to look down upon us. They treat us like animals.
People do not like to speak with us, they refuse to shake our hands and they do not even eat from the
same plate as us.\footnote{Aslam. 2011}

Based on my observations, being a Christian does not draw the line or make you
untouchable but the concept of low caste does. I have often seen how low caste Christians, cleaners,
get food from those they clean their houses, but on separate dishes and never sharing the same
room. Whereas, Muslims are perfectly comfortable to share a meal, plates and cutlery, even drink
form the same glass, with a Christian professor, for example.

The land we were standing on, the ten square kilometres Sanda was made of, was once granted by
the British, under colonial rule, to a group of the Arain caste in exchange for loyalty. It has already
been referred to how Arains and other land related casts like the Jatts were granted land under
British occupation. The Arain caste is mostly associated with small land farming or market
gardening but also, in some cases, to big landholdings. These Arains have lived here ever since,
cultivating the land and ruling as landlords for over two centuries. Today they also profess to be
Deobandi Sunnis. Non-cultivating jobs were mostly covered by other casts, the Mahatma caste
being the most prominent, now more identified as Barelawis. The lowest menial jobs were taken on
by the untouchables, now converted to Christianity. About 75 years ago, through one of the
landlords, a strong Shia community established itself in Sanda, too. Today 60% in Sanda are Barelawi Sunnis, 15% are Deobandi Sunnis, 20% are Shias, 5% are Ahla-i-Hadith, and only 0.5% are Christians. With regards to the housing areas that are separated in terms of cast, and bearing in mind the notions of pollution and endogamy that keep them apart, it would be safe to assume that caste differences are now also expressed in the language of Islamization but that the Weltbild in terms of caste and biradari hierarchy prevails throughout. It has to be understood, I suggest, as additional layers - as with the commentaries in the Islamic tradition that add meaning connecting to new times - that signal horizontal and vertical alliances connecting with exclusive concepts of national identity but not with their meaning. Layers of commentaries is what allows to by-pass modern truth in its absolute sense, and gives ample room to preserve the idea of its own order and meaning. I shall make a brief digression here, but very necessary to fully understand the topic at hand and the events to come.

Despite my many years of fieldwork-confusion and overcoming this confusion by describing my observations, I still fall into the trap of using exclusive terms, which ultimately render the whole attempt of understanding the observed reality futile, at least in my field research area. As pointed out before, there is only 'more or less' Deobandi and 'more or less' Barelawi. To further make this point clear I shall give another example, a question I found myself asking people again and again: On what terms were marriages arranged?

Love marriages is seen as not commendable. The idea that parents know better than a love infatuated young mind is generally accepted. Therefore, it is common practice for parents to visit the girl's parents home, and eventually come to an agreement. This process, surprisingly enough, can spread over many years, a wide geography, and multiple different candidates, or, it can be a matter of days. Sometimes the arrangements are within the families, sometimes, family friends, and, not too uncommon, specially in urban areas, to complete strangers. Whilst it seemed a dead serious matter, people, it appeared to me, were getting married out of nowhere. I had also witnessed plenty of broken hearts. Parents who rejected their offspring's sweetheart because they were from a lower cast, a higher cast, a different religious sect, too much money, too little money, too educated, too uneducated, too dark, too light, too tall, too short. It got even more confusing when I realized that more often than not, it was actually a love marriage, that caste differences could be less of an impediment, or that, even when arranged, impediments could be overlooked. The only constant was that they were 'arranged', that there was a process to go through, and that it involved both families. It was a collective process which, like the panchayat, established norm, authority, and outcome through collective consent. It is not surprising that grandparents carry their weight in this process, that the blessing of the biradari elder is sought of, that differences can be overlooked, or that
differences become, through the process, inadmissible. It is managed from within, and therefore people, their interests, their authority and their ability to pursue their interests, all bear part of the process. But most of all, it signals the beginning of a lifelong relation of reciprocity strongly framed by custom between two families.

It is in this exact light that the Sanda neighbourhood has to be looked at, where differences are established, negotiated, challenged, and redefined in an ongoing process of reciprocity, without forgetting its strong link to the past, rooted in custom. Horizontal and vertical alliances marked by biradari and caste have sustained themselves generation after generation by carrying a logic that defines them and at the same time procures their continuity. Process and meaning are one. It is in this process, or through this process, I believe, that concepts or elements of modernity and Islamization have been taken in but without allowing them to alter the basic order; like with the marriage arrangements, differences can be acknowledged or ignored, diminished or changed, as long as the end result is not put in jeopardy; as long as consent is established towards a lifelong relation of reciprocity; caste and biradari have survived till present times, and so have arranged marriages, by acknowledging new realities, by adding layers of meanings, like commentaries written on the margins of the original sources of revelation, without altering the construction of authority or truth, and acknowledging that what the fathers and forefathers did was right.

From the 1960s onwards, an important influx of newcomers seeking employment, and the Lahore Development Authority allocating the agricultural land of Sanda for residential housing schemes, have brought forward numerous changes through which the Arains have sustained their stronghold over the approximately hundred thousand people that inhabit Sanda today. One of the more recent newcomers to this area is the Jamaat-e-Islami party, with their modern discourse of an exclusive Islam demanding individual responsibility, well adapted to the authority of the nation-state. The Blasphemy legislation added to the Pakistani Penal Code during the Zia era, far from being removed, has remained, and fuelled a social Angst felt not only by Ahmadis and Christians, but also by Muslims. The influx of Islamization in the shape of people and ideas, have forced a more visible Islam that had not been contemplated before, and NGOs and other liberal organizations, carrying the message of equal citizenship, human rights, and equality, have further tested the existing biradari and caste hierarchy. In addition, rapid urbanization and a growing wholesale economy have also contributed significantly to challenge the existing social order. The fact that accusations of Christian sweepers burning pages of the Quran have multiplied and are manifest in growing urban areas such as Sanda, is a reflection of this tension and how it is dealt with. The fact that the outbreak of violence is like a frenzy that possesses people and when the episode transpires, everybody denies having been part of it, points towards witch hunting and other
social cleansing mechanism where ambiguities are straighten out and anxieties released. But regarding the wider process this incidents entails, we can not focus only on the attack and limit our analysis to rituals that allow to deal or incorporate modernity. The bigger picture, everything that unfolds because of the attack, is a process that engages all social agents in a succession of performances that allow the 'old order' to re-emerge as the true guideline for social action and interaction. We have to understand that the Christian sweeper burning the pages of the Quran never was a crime but always has been an offence. An offence caused by one collectivity who, like the Ahmadis, were not willing to be the responsible party as they felt it was not of their own doing. This, in turn, was brought on by modernity, the nation-state, Islamization, and how identity was defined. New terms of identity, always exclusive, positioned this collectivity in an ambiguous and, therefore, dangerous position which is perceived as an offence and dealt with through the process of Vindicatory justice able to reel in all the elements involved and procure, through this process, continuity and visibility of the traditional Herrschaft. The ambiguous element was the Christian sweeper himself, of course. He was a low-cast and therefore he belongs to the community, to a society that saw itself in terms of cast and biradari. At the same time, the sweeper was a citizen with equal rights, with a growing tendency and means to express himself as such. The platform of modern thought that gave room for this transformation was, at the same time, the platform that allowed to regard him as a heretic, an outsider to the true Muslim state and therefore with no rights and killable. The religious boundaries established by the state through the Constitution of 1974 left him outside those boundaries and ready to be exploited by the state and the administration, with practically no political resources to defend himself, except international media and Christian organizations established inside and outside the country with a militant agenda, encouraging him to stand up for his rights and helping him to pursue law suits against aggression and oppression. The Blasphemy law 295-B contributed to further stigmatize him as a potential offender, making him even more vulnerable. This vulnerability called for more attention from the liberal national and international media making his ambiguity even more hart felt. Those who perceive this ambiguity have imbibed enough Islamization to recognise the Christian sweeper as an outsider, yet, and in no uncertain terms, perceive him also as part of their Weltbild, an order made by horizontal and vertical alliances he belongs to but, in their perception, is fading away. As Lilja and Vinthagen mention in their article when talking of Foucault's sovereign and disciplinary power: they emerge in different historical times but don't replace each other.

308 Comaroff, 1996
309 Though I refer to the Christian sweeper as singular and male, the ambiguity reflects on the whole Christian community where men, women and children have been victims of brutal attacks and imprisonment.
310 Lilja. 2014: 107
When we inquired about the actual events nothing was established for a fact. People were not sure who had participated and how it had started. The reasons were also vague, blasphemy was considered a terrible offence but people also thought that the sweeper was mentally weak or drunk and therefore couldn't be held responsible for his acts.

At this point another incision begs to be made. When Foucault writes about the changes Europe underwent while becoming modern and reflecting on crime and punishment, he refers to article 64 which, at the beginning of the nineteenth century, stated that “there is neither crime nor offence if the offender was of unsound mind at the time of the act”311. This didn't imply a reduction of gravity or penalty, but the crime itself disappeared. With time, however, the perception of crime in Europe, was separated from the offence and insanity was taken into account as an anomaly that needed treatment. All the articles we collected on Christian sweepers accused of blasphemy, absolutely all, pointed out a mental disability due to physical causes or addictions such as drugs or alcohol, or even illiteracy. At the same time, the all the accused, as was Humayun, were held in prison, with no means to appeal. Here again, I would consider it a kind of 'exile' in terms of Vindicatory justice, rather than a punishment. The fact that they are held captive does not imply in any way they are found guilty. As we will see in further chapters, keeping people in prison and 'out of harms way' is a recurrent reality.

All in all, a heavy smoke cloud surrounded the event. The student of my class who lived in Sanda called the man who had come to his house urging him to join the riots. When requested to recount the events this man refused to talk about anything. We only found some witnesses who told us about the high numbers of people participating, the damage caused to the Christians, and the panchayat held only days after the event. It had been an outbreak of violence which had been put to rest through a panchayat, a process that had involved the heads of all three caste-biradari's, who agreed that the damages would be repaired and that the Christians would not appear in court to give witness statements. Not going to court had been part of the agreement. The fact that the judge was never handed any evidence of the fire, proof of damage, weapons or witnesses, allowed for the panchayat to prevail. Therefore, it can not be sustained that two types of justice acted simultaneously or in parallel ways or that a choice had been made between customary justice or state justice. A plural justice system would imply two different kinds of logic, the Vindicatory and the modern logic to be both present. Despite the media reports, police intervention, army presence, and judicial procedures, facts point towards one logic that embraced a wider collectivity into a single process that, not only reinforced hierarchy and reciprocity, but also overwrote the modern

311 Foucault. 1991: 19
functioning of law and order.

According to different sources, it all started when Humayun was cleaning the streets away from his neighbourhood. The evidence of his deeds remain unrecorded but somehow a group of men went after him accusing him of desecrating the Quran by burning its pages. The people who were watching the aggression taking place called the police. The police intervened quickly and put Humayun into custody. That is when the group, growing in numbers and appealing to friends and neighbours to join, entered the Christian streets of Sanda, threw stones, fired guns, and pelted with their sticks. They destroyed gates, entered homes, ransacked the church, and looted and burned Christian property. It was a desecration, not of the Quran, but of Christian homes. According to the press, there were 600 people, according to the police report 700 to 800, according to witnesses asked by my students there were only 150, according to a witnesses who came to talk to our class, there were at least 400. That same person said it had been Liaquat Jutt, the head of the Jaamat-e Islami party of Sanda, who had rallied the people against the Christians.

The court report, on the other hand, established the following: The police had filed a First Incident Report\textsuperscript{312} containing the names of 47 men accused of being part of the mob. This Report was filed at 10.00 pm when the riots had taken place at 9.45 pm. It was established in court that a list with those names and full address was put together in 15 minutes, yet the people on this list were not taken into custody till 4 days later. It was also established that one person on that list had been dead for decades and 22 people of the list proved their innocence in court with evidence that they were somewhere else at the time of the crime. It was also established that it had been nigh time and impossible for the police to make such accurate identifications.

Learned defence council on the behalf of accused Liaquat Jutt has argued that the occurrence is of night time and there was no source of light hence the identity of the accused is doubtful. From photographic evidence it was also identified that all the culprits came from outside the vicinity as none of them could be identified. No burnt article recovered from the church was ever shown in the court. The investigation was conducted with dishonesty. The accident took place around 9:45pm and FIR was registered at 10:00pm. No source of information was given how the complainant was aware of the names of the culprit. One of the accused M. Malik, he died in 1986 and that was admitted by the investigating officer. To conclude, the prosecution evidence is full of doubts. Prosecution weren’t aware of the names of the accused persons. No evidence of the church’s burnt article has been shown in the court. Prosecution has failed to prove the charges.\textsuperscript{313}

\textsuperscript{312} An FIR is a First Instance Report, the equivalent in Spain of the Demanda Judicial.

\textsuperscript{313} Court Report 2016 (Aug. 11)
Further, Liaqat Jutt was able to show photographs where he was standing next to the police officers, where, according to him, he was helping to appease the mob. The judge also took into consideration the fact that no witnesses came forward from the prosecution, yet the defence was able to bring in two of the alleged victims of the neighbourhood and both denied that they had been attacked, looted, or their property destroyed. Neither was the persecution able to bring any of the evidence they had collected from the scene proving the extent of the damage and aggression. Added to the inconsistencies of police witness statements, the judge concluded acquitting all the accused.

The defence had argued that the Deputy Inspector General and the Station House Manager, both, had been injured during the attack. This demanded a swift response from the police force and a list of culprits was put together immediately after the incident, hence the list of 47 suspects in 15 minutes. My students explained to me, and other informants confirmed it, that it is common for the police to use incidents to accuse people with unfinished business, people who have crossed the police, or simply candidates with the means to pay a little sum of money to get the charges withdrawn, yet not too influential to make life difficult for the officers. This is generally described as corruption. But what does this kind of practice mean? Can we consider it basically a way of settling scores or is there more to it?

Personally, I was worried I could find myself one day in this situation, however, some time later, I had a chance to make my own observations. Two students had accompanied me to look for a washing machine. The area was very busy and parking difficult. When we returned to our car, we saw a fork-lifter about to pick it up. The student who owned the car went to talk to the policeman and I put myself between the fork-lifter and the car. The discussion went on and on and I started to get really uncomfortable with the forks getting seemingly bigger and closer. People had gathered around us forming an audience that was paying close attention to the negotiations. The student was trying to call somebody who was superior to the officer and the officer was trying to put him off and find out if he was bluffing. The voices fluctuated, paused, stalled, begged; the officer was looking away and the student was recovering his attention over and over again. It was a performance, a performance aimed to identify who somebody was with the point of reference being the policeman. It was a performance that required an audience. It was not about law, it was about who is who within the horizontal and vertical alliances; it was an exercise aimed to position oneself in the social hierarchy rendering the police-citizen relation meaningless. It wasn't about money, well, yes it was, but that was just the coin of the game. The sum they were discussing was less than 5 euros, or 600 rupees. At least for me, that would have not been worth a single minute of my time,

314 It needs to be noted that it was an MA student, around his thirties, and with ample experience and connections. I'm not implying a younger students wouldn't have managed to manoeuvre his way out, on the contrary. I just wanted to clarify his age as student seems to evoke a young person.
considering that we did park where it was not allowed. But the student and the policeman remained there for more than half an hour, with my student finally getting hold of the person he knew would trump the policeman. After this incident and knowing how little money was actually involved, I started to keep watch. Ten million people, always on the move, made for heavy traffic and there always was police presence, scanning their way through the sea of infractions nobody cared about. Van drivers, bus drivers, rickshaw drivers were of highest preference as they made cash in hand. The options were to just pull some crumbled rupees out of the pocket or, negotiate, stall, argue, have a tantrum, or call in some contacts. I, once, played the foreign-Pakistani-teaching-at-University card, that worked very well and I was allowed to go. At that point, I realised there was a moral evaluation, too, which led me to think that this game of who is who or this positioning oneself within the social hierarchy, was actually a process of a much bigger scale that demanded the participation of the whole of the population and with a general perception of the audience that did not distinguish between political, legal, moral or social, which brought me to the following conclusion with regards to the Christian sweeper case.

Up until recently, Sanda had existed as a community linked by caste and biradari relations. The expansion of the population and new ideologies challenged the continuity of those relations. New identities - lower castes that started to regard themselves unjustly treated as inferior, and Muslims who thought of themselves as more rightful - generated a mounting tension that culminated, by a spark of a rumour, into a violent outbreak, to be, a posteriori, dealt with a panchayat. The process of the panchayat was able, because of its intrinsic nature, to come to an agreement through consent, that was admissible to all parties and that would allow for its continuity, and at the same time, reestablish the caste-biradari authority as the only valid authority, rendering the new ideologies secondary. This process, as we have seen already, is not limited but able to expand, involving police, the accused, the victims, and the High Court judge. All in all, a shared script, what Dumont called caste solidarity, with a legitimacy the state can not match. A solidarity based on hierarchy and all the elements that define Vindicatory justice.

The judge didn't dwell on the contradiction of a large police force being called in to disperse a violent attack and then no evidence being brought forward in court of such attack. The people accused of being in the mob never denied the riots, they just said they were not there when it happened. According to the alleged victims who gave their statements in court, absolutely nothing had happened, yet the photographic evidence was abundant^{315}. The pictures on this website are

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^{315} Online Site: [http://www.britishpakistanichristians.co.uk/blog/lahore-christians-face-further-attack-after-man-accused-of-blasphemy](http://www.britishpakistanichristians.co.uk/blog/lahore-christians-face-further-attack-after-man-accused-of-blasphemy)
considerable and bear evidence of the damage perpetrated, the gravity of the situation, and that police remained at site till peace was restored.
But the judge chose to accept what was brought before him and reformulate a reality that was being challenged by modern ambiguities. By ignoring the evidence he gave way to a collective process represented by the panchayat which was able to establish normality by letting people reposition themselves in the realm of the traditional authority, hierarchy and reciprocity, and marginalise modern elements that had seeped in too deep. My students and several other people I questioned with regards to this matter, assured me that this is a common incident, and that the judges are aware in such cases that an agreement has already been made outside the court. The judge did what Vinogradoff emphasized as 'common sense' and Gluckman called the 'reasonable man'. He was informed of a reality, not only in terms of law, but in all its dimensions and did what he thought best to allow for social continuity. He played his part in the process, he exercised his authority and reached a decision that he knew would be met with consent. He did not enforce the law but fortified custom by applying the norm that evolved out of the process.

The Convicted Ex-Prime Minister

Let's consider this: most of the Prime Ministers have been in and out of prison, and their way in has been as interesting as their way out. On my last visit I witnessed one such processes. In 2017, Nawas Sharif was ousted as prime Minister on corruption charges and condemned to a 7 year prison sentence. Though the trial that had led to his imprisonment would be as significant to this study as his way out, we shall focus just on the latter. On the 20th of October 2019 (a day before I arrived in Lahore), he was rushed to a hospital in Lahore as his erratic platelet counts marked life threatening levels. Despite public knowledge of the kind of preferential services men like him enjoy in jail, the poor conditions of his jail were blamed for his sickness. Imran Khan and his cabinet didn't disapprove of him being brought to the hospital but when a request was put forward seeking medical treatment abroad, the government started to voice concern. However, a petition for bail on behalf of his brother Shabaz Sharif, the actual leader of the opposition, was granted by the High Courts. A Board of experts was put together to evaluate Sharif's medical records and the conclusion brought forward to the court, and ratified by a judge, was that medical treatment in the UK was essential for his survival. The cabinet demanded a surety bond of 34 million pounds. To add drama, an ambulance plane was fletted to get him to the UK. Days later, however, he was seen shopping in Harrods (wearing a Ralph Lauren polo shirt). The official verification with regards to the surety bond was never made. The army, who had been eager to replace Sharif with Imran Khan, didn't object to his exile and kept silent.

The media cover over the weeks had been intense and every little detail of possible
treatments, tests, and outcomes, had been discussed on talk-shows, newspapers, and comedy acts. His treatment became everybody's business. The population maintained a moral evaluation of the events and consented that nobody sick should be deprived of medical treatment, very much in contrast to my own thoughts in terms of law and equal rights. But for the audience, Nawaz Sharif had done what needed to be done. Baring in mind he had won elections three times and that the only opposition he had had till recently had been Benazir Bhutto, and that Imran Khan has so far little to show for the changes he promised, millions of people, probably over a hundred million, were celebrating he was sound and safe in London. In exile he could prepare for his return, as he had done before, twice, and Benazir Bhutto did the same too, twice.

The Judge against the Federal Cabinet and the Army

Few days later, another event unfolded, involving courts, army and government, which I have decided to add here as it further pictures the kind of process I am referring to; a process that gives visibility to the vertical and horizontal alliances, and shows the legitimacy of the traditional Herrschaft at the expense of the legal Herrschaft. In this case, the legality of an army chief extension was debated by the Supreme Court\textsuperscript{316}. The fact of the matter was that Imran Khan had given an extension of three years to the tenure of Pakistan Army chief Gen. Qamar Javed Bajwa, and a three-member bench was now questioning under which law the federal cabinet amended the Army rules a day earlier (when it had been known that a complaint had been filed at the Supreme Court a hasty amendment was made the night before the hearing). What captivated my attention most was the tone of authority the courts were using against the government. Having witnessed the wrath of a Supreme Court judge myself, I could well imagine the atmosphere.

The government on Tuesday amended Section 255 of the Army Rules and Regulations, claiming it legalized the extension process for the incumbent Army chief. Chief Justice Asif Saeed Khosa, however, said the clause did not concern the Chief of Army Staff. “The section that you amended is not about the Army chief at all,” he said, adding, “Article 255 is regarding those officials who have retired or have been expelled from service.”

In response, Attorney General Anwar Mansoor Khan said he had not yet had time to examine the amendment, prompting the court to suggest that it might be better to first properly understand the Army Act, dealing with laws related to the armed forces. “How will we understand your arguments if we do not understand the Army Act,” the Chief Justice asked.

\textsuperscript{316} Newsweek online. Nov. 27, 2019
In another article317 the following was reported:

Defending the move, Attorney General Anwar Mansoor Khan said the Army chief’s tenure had not been extended without securing President Arif Alvi’s approval. “The summary has been approved by the federal cabinet,” he added. However, the court questioned why a majority of the cabinet had not approved the extension, as only 11 of 25 members voted in favour of it.

The court also questioned the reasoning behind the extension. “Dealing with regional security situation is the job of the Army as an institution, not just of an officer’s,” said the top judge during the proceedings. “If the regional security situation reasoning is accepted, then every Army officer would want a re-appointment.”

A day later, the Supreme Court granted a six month extension. The following article318 collects the conditions of the favourable ruling:

In its order, the apex court said that the government, represented by Attorney General of Pakistan Anwar Mansoor Khan, had failed to establish any legal justification for extending the Army chief’s tenure. Chief Justice Khosa said the court had “thoroughly examined” Article 243(b) of the Constitution, which says the president can appoint the Chief of Army Staff on advice of the prime minister, and noted it made no mention of retirement, extensions or reappointments. It said the government should consider amending Article 243 to address these issues. However, the order said, the court would show “judicial restraint” and place the matter before Parliament, allowing the extension to take place to prevent any crisis in the armed forces being left without a chief, as Bajwa is set to retire at midnight today (Nov. 28). “We have reviewed several laws including Army Act 1952 and Rule 1954,” the chief judge added.

The court, during its proceedings prior to announcing the verdict, had directed the government to submit a fresh notification that removed all references to the apex court’s proceedings; the duration of the Army chief’s tenure; and any description of the Army chief’s salary and perks. It also directed the government to submit an undertaking that it would enact the relevant legislation to fix lacunas in the Army Rules and Regulations and the Army Act.

Under the questions raised by the court, the government must fix how many extensions a single Army chief is eligible for; whether a retired official can be appointed to the top post; and what the tenure of extension must be.

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317 Newsweek online, Nov. 26, 2019
318 Newsweek online, Nov. 28, 2019
Taking into account the recent prison release of Nawaz Sharif channelled through the manoeuvring of the judiciary, the vindication of the 'legal' here has to be regarded, not as the defence of the law, but as the pronouncement of that giant discourse deemed necessary to protect the social and political functions of Pakistan under the facade of a Democracy. In this respect Paula R. Newberg wrote the following already in 1995:

All of these problems are dramatically illustrated in Pakistan, where incomplete constitution-making has placed the burden of constitutional interpretation on state instruments ranging from the bureaucracy to the military to the judiciary.

The superior courts in particular have played unusually important parts in determining the country's political face.

Courts engage in rituals of recreation: they interpret the constitution of the day, and read political history and constitutional language to establish new understandings of political community.

Through their proceedings and judgements, the courts have profoundly influenced the ways that state institutions accommodate each other and the ways that state and society attempt to resolve their differences; in the process, they have helped to outline the limits of acceptable political behaviour. Political legitimacy is a difficult concept to parse in the Pakistani political context: the courts are a crucial vehicle, and their jurisprudence a critical language through which to try to understand it.\[319\]

Her reading is not wrong. Institutions are 'interpreted' and 'recreated', not due to an incomplete constitution-making, as that is precisely what allows to forgo it, but to suit the demands of an hierarchical order, based on reciprocity and led by the logic of Vindicatory justice. This reciprocity, which has been closely identified with unequal access to resources and has been mostly addressed as patron/client relationships, is not a marginal anomaly but the social reality that demands for the institutions of the state to be 'interpreted' and 'recreated', whilst, at the same time, defending its 'legality'.

As the reader might find it difficult to imagine how exactly this affects the court, I shall recount my visit to the Supreme Court on the 15\textsuperscript{th} of November 2019: I managed to by-pass a much tighter security than at the other courts. One of the lawyers of today's cases had been told to meet me at the entrance. My ID details were noted down and I had to deposit my phone. The entrance to

\[319\] Newberg. 1995: 11
the court room was enormous. It was in an impeccable state and the traces of British legacy seemed to be still fresh. The dimensions of the arcs, windows, and hallways, were overwhelming, and so was the court room. The smell of waxed wood, the grandiosity of the judges' podium with piles of books, reminded me of a church or a library. At first, people were just trying to slide between the benches reserved for the audience as unnoticed as possible. But it didn't take long for the whispers to turn into spoken words, jokes, and comments, and little groups of lawyers and clerks, policemen and clients, quickly filled the empty space with their voices and gestures. As soon as the judges arrived the performance began. Supreme Court Judge Manzoor Malik, senior to Supreme Court Judge Amin Uddin, had the lead. The cases came on swiftly, and every folder was met with an inquiry, the judge's finger scrolling down the pages, lifting his gaze to meet the benches, double-checking, at first. But slowly his tone went from just asking to paternalistic questioning, qualifying at some point a lawyer as “emotional”. As cases moved on, his voice started to expand and quicken, rise and pitch. It was the voice of power, with the right to admonish all the others who 'didn't know any better'. The crescendo came to its fullest when the judge advised a case to be taken back to the Civil Court to which the lawyer replied, “You might as well kill my client.” The face of the judge froze, just one instant. The audience, who didn't think much of the lawyer's comment, was suddenly driven by an erratically angry judge to look at the lawyer with pity. “You are saying I should kill this man? You are asking me to commit murder?” the judge asked with a quivering voice. The lawyer was struck. Aware of his poor choice of words but also aware that he was in no position to correct the judge with regards to what he had meant, he just bend his had an apologized over and over again. “This is contempt of court!,” yelled the judge, indifferent to the apologies, as if they didn't exist. The guards were called in to take the lawyer away. I was just an observer with nothing to lose and nothing to hide, and though I wasn't sorry for the lawyer or in agreement with the judge, I was tense and feeling the lawyer's shame. When the guards came to take the lawyer, the judge flicked them away with a quick hand gesture only to continue to scold the lawyer, “No sorry, no more words, be serious, contempt of court, no more words, contempt of court, no more sorry, you are not a judge...” Several other cases were moved forward and it all came to an end.

To further make my point clear, I shall also refer to my experience at the High Courts: 9th of November. Second day at the High Courts. Both days the court rooms had been filled with lawyers, many in a constant transition of entering and exiting, waiting for their turn, others sitting there through several sessions, just like me, listening. Compared to the Civil Courts, where the action was centred around the judge's desk, here it expanded to the whole room, where much more comfortable chairs, air conditioning, and wood panelled walls reminded me of the nazim's sitting room the panchayat had been held. The personality of the judge never failed to be overwhelming; different
strategies of 'running the show' but absolutely in control. Their aptitude of being above any lawyer, any argument, and any situation, with the knowledge and the experience like no one else in the room, was uninterruptedly put on display. Today Justice Chaudhry Masood Jahangir was more of an enquiring type, even more than Najafi\textsuperscript{320}, which led to much longer sessions. Room was given to dig deep into the evidence, to verify alleged proceedings previous to the hearing, and revising the arguments of the lawyers. This strategy made the lawyers talkative and allowed the judge to pull the strings and mark boundaries. At some point the judge said very softly to an impetuous lawyer that, “The volume of your voice will not alter the law”. It seemed like the sort of move the audience was waiting for as everybody started to nod and sigh with satisfaction. It was then that I was made aware of the configuration of stage and audience, and how justice was made to relate to consent. But that didn't mean law was irrelevant. It was precisely the judge's grip over law and his capacity to go beyond it that was most appreciated by the audience. But not only rhetorically: a case had been filed against the Board of Government for failing a student. The student had requested a revision of his exam and had been failed again. He then filed a court case saying that nobody with sufficient expertise had graded his exam, and demanded a third revision by somebody who actually had the know-how to do so. Though the law and the examination board regulations didn't have provisions for a third revision, the judge demanded the lawyer to see if any such rule could be found (here we have to bare in mind that Pakistani law is based on the British law system of case laws). The judge also said he wanted the student to be satisfied. When I commented this case with several other lawyers, they all agreed that this was not uncommon.

In retrospect, it is clear to me now that there are strategies in play that allow to deviate from positive law towards Vindicatory justice, allowing for the norm to evolve out of the process and meet consent. By meeting consent it also shapes authority, invigorating and reinstating it. Lets remind ourselves of one of the differences Weber makes between the traditional and legal Herrschaft: The \textit{Legale Herrschaft} (legal domination) sets itself apart from the \textit{Traditionelle Herrschaft} (traditional domination) in that in the first it is laws that are being obeyed, and those who need to be obeyed are legitimised through those laws, whereas, in the second type, obedience is given to a person that is intrinsically sanctified by custom: out of piety - as in respect or regard\textsuperscript{321}. In the absence of the legitimacy of the law, as we claim in this study, the judge has to draw his legitimacy, in a broad sense, from the matrix he finds himself inserted in, the horizontal and vertical alliances he belongs

\textsuperscript{320} A judge I had attended in a session the day before. He had been asking questions but not at such length.

\textsuperscript{321} Weber. 1985: 478. Own translation of “Gehorcht wird die Person kraft ihrer durch Herkommen geheiligten Eigenwürde: aus Pietät.”

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to, but also from his performance as a judge, which requires him to exceed beyond the boundaries of the legal and into the field of the moral, political, economical and social. We have seen the nazim, how he took his time to listen and observe, and make decisions based on the assessment of every upcoming situation, the behaviour of the people involved, and the general mood. In the case of the High Court judge, who was blatantly challenged by the lawyer's remark, an aggressive response was felt necessary. The consent was harvested, not by force, but because it was met by the audience's social, political, legal, economic, and moral knowledge that perceived the judge as hierarchical superior and therefore justified to respond to the defiance voiced by the lawyer. It had not been a matter of law but of hierarchy. What I had perceived as abusive, was perceived by the others as “this is how things are” in a society understood as hierarchical.

Deeply embedded in this reality is also the figure of the big man the British identified as, “not politicians but quiet men of local influence”\textsuperscript{322}.\textsuperscript{323}

\begin{center}
I am welcome everywhere, every man salutes me, \\
And those who want your favour seek my ear, \\
Since I know how to manage what they ask.
\end{center}

Two thousand years ago, Sophocles provides this fictional figure of Creon who “enjoys high esteem and displays of public reputation on the basis of his ability to grant or withhold his single resource: access to King Oedipus and thus royal favour”\textsuperscript{323}, and image we can easily relate to the nazim who finds himself in a privileged position of alliances and resources, but also acts upon them to procure their continuity, and the continuity of a society that recognises and justifies his privileges.

Looking back on this chapter, it has become clear that Pakistani society has to be regarded as hierarchical, and that all strata of society participate in its continuity. A legitimacy based on the past, which is connected to authority, and further, to custom and divine sovereignty, allow for the upper strata to rule and society as a whole to perpetuate it. This perception of society being divided into those who rule and those who are ruled fits comfortably with Mosca's conviction that there can be no human organization without hierarchy. His idea of 'political formula', which allows those who rule to 'organise' society, leads us, of course, to the types of Weber's legitimacy, how society is organised based on different Verwaltungsstäbe or types of management, differentiated by their own logic and rational, idea of justice, common sense and, of course, legitimacy. Those who rule are

\textsuperscript{322} Talbot. 1988: 48 citing Michael O'Dwyer
\textsuperscript{323} DeSilva. 1999: 33 citing Sophocles (Oedipus Tyrannus 771-774)
aware of these traits and adopt them. The 'political formula' is not made by those who rule, says Mosca, but taken on by them. And one can not apprehend this kind of reality unless one takes a close look at what the judges really do; the cynicism of their performance, knowingly imposing a truth that keeps them in power. But being able to establish this connection with Mosca also brings us to a more uncomfortable appreciation of the possible parallels one can draw between Pakistan and Europe, where royal favours, disguised as they might be at first, do come to light eventually. And not just royal favours but a much darker side of humanity that the Western world has equally managed to sweep under the carpet. This picture was taken on the day I had to go to the police to get a certificate to proof that I was not convicted or had any criminal record, which was a requirement to rent a flat in the army compound. The real-estate agent took me there and asked me to wait in the court yard. It was an old Indian pre-partition building. I was admiring the architecture when I realised there was a cell facing the courtyard, and looking closer I could see a man cowering on the floor. He had no shoes, a dirty bucket next to him, he was covered in dirt, and his leg was chained to the wall.
It is a more bolder, open, expression of the ruling formula, but it is not exclusive to Pakistan. The fact that people in Europe are disciplined in prisons, tortured where we can't see them, does not mean it isn't real, and eventually, as do the royal favours, they do come to light eventually. And I advise, specially anthropologist, to acknowledge the hypocrisy of the West before intervening or 'saving' other countries in a paternalistic attempt of moral superiority. We have no right to impose ideologies we fail to fulfil ourselves, even if that means to let them override modernity, even if it means to let them perpetuate the traditional \textit{Herrschaft} at the expense of the legal \textit{Herrschaft}.

FIR under section 295-B of Pakistan Penal Code\textsuperscript{324} filed against Humayun resulted in him remaining incarcerated awaiting sentence, and violent outbreaks continue.

\footnotesize{324 295-B. Defiling, etc., of Holy Qur'an: Whoever wilfully defiles, damages or desecrates a copy of the Holy Qur'an or of an extract there from or uses it in any derogatory manner or for any unlawful purpose shall be punishable with imprisonment for life. Sec. 295-B added by P.P.C. (Amendment) Ordinance, I of 1982.}
Chapter Six: Authority

The case of a woman accused of bathing on the Quran

This chapter would not have been possible without the formidable research carried out by Asad Ahmed published as a dissertation in 2006. The ethnographic material offered in his case study about two Muslim women accused of blasphemy allowed me to defend my hypothesis on the interconnectivity of the social and political functions in Pakistan and the necessity of viewing them in the light of Vindicatory justice. One of the implications of this double-sided hypothesis is that the division of local-state, custom and moral versus law and rationality, becomes redundant. Vindicatory justice is based on the social principle of reciprocity, which in turn implies a social process where the moral, social, political, religious, economic and legal have no defined boundaries. This chapter will show how those characteristics transcend the village in a process that follows the same logic, from the local authority to the High Courts, and that it is the norm that evolves out of this process - not the law - which is followed by the authorities, be it the head of the village biradari or the judge in court.

While I have used a case study that is not mine, the understanding that has allowed me to formulate an alternative analysis has been based on my own observations, readings, and semi-structured interviews, that have let me to the realisation of an alternative type of legitimacy and construction of truth. This process was linked, at first, to prolonged periods of feeling inadequately equipped to understand the world around me. However, with time, reading news articles, books, reviews, journals, asking people, listening to conversations, observing how people behave in moments of conflict, or even, things as simple as understanding the sitting arrangements, provided me with the experience and capacity to interpret correctly social behaviour, and, in this case, refute Ahmed's main assumptions and prove my own argument and theory instead. Though, Ahmed's observations are rich in details with regards to social interaction, he retains an angle of social progress by drawing a divide between the local and the state, considering that a more fluid narrative represents the local and a more textual narrative the state, police, judges, etc. Though I agree with those differences and I understand them as established by Karl Polanyi, the embedded narrative versus a more institutional narrative present in market societies, I disagree in the divide drawn

325 Ahmed. 2006. Adjudicating Muslims: Law, Religion And The State in Colonial India And Postcolonial Pakistan. A Dissertation Submitted to The Faculty Of The Division of The Social Sciences in Candidacy, for the degree of Doctor of Philosophy, Department Of Anthropology. Chicago.
326 Polanyi. Karl. 1965
between the local and the state in Pakistan and the presumption that each one has its own narrative.

Further, Ahmed recognises the Islamists as a modern political force but he can not explain their failure in gaining authority within the realm of the state or their success in igniting the emotions of vast groups. Islamists can drive people one day, and the next day these same people don't want anything to do with them. He also refers to anxieties on the local level due to defined concepts that lead to ambiguous realities, which would only makes sense outside the fluid narrative, therefore contradicting himself. However, his detailed descriptions and thoughtful observations have given me ample material and proof of the workings of Vindicatory justice. Whereas Ahmed looked at, “the manifold commensuration and incommensuration of law, culture, and religion and the conflicts and collaborations they engender,” this study here at hand is based on the assumption of Vindicatory justice and the process it entails which produces the norm, asserts authority, and restores normality, in a collective manner. Rather than focusing on the problems of the state and state governance due to differences that emerge from the local level, this study explains government functioning, that ceases to be problematic, when seen from the angle of Vindicatory justice. There is no local-state divide but an embodied tradition that carries a legitimacy rooted in the past and is acknowledged by the whole of the collectivity, from the nazim down to the sweeper and from the landlord to the judge. In order to proof this, I have used Ahmed's case study and the many observations he makes to build my argument. It was an exercise of separating his ethnography from his analysis without leaving anything out in order to be truthful to the social reality he describes; a reinterpretation in the fashion of what Peter Worsley achieved when working with the ethnographic data Meyer Fortes collected on the Tallensi in Ghana and contesting Fortes arguments.

In the year 2000, when Ahmed conducted his study in Lahore, 52 cases of blasphemy accusations were registered across 30 different police stations. The majority, says Ahmed, involved sectarian disputes followed by desecration of the Quran and of sacred sites. Only three cases involved the most serious offence, defiling or insulting the Prophet. Of all these cases, only four were against Ahmadi and one against a Christian. The Ministry of Interior revealed that in Pakistan 75% of the cases were against Muslims. Ahmed also mentions the difficulties he faced when investigating cases of blasphemy. His presence was not welcome and despite his connections he was soon excluded from court procedures. We have visited the same courts, and though I did so nearly two decades later, I can relate to the difficulties he faced, like not being able to hear what exactly was

327 Ahmed. 2006: 10
328 Worsley. 1956.
329 Ahmed. 2006: 13
being said in the crowded court rooms and not being allowed to record, either. It is truly a very frustrating situation, and the succession of cases, and the flow of people entering and exiting make it impossible for the observer to figure out the arguments of each case\(^{330}\). This is a picture I secretly managed to take in a Civil Court where people are surrounding the judge's desk.

Having realised the difficulties, I resorted to just spending time in the different courts, the Civil Courts, the Criminal Courts, High Courts, and Supreme Courts. In the Lower Courts, I would sit on

\(^{330}\)Ibid:15
a chair or stand in a corner, a short while, never more than one hour in the same room to avoid raising suspicion. The Higher Courts were more inviting and less crowded, but required to be seen of as part of a legal team (as at the Supreme Court). Though I had not heard about the nazim's panchayat yet, and I wasn't familiar with the concept of Vindicatory justice, all I could think of when I was there was that the court was a panchayat, because of the negotiations, but most of all, because of the persistent acknowledgement of the authority of the judge. It was not about the law but about the judge and everything that was going on around him. The process was not judicial (in the sense of positive law), despite the many overflowing files with tea-stained documents. The process was made of humans, it was physical, vocal, tactile, gestures that marked hierarchy and authority, that pleaded, and that gave in, that talked down and commanded, drawing unbreachable lines; silence, tired nods and the realisation of powerlessness; a sweaty face with a grin, happy to have found an ally; the embrace of those who will stand by you; turning backs of those who just walk away. It was the social reality of the people inserted in a matrix of vertical and horizontal alliances, a process I shall refer to later on in the conclusion of this study as 'mediation,' understood in this particular context; a process where law, moral, religion, politics, and social relations can not be separated and therefore have been regarded, up until now, as malleable and undefined, bearing the negative connotation of 'backward' and 'traditional'. I saw this process and Ahmed didn't. He assumes the courts were led by judges who applied positive law, and that those laws, even since colonial times, have shaped Muslim identity and community. He draws a divide between state and local assuming that law is legitimate on one level and ceases to function on the other. He describes the authority on the local level but fails to make the connection with the concept of legitimacy. He gives the impression the state manages the locals by being aware of the differences between local and state, without taking into consideration that those differences might not even exist, despite his ethnographic material hinting at exactly that.

He drove down to Punnua'n were the blasphemy case had been reported and filed, and spent days in the village, talking to the people involved in the incident, and most importantly, he made a follow up of the case, establishing the negotiations that led to the release of the accused three month later.

Punnua'n was a small village of not more than 120 households, about a thousand people, with it's own market but no police station, says Ahmed. As in the Sanda neighbourhood there were, despite religious identities, dominant hierarchies defined by cast and biradari. Ahmed develops his analysis by starting of with the media report - an article published in an Urdu paper mirroring strong Deobandi views that project a pure Muslim identity -, going on to analyse the social circumstances

331 Ahmed. 2006: 16
that allowed for the media narrative to have an impact on the local procedures of repair, leading to reconfigure a sin into a crime which then needed to be handled by the state and state law. This is how he establishes the two levels, the local and the state, each with their own narrative and conflict solving methods. To build my argument, however, I will start by presenting all the characters that were involved in a process that begins with an accusation. The offence caused by a woman sets into motion a process that binds all the strains of society into a coherent universe, allowing authority and norm to reemerge, taking in the new and preserving the old.

The central figure of the story is Samina, not as an active agent in the process as she remains rather passive after the accusation, but as the person containing the malcontent of social circumstances in need of repair, a need of repair so hard felt, that she herself resorted to actions that would ultimately reinforce the visibility of her malcontent and harden social disapproval.

She was the third daughter of Baba Sharif. Her father had had only three girls which put him in a socially fragile position as he had to 'give them away' and would end up alone, as it is the sons who bring their wives to the parental home. Samina was married to the forth son of her father's younger brother. Her sister was married to her husbands brother, the second son. As the object of my thesis is not the study of kinship relations, I can not make the assumption that this type of parallel cousin marriage of patrilineal endogamy is the generalized type of marriage but it does commonly exist. Those two marriages should have secured Baba's izzat, the respectability of the elder uncle to his brother's family and their offspring. By marrying his two daughters to the son's of his younger brother he positioned himself as 'elder', therefore izzat, therefore honour. But circumstances didn't seem to want to favour Baba. The middle son of his brother, the one in between Samina and her sister's husband, died in an electrical accident, leaving behind a young widow. It is not uncommon for a man to take the widow of his brother as second wife, but in this case, Samina's sister's husband decided to divorce his wife and then marry his brother's widowed wife. These circumstances hardened Samina's position in her husband's family home as the sister to the divorced, culminating in her going to her father's home. The wife returning to her parental home puts social pressure on both families to seek repair and dissipate rumours of divorce. It is one of those traits that stand for the capacity of societies who carry vindicatory justice to see life and social conventions with the problematic it carries. Disagreements are bad but not abnormal and there are mechanisms to deal with them. As we have seen with the panchayat and the girl who was so in love, she refused to listen to her elders. The capacity to acknowledge the space between what is and what should be, as Kant indicated referring to the individual and Orestano reformulated referring to
the social: the social capacity to acknowledge the duality between what is and what should be. After a year Samina returned to her husband's home and had another child, a second son. Some time later, now with three children and pregnant again, her husband divorced her by pronouncing three consecutive times the word talaq. At this point, her father initiated a case in the family courts for maintenance for his elder daughter, and he contested the council's notice for divorce handed in by Samina's husband, on the grounds that she was pregnant. He also got a fatwa from a mufti declaring that residence and maintenance for Samina and her children remained her husband's responsibility during iddad, resulting in Samina returning to her husband's house. Having been pronounced divorced, her return and possible sexual relations with the father of her children were seen by the villagers as illicit, according to Ahmed.

This is not an unusual situation, though. When I visited the mufti at Data Darba, he told me that most of the around ten consultations he held every day were concerned with clarifying if a divorce had been made, if it was valid or not. Here, Ahmed reads a social anxiety caused by Samina's ambiguous position which I don't share. From a 'modern', liberal, more-rigid-in-categorizing-and-defining-perspective, this could well be so. As we have seen with the Islamists, the Christian sweeper was a cause of anxiety; an ambiguity of being 'in' as a member of a cast and 'out' as a non-Muslim in a state imagined as pure. But Samina's circumstances are not exceptional, nor perceived as such, and though it is true that extramarital relations are unacceptable, the divorce was not final, precisely because she was back at her husband's house. The village criticism has to be seen as the lack of consent towards the unresolved matter, not because she was perceived as ambiguous. Extensive families engage in reciprocal relations and depend on its continuity. The rupture of these relations are highly stigmatised and filled with shame. There is a hadith that recounts the Prophet saying that talaq shakes the Throne of God. That is why divorce is a long process which takes mostly years, time intended for reconciliation. It finalizes when there is sufficient general consent considering divorce the only possible solution. As with the engagement, the disengagement is part of a process based on consent, too.

One of my students got married and after several month she came to talk to me. I asked her if she was happy. At first she said it was all right, but then she collapsed in my arms and flooded in

333 Ibid: 215
334 Though talaq in the Islamic jurisprudence stands for divorce it is not perceived as a one sided decision in the spur of the moment, on the contrary, it is accompanied by many restrictions that open the doors for reconciliation; a process that carries all the imprint of vindicatory justice and logic of social repair.
335 Iddad is the period a widow or a divorced woman has to wait before engaging in a new relation in order to make sure that, if already pregnant, the paternity is clear, normally three menstrual periods. If the woman is already pregnant, as in this case, than iddad is understood as the time until she gives birth.
336 Ahmed. 2006: 216
tears she told me that her husband raped her. Sexual intercourse was forced upon her for hours causing injuries and prolonged discomfort. When she saw a doctor he also found out she had been given some venereal disease. It took her many month to tell her mother and many more month before her father was informed. Her father allowed her to stay at her brother's home while she was studying in Lahore. A year later, we met again and she said it was still not the time for a divorce and that she was still living with her brother and his wife.

It is a process that takes time, not a decision, but Ahmed is persistent in pointing out the 'confusion' that surrounds Samina's marital status as, according to him, customary, state, and sharia law converge and diverge in complex ways, making it a matter of choosing one way or the other, and ignoring the fact that it is a process involving long negotiations (which he mentions but doesn't evaluate). He is right in pointing out that they don't coincide 100% but, on the practical level, the multiplicity of sources or resources to seek justice or repair, as we have already seen during pre-colonial and colonial times, were only perceived as 'confusing' by the British minds. In Pakistan, however, the people are indifferent to one law or many laws because, as we have seen, the process produces the norm. Ahmed makes the common mistake to draw the divide between customary, legal and sharia law without taking into account how divorce is really handled, who's authority is taken into account in the process, and the many different settlements that cannot be correlated to any custom, sharia, or state law, in particular, but are the result of consent.

In Islamic jurisprudence talaq is the unilateral right of the man to divorce his wife. He can do it verbally or in writing. However, the power of talaq can be transferred to the wife. This is called tafweedh-e-talaq. The cases I heard of involved the same family mediation as when the man seeks divorce, long years till an outcome was established that was acceptable for the husband and wife, but most of all, for their families. There are three types of talaq. Talaq-al-bidat is to pronounce three times talaq dissolving a marriage immediately. Talaq-al-ahsan when pronounced, is followed by a three month period of sexual abstinence, and talaq-al-basan is when the husband pronounces talaq on three different occasions and dissolution occurs on the third. Here too, any sexual activity during this period revokes the talaq. The Muslim Family Law Ordinance of 1961 mirrors this last type of talaq by emulating the three stages but involving the local council with a written statement. Then the Council Chairmen has to set up an arbitration council and initiate a reconciliation process. In the case of no reconciliation, the Chairman has to issue a divorce certificate after ninety days or the expiration of iddad. In the case the wife is pregnant, the divorce is not finalized until she gives birth.

337 Ibid: 216, 2019
Samina's husband pronounced three times *talaq*, and also gave a written notice to the local council, which her father contested on the grounds that she was pregnant, whilst, at the same time, getting a *fatwa* from a *mufti* and conducting negotiations amongst the two families. What Ahmed sees as 'confusing' is actually a reality that does not follow 'modern' rules but is an ongoing process oriented towards consent, which also includes the state institutions and their 'official' consent. In addition, Samina sought out the consent of the spiritual world and resorted to a *pir* who gave her an amulet, something Ahmed, on the other hand, describes as: “She decided to resort to magical means to effect reconciliation with her estranged husband, restore 'peace', and lesson the anxiety and financial burden on her paternal home”\(^\text{339}\), considering she acted more on a cause-effect basis of a market society.

According to her, she joined her mother in the early afternoon, to visit the graveyard of her two deceased brothers who died very young. While the mother was praying, Samina buried the *taweez*. When they both left, they gave the caretaker five rupees for tending to the graves. That was all.

The second character is Pir Habib, the man Samina sought out for his spiritual powers. As with Samina, Ahmed finds in him a series of ambiguous traits, like being a Christian and exercising in a terrain where the spiritual, the magical, and the evil can be easily confused and considered dangerous and therefore cause anxieties. But his argument only stands on modern ground, the same grounds that sustains the discourse that shuns magic and spiritual practices and considers them something which only takes place in villages where people are illiterate and ignorant. The truth is, that superstition is a powerful element in Vindicatory justice where omens, oracles, and Quranic related elements, can carry a heavy weight when linked to authority – as we will see further on. According to Terradas, Vindicatory justice not only dissipates the separation between the civil and the penal law, but also reaches out to the symbolic and spiritual sphere to aid the human process of repair and reconciliation. All those elements are bound by the same coherent logic which is consistent with the moral and legal\(^\text{340}\), and therefore not ambiguous at all.

We have already seen that *pirs* have *barkat*, God's blessing, and one way to pass on this blessing is through a *taweez*, an amulet with Quranic verses and the names of the people seeking assistance enclosed inside, usually in the shape of a leather or a black cloth sachet the size of half a thumb, which is worn with a string around the neck or the arm. I have seen children, babies, men of

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\(^{339}\) *Ibid*: 220  
\(^{340}\) Terradas. 2019: 14
all ages, and students, wearing them. One has to be very careful with the discourse level, specially when conducting interviews or talking to people who know you will put whatever they say in a paper or a book. Knowing the modern discourse they will make sure they are not tilted as 'backward'. People will say it is bad to engage in superstition and minutes later engage in superstition. If sovereignty and truth are placed beyond human reach, as it is in Pakistan, it is only logical that mediators, such as the pir, become important and necessary actors.

Saima was advised by some of her female friends to visit Pir Habib. He gave her a taweez and told her to bury it in the graveyard, which is what she did. While the investigations were conducted Pir Habib was considered to be in danger, not because he was ambiguous but because the police, by then alerted of the Islamists interference, feared for the Pir's life, who was, for those factions, a target, as much as Samina was.

The third character is the detonator of the crisis, a man seeking the attention he thought he deserved but did not receive. He was the caretaker of the graveyard and when he saw Samina burying something in the ground he took it upon himself to check and when he found the taweez he thought he should inform the head of the biradari of the village, and instead of just saying what he discovered, which would have got him nowhere, he told them he had seen Samina and her mother bathing naked on the Quran. He was of a lower cast than the landless artisans, the kammis, and lived alone with his father. His first wife had run away, and his second wife had died. Despite his powerlessness, his accusations managed to mobilize hundreds of people and, in the events that unfolded, he was the centre of attention.

This can be explained when we remember how truth is constructed and the authority within. We have seen that truth is located in the realm of the divine, which is the highest and indisputable authority. The closest to that truth is divine revelation which is located in the past, therefore linking past with truth and authority. Bearing the news of the offence committed against the highest authority, like the caretaker of the graveyard did, connected him to this authority, an authority he never had, the lack of it he resented, and in order to maintain it, he further swore on the Quran that what he said was true. It is only in this line of argument that one can understand that such an outrageous accusation had to be considered by the community elders and couldn't be just dismissed. Authority constructed in such a way can be used to horizontalize relations and alliances. It also explains why the Islamists, alerted by the newspaper article, made their way to Punnua'n. The highest of authorities had been offended, in the worst possible way, and the process of retaliation was set in motion. By inserting themselves in the process, they too, tried to horizontalize alliances, situating themselves on the level of the heads of the village biradari, making a display of their
capacity to challenge them as the authority entitled to solve the matter. On the other hand, it was only through a finding, equally connected to the truth and the divine, that the caretaker’s story was dismantled, and the authority he held withdrawn. The Quran, on closer examination, was found to be in a tin with cobwebs which reminded the investigating constable of how the prophet Muhammad had been hiding in a cave and which was not searched by his persecutors because a cobweb was spun in the entrance giving the impression nobody could have entered that cave in a long time. And so it was thought that if a cobweb was in the tin where the Quran was put after the finding, it had never been wet. After the discovery of his lies, the caretaker had to be put into custody to make sure nobody killed him. Even so, the Islamists decided to ignore the new evidence and continue feeding unrest, accusing the police of manipulating evidence. The Islamists were as aware as the caretaker had been as how to manipulate people, positioning themselves as protectors of the divine, strategically connecting themselves to authority. We could go so far and say, there are two political formula in play, one connected to horizontal and vertical alliances, which we have seen is used by the judges, and the other, commonly used by the Islamists, which is connected to the divine. Both, however, are based on the legitimacy of the past, despite the fact that the Islamist discourse suggests direct interpretation with no chain-of-authority-methodology, codification of the *sharia*, and an organization fitted to the nation-state and nation-state identity.

The three Chaudhry brothers were the village authority, the strongest *biradari*, with more land than anybody else. They held a local government position, the council chairmen, they owned and ran the general store of the village, and lived in big houses. They had connections to the highest ranks of the political and military sphere, and as with the *nazim*, *panchayats* were held in their homes. As we have already seen, and by ways Alavi described them, they set themselves up as political middlemen to mediate between villagers and government, establishing wide networks with links to government officials that know not of local-state divides. Lyon offers a piece of ethnography in his thesis that shows the extend of those networks and the kind of services that circulate within:

Malik Tayyib’s brother called the village and explained that Javaid Khan was returning to Pakistan and it would not be nice if he had to open all of his suitcases for the customs officers. Customs officers, unfortunately, have a bad reputation in Pakistan. They are reputed to demand fancy gifts

341 Chaudhry is not surname but refers to landowning *biradaris*. We have seen the *nazim* who is from the Chaudhries from Gujarat. Surnames, the way we know them, do not exist. They use them for identification and document purposes, but I have very often seen that the wife takes her husband’s first name as her surname, therewith defying the whole surname logic.

342 Alavi. 1973: 55-56
from among passengers’ luggage in exchange for allowing the rest of the luggage through. Malik Tayyib called a friend of his who worked for the local MPA,343 a man who is related by marriage to Malik Tayyib. He explained the situation and his friend assured him that the MPA would call a national political minister based out of Lahore who would see to it there were no hassles. When Malik Tayyib and his party arrived in Lahore to meet Javaid Khan, they called the telephone number they had been given by the friend in Attock District. It was the home telephone number of the personal assistant (PA) of the minister. He then arranged a place to meet. They arrived at the location and the PA took them to the airport, drove them through to a secure part of the airport and escorted them into the V.I.P. lounge of the Lahore airport. They waited until Javaid Khan’s plane arrived and then the PA disappeared to escort Javaid Khan directly off the airport and into the V.I.P. lounge. He took Javaid Khan’s passport and took care of the immigration procedures while Javaid Khan waited with his friends. The PA returned 10 minutes later with a porter carrying Javaid Khan’s many large suitcases. Malik Tayyib and his party were escorted out of the V.I.P. lounge and out of the secure parking area at which point the PA left them. Once again, the minister did not grant this favour to Malik Tayyib directly based on anything that Malik Tayyib had or would do for him. The favour was to the local MPA of Attock District. The MPA, in turn, did not grant the favour to Malik Tayyib, but rather to his own PA who is a relative of Malik Tayyib. The MPA’s PA did not grant Malik Tayyib the favour simply by virtue of Malik Tayyib’s position either. The favour was granted because Malik Tayyib comes from a family which is politically influential within their own region and has proved in the past that their support can be tremendously important for the smooth operation of Attock District.344

In our case, however, the Chaudhries, Ahmed says, are perceived by the villagers as loosing their authority, not only because the panchayats held in their home to solve the Samina incident showed little results, but because the police constable, put in charge by the Chaudhries, very well acted on his own account, not submitting his findings to the the Chaudhries, who were the higher authorities in this case and responsible for steering it. After two meetings at the Chaudhries, a third panchayat was held with hundreds of villagers. In this open panchayat a village molvis, with Islamists views, was called in and demanded that an FIR should be filed to make the incident a matter of the state and not a matter of the Chaudhries, dismissing their authority to solve the matter.

The Chaudhries were distant relatives of Samina and her father, but at the same time, one of them was married to the sister of the widow who caused the divorce of Samina's sister, and

343 Member of the Provincial Assembly.
344 Lyon. 2002: 200-201. His research gives us an insight of how vast and apparently unrelated these networks are. Personally I have witnessed those chains of favours but I was not able to make such a complete follow up as Lyon has managed. My inquiries were always met with disapproval. On a second note, Lyon insists on the political character of those transactions though his informant insists the reason being more due to family ties, again, pointing to the much insisted argument in this study that one cannot draw a line between the political and the social.
ultimately, Samina's divorce. Ahmed recounts how Samina's father begged the Chaudhries for forgiveness. He said his daughter admitted to burying the *taweez* but not to the accusations of blasphemy. Ahmed also gives details of the people in the *panchayat* inclined to forgive Samina, as many found it hard to believe Samina and her mother were capable of such a heinous act, and they saw Samina's father's humble request as sufficient to put the whole incident at rest. In all this, I personally miss the decisiveness felt in the *panchayat* related to me by my informant, the *nazim*. Without getting into any speculation, I would, however, read from the information Ahmed gives us, that the Chaudhries did not exercise their authority to close the matter when they could have; they did not harvest on the moments of consent to put an end to it, and they did not support the police constable when they could have. They did hold the Islamists at bay, who insisted on Samina's guilt, but they didn't confront the local *molvi* who basically vetoed any village decision. The Chaudhries displayed a willingness to 'wait and see' in a highly unbalanced and unpredictable situation. They cared so much about consent that they ended up with a disapproving audience which needed closure and not the chaos that followed.

Though I wasn't in Punnu'a'n, I have lived through many work, friends and family conflicts and decision making processes that have exasperated my patience. For me, there always is a practicality, an efficiency allowing individuals to take decisions; the *Zweckrationalität* Weber places in the legal *Herrschaft*. In Pakistan, however, decisions are lot linked to individual interests but to a collectively recognised authority. Once, in the teachers launch at GCUL, I observed a teacher staring at her screen for a long long time, then clicking and again looking at something, leaning into the picture, and again clicking. When I approached her I saw that she was trying to decide on the background colour of the history journal. I decided to stay there and see what happened. Teachers of higher and lower rank made their way past and still no decision was taken but a lot was talked in the process, about this and that. In the end, the Dean was shown the cover and he changed the colour straight away and everybody agreed that the colour he chose was definitely the best choice. A matter so trivial as the background colour of a journal became a matter of authority everybody welcomed. It totally defeated my common sense, but then, I was there to observe and learn. I learned that people with authority take decisions and they make sure they are appraised for doing so, that is, consent is expressed, profusely. I found myself sometimes making a decision and getting a lot of credit and verbal support, when it was actually no big deal, I thought. Decisions then, in this sphere of a different rationale, are oriented towards consent and authority, even if it is the cover of a journal.

Having said this, it is understandable, that in the light of the unfolding events, the Chaudhries had the authority to end the conflict, but chose not to, expecting a more defined scenario.
promising higher consent, maybe. The first meeting had resulted in putting the constable in charge of the investigation. The second meeting, Ahmed tells us, had to be cancelled because too few notables were present. Finally, the third meeting was held in the local mosque with most of the village present, and the situation allowed for further challenges to the main authority to slip in, like the molvi who is normally excluded from a panchayat. Here again, a fact I was able to verify many fold by several informants. One can follow that the imposed absence, in general, of molvis, is a collective effort to preserve the authority and legitimacy of biradari and caste and not let it collide with the Islamists and their political formula extracting authority through a direct connection, or a closer connection, with the divine sources and divinity itself. The presence here of the Islamists and a molvi is what makes this case so interesting. Even more interesting is the intervention of the second molvi of the village, who in contrast to the first one, is not an Islamists. His words are that one cannot declare something a sin until it is witnessed “as clearly as you see a thread going through the eye of a needle. That is sharia.” Once again, a marvellous example of sharia, not as law but as a reflection upon concepts and the search for meaning through the literary, as it is (close to) impossible to see clearly a threat going through a needle.

Irshad is, by far, the most interesting character of the whole plot, displaying quite an independent personality, seemingly unhinged from local hierarchies. The Chaudhries refer to him as a hero in the sense of the Indian movies, which Ahmed clarifies for the reader as somebody who “challenges traditional structures of authority and power which are usually depicted as oppressive and corrupt.” I see him as the lone cowboy who follows his own mind, but beyond that, he is an exceptional example of how biradari authority can be challenged, in this particular case and in these particular circumstances; an example of how the general hierarchical arrangement of society can be unsettled by individual acts, very much in line with Alavi's description of the individual being within a matrix of horizontal and vertical alliances, herewith, compromising between the structualist vision and the individual based social analysis. Irshad acts on impulse, exposing a lack of subduedness to the Chaudhries, not responding to the expected compliance, bearing in mind he got his post as constable only through Chaudhries' mediation. He is trusting, innocent, and persistent, the perfect ingredients for the drama to unfold.

In his initial pursuit, the caretaker's oath was sufficient for him to believe the women were guilty of blasphemy, but a visit from Samina's father to remind him that he had looked after Irshad and his brother Ashraf when they were orphaned, made Irshad consider the possibility that the
caretaker could have been wrong. The first examination of the defiled Quran didn't bring him any further in the investigation and all he had was a confession from Samina, admitting she did go and see Pir Habib and she did bury the taweez in the graveyard. At this point, Irshad received the visit of a journalist who got word from the incident, even though he was in another village ten kilometres away, and saying he was interested in getting all the details. The newspaper he worked for covered stories on false pirs, fornication, the cruelty of Chaudhries, and religious matters, especially when involving insults to the Quran or the Holy Prophet. Irshad told him how far he had got in the investigation and asked the reporter not to publish anything until the case was closed. The newspaper, however, published the following news right the next day:

At twelve in the afternoon two women, Samina and her mother, Mukhtara, entered the village graveyard and gave five rupees to the shrine's mutwali. After entering the graveyard they started to dig a grave. Then, one of the women filled a water vessel and started bathing. After the women left, the mutwali, Abdul Ghafoor, found a copy of the Quran lying in a hole. Fresh blood was also spattered around. Then, from a nearby grave he recovered a goat's heart and liver, a shroud like cloth, a taweez, and five and a half rupees. The mutwali informed the villagers and denied that he had any prior enmity with the women. The panchayat corroborated this account.

The article, as was intended, drew the attention of several Islamists groups who pray on this kind of unrest to position themselves as the authority willing to avenge the crime, establishing a contrast between their religious fervour and the kafirs, the infidels, the non-believers, and all those who are the cause of evil, of people's poverty and the injustice they suffer. In a world where there is no divide between the religious, the moral, the political, and the social, and at the same time, a perception of truth contained in God Almighty, an offence to His sovereignty, is an offence to everything else, and the need to restore the offence committed provokes an unrest that does not cease until something is done. Pitching in on this unrest is the Islamists strategy; a strategy aimed at gaining access to the modern political model, a state they see as defining identity, a state based on legal legitimacy, capable of imposing on its citizens the necessary regulations to run a pure Muslim society. Islamists, in this sense, pursue what can be considered a modern form of identity and legitimacy, or at least that is what they claim for their purpose. Yet, they retain and require for their authority the permanence of divine sovereignty and, consequently, a state with no sovereignty,

347 Again here, used as a generic term, referring to landlords in general.
348 Ahmed. 2006: 235
349 Mutwali is a gatekeeper, in this case the caretaker of the graveyard, and as caretaker I refer to him throughout this chapter.
which is exactly what Pakistan is. And this kind of state with no sovereignty is also what people like the nazim, defined by vertical and horizontal alliances, require for their survival. The traditional Herrschaft derives legitimacy from the past and is incompatible with a society based on equal rights and a democratically elected government. That is what binds Islamists and the ruling families, this is what explains their mutual tolerance, ongoing negotiations, and undercover assistance. They both sustain a modern front to preserve the past where truth is unobtainable and divine. In a scenario of antagonism, they have succeeded in forging, together, the social and political functions in Pakistan and preserve their legitimacy. In this particular sense one could understand the concept of a single ruling group as portrayed by Mills in “The Power Elite”151. Just to give one brief example: The cousin and elder brother of “our” nazim, Pervez Elahi and Shujaat Choudhry, have been called to justice in the last past month on corruption charges. Pervez Elahi, currently speaker of the National Assembly, has passed the 2020 Bill which favours a definition of Islam as portrayed by the Jamaat-e Islami but in detriment of the Shia community. This strategy, which is strongly condemned by the public, pulls, however, the strings of the Islamists and the possible unrest they could cause, making people now tread carefully around Pervez Elahi and his cousin and ex-Prime Minister Shujaat Choudhry.

Having said this, the antagonism is real. There is no room for biradari/caste and Islamists to rule together, so there is an ongoing tuck and pull where the Islamists always seem to fall off the curb, never gaining anything more than meagre concessions. Their persistence on exclusive definitions of Islam, codified sharia laws, and their disregard for repair mechanisms linked to custom, have kept them at the margins of general popular support. Ahmed mentions it was unusual for a molvi to be invited. I also found that consultations, if necessary, are directed towards muftis who are versed in the Islamic tradition and as such comfortable with custom. Further, muftis issue fatwas, which are learned opinions based on relating the situation of conflict to the primary and secondary sources. Molvis, on the other hand, issue fatwas without adhering to the Islamic tradition as they have not been schooled to such an extend, and their personal search for leadership has caused popular disapproval and shame. It would not be misguided to assume that many of the displaced ulama, who before British rule enjoyed the prestige of the courts and the respect as teachers and advisor, felt the urge to recover this position by aiming directly at state offices. But their thirst for wealth, and their lack of discretion, has strongly contributed to their reputation of dishonesty. Arab money in exchange of radicalism has allowed molvis to dine in the restaurants of the wealthy and settle their families in posh areas, and for that they have not been forgiven. Making money by creating unrest is everything a society of Vindicatory justice stands against for.

151 Mills. 1956
When the people of Punnua'n came to know about the article, Irshad was strongly criticised for bringing in the press. One explanation for this, according to Ahmed, is that there are two levels, the local and the state, one defined by custom, the other by law, each with its own narrative.

Within the moral community of the village, emphasis is placed on resolving and reconciling disputes, if harm is caused, by various forms of restitution. For the journalist, the police, and the judiciary, however, truth, while contestable, is singular. It is determined by inspection, investigation, the constitution and interpretation of 'evidence', and judicial examination in an adversarial system of justice.352

The article, says Ahmed, and the presence and influence of the Islamists, turned the sin committed by the two women into a crime and therefore a concern of the state: “The meaning of the women's action was discursively reconstituted as the arguments shifted from the locale of the village to the institutions of the state, and the imagination of the state.”353 Though Ahmed recognises the elements of Vindicatory justice, he doesn't see it as anything more than a 'local' kind of restitution. Without developing the implications of his analysis any further, he draws a line between the local and the state, each with its own kind of justice, implying, indirectly, that the horizontal and vertical alliances that pervade the whole of society and the whole of the country, can function on two different levels, and that once things go out of hand on the village level, another kind of justice takes over. In chapter one, however, we have seen how a panchayat can run indistinctly from the village people of Gujrat, to the nazim, to the Supreme Court and back to the village. In the previous chapter we have seen how the panchayat prevails as the judge ignores evidence and dismisses the case. There are no levels, and there are no two types of justice. The fact that the judges are inclined to follow that which has been agreed in the panchayat, should be argument enough to affirm that it is the Vindicatory justice that runs from the village people all the way up to the Supreme Courts. The language might change but not the logic, the people acting as the authority might change but not the understanding of authority itself. The process has no boundaries and neither does it draw lines between the political, the moral, the religious, and the legal. The article was a call for Islamists intervention, who became additional players in the process. The Chaudhrries were dealing with the situation in their own way, and as the standing authority nobody should have taken any decisions without running it past them. However, Irshad's brother Ashraf, worried by the article, and with rising discussions with regards to the women's innocence and the pir's involvement, acted on his own behalf. The focus had shifted from the accused women to the pir, and suggestions were

352 Ahmed. 2006: 207
353 Ibid: 208
launched for his punishment. Interesting here how the offence is sustained indifferent to the cause, and reparation shifts from one person to another, indifferent to their direct involvement with the offence. If the women had not defiled the Quran than why pursue the matter any further? *Tasweers* do not cause offence as it is a popular practice; calling it black magic is again pushing boundaries where there are none. But the rage simply shifted from the women to the *pir*.

At this point an incision needs to be made to briefly consider the influence of people and ideas that come from outside the country. I'm not implying that Ashraf, who had worked in Japan and now has a government job in Lahore, called the police because he did not acknowledge the Chaudhries authority, and that this is due to having lived abroad and having gathered different experiences with regards to authority. Both brothers do see the Chaudhries as the head of the village and highest authority. But the events speak for themselves. Both brothers act outside the boundaries of the authority they claim to acknowledge. When the Chaudhries get offended – as we will see – the brothers do everything to repair the offence, from begging forgiveness to sending people over to talk on their behalf.

But outside influence should be mentioned, nevertheless, as one of the major arguments of this study is that Pakistan resists modernization. The influence of those who live abroad and come back or visit needs to be addressed, at least in general terms, and the possibility has to be considered that the ideas and trends which are brought back could contribute in weakening or strengthening traditional authority.

Millions of Pakistanis not only bring ideas but also the money to materialise them. Shopping malls, Italian restaurants, apartments, plexiglass offices, fitness centres, Uber, supermarkets, jeans and stilettos, are all innovations that have become a normal part of the urban landscape. But besides these Western trends, there is another flux of incoming money and ideas that has seeped deep into the local minds and homes. There is an Arab influence that tries to circumvent the Indian heritage, pioneered by those who returned from the Gulf after working there over the last four decades, bringing with them the Wahabi experience. All together, a new style of Muslimness explicitly visible in the architecture, interior decoration and a hijabi piousness that smells of money. When I return to Lahore in 2016, after nearly twenty years, I could not believe the changes I witnessed, most of all because they were repellent to my own personal taste: XXL cars which are not even available in Europe, houses with Roman pillars, and shiny tiled floors, all in white. Chandeliers, gilded vases, and rococo furniture decorating homes now in need of powerful air conditioners, replacing what is known as the pre-partition style: houses build from red bricks, the rooms organised around a square patio, sometimes with a fountain or even trees. The rooms have windows
and doors that open to the patio, whereas small suspended balconies made of secluding woodwork tower over the street-life down below. All rooms have high ceilings, and because of the dust, cupboards are build into the walls and have wooden shutters. Because of the cold winters every room has a chimney or a fireplace, now mostly filled with gas heaters. The furniture is made of light wood, allowing for *charpoys* to be carried outside in summer to sleep in the patio or on the flat roof tops. Those beds are used not only for sleeping but also as benches, sofas and working spaces. This is a picture I took in the old city of Lahore where they are now made of light metal and colourful plastic strings.

The kitchen doesn't require more than a fireplace, a low stool, and several tins to keep the spices and other storable foods; no cupboards, no kitchen tops, no cutlery, and everything, from clothes to plates, are washed in the patio. All this makes it easy to keep the dust out and the cool in. The new architecture, however, insists on big windows that need to be tinted and require for the homes to have AC in every room to counter the heat that filters through those windows and concentrates even more in cement constructions. The *charpoys* have been replaced, in many homes, by heavy
unmovable furniture, tables and chairs, vases and figures, frames and lamps, that claim a new found well-being that demands constant dusting. The newer houses in the new residential areas have no street life except for the guards and servants that stand outside. Neither do they have the busy rooftops which are so common in the older parts of Lahore; the rooftops where women and children spend the winter days, were families sleep in summer, where one can go for a sneaky cigarette, or to fly kites with the neighbours.\footnote{Kite flying is one of the most loved activities in Lahore and there is no man, young or old, that doesn't know how to fly a kite. It consists of flying the kite - made of light paper and a light wooden frame - and let the string get entangled with somebody else's kite string. Once that happens, a lot of pulling and tugging and shouting and screaming and daring and laughing occurs, till one of the strings is cut and the winner goes out to get his conquered kite. This practice is forbidden these days as electricity cables were causing deaths and also because the strings, to be more effective in cutting the rival's string, were being covered with tiny glass splinters, causing many accidents.}

Weddings, on the other hand, have resisted any change from abroad or time. The most central and crucial event in social life remains the mirror image of what it had once been. Ceremony and rituals have prevailed, spices and sweets, jewels and silks, turbans and \textit{mehndi}, \textit{dholki} and horses, fireworks and gifts, unmistakeably linked to a past that is brought forth to praise and celebrate a new beginning that will bring new life and renew the cycle. The money spend on those weddings on food for hundreds, sometimes thousands\footnote{The nazim's son's wedding received three thousand guests in Gujrat.}, clothes, jewellery and gifts (usually money) are, no doubt at all, central to a society based on reciprocity. Many have tilted weddings as extravagant and immoral, specially the more liberal and market society bound minded, but the truth remains: a small wedding equals social death.

In the day to day life, the clothing has also stubbornly resisted change. Though blue jeans are common, the cotton \textit{shalwar kameez} has remained the main garment. Women wear \textit{shalwar kameez} and \textit{dupatta} (fewer women wear \textit{hijab}), matching in print and colours. The male version has a straight cut and is of plain colours, mostly white (now related to being a Sunni), black (worn by Shias), but in general, the colour range goes from white to black skipping all the bright colours, keeping within the beige and browns. For the occasions that call for celebration – which are all year round - women slip out of their cotton and slip into silk, adding jewellery and make-up. Men have two choices, sleek in a suit or a clean \textit{shalwar kameez}. If one looks at the miniature paintings that reflect the Mughal court over the last centuries, or even the Ottoman court, one can see the same outfits as worn in Pakistan on festive occasions. The design and colour combinations, the golden and silver embroideries, the gilded slippers and the turbans, all bear the legacy of the past.

The shoes for man are loafers, slippers, and sandals, whereas for women slippers are in general more colourful and reflect their passion for glitter. Whatever the case, Pakistanis like to kick off their shoes, not only for prayers, but because it signals a comfortable informality. Neither are
clothes used to define individual identity. Women like to be admired and asked about where they got their dress but they don't like to be different in the sense of individual identity. In general, people have an opinion about clothes, furniture, houses and cars, but it is far from the identity forging mechanisms the Western population is submitted to, talking in general terms. Identity is forged, above all, and in a continuous and intensive manner, by social reciprocal activities, mainly visiting and celebrations, and as part of that general process that churns reality by recalibrating it, the process that takes in the new to make it part of the old, so are people, their ideas and their money churned with it. Despite the admiration that is expressed for foreign trends, they don't alter authority, truth is still divine, and the past is the bearer of honour. Man are not masters of their destiny and only the wisdom of the elders, and those before them, have the knowledge to guide, and so is hierarchy and domination defined. Shopping malls and chandeliers have not changed that. I think that when the Chaudhries compared Irshad to the hero of an Indian movie, that was exactly the kind of motivation Irshad and his brother were driven by. Once the brothers realise they offended the Chaudhries with the way they acted, they asked for forgiveness, many times, and even in public, but at the time, they were compelled to be heroes.

When the police came, Ahmed says,

Chaudhries, the traditional power brokers, have had to come to terms with the increasing visibility and presence of the state. They often have to buttress their local authority by participating in elections and becoming politicians. Those who ignore this do at their peril for their authority can then be eroded by opponents or 'upstarts' who align themselves with the state powers and its considerable resources. [...] The state – as represented by the police – is regarded by villagers as an opaque, amoral corrupt institution that unscrupulous persons with power and influence can mobilize for their own illegitimate ends. [...] The SHO asked the Chaudhries what they wanted him to do ...

Despite the fact that Ahmed observes the alliances between the local and the higher authorities, his analysis still reflects the general perception projected by the academic world of a state as an independent entity, a governing super-power detached from the population. He also makes an erroneous inverse reading of how the alliances work. It is not the landlords that have to engage with the state, buttress the local authority by participating in election. The biradaris and castes are the local authorities and the politicians have to negotiate with them if they hold any hopes for votes. As Jalal rightly observes, “Far from being the representatives of an impersonal and rule
bound state, local government officials and the police are often beholden to influential political families who control the local patronage networks."³⁵⁷ Ahmed also clearly says that it was the SHO who asked the Chaudhries what they wanted him to do. Therefore

1. It is the Chaudhries who's consent is needed to act in Punna'ân and so it is acknowledged by the higher officials.

After deliberation, it was decided that the pir had to be brought into custody for his own protection. The police, who according to Ahmed, represent the law, however, did what needed to be done with regards to the shifting mood of the offended audience, not with regards to the crime.

2. The legal and administrative procedures are bend to fit local requirements.

With the unrest under control, Irshad decided to take one more look at the Quran. Though he was as inclined as everybody else to believe what the caretaker of the graveyard had sworn on the Quran (because it had been sworn on the Quran), he still was open enough to realize the allegedly defiled book was totally dry. Interestingly, it was not the dryness that made him react but the fact that there were cobwebs in the tin it was stored, the same cobwebs that disguised and saved the Prophet when he was hiding in a cave (as recounted by a hadith). The connection of cobwebs and prophet led to a level of radical truth capable of challenging the oath taken on the Quran by the caretaker. In order to understand this process we have to understand the two kinds of truth that are dealt with in societies of Vindicatory justice. According to Terradas³⁵⁸, both truths are radical, one emerges out of virtue and the other out of the recognition of everything that is not virtues, human weaknesses and circumstances that hinder virtue but are as much part of the social reality as virtue. This is tangible on a metaphorical level that escapes our more direct, positive, factual comprehension of what is wrong and true. For us a fact might trigger the memory of a metaphor, but that does not alter the fact, whereas here the metaphor related to the radical truth, the virtue of the Prophet, validates the fact. Personally, I think the term 'radical truth' is, in this context, the truth that is linked to the past and the divine, to the Prophet himself, giving the truth this radical and decisive edge.

Following his discovery, a succession of events unfold that, from the perspective of somebody of the legal Herrschaft like the Western reader of this study, would be difficult to accommodate as normal. In order to understand those events, they need to be seen as part of a

³⁵⁷ Jalal. 2014: 380
³⁵⁸ Terradas. 2019: 358
process aiming at reconciliation; not the punishment of a crime, but the repair of an offence. At the same time, in doing so, authority and norm are realigned with what is and what should be. From a goffmanian analytical perspective, the actors engage in re-establishing normality, making sure the old standing values are brought to the surface in a targeted way, making them wilfully visible. In this case study, it is 1. and 2. mentioned above: The Chaudhries are the authority in Punnua'n and legal and administrative procedures are bent to fit local requirements. The validity of these points are not limited to the local level. As mentioned before, the process has no levels and it is carried on to the Supreme Courts, if necessary, where the Chaudhries authority is taken on by the judge.

Irshad does not share his discovery of the dryness of the Quran with the Chaudhries, instead he imposes on himself a code of honour that does not take into consideration the bigger picture and the authority he is obliged to. His eagerness to act alone puts in jeopardy the authority and an already disturbed normality gains in unrest. To get a confession out of the caretaker, he promised not to reveal his confession to anybody. The same evening Irshad and the caretaker attend the panchayat and Irshad announced that he had established the innocence of the women. When the Chaudhries inquire as to how, Irshad is adamant that he cannot reveal his source but he swears on the Quran that the women are innocent. This is the point when the Chaudhries consider that Irshad “acted like a Chaudhry”. When the Chaudhries asked Irshad about his findings it was to gain the information they needed to know what to do next. With Irshad not telling them what the caretaker had confessed, he was challenging them to do as he says without further explanation, which the Chaudhries refused to do, of course. To make matters worse, later that evening, Irshad, his brother, and the SHO (though he never turned up) agreed to take the caretaker into custody and prepare a written statement that would stop him from going back on his confession, again circumventing the authority and acting without consent. Past midnight, the father of the caretaker went to the Chaudhries' residence to let them know Irshad and his relatives had abducted his son and that he feared they might kill him to protect Samina and her mother. The next morning, when the Chaudhries demanded the release of the caretaker from the police station, the Assistant Sub Inspector, who had no connection to Punnua'n or the Chaudhries, refused to follow their demands but also showed his disregard to the Chaudhries threats of retaliation. This, too, added to an already offended authority. In response to the police refusal, the people from Punnua'n blocked the main road. This is an habitual sign of protest which is meant to get the attention of the higher ranks and initiate negotiations, something Ahmed fails to mention in his study, but which has been referred to in the previous chapter as the manifestation of caste solidarity according to Dumont. In this case, not only were higher officials rushed to the scene, but Islamists, too. Like bees to the honey,
Islamist militants from the *Sipah-e-Sahaba* (Army of the Companions)\(^{359}\), were packed on buses and brought to Punnua'n. What had been an attempt to secure the return of the caretaker, was taken up by the activists who demanded to file a case against the women. In response to the developing violence, protests, and the attack on the pir's house and belongings, the higher police officials ordered for the caretaker's return in addition to the filing of an FIR against the women to appease the Islamists. As the Chaudhries refused to be the applicant, the caretaker was made to file the accusation against Samina and her mother for defiling the Quran. In addition, another FIR was filed against Irshad for kidnapping the caretaker. Here, too, the application was made by the father of the caretaker and the Chaudhries only backed up the complaint. The time of the first FIR was 12.45 pm and the second FIR 5.45 pm which shows us how FIRs are fabricated regardless of being coherent with the time line of the events – as we have seen with the FIR filed against the attackers of the Christian sweeper. The accusation from the caretaker was made at a time he was supposedly kidnapped. But as Ahmed records, this was not a problem for the Chaudhries who saw the FIR only as a means to pressure Irshad to do as he was told\(^{360}\). The incoherence in time, pointed out to them by the SHO, was completely disregarded.

In the following days, attempts made by the SHO to show the accusations of blasphemy were false, were rejected by the Islamists who, aided by the media, were trying their best to gather further support for their cause from the people from Punnua'n. But to the relieve of the higher ranks of the police and the administration, neither the Chaudhries nor the people were interested, and disturbances quickly died down.

Yet, the process of reconstituting normality and repair was far from over. Irshad felt he needed to be forgiven by the Chaudhries and “attempts were made to effect reconciliation”\(^{361}\), to the point that Irshad made the formal gesture of asking for forgiveness for the kidnapping of the caretaker. What he did not do was to show his regret for how he had handled the investigation exculpating the women. In the light of this half offered apology the Chaudhries remained firm in their resolve and neither Irshad's further public request for forgiveness at the mosque, nor the mediation of the SHO and Ahmed's research companion, were accepted.

The next thing that happened, was that the case against Samina and her mother was passed from the Additional Session Courts in Sheikhpura to the Anti-Terrorism Courts in Lahore (the same court that dealt with the attackers of the Christian sweeper). There the judge increased the logistical

\(^{359}\) Ahmed. 2006: 246 Extremist sectarian party forged out of conflict with the Shias. Second only to their claim to having the Shias declared non-Muslims and general anti-Shia propaganda and activities including killing prominent Shias and bombing their mosques, they also pursue cases involving allegations of insults to the Prophet Muhammad, the Quran, and the Prophet's 'Companions'.

\(^{360}\) Ahmed. 2006: 248

\(^{361}\) Ahmed. 2006: 251
difficulties and financial burden for all the parties involved in the case with the purpose, together with delays and postponements, to dishearten the persecuting parties. Though Ahmed recognises these tactics as common to dissipate will and resources of the persecution he does not realise how the law, in this case the blasphemy law, is disarmed in favour of reconciliation, see point 2.: legal and administrative procedures are bent to fit local requirements. The authority now transferred to the judge continues the process of repair, very much aware of the interference of militant Islamists. The fact that the case was held in Lahore and that the access to the courtroom was limited to the people directly involved in the case only, where “sufficient disincentive to some Sipa-e Mustafa activists, who gave up trying to attend the hearing after being denied entry on a couple of occasions”362. Neither did the caretaker nor the Chaudhries present themselves in court. Islamists militants had offered them their lawyers and financial assistance but they refused. Again, a clear act of deactivating the legal system in its legitimate purpose in favour of reconciliation and repair. Irshad and Ashraf also refused the pressure of the Islamists to drop their defence. On the contrary, Ashraf, who worked in Lahore, mobilized his contacts to help Baba Sharif, Samina's father, and improver her defence. More propelled by the will to defy the Chaudhries – according to Ahmed - , he went time and again to the Anti-Terrorism Courts and over endless cups of tea he tried to win all the minor officials of the courts. He won their sympathy by describing the caretakers false accusations and presenting the Chaudhries as evil oppressors of the defenceless women, evoking here, I think, the radical truth of evil for the effective mobilisation of behaviour.
I was able to take this picture myself with utmost discretion, as one can not just stand in the middle of the High Courts and take photographs. It shows the many and crowded tea corners where most of the lawyers, court officials, and clients, could be found, doing exactly what Ashraf did, mediation; winning people's minds, talking to the officials and clerks so they would feel inclined to provide the judge with the relevant information. This is how I previously described the motion of negotiation that seemed to circulate like a growing tornado with the purpose of involving more and more people that were being gathered from all corners of the buildings. There always seemed somebody's something missing: a statement, a phone number, a signature. It was less about stamps and papers, and more about those who stamped and signed, and agreed, and were not convinced, and later, gave in. There were the little gestures, bend down heads, moments of silence, hushing and whispering, shoulders dropping, money slipping, that went like electrical currents all the way from the micro social level to feed the macro level, to energize it, to renew it, or to deplete it.
Money is part of the process, but far from the only part. As we already saw from Gupta's example at the land registrar office, it is about acknowledging the authority, a social interaction conditioned by authority, which can not be circumvented by just throwing money on the table; that would be an insult.

Further, Ahmed tells us how the case was passed on from the Anti-Terrorism Courts to the Lahore High Courts were, after further postponements and three month after the initial accusation, Samina and her mother were granted bail. During the time I conducted my research in the Lahore courts, I realised that at the High Court level the majority of people who were accused of murder or blasphemy were acquitted or given a life sentence instead of a death penalty. Aware of FIRs being filed as bargaining material or revenge, the High Courts more often than not drop the cases. As Ahmed described, once the court cases are held outside the sphere of the authority where the offence and the accusations took place, the time and the resources needed to pursue the accusations are deliberately increased. The judges are perfectly aware of the origin of those disputes, and even the police advises, in my ethnographic experience, whenever possible, against filing an FIR, knowing that they are used as a means of putting pressure to ongoing negotiations rather than to pursue the punishment of the culprit. In other words, the process continues in favour of repair, absorbing the authorities involved. If the administration of the law gets involved the process simple continues with the same logic and purpose. From the very beginning to the very end, the process demands an active involvement where bargaining and mediating are a form of recognising and constituting authority, the very same process we have seen took place between the police officer and my student.

And finally, Irshad was released on bail, too. Accused of kidnapping the caretaker, he was able to point out the incongruence of the time line registered on the other FIR and the judge understood the circumstances. From my observations in court, what surprised me very much at the beginning, was the amount of questions the judges always had. So many times the judges had to clarify 'facts' which didn't make any sense. As we saw during colonial rule, the registry of property was filled with illegible annotations which defied the purpose of holding a registry in the first place and made it necessary to engage in negotiations with the local authorities\textsuperscript{363}. In the same manner, the often contradicting information the judges receive through the FIRs require for the judges to make inquiries, therefore, overruling the contents of the reports. Those 'clarifications' are part of the process that allows for authority and hierarchy to seep into the legal system and turn facts visible or invisible. Hence, also the importance of getting information to the judge via lawyers, clerks or other officials which, again, is linked to a process of mediation and negotiation channelled through

\textsuperscript{363} Ali. 1988: 80, 185-192
existing or new build alliances.

Again, if one looks up 'alternative dispute resolutions,' mediation, conciliation, and arbitration are the first terms that appear, with arbitration being legally binding even though it takes place outside the court rooms. During the weeks I spent at the different civil courts, arbitration was constantly used, one, because many contracts already contemplated this option, but most of all, because the disputing parties were simply more inclined towards this alternative as arbitration is further removed from law and closer to the process that allows for hierarchy, custom and collective consent. From the cases I witnessed, confirmation was requested from the judge, the judge agreed, sometimes asking for the name and telephone of the chosen third party, and then arrangements were made. One day I was standing with the lawyer at the judge's desk and an arbitration proposal was accepted. We had pushed our way through to the judge, waiting for the right moment, between case and case. Though folders were looked at, and the name and number of the chosen arbitrator noted, it was written on files that were already covered in scribbles, probably from previous cases. It seemed clear to me that it was perceived as a necessary gesture rather than a formal requirement, allowing for the judge's authority to be noted. One could argue that it was a step back from law, but I think it is the way the process operates, including all players into this collective exercise where authority, hierarchy, common sense, and interests become a shared space that aims at continuity, at preserving the past in the present. Imprecisions, illegible scribbles, contradictions, and the absence of clearly defined property rights, for example, are therefore, not surprisingly, characteristic in societies of Vindicatory justice, giving space to the process and the here and now whilst inhibiting fixed, impersonal, and individual, law.

To conclude we can say that Ahmed's case has been of great value, providing the necessary material, not only, to contest general assumptions concerning the state, but also proof, on hand of his ethnography, the working of Vindicatory justice. The assumption that the local culture, the local values, and the local sense of justice, are bound to traditions, morale and customs, and that the police, the judges, and the higher administration of the state function within the realm and the legitimacy of the law, has been proven in this chapter to be unsustainable. The complexity of the process and its contradictions with basic modern assumptions, explains why the discourse of corruption has been commonly accepted. It has been more convenient to call the government corrupt than to accept that the government functions on an understanding that is irreconcilable with the legitimacy of positive law, citizenship, and a sovereignty displaced from the divine, and that the survival of the Pakistani society demands for institutions to be 'interpreted' and 'recreated'.

What has also come to the forefront is the connection between truth and authority, and

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shortcuts can be made to abduct authority. The caretaker sized an authority by pretending to uncover an offence made to the highest power and holder of absolute truth; he made up a story to get the feel of an authority he was never meant to have, and his truth became practically indisputable after swearing an oath on the Quran. It has also been demonstrated how the Islamists have become experts in, and concentrate their resources on, situations that allow them to step up as the authority of repair through the means of penal crime. One could further speculate that the demand for blasphemy cases to supply Islamists needs, is the cause of these kind of accusations in the first place; the abduction of authority in the name of Islam. But those interruptions targeted to weaken “local mechanisms of repair” are overhauled by a collective process with a shared moral, social, political, legal, and economic understanding, providing social continuity. Not only are biradari and caste alliances reinforced but also patron/client relations. Together they perpetuate a hierarchical society of unequal access to resources and a social divide of those who rule and those who don't, bound to each other by reciprocity. What has often been regarded as rigid and inflexible is actually a society equipped with a process that allows to deal with change, not by changing but by absorbing and recalibrating it. As Weber already pointed out, command and custom can not be far apart; authority is indelibly linked to custom, to collective knowledge, and the logic and rationale of Vindicatory justice. The indisputable link to the past will be the theme of the next and last chapter.
Chapter Seven:
The Legitimacy of the Past

In this final chapter the purpose is to round up the theoretical premises presented in this study by analysing one major case: the acquittal of a woman accused of blasphemy ten years back and the following standstill of Pakistan for three whole days managed by Islamists, marking a crucial moment in the country's history. This chapter is intended to explain Pakistan's stance against Islamization, the significance of this opposition, and an explanation as to who and how.

**Asia Bibi**

These are some of my notes on those days:

It started to feel real when I saw the burning tyres and the police hosing the protesters away. The internet had been cut off in the whole country and I had to go to the airline office at the airport to book my flight. I wanted the police to succeed because those who had blocked the roads were asking for a mother of five to be hanged. But I also felt sorry for the men who had left their homes and were without food or water waiting with anguish to restore their prophet's honour. I was expecting to see further interventions but it was just the road to the airport that was cleared. All the other roadblocks were left alone, no further police intervention was registered. Neither did the army intervene, as protesters were not considered enemies of the state, they said. In the meantime negotiations between the government people and the TLP\(^{364}\) party members were on their way. After 3 long days the roads cleared and the main veins of the city were pumping traffic again. The whole country fell back into motion. The agreement reached with the protesters stipulated a review of the Supreme Court's judgement, keeping Asia Bibi in custody, and the release of all people picked up in connection with the disturbances\(^{365}\). Social media roared back with the outrage of those who couldn't understand how *molvis* could get away with holding the country in check and disrespecting state justice. **Where they above the law?** A month later, however, in a nationwide police and army intelligence operation, over a thousand men in connection with the disturbances and the TLP party, including chief Khadim Hussain Rizvi and the senior leader Afzal Qadri, were arrested\(^{366}\).

\(^{364}\) Islamist party led by Khadim Hussain Rizvi

\(^{365}\) *Dawn* on line, Oct. 2, 2018

\(^{366}\) *The Nation* on line, Nov. 4, 2018
On Wednesday the 31st of October 2018, Aasiya Noreen, more known to the world as Asia Bibi, was acquitted of her death sentence, and the charges of blasphemy, brought against her 10 years ago, were dropped. The fact that the public announcement of the Supreme Court's decision was awaited with general expectation in the whole country, didn't come as a surprise. The Judge's verdict and report had been handed in 23 days ago but only made public now. For Liberals and Islamists it was a balance-tipping moment. The Governor of Punjab Salman Taseer had been assassinated for defending her seven years back. Shabaz Bhatti, a Christian member of the Cabinet, was also gunned down the same year for openly requesting her release. International pressure had been mounting around this case, and so had Islamist interest, eager to make an example out of Asia Bibi. These were the events that lead to her conviction and later to her release:

June 2009
Aasiya Noreen was labouring near her village, in the region of Sheikhupura 40 kilometres outside Lahore, when she offended a group of women working with her on the fields by drinking water from the same cup as them. When told she should convert to Islam first before being able to drink from the same cup, she retorted, “I believe in my religion and in Jesus Christ, who died on the cross for the sins of mankind. What did your Prophet Mohammed ever do to save mankind? And why should it be me that converts instead of you?”. Her reply enraged the women and Noreen was abused and beaten. Days later Mohammad Salim, a local cleric, together with other men from the village, accused her of blasphemy. The police intervened and took her into custody where she remains till sentenced. According to her husband the fight started long time before when her goat jumped on the neighbour's wooden barrel to eat, and broke the barrel.367

November 2010
She is convicted and sentenced to death.

January 2011
Punjab governor Salman Taseer, who was outspoken about his support towards Asia Bibi, is gunned down in broad daylight in Islamabad by his body guard, 26 year-old Mumtaz Qadri.

March 2011

367 The information given here of the events that led to Asia Bibi's detention are based on the article published by Hasnain Kazim, a German journalist who visited the place and spoke to the people involved, and an article of Sarah Eekhoff Zylstra interviewing the French journalist Anne Isabelle Tollet who wrote a memoir on Asia Bibi's death sentence compiling the information through messages coming in and out of Asia's prison as she was not allowed to visit her.
Shahbaz Bhatti, only Christian Member of Pakistan's Cabinet, and supporter of Asia Bibi’s freedom, is ambushed and killed by a gunman nearby his residence in Islamabad. Islamists forbid their followers to go to his funeral.

October 2014
Lahore High Court dismisses her appeal and the death sentence is upheld.

November 2014
Her lawyer makes a new appeal to the Supreme Court.

July 2015
The Supreme Court suspends the death sentence for the duration of her appeal.

February 2016
The assassin of Salman Taseer, Mumtaz Qadri, is hanged, though many celebrate him as a martyr.

March 2016
The first Appeal hearing is rescheduled.

October 2016
Postponement of the hearing to an undetermined date as Iqbal Hameedur Rehman refuses to be part of the bench.

October 2018
On the 8th is the hearing and on the 31st she is acquitted.

The Court Report368 was made public the same day her acquittal was announced. Fifty-six pages that give testimony of how the High Court Chief Justice Mian Saqib Nisar and Judge Asif Saeed Khan Khosa address the Islamists and Liberals, but also build an irrefutable argument rooted in the Islamic tradition, establishing a backward chain of authorities, connecting with the past, thus, collecting legitimacy, honour, and right, whilst, at the same time, embracing positive law, and pronouncing a lecture aimed at reaping consent and allow for social continuity.

The first point (out of fifty) made by the High Court Chief Justice is the Qalimah-e-Shahadat,

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368 Court Report. 2018 (Oct. 10)
which is printed in Arabic with the English translation, “I bear witness that there is no God worthy to be worshipped but Allah, the One alone, without partner, and I bear witness that Muhammad is his Servant and Messenger,” followed by the judge's explanation:

The Qalimah-e-Shahadat as shown above, is deemed to be the essence of Islam and the recitation of which makes us Muslims, is self explanatory and testifies that there is no God but Allah and our Prophet Muhammad is the Last Messenger of Allah. It is our declaration of faith in the unseen and belief, to bow down our heads before our Lord Allah, admitting the fact that there is none like Him.

2. The sanctity of our Prophet Muhammad is further evident from the Qalimah-e-Shahadat, as His name is being read together with Allah, thus ultimate care and great importance should be drawn while taking this Holy name. Tolerance is the basic principle of Islam. It is a religious and a moral duty and further relates to the dignity of human beings, the equality amongst all creations of Allah and also to the fundamental freedom of thought, conscience and belief. It does not mean compromise, lack of principles or lack of seriousness about one’s principles rather it means accepting the fact that human beings, naturally distinct in their appearance, situation, speech, behaviour, and values, have the right to live in peace and to be as they are. Islam may tolerate anything but it teaches zero tolerance for injustice, oppression, and violation of the rights of other human beings the Quran speaks about, from the very beginning. Freedom of religion has been guaranteed by Islam. It prohibits coercion in matters of faith and belief.

There should be no compulsion in religion. Surely, the right way has become distinct from error.
[Al-Baqara (2:256)]

Thus, as Muslims we are bound by this authoritative order and should act within the purview of such.

We can see how the High Court Chief Justice locates himself within the Islamist discourse, acknowledging his faith, “bow down our heads before our Lord Allah, admitting the fact that there is none like Him,” pronouncing the Prophet Muhammed the Last Messenger, which we have seen is fundamental to the Islamists. In point two, however, he positions himself on the platform of Liberalism, defending “dignity,” “freedom,” and “equality,” then, returning in full circle back to Islam where coercion of faith and believe is highly prohibited. To legitimise his argument he cites a

369 Note here the reference to the LAST messenger pointing clearly a finger at the Ahmadi community and their outlawing.
370 Islamists in Pakistan of Sunni majority.
surah\textsuperscript{371} and concludes that “we are bound by this authoritative order.” These words give testimony of how authority is build, and it is unequivocally connected here to the divine, and not to positive law, the state, or the will of the people.

In addition, he quotes a verse of Allama Iqbal, “the spiritual father of Pakistan.” The Urdu verse, which is not translated in the Report, says that one cannot compare the immensity of divine knowledge with the knowledge of men. Were one to try and write down this knowledge, the boards on which it is written would not suffice, neither the ink of the pen, even if the seas were made of ink\textsuperscript{372}. What transpires here, is the literary genre of Islamic Jurisprudence, as carried on from the Classical era, which Calder pointed out\textsuperscript{373}, needs to be understood, he insisted, as an “effort to transform the event of revelation into a process of understanding which has perpetual relevance, including but not restricted to the sphere of the legal\textsuperscript{374},” where meaning is explored and articulated in an interpretative experience. As opposed to codified law and legal concepts, ideas are laid out here to appeal at an imagination that legitimises connecting to the past. The reference to Allama Iqbal should remind us of the genre of \textit{tabaqa}\textsuperscript{375}, considered part of the Islamic jurisprudence, which exemplifies the style of transmission of knowledge, “through poetic citations, through the recognition of scholar-heroes\textsuperscript{376},” which further supports the point made here about the articulation of meaning.

From point three onwards, the Judge moves from divine knowledge to the Prophet Muhammed as “personal highest exemplary role model”, by citing \textit{surahs} and by citing authorities recognised within the Islamic Tradition:

\emph{Say, \textit{[O Muhammad]}, “If your fathers, your sons, your brothers, your wives, your relatives, wealth which you have obtained, commerce wherein you fear decline, and dwellings with which you are pleased are more beloved to you than Allah and His Messenger and jihad in His cause, then wait until Allah executes His command. And Allah does not guide the defiantly disobedient people.
\[\text{[At Towbah (9:24)]}\]}

\emph{By the star when it descends, Your companion \textit{[Muhammad]} has not strayed, nor has he erred, Nor does he speak from \textit{[his own]} inclination. It is not but a revelation revealed,}

\textsuperscript{371} The Quran is divided in different \textit{surahs}, each holding a name, in this case \textit{surah Al-Baqara}

\textsuperscript{372} I have extended my translation beyond the verse as it is a well known verse amongst Pakistanis but it needs to be contextualised for those not familiar with Iqbal's literature.

\textsuperscript{373} Calder, 2010: 2 (Introduction by Robert Gleave)

\textsuperscript{374} Calder. 2006: 15

\textsuperscript{375} Mentioned in Chapter 3.

\textsuperscript{376} Calder. 2006: 982.
Narrated Abu Hurairah (R.A)\(^{377}\): “Allah’s Apostle (ﷺ) said, “By Him in Whose Hands my life is, none of you will have faith till he loves me more than his father and his children.”

Narrated Anas (RA): The Prophet (ﷺ) said “None of you will have faith till he loves me more than his father, his children and all mankind”.

The Judge cites Abu Hurairah and Anas Bin Malik, both companions of the Prophet Muhammed, who left a profuse legacy of hadiths. Again, the unmistakable methodology of the Islamic tradition, using sources of divine revelation or secondary sources, mentioning the narrator, establishing a chain of authorities able to connect the present with the past; connecting the Court Report report with divine revelation. We have seen how well this works when the graveyard caretaker took an oath on the Quran and everybody felt they had to believe him. The same happened with the cobwebs found in the tin the alleged defiled Quran was stored. It was not the dryness that proved Samina's innocence but the cobweb that made Irshad think of the hadith of the Prophet Muhammed hiding in the cave.

In point seven, the Judge moves on from the Prophet as an example to how he,

ordered Muslims to strictly observe maximum respect and be extremely careful in this regard, to the extent of using most appropriate words and even lowering their voices, failing to do will render all their good deeds in vain, as mentioned in the following verses:

Among the Jews are those who distort words from their [proper] usages and say, "We hear and disobey" and "Hear but be not heard" and "Ra’ina" (راًعِنا) twisting their tongues and defaming the religion. And if they had said [instead], "We hear and obey" and "Wait for us [to understand]," it would have been better for them and more suitable. But Allah has cursed them for their disbelief, so they believe not, except for a few.
[An-Nisa (4:46)]

O ye who believe! raise not your voices above the voice of the Prophet (ﷺ), nor shout when

377 Islam uses honorific titles. R.A. is used for the companions of the Prophet and stands for Radeyallāhu 'Anhu and means “May Allah be pleased with him.”
378 It is the Arabic for “Peace be upon him” which should be said or written after mentioning the Prophet.
speaking to him as you shout one to another, lest your deeds be rendered vain while you perceive not.

[Al-Hujurat (4:46)]

Ibn Tamiyyah, while explaining this verse writes, “In this Verse the believers have been prohibited from raising their voices over the voice of the Prophet (ﷺ) so that their loud voice before the Prophet (ﷺ) may render their good deeds as vain while they will not understand it”.

By citing those two surahs above, and then referring to Ibn Tamiyyah, a early fourteenth century Islamic scholar, explaining the last surah, the judge brings respect, not raising one's voice, believe, good deeds, and Allah's appreciation, all into one literary image.

He continues citing further surahs and adding the interpretations of Islamic scholars, and only at the end, his own interpretation, positioning himself, as it is customary with the commentaries of the Islamic tradition, in a diachronic community. He doesn't discover the meaning of the Quran through a direct and unmediated reading of revelation. He rather becomes part of an interpretative experience of the historical community represented by its scholars. He literally builds an irrefutable argument by binding history, literature, and divine revelation, with centuries of a tradition that express the gravity of disrespecting the Prophet Muhammed. It is not an individual act, there is no subjectivity or abstract objectivity in what the judge is doing, but submission to the divine authority out of which emanates the norm.

Ask forgiveness for them, [O Muhammad], or do not ask forgiveness for them. If you should ask forgiveness for them seventy times - never will Allah forgive them. That is because they disbelieved in Allah and His Messenger, and Allah does not guide the defiantly disobedient people.

[At-Tawbah (9:80)]

And thus, have We made for every prophet an enemy from among the criminals. But sufficient is your Lord as a guide and a helper.

[Al-Furqan (25:31)]

Have you not considered those who were forbidden from private conversation, then they return to that which they were forbidden and converse among themselves about sin and aggression and

379 Calder. 2006: 12-13
380 Calder. 2006: 17
disobedience to the Messenger? And when they come to you, they greet you with that [word] by which Allah does not greet you and say among themselves, "Why does Allah not punish us for what we say?" Sufficient for them is Hell, which they will [enter to] burn, and wretched is the destination. [Al-Mujadila (58:8)]

May the hands of Abu Lahab be ruined, and ruined is he. His wealth will not avail him or that which he gained. He will [enter to] burn in a Fire of [blazing] flame. And his wife [as well] - the carrier of firewood. Around her neck is a rope of [twisted] fiber. [Al-Masad (111:1-5)]

How wretched is that for which they sold themselves - that they would disbelieve in what Allah has revealed through [their] outrage that Allah would send down His favour upon whom He wills from among His servants. So, they returned having [earned] wrath upon wrath. And for the disbelievers is a humiliating punishment. [Al-Baqarah (2:90)]

Indeed, those who disbelieve in Allah and His messengers and wish to discriminate between Allah and His messengers and say, "We believe in some and disbelieve in others," and wish to adopt a way in between - Those are the disbelievers, truly. And We have prepared for the disbelievers a humiliating punishment. [An-Nisa (4:150-151)]

Lo! Those who malign Allah and his Messenger, Allah hath cursed them in the world and the Hereafter, and hath prepared for them the doom of the disdained. [Al-Ahzab (33:57)]

Explaining this verse Allama Qurtubi writes:

Everything which becomes a means of malignity of the Holy Prophet (ﷺ) whether by quoting words bearing different meanings or similar actions comes under his malignity.

Allama Ismail Haqqi while explaining this Verse writes:

..the malignity of Allah and his Prophet (ﷺ) is meant only the malignity of the Prophet (ﷺ) in
fact, and mention of Allah (SWT)\textsuperscript{381} is only for glorification and exaltation to disclose that the malignity of the Prophet (ﷺ) is indeed the malignity of Allah (SWT).

The other Verses read as follow:

And of them are those who vex the Prophet (ﷺ) and say: He is only a hearer. Say: A hearer of good for your, who believeth in Allah (SWT) and is true to the believers, and a mercy for such of you as believe. Those who vex the Messenger of Allah, for them there is a painful doom."

“They swear by Allah to you (Muslims) to please you, but Allah, with His Messenger, hath more right that they should please him if they are believers.”

[Al-Tawbah (9:61-62)]

Ibn Taimiyyah while explaining these Verses writes: “Verse No. 62 denotes that the malignity of the Prophet (ﷺ) is the opposition of Allah and His Prophet”.

These Verses are linked with Verse 20 of Sura Al-Mujadila which is as under:

Lo! those who oppose Allah and His messenger, they will be among the lowest.

[Al-Mujadila (58:20)]

Thus, all of these Verses of the Holy Qur’an, mention in clear terms, that these abusers and condemners of the Prophet are actually the opponents of Allah and His Prophet (ﷺ) about whom the Qur’an says:

When thy Lord inspired the angels, (saying) I am with you. So, make those who believe stand firm. I will throw fear into the hearts of those who disbelieve. Then smite their necks and smite of them each finger.

[Al-Anfal (8:12)]

That is because they opposed Allah and His messenger. Whoso Opposeth Allah and His messenger, (for him) Lo! Allah is severe in punishment.

[Al-Anfal (8:13)]

\textsuperscript{381} The letters SWT stand for Subhanahu Wa Ta'ala, or "Glory to Him, the Exalted."
And if Allah had not decreed migration for them. He verily would have punished them in this world, and theirs in the Hereafter is the punishment of the Fire.

[Al-Hashar (59:3)]

That is because they were opposed to Allah and His messenger; and who so is opposed to Allah (for him) verily Allah is stern in reprisal.

[Al-Hashar (59:4)]

What the High Court Chief Justice does is engage with the past, through the Islamic tradition, to inspire loyalty and commitment, and that is, according to Calder, exactly how Islamic law should be understood382. That is the ground he is treading to summon the authority he needs to affront this case.

In point eight, he goes from offence to punishment, arguing that, because of all the above, a law is required to punish such acts of contempt which infuriate the Muslim community and cause “serious law and order situation, with grievous, disastrous consequences”:

These Verses clearly prescribe the severe punishment of death for the opponents of Allah and his Prophet (ﷺ), who include condemners of the Prophet (ﷺ). Thus, no one by words - either spoken or written - directly or indirectly, is allowed to disobey, disregard and rebel against the Holy name of Prophet Muhammad (ﷺ) and if found guilty of disrespecting the name they are liable to be punished. History has remained a witness itself to the incidents pertaining to any attempts of defiance made in the name of our Beloved Holy Prophet (ﷺ). The Muslim communities that exist around the globe have always acted against any such act of contempt and have openly reacted to such, followed by serious repercussions. That is why anything which in any way attacks any aspect of his sacred life, infuriates Muslims to an intolerable limit, resulting in extremely serious law and order situation, with grievous, disastrous consequences. That is why Section 295-C had to be enacted to bring such contemners before the Court of Law.

By having established a path, connecting the divine with what is right and scholarly interpretation, it follows that the Blasphemy law 295-C of the Pakistan Penal Code has become now part of this path, without having reached the present yet. This is point nine:

382 Calder. 2006: 980
Reference may be made to an incident which occurred in 1923, when one said person, Rajpal, published a pamphlet/book containing derogatory remarks against Prophet Muhammad (ﷺ). A movement was launched by the Muslims of the sub-continent demanding a ban on the book. As a result, in 1927 the British Government was forced to enact a law prohibiting insults aimed at founders and leaders of religious communities, as such, section 295-A was inserted in the Pakistan Penal Code in the year 1927. However, the Muslims were not satisfied with it and one Ghazi Ilm-ud-Din Shaheed succeeded in murdering Rajpal. After the trial, Ilm-ud-Din was convicted and was given death penalty. He is considered by the Muslims to be a great lover of the Prophet (PBUH).

And in the same manner, the precedence and the importance of this law is further developed in point 10, expanding the literary image from personal to institutional loyalty, whilst implying that it is not the sovereign state that embraces Islam, but divine sovereignty the state is committed to:

After the independence, to ensure that no attempt could be made to defy the Prophet Muhammad (ﷺ), a new provision was introduced in Pakistan Penal Code, 1860 (PPC), which reads as under:

“295-C. 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 Muhammad (peace be upon him) shall be punished with death, or imprisonment for life, and shall also be liable to fine.”

As per this provision, the act of blasphemy was made culpable and the sentence provided was either death or imprisonment for life along with a fine. The validity of this provision was considered by the Federal Shariat Court in the case titled as Muhammad Ismail Qureshi Vs. Pakistan through Secretary, Law and Parliamentary Affairs (PLD 1991 FSC 10) wherein the Court ruled that Section 295-C of PPC was repugnant to the fundamental principles of Islam to the extent that it provided for the punishment of life imprisonment which acted as an alternative to a death sentence. It was held that the penalty for contempt of the Holy Prophet (ﷺ) is death. It was further held that if the President of the Islamic Republic of Pakistan did not take any action to amend the law before 30th April, 1991, then Section 295-C would stand amended by the said ruling. An appeal was filed before the Shariat Appellate Bench of this Court, which was dismissed for want of prosecution.

Point eleven goes beyond the boundaries of the state and addresses the matter where it is less

383 Pakistan Penal Code
As mentioned above, Muslims all over the world have immense love, admiration and affection for Prophet Muhammad (ﷺ) more than their own lives or the lives of their parents and children. No one could be allowed to defy the name of the Holy Prophet Muhammad (ﷺ) nor could a person guilty of disrespecting the Holy Prophet (ﷺ) be let off scot-free. Even the Government has always made efforts at the national and international level to eliminate instances of blasphemy of the Holy Prophet (ﷺ). For instance, in March 2009, our government presented a resolution to the United Nations Human Rights Council in Geneva condemning “defamation of religion” as a human rights violation, which called upon the world to formulate laws against the defamation of religion. The resolution was adopted on 26.3.2009 despite wide concerns that it could be used to justify restrictions on free speech in Muslim countries. The efforts of our government succeeded in imposing global limitations against any attempt to defy a religion or belief, on the basis of freedom of expression. The social media website “Facebook” was blocked as it promoted and hosted a page called as “Everybody draw Muhammad Day”. This was another attempt made by the authorities to stop these malicious and vexatious attempts to sabotage the Holy name. The ban was lifted when Facebook prevented access to the said page. In June 2010, seventeen websites were banned for hosting content which were offensive and demeaning to Muslims. Since then the authorities have been monitoring the content of various websites including Google, Yahoo, YouTube, Amazon, MSN, Hotmail and Bing and all social media websites which are used globally and have a direct impact on people.

Now, with the groundwork set, the Chief Justice moves on to show the other side of the coin. Point number twelve addresses the perversion of the Blasphemy law by “nefarious design”, moving away from the concept of crime and keeping the audience embedded in the literary image of fused religious, moral, political, and social functions where the law not only prevents from disrespect but also from false allegations:

As noted above, no one could be allowed to defy the name of the Holy Prophet Muhammad (ﷺ) and be left unpunished, but there is another aspect of the matter; sometimes, to fulfil nefarious designs the law is misused by individuals levelling false allegations of blasphemy. Stately, since 1990, 62 people have been murdered as a result of blasphemy allegations, even before their trial could be conducted in accordance with law. Even prominent figures, who stressed the fact that the
blasphemy laws have been misused by some individuals, met with serious repercussions. A latest example of misuse of this law was the murder of Mashal Khan, a student of Abdul Wali Khan University, Mardan, who in April 2017 was killed by a mob in the premises of the university merely due to an allegation that he posted blasphemous content online.

Whilst in the above example, the Judge refers to an attack perpetrated by students affiliated to the Jamaat-e Islami, in point thirteen it is a case of false allegations raised by greed, letting the audience associate “nefarious” with Islamists and those who prioritize earthly and materialistic ambitions.

Reference may also be made to the case of one Ayub Masih, who was accused of blasphemy by his neighbour Muhammad Akram. The alleged occurrence took place on 14th October 1996, the accused was arrested, but despite the arrest, houses of Christians were set ablaze and the entire Christian population of the village (fourteen families) were forced to leave the village. Ayub was shot and injured in the Sessions Court and was also further attacked in jail. After the trial was concluded, Ayub was convicted and sentenced to death, which was upheld by the High Court. However, in an appeal before this Court, it was observed that the complainant wanted to grab the plot on which Ayub Masih and his father were residing and after implicating him in the said case, he managed to grab the seven-marla384 plot. The appeal was accepted by this Court and the conviction was set aside.

In point fourteen, the Chief Justice, again, establishes that the commandments of Allah are to be protected by the Constitution and the law. More than a logic argument it is a literary composition that leads from the Quran, containing divine guidance and knowledge, to the Constitution that provides that a person is to be considered innocent, irrespective of their creed, caste and colour, unless proven guilty through a fair trail, with a dramatic interval of Quranic imagery, back to the Constitution, but this time, relating directly to the state as the sole authority to award sentence and avoid false allegations:

At this juncture, it is to be noted that Islam as stipulated in Holy Book “Quran” teaches us, amongst many other virtues, to live in peace and harmony, with compassion and love to our other fellow human beings. It is the masterpiece of guidance and knowledge bestowed upon us by the Allah Almighty, which cannot be modified in any way whatsoever, thus being the final book. The commandments of Allah are entrenched in the Quran which provides for a complete way of life and teaches us the concept of tolerance. It is however to be kept in mind that unless proven guilty,

384 About 180 square-meters.
through a fair trial, as provided for in the Constitution and the law. The Holy Quran has mentioned
in clear terms that:

... he who slays a soul unless it be (in punishment) for
murder or for spreading mischief on earth shall be as if he
had slain all mankind; and he who saves a life shall be as if
he had given life to all mankind...
[Al-Ma’idah (5:32)]

Moreover, it is also pertinent to mention that awarding a sentence is the duty of the State and no one
else has the authority to take law into his hands and punish anyone on his own. After allegations
regarding contempt etc., a fair opportunity for offering defence before a competent court, has to be
provided so that proper justice is done. This will eliminate the chances of false allegations prompted
by ulterior motives, as has been done in several cases in the past.

What is interesting about this whole exposition, and why it has been analysed here in such detail, is
that this Court Report is a testimony of how divine sovereignty and state law is reconciled. The
primary and secondary sources in Islam are placed first, revealing the purpose of the Muslim
community. Through the Islamic tradition and its methodology of interpretative truth, recognising
that the truth is only known to Allah, the technique of layered commentaries, that has allowed for
the historical community of scholars to keep in connecting with present times, is employed to insert
the case in an ongoing and uninterrupted process. That is what has been done here. The author of
the Report, resorts to the methodology of the Islamic tradition to make this connection, to reach out
for authority and therefore legitimacy, connecting with the present, the Constitution, and Statutory
Law. The whole of the preamble establishes that the raison d'etre of law is the divine, loyalty and
commitment, through a literary form that shies away from codified law, and allows the moral,
social, legal, economic, religious, and political, to be part of this process.

Point fifteen, finally, addresses the question at stake, the point the Judge wants to make. Having got
to the Constitution and Statutory Law, he is now comfortable to turn to false accusations, and
establish Asia Bibi's innocence, and therefore her acquittal. Setting her free is not a legal decision
any more, but has become part of a process in which the events that led to her accusation are
embedded, anchored in the past, in connection to divine commands and validated by the Islamic
tradition.
It is worth mentioning that it is a matter of great pride and satisfaction that we are governed by a written Constitution and Statutory Laws. The Constitution, as per Article 4 thereof mandates that “to enjoy the protection of law and to be treated in accordance with the law is an inalienable right of every citizen, wherever he may be, and of every other person for the time being within Pakistan. In particular (a) no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law (b) no person shall be prevented from or be hindered in doing that which is not prohibited by law; and no person shall be compelled to do that which the law does not require him to do”. As per Article 37 of the Constitution, it is the duty of the State to ensure that justice is dispensed inexpensively and expeditiously to the People of Pakistan. As per Article 175(2) of the Constitution, “no court shall have any jurisdiction save as is or may be conferred on it by the Constitution or by or under any law”. Section 28 of the Criminal Procedure Code, 1898 (Cr.P.C.) provides that subject to the other provisions of the said Code, any offence under the Pakistan Penal Code may be tried (a) by the High Court, or (b) by the Court of Sessions, or (c) by any other Court by which such offence is shown in the eighth column of the Second Schedule to be triable. Thus, under the authority and command of the Constitution and the Law, it is the duty of the State to ensure that no incident of blasphemy shall take place in the country. In case of the commission of such crime, only the State has the authority to bring the machinery of law into operation, bringing the accused before a Court of competent jurisdiction for trial in accordance with law. However, it is not for the individuals, or a gathering (mob), to decide as to whether any act falling within the purview of Section 295-C has been committed or not, because as stated earlier, it is the mandate of the Court to make such decision after conducting a fully qualified trial and on the basis of credible evidence brought before it. No such parallel authority could in any circumstances be bestowed upon any individual or a group of persons. For this reason, this Court has held that the “Commission of blasphemy is abhorrent and immoral besides being a manifestation of intolerance but at the same time a false allegation regarding commission of such an offence is equally detestable besides being culpable. If our religion of Islam comes down heavily upon commission of blasphemy then Islam is also very tough against those who level false allegations of a crime. It is, therefore, for the State of the Islamic Republic of Pakistan to ensure that no innocent person is compelled or constrained to face an investigation or a trial on the basis of false or trumped up allegations regarding commission of such an offence.” [see: Malik Muhammad Mumtaz Qadri Vs. the State (PLD 2016 SC 17)]

Point sixteen summarises the events that led to the filing of the FIR against Asia Bibi and point 17 blames the media as participant instigators, “both electronic and print, and generated both grief and rage in the public at large”, an observation that falls very much in line with what we have seen in the village of Punnua'n once the Islamist journalist got involved.
All the way until point fifty, the events are analysed by looking at inconsistencies. One of the main inconsistencies is that the FIR – let remind ourselves, it is the First Incident Report - was filed five days after the alleged event took place. Here, again, we can draw a parallel to our Punnua’n case where an FIR was filed against Irshad by the caretaker at a time the caretaker was supposed to be kidnapped, and we saw how the judge took it into consideration. The same occurred in the Sanda case, where the judge dismissed the case all together. These inconsistencies in the administrative procedures have been apparent since Colonial times and need to be understood as depriving the measuring, ordering, qualifying, disciplining power of Foucault, and empowering the process instead. If a form or an administrative procedure is in place to retain information and build a reality, but it is done in such a way that it invalidates itself, the capacity of retaining or building a reality is proven ineffective. The measurable individual is made invisible. Bearing in mind Pakistan is a country of bureaucracy one has to conclude that it is precisely there where forms and stamps a put to the service of the hierarchical authority of society.

...the delay in registration of a FIR is not per se fatal in all the cases as it never washes away nor torpedoes trustworthy and reliable ocular and circumstantial evidence. There is no cavil to the proposition, however, it is to be noted that in absence of any plausible explanation, this Court has always considered the delay in lodging of FIR to be fatal and castes a suspicion on the prosecution story, extending the benefit of doubt to the accused. It has been held by this Court that a FIR is always treated as a cornerstone of the prosecution case to establish guilt against those involved in a crime; thus, it has a significant role to play. If there is any delay in lodging of a FIR and commencement of investigation, it gives rise to a doubt, which, of course, cannot be extended to anyone else except to the accused.

The Chief Justice goes on giving the example of five more cases were inconsistencies related to the FIR let to the acquittal of the accused. This allows us to further appreciate the distancing of codified law, and how from the British legal system inherited by Pakistan, the importance of case law has been maintained. If case law is defined as “the collection of past legal decisions written by courts and similar tribunals in the course of deciding cases, in which the law was analysed using these cases to resolve ambiguities for deciding current cases,” we can see how it is fitting to the literary construction of a defence, vindication or evidence, giving weight to the past, and room for interpretation, opposed to civil law or legislated law, where the weight falls on what is currently established. It can be said that the past is reinstated as legitimate in three ways in

385 https://en.wikipedia.org/wiki/Case_law
court, one, through previous case reference, two, through the Islamic tradition, and three, by the logic of Vindicatory justice we find present in the process.

Besides the inconsistencies noted in the FIR, the Chief Justice establishes that the investigation was conducted by a police below the rank of Superintendent going against the stipulations for an accusation under section 295-C. Also, that the extrajudicial confession was held at a public gathering (*panchayat*) of which location and number of assistants further provide inconsistencies in the witness statements, and most significantly, that only two out of thirty women, who were present in the field where the alleged blasphemy took place, came forward as witnesses, together with a witness statement from a guard, who against the main witness, was able to confirm that a quarrel did take place over Asia Bibi not being allowed to drink from the same cup as the Muslim women, whereupon the Chief Justice concludes, again, in an astounding literary fashion that,

two concepts i.e., “proof beyond reasonable doubt” and “presumption of innocence” are so closely linked together that the same must be presented as one unit. If the presumption of innocence is a golden thread to criminal jurisprudence, then proof beyond reasonable doubt is silver, and these two threads are forever intertwined in the fabric of criminal justice system.

Ending with a *hadith* collected by Abu Dawood in the late ninth century,

*Beware! Whoever is cruel and hard on a non-Muslim minority, or curtails their rights, or burdens them with more than they can bear, or takes anything from them against their free will; I (Prophet Muhammad) will complain against the person on the Day of Judgement.*

(Abu Dawud)

Followed by the final sentence,

For the foregoing reasons, this appeal is allowed. The judgement of the High Court as well as the Trial Court are reversed. Consequently, the conviction as also the sentence of death awarded to the appellant is set aside and she is acquitted of the charge. She be released from jail forthwith, if not required in any other criminal case.

Asif Saeed Khan Khosa, the second judge, adds another 20 pages with 26 points, concurring with the Chief Justice and giving further details of the many inconsistencies, describing the alleged village meeting, held before filing the FIR against Asia Bibi, as “nothing short of concoction
incarnate” plagued with “glaring contradictions” and therefore showing the lack of respect for the truth by the complainants\textsuperscript{386}, upon which he berates:

The glaring and stark contradictions in the evidence produced by the prosecution in respect of every factual aspect of this case, noticed by me above, lead to an irresistible and unfortunate impression that all those concerned in the case with providing evidence and conducting investigation had taken upon themselves not to speak the truth or at least not to divulge the whole truth. It is equally disturbing to note that the courts below had also, conveniently or otherwise, failed to advert to such contradictions and some downright falsehood. All concerned would have certainly done better if they had paid heed to what Almighty Allah has ordained in the Holy Qur’an:

> O you who have believed, be persistently standing firm for Allah, witnesses in justice, and do not let the hatred of a people prevent you from being just. Be just, that is nearer to righteousness. And fear Allah; indeed, Allah is acquainted with what you do.  
(Surah Al-Ma`idah: verse 8)

> So follow not [personal] inclination, lest you not be just. And if you distort [your testimony] or refuse [to give it], then indeed Allah is ever, with what you do, acquainted.  
(Surah An-Nisa: verse 135)

> And do not insult those they invoke other than Allah, lest they insult Allah in enmity without knowledge. Thus We have made pleasing to every community their deeds. Then to their Lord is their return, and He will inform them about what they used to do.  
(Surah Al-An’am: verse 108)

A truth retained in forms, reports, and files, is dismissed and summoned with a different truth, the truth of divine revelation.

Further details of the case indicate that Asia Bibi was insulted for being a Christian,

...insulting the appellant’s religion by her Muslim co-workers was no less blasphemous. Almighty Allah, the Creator of mankind, knew how a human being whose religion and religious sensibilities are insulted is likely to snap and retort and that is why it was ordained in the Holy Qur’an that,

\textsuperscript{386} In contrast, one finds that the declaration of Asia Bibi is reproduced three times at different parts of the report, once by the Chief Justice and twice by the second judge, as to mirror consistencies with consistency.
And do not insult those they invoke other than Allah, lest they insult Allah in enmity without knowledge. Thus We have made pleasing to every community their deeds. Then to their Lord is their return, and He will inform them about what they used to do.

(Surah Al-An’am: verse 108)

Followed by a quotation of John A. Morrow, a historian whose research uncovered proof of a covenant entered by the Prophet Mohammed with the Christians in 628 AD:

This is a message from Muhammad ibn Abdullah, as a covenant to those who adopt Christianity, near and far, we are with them.

Verily I, the servants, the helpers, and my followers defend them, because Christians are my citizens; and by God! I hold out against anything that displeases them. No compulsion is to be on them. Neither are their judges to be removed from their jobs nor their monks from their monasteries. No one is to destroy a house of their religion, to damage it, or to carry anything from it to the Muslims' houses. Should anyone take any of these, he would spoil God's covenant and disobey His Prophet. Verily, they are my allies and have my secure charter against all that they hate. No one is to force them to travel or to oblige them to fight. The Muslims are to fight for them. If a female Christian is married to a Muslim, it is not to take place without her approval. She is not to be prevented from visiting her church to pray. Their churches are to be respected. They are neither to be prevented from repairing them nor the sacredness of their covenants. No one of the nation (Muslims) is to disobey the covenant till the Last Day (end of the world).

The judge then concludes that this covenant, which is “eternal and universal”, has been violated by the false allegations brought forward in this case. Besides the fact that we have here another indication of an hierarchical evaluation of law, locating a covenant above man-made positive law, one can not help but also be reminded here of Zaman's admiration for the jurists of the Islamic tradition who were, according to him, creative in their thinking and strongly committed to the established doctrine and the authoritative texts of their schools, with an ability of considerable ingenuity and flexibility in their interpretation. Writing-jurists who explored the tradition they inherited and gave it for their own time a new expression, represented the highest grade of intellectual recognized by the Muslim tradition. Given the evidence presented here, it is also necessary to reconsider and debate the assumptions made by Hallaq with regards to sharia and Islamic jurisprudence in the modern state:

388 Zaman. 2002: 18
389 Calder. 2006: 15
… the Shari'a, that they often constitutionally enshrine as “a” or “the” source of law has proven, as I suggested elsewhere, institutionally dead and politically abused. To take the present-day call for a restored Shari'a seriously, we cannot look at present-day legal and political practices as worthy of consideration, as a model or as a discursive field that can instruct. The modern state in the Muslim world can hardly inspire, and its so called Shari'a is in shambles.

The Court Report, analysed here in detail, gives ample notice that the sharia is less dead and rather dominant, not as a canon of law, but as a kind of knowledge that asserts the relevance of the eternal, denying evolution or progress, in a way, but not denying time. The judges deploy this knowledge because it is linked to authority, reinforcing their own authority and the authority of the truth they present. In Foucault's words, “Knowledge is linked to power; firstly because it assumes the authority of the ‘truth’ and, secondly, because it has the power to make itself true.”

International and national pressure surrounding the Asia Bibi case provided for a unique opportunity as the judges had to make explicit in what otherwise is implicit. The Court Report provided the anthropologist with the blueprint of jurisprudence, what belief system it is linked to, and how truth, justice, and right is understood. It has also allowed us to appreciate how positive law and administrative procedures are present, but only by becoming part of the process, as a mechanism to further validate the process. A process that is able to synchronise with what is and what should be, with the collective, rather than the impersonal individual, producing a norm that is linked to custom, familiar, linked to the past, legitimate, in other words, a Vindicatory justice, bearing the logic and rational of the existing social and political functions in Pakistan capable of procuring continuity.

It could be suggested that the Court Report is a written statement and therefore part of the administrative procedures, claimed here, to be pertaining to the formation of modern knowledge. However, I think the Court Report is a verdict that commands, announces, and lectures, and by far surpasses the meaning of 'report'. As such, it has to be equated to an oral exposition which has always been a privileged medium of truth. Muslim legal procedures, says Zubaida, privilege oral testimony of witnesses over written documents as written documents can be false or faulty. Whereas the capitalist society, Weber recognizes, relies on foreseeable laws and an administration guided by formal rules. The activities of “brokering information, control and influence”, as

390 Hallaq. 2013: 2
391 Calder. 2006: 17
392 Foucault cited by Lilja. 2014: 109
393 Zubaida. 2005: 29, 44-45, 72
394 Weber. 1997 [1905]: 16

184
Ahmed describes it in her study, is an integral part of the ‘negotiated order’ in Muslim societies\textsuperscript{395}, which further confirms the point made here.

Lastly, we have been able to appreciate, one more time, how this truth is connected rather than separated from the so called local and traditional, and that it is not something that brews in madrassa or masjids, nor is it confined to literary conventions amongst those who rule, nor is it something that village elders do whilst smoking their hookah. It is a shared tradition, an embodied discourse, that orders a world the village elders and judges, casts and biradaris, sweepers and prime ministers, belong to.

**False Accusations and Inconsistencies**

If the Court Report is read as a victory of universal human rights - a piece of justice in the sea of injustice that prevails in Pakistan - then this reading needs to be corrected. The Court Report is a response to the Liberal and Islamists forces the social and political functions in Pakistan are subjected to. “If rights had a source,” says Guha\textsuperscript{396}, “it was the dead past resurrected in the present as custom, and custom, I would venture to say, was largely an epitome of past balance of social power.” Though he uses a different wording, Guha recognises the past balance of social power, what we have called traditional *Herrschaft*, as the source of rights. How it is expressed teaches us about how authority legitimises itself, the Islamic tradition in the case of Asia Bibi's Court Report, but the two main points made by the judges are 'tolerance' and the 'impermissibility of false accusations'. Despite the fact that the quarrel originated due to purity issues related to caste - Asia Bibi was told not to drink from the same cup of water - this matter was never addressed. I was able to observe how Christian servants have their own plates and cups, eat separate in the kitchen, and don't have physical contact with other casts. As with arranged marriages, this has not changed. Therefore, 'tolerance' has to be understood within the context of a 'past balance of social power' which is not part of universal rights of man, citizens, or anything else\textsuperscript{397}.

With regards to the second point made by the judges with regards to false accusations, three brief cases are presented here that will also allow us to consider in more depth the 'inconsistencies' in bureaucratic procedures and their relation with false accusations.

The cases stem from my last field visit and have been selected on the basis of contributing to the general themes of this study. As all cases I read seemed relevant I chose one related to land dispute, one related to blasphemy accusations, and one murder case.

\textsuperscript{395} Ahmed, Amineh. 2005: 93, in her study on the social compulsion to have to attend marriage and death ceremonies as not attending would cause social invisibility

\textsuperscript{396} Guha. 2013:15

\textsuperscript{397} Ibid.
In the first case an appeal is made to the Supreme Court to revoke a verdict form the High Court decreed in 2008 with regards to a property falsely registered to somebody else in 1970. A woman was given back the land that was taken from her father, now deceased. Yet, the culprits appealed to the Supreme Court insisting that after such a long time land can not be reclaimed. The judge, however, sees, “a vulnerable lady in a rural neighbourhood was surreptitiously duped and that she recourse the law at the first available opportunity.” The Report further establishes that the records show the land was registered to the appellant on a national holiday, the 14th of August, the day of Independence and the creation of Pakistan. Secondly, the father of the respondent was physically incapacitated, yet the paperwork does not reflect two duly authorised people who in the absence of the vendor would be required to sign on his behalf. The Report concludes that one cannot ask the law to be applied to what has the “strappings of deceit.”

The second case is rather more complicated and involves a person who worked for the husband of human rights activist Asma Jahangir, based in Lahore. According to this Court Report an FIR was filed in 1999 accusing the appellant Wajeeh-ul-Hassan of sending letters “with most repugnant contents” to Muhammad Ismail Qureshi. Wajeeh was then convicted by the Additional Sessions Judge at Lahore for the offence under Section 295-C for Blasphemy, and in 2010 the death penalty was confirmed by the High Court. The accusation was based on the last letter which contained a copy of the National Identity Card of the accused. Further, an analysis of his handwriting found “identical characteristics” with the impugned letters. What was not taken into consideration was the accused plea:

“I and my father was working in the office of Asma Jehangir husband. After sometime I left the said office and joined Crown Steel Industries where Waseem Mughal was Manager. After serving in the said factory for sometime, I left my job to join Tabliq e-jamat for four months. During my day in the said factory Waseem Mughal PW asked me that he would introduced me with someone for a meeting. I was called by Waseem Mughal, PW on telephone 15 days prior to my arrest at his home. When I reached his home, Naveed PW, one Mustafa Advocate and another unknown person was asked me that he would introduced me with someone for a meeting.

398 Civil Appeal no. 396 of 2018. Date of hearing 24.09.2019. Fazal Ellahi Appelant, Mrs Zainab Bibi Respondent. To facilitate the reading I have left out names and locations and focused on the false accusations and administrative procedures relevant to the case as mentioned by the judges. The case has been downloaded from the Supreme Court of Pakistan website, https://www.supremecourt.gov.pk/latest-judgements/

399 There are time limits established by law with regards to reclaiming property called periods of limitation.

400 Court Report 2019 (Sep. 25) Criminal Appeal no. 270-L of 2012. Wajeeh-ul-Hassan Appellant, the State as Respondent. To facilitate the reading I have left out most of the names and locations and focused on the false accusations and administrative procedures relevant to the case as mentioned by the judges. The case has been downloaded from the Supreme Court of Pakistan website, https://www.supremecourt.gov.pk/latest-judgements/
present there apart from himself. All those persons took me to Lahore Cantt area and tortured me. I was shown few letters by those persons and I was forced to admit that those letters were written by Asma Jehangir. Upon my refusal, those persons brought me to Allama Iqbal Town Police Station where Ismail Qureshi was already present. After making some entry the Moharar of Police Station showed my arrest. The motive was that a FIR was got registered by Asma Jehangir/Hina Jillani, her sister against Muhammad Ismail Qureshi, the complainant of this case. He had grudge against them. The complainant wanted me to involve Asma Jehangir/Hina Jillani, in this false case. The PWs have deposed against me at the instance of the complainant and the PWs were member of some youth force headed by him.”

The judge finds that the events brought forward by the witnesses and accusers when confronted with the plea of the accused, “are the events that cannot be believed to have occurred without being naively imprudent,” and the appellant is released.

The third case involves five men accused of killing Muhammad Ijaz, registered in an FIR in 2011 and convicted in 2015 by the Additional Sessions Court of Multan, one with the death penalty, the other four with imprisonment for life. The Lahore High court, however, revises the case and comes to the conclusion that the events as narrated by the accusing party are “absolutely unbelievable” and “run counter to natural human conduct and behaviour,” acquitting all five of the charges brought against them.

The evidence for the accusation was based on eyewitnesses who saw the men coming, abducting Muhammad Ijaz, shooting their guns at the witnesses and driving off on their motorbikes. The latest investigation on behalf of the appellants, and brought forward during court, lead the judges to question the reason the so called witnesses were there in the first place, why the motorbikes and guns were never found, and the gun that was given in evidence in the first trial could not account for the multiple and different sizes of wounds on the deceased body. In addition, the forensic report showed that the body had been dead before the alleged incident, that the brothers did not bring the body in, as they claimed, but went to the police station to write the FIR first.

The victims family, all witnesses at the crime scene, say it was a revenge killing for the brother of the main accused killed in 1996. It is precisely on the basis of this animosity that the accusation is pulled apart, questioning why the father and the brothers of the deceased happened to be at the crime scene, far away from their home, all giving different reasons for being there. Secondly, in the alleged violent firing confrontation and abduction, none of the witnesses got injured. And thirdly, the brothers claim to have brought the body to the morgue is also dismissed by

401 Court Report 2019 (Nov. 7). Criminal Appeal no. 262 of 2015. The appellants are the five accused Vs. the State
the forensic report that shows the deceased had his mouth open and no Muslim would leave the mouth open when somebody dies, as mouth and eyes should be closed by nearby relatives.

The point which is being made here, again, is based on providing a wide range of material sufficiently comprehensive for the non-Pakistani reader to picture reality. We have seen how a Christian sweeper was accused of burning pages from the Quran. This accusation is not an isolated case, and comes in different colours, like cooking tea over the burning pages, pouring wine over them, in the case of Samina bathing on the Quran, Asia Bibi insulting the prophet publicly, or like in the last case, sending letters with obscene insults and blasphemy. Not only were these accusations taken seriously but the victims of these accusations have been confined for decades. And in this sense, we can add the murder allegations so badly fabricated, and yet, they lead to the death penalty which was only reversed after years of confinement. In the same way, land was taken away, without caring much about a credible forgery, writing the date on the deeds of the one day not a single government office is open, yet, confident enough to demand the Supreme Court to return the land because it can not be legally repossessed after so many years.

One has to ask oneself, how can people take these false accusations and inconsistencies seriously? In order to find an answer to this question it is paramount to take a step back and remind ourselves that Pakistan is not an egalitarian society but a hierarchical one, where the position one holds within Alavi's matrix is what defines the person and the legitimacy he or she yields. We have seen how authority and consent go hand in hand, how the background colour of a history journal chosen by the Dean becomes the best possible colour, obliterating the fact that the same people who acknowledged that, had been pondering for hours over different options. As Guha said, the source of right is the dead past resurrected in the present as custom. The source of right is linked to the traditional Herrschaft, to its legitimacy and to hierarchy, not to the law. It is linked to custom, to its logic and to its rationale, to its version of truth and its intrinsic link to moral, or radical truth, and to Vindicatory justice understood as a collective process. In the same manner, the source of wrong, is not the law either, but a collective process, too. It is within the dead past resurrected in the present that one should find the answers to why Asia Bibi, or Humayun, or Samina, or the Ahmadis, or Wajeeh-ul-Hassan were accused. But Guha doesn't say just the dead past resurrected, he says the dead past resurrected in the present. It is in conjunction with the present that we shall obtain the full answer to our question.
The Days after Asia Bibi was acquitted

The verdict of the Asia Bibi case was not the end. It was a carefully placed move, anticipating the riots that were to come. As soon as she was acquitted, the main roads were taken by men burning tyres, blocking the traffic, and raising their arms in protest, acknowledging, this way, the unavenged offence committed against the Prophet. Rallied by the speeches of the Islamists' leaders, pitching into feelings of injustice, comparing the government with Satan, the people were driven into a frenzy.

The Liberals and the media fell hard on them, describing an atmosphere of medieval terror that had no place in a modern democracy.
The government, however, held their horses, initiating negotiations and putting names to the protesters faces whilst, at the same time, allowing for the steam to blow off. Between the Liberals and the Islamists, which were the antagonist and the protagonists of this confrontation staged by the media, the people of Pakistan, in a truly goffmanian sense, were the participant audience. They were part of a process that was going to find its way passed those two angry modern giants, not by punishing a crime, not by establishing a culprit and a victim, but by restoring peace. The government, the army, the Liberals and the Islamists, the shopkeepers, aunties, grandmothers, cricket players, beggars, teachers, mango juice sellers, and factory owners, were all, going to witness authority unfold, and settle this matter for good.

Samina didn't spend a decade in prison because Irshad's brother invested himself, having sufficient connections and know-how to do so, in getting the court officials on his side, mediating, and herewith, infiltrating himself more into the process that was evolving around Samina and her mother's life. The source of right is not only anchored in the past but it is also a collective process out of which the norm will evolve. It is what turns the unmovable power structure firmly anchored in the past into something with motion, a process of social interaction that connects the past with the present, that gives people's intentions a space to transform and participate, as it is them who resurrect the past.

With Asia Bibi it had become a national matter where two major pressure groups demanded opposite results. However, Islamists and Liberals had two things in common. One, they said they wanted the law to be executed through the state, be it the codified sharia or the constitution. But the process, as we have seen, knows of no laws. It is because of this that, whilst the road blocks lasted, men were holding meetings, sitting down - like in the Dean's office – resurrecting the past and giving it a time and a space in the present – like with the dossier – everybody, who had professed to want modern education with measured results and progress, ultimately, did what needed to be done to discard this possibility, and commanded by those who had authority. That is what they truly all had in common, a shared understanding of what kind of legitimacy needed to be protected, continued and exercised, not the measurable one, not the codified one, but the one that evolves out of a process, collective, linked to a type of authority anchored in custom and capable of procuring continuity.

The negotiations let to an agreement. The case was revised. That is when the Court Report became really important and was able to harvest all the necessary consent. Asia Bibi was flown out of the country to an unknown destination. With her in exile, normality was restored.
The negotiations, or more accurately, the *mediations* held on those days were unfamiliar to me but very much considered normal to the rest of the people. Though the media was invested in picturing the state failing to protect private property, civil rights, and law and order, whilst crazy fanatics took advantage of the ignorant poor, the reality of the situation was that, beneath that discourse sustained by the media, communications were upheld to deal with discursive fractures induced by the influence of modernity embodied by the Liberal and the Islamists' stances, people that wanted to see the state in control, defending liberal ideals and acting upon them, and people, encouraged by Islamists leaders demanding from the state to defend the divine sovereignty. This is the complex reality. A society founded on vertical and horizontal alliances with a legitimacy incompatible with the idea of the nation-state, yet, with infiltrating discourses demanding exactly that, the action of the state, through laws, be it *sharia* or the constitution, to impose a new order. Though, ultimately, what prevailed was an old order, re-established through the only legitimate channels, the process. And if we recall what Dumont recorded in 1825,

… the tradesman and merchants of a whole district closing their shops, the labourers abandoning their fields, or the artisans leaving their workshops, all because of some petty insult or of some petty extortion suffered by some member of their caste; and the aggrieved people will remain obstinately in this state of opposition until the injury has been atoned for and those responsible for it punished.  

We can appreciate that these kind of demonstrations of disapproval are also not new, nor should they be understood in the frame of modern democracy. It is the solidarity of the ruled. It is their doorway, within their powerlessness, to draw lines. And for this to work it has to be effective, that is, the ruler has to respond. The chief leader of the *Tehreek-e-Lebaik* (TLP) movement Khadim Hussain Rizvi and other senior leaders like Afzal Qadri, knew how to use this century old response mechanism in their favour. In addition, they had the media to grant them a popularity wide enough to rally thousands and demand for an “injury” to be atoned. We can also appreciate how it neatly ties in with the logic of Vindicatory justice where an offence is recognised by the collective of the offended and the offender. There are two previous incidents to the demonstration against Asia Bibi’s release we shall analyse to strengthen the supposition made here.

In November 2017, the TLP leader Khadim Hussain Rizvi managed to gather followers from all over the country on the Faizabad Interchange, a flyover that connects the main roads to Islamabad. What was to be called the Faizabad sit-in was a demonstration against the Elections Bill.
2017 which meant to exclude the finality of the prophethood of Muhammad from the oath taking required for parliamentarians.
An agreement was reached, in this case with visible army mediation, which materialised in the Faizabad agreement. The very first point, and most insisted upon by the protesters, was that the Law Minister responsible for the Bill should resign and the Bill ignored. Interesting to note here that, not only did he resign, but he also left the country, that is, he exiled. The rest of the agreement revolved around the incident occurred during the first days when some violent protesters started to burn vehicles and were confronted by the police and the Rangers, resulting in two hundred injured and six people dead. The agreement demanded that all charges should be dropped, that the leaders of the TLP should be included on the Board of Inquiry and that it was the Federal Government who should take charge of the damage and repairs. With the agreement sealed, the people returned to their homes. The Supreme Courts, however, initiated a \textit{suo motu}, that is, an act of authority on its own motion, condemning those who issue a \textit{fatwas} that endanger people's lives to be criminally persecuted, the media for giving free publicity, intelligence agencies for imposing self-censorship on the press, the army for engaging in political activities, and also the Election Commission of Pakistan, for not making the TLP party accountable for their funds and election expenses\footnote{Dawn, Feb. 08, 2019.}. Despite the appearance of having settled the matter, in April 2018, protesters, again, were called to demonstrate their disapproval, as the government was hesitant to follow the Faizabad agreement, not dropping the charges levied against them as promised. This time in Lahore\footnote{The Nation, Apr. 13, 2018.}: The very same day, the government was able to assure that the Faizabad agreement would be respected and the roads were cleared. Seven month later, Asia Bibi was acquitted. At that point, the army was nowhere to be seen, neither did the government use police force, except to secure airport access, and negotiations led to an agreement after three days, allowing for a revision of the case. Weeks later, and on hand of intelligence gathered, over a thousand men were arrested, including Khadim Hussain Rizvi. This is information I received directly from people involved. The three days had given intelligence enough time to collect sufficient information to identify and locate the families of the leaders and organise a synchronised commando to arrest them in their homes. One of the details I found interesting is that there was a strict order, for everybody involved in the commando, to have their phones switched off, limiting this way the possibility of receiving reminders of personal alliances.

One could be tempted to argue that this was nothing but a textbook state action against a dissident movement, which would go against everything said in this study. For this to be the case, we would be dealing with people who obey the law, or obey people who obey the law, in the way Weber defined the legal \textit{Herrschaft} and which is the basic understanding for the nation-state. But
we have established that people believe in divine sovereignty and the sources of revelation. Rizvi, and Islamists in general, build their speeches using those divine references and connecting them with blasphemy in order to manipulate thousands to further their own political agenda. That is why Islamist are always in search for possible incidents that can be used for this purpose, as we saw with the journalist who went to Punnua'n and turned a false accusation into a blasphemy case. Islamists' support is based on raising offences, such as the Election Bill in 2017, Asia Bibi, or the Ahmadis. Though one can not deny the success of this strategy it is also short lived. The frenzy of the offence, though easily ignited, is physically and emotionally limited, and therefore, Islamists position is very much hinged on their horizontal and vertical alliances, more than anything else, and the fact that those at the height of the social hierarchy, despite being aware of the political formula Islamists use to compete in the political arena, are rather inclined towards the continuity of their relation. But this continuity does not stop them from retrenching against one another. The judiciary, for example, expressed their concern with regards to the Islamists and their life threatening fatwas, the meddling of the army, the media propaganda, and false accusations, as we have seen along this study, not on legal terms but as moral guardians of what is right, a post the Islamists would very much like to have for themselves but don't, because they believe in imposing codified sharia by force and, therefore, they break away in their methods from Vindicatory justice, from custom and from the collective, disallowing the norm and disregarding the past. The judges in Pakistan, specially Supreme Court judges, on the other hand, are qazis and muftis, knowing of the Islamic tradition and the schools of laws, using their method of commentaries to incorporate codified law, case law, and other tools of positive law, into the discursive tradition that connects the past with the present. By doing so, they maintaining a sphere where no boundaries can be made between the moral, the political, the social, the religious, and the legal, allowing for the 'here and now' to be considered foremost. As such, they reprimand the army, the press, false accusations, and fatwas issued to steer hate, and a such they pressed charges against the TLP leaders at the Anti Terrorist Courts in Lahore for sedition and terrorism. As such Khadim Hussain Rizvi's nephew and brother, together with 86 TLP members, were condemned to 55 years of imprisonment each. And finally, as such, Rizvi himself was granted bail after a written apology, and stating that, "I am very sorry for hurting the sentiments of the government, the judiciary and the chief of army staff," on a televised apology while still in custody.405

This chapter has focused on how the judiciary favours the continuity of the political and social functions that have ruled Pakistani society since pre-colonial times. By emphasizing the legitimacy

405 Aljazeera News on line May. 15, 2019
of the past, and an authority that shapes truth, and not positive law, further insight has been given of the modus operandi of the process of Vindicatory justice within a nation-state. Notwithstanding the official front of a democracy where citizens are ruled by equal rights in a sovereign state, a very different truth has transpired, allowing us to appreciate a society of hierarchical dimensions, bind by reciprocity and patron/client relations, and an irrefutable believe in divine sovereignty. The internal conflicts that arise of this situation are most clearly demonstrated by the Islamists and Liberal demands for the implementation of state law. In the face of these modern trends, and despite seventy decades of democratic and military rule, the judiciary has maintained their preference for Vindicatory justice, advocating with 'common sense', and appealing to a knowledge that is not absolute but malleable and shaped by authority, following the path that leads them back to their forefathers, the muftis and qazis of Mughal times.
Conclusion:

The starting point of this study has been to inquire about the causes that are delaying Pakistan in becoming a democracy. Despite the colonial inheritance of a nation-state-infrastructure, the political and social reality sternly confronts development theories that predicted the modernization of the Islamic Republic. Though much has been said about this failure, little has been done to understand the political and social functions that have procured for its continuity since 1947. This study has been a quest to explain those political and social functions through a positive reading.

The very first step was to contrast the already existing studies that had been carried out, with the ethnographic experience gathered by myself during several stages over the last twenty years. Many writings in the field of social studies were astoundingly accurate with regards to their observations but mostly negative in their analysis. The general assessment was that the distortion of bureaucratic, administrative, and legal policies were pervaded by social forces that impeded the realization of a true democracy, economic development, equal rights, education and healthcare. Instead, the picture was that of corruption, oppression, and religious bigotry, in a country ruled by landholding elites who do not shy back from engaging with extreme religious parties to keep a deprived population in check. Despite democratic elections, with several intervals of military rule, the divide between the local and the state remained; democracy (if there ever was) had been unable to trigger down to the village level, and even worse, more recent studies showed that the course was actually inverted, with landlords and their landlord values gaining increasingly access to state offices and chronically impairing the principles and aspirations of the Constitution.

My initial observations seemed to confirm the existence of a bungling democracy as my perceptions were channelled through the precepts of Western education and post-Enlightenment rationality based on universal truth. Then, living in Lahore, calling in a plumber, having my students over for dinner, getting my clothes tailored, my car fixed, talking to the neighbours, family disputes, surviving in traffic, and many other experiences, made for a never ending string of miscalculated situations where I performed poorly and were it became clear I had no idea what was going on. Exhausting as it might have been, curiosity got the best of me. Desperate for answers I did what anthropologists do. In a back and forth motion between observation, reading, and asking questions, I came across the concept of 'process' used to explain Islamic jurisprudence. I also realized that people were constantly telling each other things, passing on information, helping each other out, and making collective decisions. I called it 'mediation' because people were always talking on other people's behalf, trying to solve any kind of matter, trivial or serious. After that, I
realized it was actually all that was going on, whenever and wherever I looked I saw this sort of 'mediation'. By advancing in my readings, I learned about the Islamic tradition: divine truth, authority linked to the past, and interpretative knowledge. With time, an image started to form that was symmetrical to the reality that surrounded me. On the one hand, were the people mediating, acting less and less as individuals, and on the other hand, I realized, decisions took time, everything took time, precisely because people were busy 'mediating'. What took me longer to realize was that the hierarchical order shaped the outcome of those mediating activities, adding value to some and discarding others; authority, the 'who is who', was important in mediation, not as individuals but as a person defined by its social background and within the matrix. And finally, I was able to conclude that it was a process I was observing, where people mediated within the realm of the logic and rational of Vindicatory justice. What followed was the theoretical framework that has been explained at the beginning of this study. With Weber's type of traditional Herrschaft I was able to connect the construction of truth with legitimacy, very much in tune with how Foucault connected power and knowledge. Then I related this model to the analysis of Hamza Alavi who had been able to syncretise the complex and malleable society of the Subcontinent into vertical and horizontal alliances, expressing, herewith, relations of reciprocity and relations of unequal access to resources, all interconnected, forming, what he called, a matrix the person was inserted in. What gave those theories a common logic was Vindicatory justice. With Talal Asad's explanation of discursive tradition I was able to counter-position it to the post-Enlightenment knowledge and its legitimacy and its rationality. Subsequently, I defined the political and social functions in Pakistan as a discursive tradition with the rational and logic of Vindicatory justice, that locates not only truth but also sovereignty in the sphere of the divine, that constructs authority in a backward-motion in time, that does not have an absolute truth but interpretative truths, where the society is made of horizontal and vertical alliances and is bound to custom and consent rather than codified laws.

However, whilst writing this dissertation it became clear to me that the hypothesis gave little notice of the process, which was what brought it all to life. The chapters of this thesis are a build-up to understand the political and social functions in Pakistan, which ultimately turn out to be a process, yet the hypothesis does not reflect that. The many gatherings, the sittings and talking, the tea and the smoking, the visiting and the hosting, the begging and nodding, the pleading and lying, the reminding and ignoring, and everything else that 'mediation' implies needs to be seen as part of a process that, as Guha clearly saw it, resurrects the dead past in the present. A society that is not bound by law but by its past demands a constant renewal of alliances to procure its survival. But not only that. It also needs to provide for a time and a space to recalibrate a reality with modern demands to adjust them to its own order. As was seen earlier on, the Dean of the History
department, exasperated by old fashioned idealism and eager to liberate education from its old strings, was, however, the director who orchestrated the dossier from the Higher Education Commission to be made redundant, following some instructions and obliterating others. A proposal for measurable and quantifiable knowledge, that made for measurable and quantifiable individuals, was outright sent to the dust bin. That was the recalibration of reality and it was crucial for my research as I realised then that I was dealing with a double discourse, an apparently modern one that was doomed by the old ways, and yet, everybody participated in dooming it; it was a collective process defined by, what seemed to me at the time, a contradiction.

But, as has been explained, the methodology of the Islamic tradition linked to the construction of truth and authority, legitimises multiple truths in the human sphere. The technique of the commentaries allows to preserve divine truth and an authority placed in the past whilst, at the same time, establishing a connection with the present flexible enough to incorporate versions of the human truth. As the High Court judge did with his Report: he was able to voice his authority through a chain of scholars connecting to the divine authority and, at the same time, become the last loop of the chain, adding his own comments at the very end, binding the matter at stake, safeguarding the name of the Prophets but also advocating Asia Bibi's innocence.

It has also been acknowledged that the Islamic tradition was founded on an already existing Soziologie. A Soziologie that not only placed legitimacy in the past, but also had a collective approach to conflict solving, where a process already existed and the logic and rationale of Vindicatory justice was prevalent. In my opinion, Islam became the Islamic tradition precisely because of its settlement on those grounds. The fact that the Islamic jurisprudence developed into becoming a process rather than codified laws, is proof of that, and so is the fact that authority is defined on the basis of past legitimacy, a methodology developed only after the expansion of Islam.

We understand now Vindicatory justice and its connection to the Islamic tradition. We also know that in the absence of codified laws decisions are collectively processed. Even in the presence of law, the legitimacy is transferred to an authority which is, not only multidimensional, where no lines can be drawn that separate the legal from the moral, religious or political, but which also shares the same Soziologie, therefore it is able to continue the process, indifferent to the local-state divide, and capable of perceiving law as interpretative. This Soziologie manifests itself as collective consent. As open as the process appears to be, capable of taken in different authorities and all kind of incidences and performances, it always reverts to preserving the legitimacy of the past, which includes a non egalitarian society of biradari and caste. The caretaker wasn't able to sustain his authority, the Chaudhries reasserted themselves as the main village biradari, and though Irshad and Ashraf acted as heroes they ultimately had to humble themselves to the Chaudhries. Without
consent there is no authority, and the Soziologie of the collective is inevitably bound to the past. The purpose of the process is its own preservation, and it does so by giving ample space between what is and what should be, which in turn allows to take into account the here and now. So for this to happen, for the here and now to be acknowledged, the process has to be collective, open, able to feed as much as possible on reality. That explains why I observed a platform of social interaction seemingly eager to draw-in as many people as possible, new visitors, more people entering the Deans office, people joining a group of friends, people joining the court rooms, people joining people who join other people. There are no limits and, in contrast to the Western individual, that usually expresses great discomfort at the unannounced, unexpected, and uninvited, in Pakistan it is a matter of honour, of joy, and pride; a valued ingredient of social continuity. But it has its downside, too, and my father then, and my students now, always remind me not to look at it with such admiration, nostalgia and wonder. My father used to say, “It sucks you in, and if you don't do what they want, it will spit you out,” referring to the sense of the individual drowning in the sea of the collective; a collective that turns you invisible if you don't adhere. My students also have been telling me, with their lips pressed together, and their gaze on the floor, that much has to be sacrificed to make your parents happy, to make everybody they want you to make happy happy. Though many have told me about their dreams of running away, I have literally seen how they can't. They might be dying to do so, but mentally, physically, and emotionally, they just can't. They could survive but still feel very lonely because they are not individuals but people who have lived all their lives as part of the process, sheltered by it, nurtured by it, and bound to it.

All said, the hypothesis should be extended with 'traditional process of mediation'. In general terms, the political and social functions in Pakistan could be defined, as stated at the beginning, in terms of Vindicatory justice as explained by Terradas, in addition to Weber's type of traditional Herrschaft, and to Alavi's horizontal and vertical alliances, and with interpretative truth as in the Islamic tradition. But, going a step further, mediation brings forth the social interaction necessary to allow Vindicatory justice, horizontal and vertical alliances, its legitimacy, and a truth linked to the past, to survive amidst the political setting of a nation-state, the pressure of modern discourse and movements who seek state sovereignty and the legitimacy of law. The term traditional narrows down the kind of mediating authority that is constructed in a backward motion towards the past, anchored in tradition, and dependant on consent. The process stands for the ongoing, uncodified, malleable, interpretative, all-encompassing, social interaction and social relations where the traditional mediation takes place; the habitat of social continuity.
Let us see how well this definition applies:

We have seen how the British appointed middle men to impose their rule, and even so their regulations were ignored in favour of the continuity of existing alliances, and their understanding of land, justice, honour and right. As recorded, the Colonization Bill of 1906 was fiercely opposed until the Colonisation Act of 1912 was sealed, allowing for customary practices to prevail. Despite the dismantlement of the madrassas and the imposition of codified law, Vindicatory justice has prevailed. Despite significant changes in the understanding of Islam that can only be explained in connection to the colonial experience, divine sovereignty and interpretative, layered, truth still prevails, and not only that, it is made clear in the Constitution. This was achieved through the traditional mediation process, present in the government, amongst the army, in the shops, in the madrassas, amongst thieves, doctors, politicians, actors, teachers, Uber drivers, baggers, traffic wardens, pilots, and pirs, because it is an integral part of who people are and continue to be.

We saw how Zara, the daughter of the Vice Chancellor and Oxford educated, was appointed program manager on her arrival at GCUL. Once she started to exercise her functions by checking if the teachers were following their schedule as scheduled, she was reprimanded with such force, that she never compared schedules with reality ever again. A tornado of mediation was unleashed, and people from outside the department, and even outside the university, were drawn-in to make Zara understand the discomfort she had caused with her endeavour. We can say that imposing modern modes of conduct triggers a collective response that is set out to ail the 'offended' past.

One can have an appointed authority by holding an office, like a police constable, but this authority can only be sustained through active participation in the traditional process of mediation. Irshad not only failed to acknowledge the traditional authority, to give obedience to those sanctified by custom, but he did the very opposite when confiding in the journalist and opening the doors to Islamist intervention. He let in the demands for law, the neglect of custom, and the cry for state law, in detriment of collective consent. But he also recognised his mistakes and did his very best to repair the damage he had caused in an active and intense process of traditional mediation aided by his brother, at the end.

At the beginning of this study I asked why molvis were using loudspeakers beyond the simple call for prayers and why the volume was much higher than really necessary, and why all this was taken as normal. It can now be explained with the process of traditional mediation, its connection to the
highest of authorities, the re-establishing of alliances, mediated and voiced through loud speakers, collectively acknowledging the authority of Allah and also the authority of those who, by connecting themselves through this process, gain authority. In this sense, the ongoing rivalries and alliances between politicians and molvis have also been explained and how they cannot be understood outside the realm of this process.

Samina and her father followed the process of traditional mediation to the tee, acknowledging the accusation, asking for forgiveness, showing obedience and submission, keeping within the ranks of their alliances, but also calling upon them. Baba visited Irshad and Ashraf to remind them he had taken care of them when orphaned, provoking a response from both men so dedicated that they were able to wield the here and now through the process, up to the judge, and dispel the information that had made Samina and her mother look like culprits, despite Irshad's initial missteps and Islamist persistence. Samina and her father represent the resources that can be activated by those who don't rule from those who rule in a society led by the logic of reciprocity.

The 47 detainees in the Sanda incident are a clear example of the acknowledgement and response to an offence which is demanded by Vindicatory justice. It didn't matter if the men on the list were the culprits, they were part of the Sanda collective, and that was sufficient. Again, in court, the crucial role of the judge came to light. Seeing no evidence was brought forward, he assumed an agreement had been reached amongst the biradari and caste of Sanda. In light of the fabricated case he allowed the accused to go. Under the surface of a legal process, the traditional process of mediation reshaped reality and resurrects the dead past in the present by means of the panchayat. Humayun still being in prison, like so many others accused of blasphemy, comes to show how the Islamists formula, or strategy, to access authority, needs to be offset by an authority strong enough to reshape the reality of blasphemy. Ignoring the offence is not an option in Vindicatory justice, and the representation of a different reality that proves the innocence of the accused, requires a lot of resources with regards to authority, which many of the charged don't have.

As was seen in the case of the five men accused of murder, at the High and Supreme Court level, local authorities can be unhinged allowing for a different reality to emerge. So it was with Samina where the Islamists were not allowed to access the Court, or with Asia Bibi, where only two out of twenty witnesses made it to the stand. Not only can authorities that led to the accusation be left behind, but new authorities can be brought in. In the case of Asia Bibi, the process was able to draw in two Supreme Court judges who took it upon themselves to reconfigure reality by appealing to the past following the Islamic tradition. But it has been shown in this study that this is not the
only possible path. In the case of Wajeeh-ul-Hassan, accused of sending letters with heinous blasphemous contents including a copy of his ID, bringing in evidence that had been ignored was enough to reverse the accusation. However, this should not be understood in positive legal terms where facts are acknowledged and the only possible truth established. The evidence finding its way to the court room – in the same manner that it had remained hidden – was a matter of authority. This can only be discerned in terms of the traditional process of mediation and not law. The judge as the third party authority, as the nazim did, listened to the people, gathering information, and then took a decision capable of harvesting consent by synchronizing with 'common sense' and morale. His assessment was with regards to the truth of the people involved, not the facts. When the Dean decided on the background colour of the History journal everybody in the room gave him their unrestrained approval. It became the right colour because the Dean had chosen it, not because the Dean is the Dean, but because the Dean plays his part in the process as the Dean, a big man of the matrix, capable of getting things done, and therefore he deserves loyalty, and in the process of traditional mediation, the people who give loyalty shapes truth, too, as does authority, which explains how authority depends on consent.

Finally, much emphasis has been given to the observations related to the illegible scribbles on official documents, inaccuracies that void the purpose of documents in their measuring and defining capacity and leave them open to be processed through traditional mediation, allowing factors of authority, reciprocity, and consent to resurrect the dead past in the present. Therefore, I argue that the process of traditional mediation is present everywhere, in the dera, at the panchayats, in the shops, offices, the teahouses of the courts, the madrassas, wherever people gather and documents are involved. Documents are detonators of the traditional process of mediation, especially when confronted with elements of measurable knowledge, demands of individual responsibility, capitalist expectations of efficiency and progress, traffic tickets, or matters of licences and degrees, anything that somehow endangers the legitimacy of the past and the collective perception of the persona. That is when horizontal and vertical alliances appear in their most intense expression, reminding, forging, pronouncing, implying, demanding and realigning, as the need to deal with the present through the past is felt most. The diffuse mass of people, the undefinable, alive, changing, ultimately, unpredictable process, erupts to defend itself from becoming the measurable, defined, codified, state controlled, individual.
To what extend this process elaborated here in this thesis is incumbent to the rest of the world has an interesting answer: as much as reality in Pakistan is shaped by the process of traditional mediation, so is our reality being shaped. How else can we explain our incapacity to acknowledge the absence of the legal *Herrschaft* and positive truth in places like Pakistan and persist on seeing a nation-state where there is none? Maybe truth is as malleable for us as for them.
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