his words... And [since the equivalent of the word] ‘man’ [used] is in the singular...

These are but a few examples drawn from two pages chosen at random; these could undoubtedly be multiplied. Neither our criticism of the translation, nor our general criticisms, however, may be allowed to detract from the intrinsic value of this work. It is the first complete translation into any Western language of the difficult, pioneering and monumental work of the first known formulator of the principles of Islamic law, and, as such, is to be welcomed both by serious scholars and the lay intelligentsia.

FAZLUR RAHMAN


In 1948 Mr. Muhammad Asad, who was then the Director of the Department of Islamic Reconstruction in the Government of the Punjab, wrote a long essay on Islamic Constitution-making (later published in the ‘Arafdat) which attempted a reconstruction of an Islamic political system and reflected Pakistan’s preoccupation with the question of her future constitution. In this essay he had primarily aimed at building a bridge between two extreme points of view: the conviction that a genuinely Islamic state is but a replica of the early Khilafah and the belief that the future lies in modelling Pakistan on the political values of the modern democratic West. For the material required in the construction of this bridge Mr. Asad turned to the original sources—Qur’an and Sunnah—and worked out “on their basis the concrete premises of the future Constitution of Pakistan independently of all that has been written on the subject of the Islamic state” (reviewer’s italics). Hardly any of his findings were allowed (by political circumstances) to influence the content of the 1956 Constitution of the Republic of Pakistan.

The present work, which is a continuation of the 1948 discussion of the principles which ought to underlie the constitution of an Islamic state, may be controversial, but it has been presented in the healthy spirit of the Prophet’s saying: “The differences of opinion among the learned of my community are a sign of God’s grace.” Sponsored by the Haji Anis-ur-Rahman Memorial Society of Karachi it has now been published under the auspices of the Near Eastern Centre, University of California, Los Angeles with a foreword by Professor G. E. von Grunebaum, the Director of the Centre.

The author begins with a definition of the Islamic State. A state can be truly Islamic only “by virtue of a conscious application of the socio-political tenets of Islam to the life of the nation, and by an incorporation of those tenets in the basic constitution of the country.” (What is a basic constitution?) He rejects the secular conception of a state in clear terms. He is also critical of those who apply “non-Islamic” terms to Islamic concepts and institutions. There are many forms of Islamic State and it lies upon the Muslims of every period to discover the form best suited to their needs. An Islamic State is not a goal but a means to the creation of such social conditions as would enable the community to live, morally and physically, in accordance with the Natural Law of God.

Professor All Fund Basgili is one of the leading academicians and thinkers of Turkey, who have won international fame for their remarkable contribution to knowledge and national thinking. Author of more than a dozen books and monographs on Constitutional Law and a number of other subjects, Professor Basgili has found enough time to contribute a large number of articles to newspapers and journals at home and abroad. The book under review is a collection of his articles on the constitutional problems of Turkey, published in Turkish newspapers between 1950 and 1960.

The book is divided into four parts. The first part contains articles written up to June, 1940 reviewing the problems raised by the Constitution of 1924 which had undergone several amendments. The second part deals with the problems of civil liberties arising out of the inadequacy of the Constitution until 1956. The third part is devoted to the constitutional problems existing after the Revolution of May 27, 1960. The fourth and last part consists of miscellaneous articles giving the author’s views on democracy, answers to his critics, and an interpretation of the current religious and moral crises of Turkey.

The main criticism of the Constitution of 1924 revolves around the themes that it had not made a division of power since, both the legislative and the executive authority vested in the Grand National Assembly of Turkey. The feature of the Constitution was created by the fact that Turkey needed a strong unitary government at the time of the Turkish Revolution. But 21 years later, the author says, the Constitution became reactionary and insufficient to meet the new demands of the time. Moreover, it lacked in guarantees for human rights and civil liberties. The Constitution had provisions for human rights and freedoms, but it did not set up effective institutions to back them. The absence of adequate checks and balances thus led to a conflict between parliamentarianism and authoritarianism (p. 15). Since the Constitution was based on the principles of a unicameral legislature and one-party system which were necessitated by the War of Independence, there was no room in it for a multi-party system (pp. 21-2). The powers of the President, under the provisions of the Constitution, were extremely restricted. To a foreigner, he would appear simply as a chief of protocol whose duties were confined to receiving guests on ceremonial occasions (p. 37). The author suggests that the President should be given sufficient power in order to bring about an equilibrium in the functions of the machinery of the State. He says: “For us a President should neither be a king nor a nano-king. He should be something in between. In other words, we are obliged to give power and authority to our President commensurate with his high position according to the needs of our country” (p. 38).

In the second part of the book, the author discusses the shortcomings of the Constitution of 1924 insofar as it did not provide enough guarantees for the
right and civil liberties of Turkish citizens. He expresses the view that the main reason for this state of affairs was the fact that the Constitution was based on centralised authority and had given legislative, executive and even judicial powers to the Grand National Assembly. Human rights, therefore, depended on the order of an elected majority whose views could interpret the citizens' rights in his own way. This is a system of democratic totalitarianism (p. 54). In spite of the provision that no anti-democratic legislation should be passed, the Constitution did not define anti-democratic measures, nor did it say anything about the freedom of religious belief and freedom of conscience. Moreover, the principle of fascism, mentioned as one of the basic principles of the Constitution of 1924, also remains undefined and its interpretation is left to the politicians in power. From the legal viewpoint, statutes mean the centralisation of all the national powers relating to the political, economic and social affairs in the ruling bureaucracy (pp. 63-5). Professor Şahîbet suggests, at the end of the second part of this book, that the Constitution of 1924 should be amended, in order to set up a second chamber of the legislature and a Constitution Court to decide cases of anti-democratic legislation (pp. 71-7).

Surveying the events following the Armed coup d'etat of May 27, 1960 in the third part of the book, Professor Şahîbet supports the government of the Committee of National Unity headed by General Cemal Gürsel on the ground that it sought to clean the machinery of the State of all bad elements and to punish those who had abused power for their selfish interests. The author lambasted the exploitation of the principle of secularism by the politicians in power resulting in the denial of human rights to the citizens, particularly the right of belief and freedom of conscience (pp. 95-7). "How the individual's freedom not mean kindness bestowed upon him by the people in power just as he is discriminated against by the hungry dogs? But this is not freedom. It is called the worse type of slavery of guantanamo" (p. 97). The author is at the view that the principles of Republicanism, Nationalism, Liberalism, Secularism, Fascism and Revolutionism ought to have remained algebras of the Republican Party and need not be mentioned in the Constitution. Evidence has proved that these principles have been incompatible with the human rights of the citizens of Turkey (p. 95).

The author suggests that secularism should be maintained in the new Constitution with a proper definition, since the main case of the authoritarian character of the various regimes in Turkey has been the inclusion of the above-mentioned principles of the Republican Party in the Constitution (p. 111). It is the duty of the Government of National Unity to give the country a new constitution, the author remarks. This was realised in September, 1960 when the new Constitution came into effect. The draft submitted by the author to the framers of the new Constitution includes 13 Articles defining secularism and providing adequate safeguards for the rights of religious belief and freedom of conscience, is also given at the end of the third part. According to these draft proposals, religion and State should be independent in their respective fields. Followers of all religions shall be under the protection of the State, each citizen having the right to practice his faith and to propagate it. The Directorate of Religious Affairs will look after the religious affairs of the Muslims in Turkey. This Directorate will function under the Prime Minister for five years, and at the
end of this period will become autonomous (pp. 131-34).

The first four articles in the fourth part of the book constitute Professor Basilli's answer to his critics. Asia (Reflection), a Turkish periodical, published an interview with the author in which he was described as a "philosopher without any value to the nation, and devoid of knowledge." Expressing his regrets over the campaign of vilification launched by his critics, Professor Basilli has tried to give a satisfactory explanation about his views on the various national problems. He says there is a lack of thinkers in Turkey because there is no proper spiritual atmosphere for the training of original men of thought. In the absence of such a class of thinkers, the author discusses the moral and intellectual crisis in Turkey at present which, in his opinion, is brought about by blindly copying the West.

The book provides an excellent study of the constitutional problems of modern Turkey, particularly of secularism and its application. Few Turkish authors have written so well on the subject in recent years. Professor Basilli's original thinking is convincingly logical. He has an inimitable style of his own in marshalling facts and driving his ideas home to his readers. His ideas have wielded great influence over the intellectuals in Turkey. The credit that he deserves for his serene and penetrating analysis of Turkey's constitutional problems is truly reflected in the recent framing of a new Constitution of the Turkish Republic, the innovation of a constitutional legislature, and the clarification of classes on human rights in the new Constitution.

KARACHI

MUHAMMAD RASID FEROZI


This is a collection of essays written from time to time by Miss Maryam Jameelah, an American Jewess, who accepted Islam some time ago. In the introductory part of the book, the author narrates the story of her conversion to Islam from the Jewish faith. She says she was expelled by the exclusive tempo of Zionism and although her parents told her that Islam would alienate her from the American society, she finally chose to follow what she believed to be the true religion.

The first chapter of her book deals with "the Philosopher's Sources of Western Materialism." She begins by pointing out that in the so-called medieval ages the dominant concern of the Christians and Muslims alike was their salvation beyond the grave. But with the expansion of mercantile monarchies in Europe, when kings, bankers and merchants replaced the Church as patron of art and learning, emphasis shifted to developing the potentialities of each individual on earth to the fullest extent possible. This, she says, was the birth of the Western civilization as we know it. It would rather be difficult to refute the view expressed by Miss Jameelah.

She believes that the right given to the individual to interpret the Bible