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A PRELIMINARY STUDY OF  
ARAB NATIONALISM  
AND  
AN ATTEMPT AT THE CONSTITUTIONAL  
ORGANIZATION OF AN  
ARAB FEDERATION

by  
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## A B S T R A C T

The thesis attempts to bring to light and to clarify the prominent features of Arab nationalism. As a doctrine, Arab national feeling is discussed in terms of its nature, its constituent elements, its historical development, and its ends both immediate and ultimate. As an actual social, political and intellectual movement tending to reach full self-realization in a concrete political organization, Arab nationalism is discussed in terms of the form of government most suitable to the actual needs of the Arab people, and in terms of the distribution of political authority and the organization of power relationships within the state.

The nature of Arab nationalism is given an explanation which frees it completely from ties and associations from which it has long suffered. The prevalent notion that the Arab national movement is racial and Moslem is abandoned. Arab nationalism is explained to be a deep-rooted feeling based on the conviction of the worth of the Arabs as individuals and as a group, and of their right and capacity to live their own life independently in order to develop themselves and to contribute their share to human welfare. This national quality can be acquired by any person who consciously or unconsciously cultivates its elements in himself.

In reviewing the elements of Arab nationalism it is found out that they are shared, in varying degrees, by all Arab territories. It is reasonable to conclude then that Arab

national feeling exists in all Arabia in a latent or an active form and in different shades necessitated by the conditions and circumstances of the place. The few authentic sources on the subject corroborate this conclusion.

The renaissance of the Arabs after their subjection under foreign rule for hundreds of years does not date far back in history. Their revival as a nation is even of a more recent date and the formulation of their hopes and aspirations to unite in an all-embracing Arab state is still rather vague and indefinite.

This is what the last three chapters of the thesis attempt to do. The first of these describes the ends at which the Arabs should aim in their national movement. When these ends are fulfilled they in turn justify the existence of the Arabs as a nation.

The last two chapters describe and organize the political situation of the Arabs when they are already grouped in a national all-embracing state. It is found out that what the Arabs need most in the first period of their political organization is a vigorous central government, and especially a strong executive to carry on internal reforms and a national foreign policy with the maximum of efficiency and the minimum of friction compatible with a democratic government and with the diversified requirements of the Arab territories.

These considerations lead to the adoption of the

federal system as the best compromise between the requirements of national unity and local differences and interests. Once formed the federation becomes one and indissoluble.

Within the federal framework, the national government possesses the residue of powers. This enables it to extend its functions to new fields of activity without unduly creating ill-feeling and jealousy on the part of the units.

The constitution tries to establish unity and harmony in the work of the different branches of the central government while guaranteeing to each its special field of activity. It attains that aim by requiring the executive and the legislature to cooperate in the work of legislation and in determining governmental policies. The executive remains strong because he is appointed for a long term of years and derives his powers directly from the constitution.

The people remain the supreme political force in the country because, in the last resort, the legislature and the executive have to appeal to them to decide any important conflict between the two branches of the central government.

In short, the thesis is not a descriptive piece of work but rather a creative one. It is not a piece of research which examines, comments on and relates the different existing theories on Arab nationalism and on the future Pan-Arab state. It is more in the nature of a speculative study which tries to

build up a theory of Arab nationalism and of the Arab state new and original in many of its phases and manifestations. For this reason the value of the thesis as a description of the present conditions of nationalism in Arabia may not be great. But it may claim some merit in opening new lines of thought and investigation to the Arab youth interested in their nationalism.



F O R E W A R D

Arab nationalism and the union of all Arabs in a national state are subjects very widely and earnestly discussed by the youth of this part of the world. They are topics vehemently attacked and criticized by opponents and fervently supported by a convinced following. This clash of ideas and the existence of conditions in Arabia hostile to the realization of the principles of Arab nationalism generate a great deal of enthusiasm on the part of the Pan-Arabs. This enthusiasm and strong emotion, when expressed peacefully, find their outlet in outbursts of feeling manifested in public speeches and news-paper articles.

However, the fact is that in spite of all this wide-flung and deep interest in Arab nationalism and its future manifestation, the Arab State, no systematic and scientific study of the two phenomena has yet been undertaken as far as the writer knows.

The best material on the subject of Arab nationalism has been in the form of pamphlets issued by political parties or by interested groups.<sup>1</sup> But no complete analysis of Arab nationalism has been made in terms of its nature, its elements, and its aims.

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1. Such as:

المترجم القومي العربي، طبع في بغداد ١٩٢٤.  
 بيان المؤتمر التأسيسي لجمعية العمل القومي، المطبعة المصرية، دمشق ١٩٢٤.

and other anonymous pamphlets.

The recent history of Arab nationalism in the nineteenth and twentieth centuries is particularly difficult to trace. Records are scarce and the reliability of those available is very hard to evaluate. Further, the events are so near to us that our perspective may be blurred by their proximity. Consequently, it is quite possible that some events and movements related in chapter three may be given an importance out of proportion with their real significance, while other movements and events of real importance may be passed by lightly.

Arabic sources could have been used more often in the first part of the thesis and especially in chapter two. But the material in Arabic is greatly diffused in newspapers and magazines. The work and time needed to collect it would have been enormous without an appreciable corresponding gain since the same material could be found much more easily in Western sources.

The second part of the thesis suffers from the same difficulties. Books, writings and articles bearing directly on the problem of building the Arab State, beyond the merest allusions and the most general of hints, are completely and entirely lacking.

Further, our University library is poor in the material relative to the theory and organization of federal government. Of the score of federations which exist in the world only few are well documented. This of course narrows

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a great deal the field of federal experience from which we could draw instances and principles.

Because of all these handicaps the thesis has been in some places more general than profound. It is therefore obvious why this work does not pretend to be more than a preliminary study and an attempt.

I should express my deep sense of gratitude to my tutor Professor Walter Ritscher who has taken endless pains in guiding and advising me, and to Professors Said Himadah, Asad Rustum, C. Zurayk and Mr. Husni Sawwaf who have discussed several sections with me and offered valuable help and advice.

J. C.

**PART ONE**

**ARAB**

**NATIONALISM**

## Part One

### THE PHILOSOPHY OF ARAB NATIONALISM

#### Chapter I

##### Some Essential Definitions

It is not the purpose of this thesis to describe the type and color of Arab nationalism as it exists today, but rather to give the writer's own view of what Arab nationalism ought to be. (1) This view is not completely ~~theoretical~~ <sup>speculative</sup> because, fortunately, it is shared by some groups of Arabs who believe in it and work for its realization (2);

The writer has not had the opportunity to study, at first hand, the strength of Arab national feeling compared with other local nationalisms and loyalties in each Arab territory. *Not are other reliable sources on the subject available.* Consequently, Arab nationalism of one type or another will be assumed, for the moment, to exist in Arabia. *Whether the assumption is justifiable or not* ~~The proof of that~~ existence will be deduced by logical reasoning with the help of observable facts and indications, in the following chapters.

Three other assumptions, which will be subsequently justified, lie at the basis of the thesis. The first relates to a delimitation of Arabia; the second to a definition of Arab nationalism; the third to a definition of the aims, nature and organization of Pan-Arabism as a philosophic doctrine and as a political movement.

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- (1) A similar view of Arab nationalism is given by R. Coke, *The Arab's Place in the Sun*, pp. 297-302.
- (2) These groups do not belong to any single party as far as the writer knows.

A. ARABIA

Arabia includes those territories in Asia and Africa which were conquered and settled by the Arabs in the seventh century and which absorbed Arab culture and civilization and preserved them as their own to the present time. "The Arabs are marked off by economic and social conditions rather than by any geographical frontier and Arabia must be regarded as the whole area of Arab occupation, not only the peninsula to which the name is often confined. The ancient geographers included much more than that peninsula when they spoke of Arabia, and we must follow their example if we desire to make Arabia include the whole lands of the Arabs" (3). Variations in the extent to which the different territories of Arabia preserve the original Arab culture and civilization are expected but a certain minimum is essential. This minimum must present some basic features common to all Arabs and of a peculiar quality so as to distinguish them from other human groups.

It may consist of the predominant use of the Arabic language, familiarity with and possession of the classical Arabic literature as the native one, the feeling of belonging to the same racial stock, the possession of closely similar social institutions, <sup>or</sup> and some feeling of a common historical past.

Consequently, Arabia is found to embrace the following territories: North Africa i.e., Morocco, Algeria, Tunis, Libya and Egypt; Syria in the geographical meaning of the word, i.e., the country extending from the Taurus Mountains in the north to Akaba in the south embodying <sup>Asia,</sup> Syria, Palestine and Transjordan; Iraq; and the Arab Peninsula.

B. ARAB NATIONALISM

Unfortunately, the term "ARAB" has acquired, especially to Western readers, a racial connotation from which it ought to be separated. An elucidation of what is meant in this thesis by Arab nationalism is of the first importance.

Nation and nationalism, in the abstract, are defined by different authors in various ways. Professor Zimmern says "I would define a nation as a body of people united by a corporate sentiment of peculiar intensity, and dignity, related to a definite home-country." (4) S. Herbert conveys the same idea adding however the elements of history and tradition. "A nation is a social group, bound together by a consciousness of kind which springs from the tradition evoked by the group's historic past, and is directly related to a definite home-country." (5) W. Hocking mentions three new elements. These are ethnic and linguistic unity, distinctiveness from near-by groups, and cooperative action in the political life. According to him "A nation is a large group, usually having a well defined geographic base and a degree of ethnic and linguistic unity, whose common character impels its members to act together in the experiments of political life, while being so far distinct from near-by groups that the inclusion of these groups would lower the worth of the experiment, for them and for all men." (6)

# Stratton stresses the importance of spiritual unity based on

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(3) De Lacy O'Leary, Arabia before Muhammad, p. 5.

(4) A. Zimmern--Nationality and Government p. 52.

(5) S. Herbert--Nationality and its Problems, p. 37.

(6) W.E.Hocking, Spirit of World Politics p194

culture in the formation of the nation and points out the fact that the nation does not necessarily imply political independence. "A nation is a considerable body of people with ties of blood and the sympathy and sense of spiritual union which go with a common culture, but who have not necessarily attained political independence and statehood." (7) The same idea is expressed by C. Hayes: "Nationality is used in reference to a group of persons speaking the same language and observing the same customs who cherish the same historical traditions and constitute a distinct cultural society. Therefore nationality may exist without political unity and vice versa." (8)

Speaking of the origin of the nation Pillsbury says "As instinctively developed we may look upon the nation as an outgrowth first of the social instinct which makes the mere presence of other individuals pleasant, the fundamental gregariousness that may be regarded as bringing the units together." (9) Once the nation comes into existence it acquires certain qualities. "A nation means a group of individuals that feels itself one, is ready within limits to sacrifice the individual for the group advantage, that prospers as a whole, that has a group of emotions experienced as a whole, each of whom rejoices with the advancement and suffers with the losses of the group. The spirit of nationality is the personification of this unity. Nationality

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(7) George M. Stratton, Social Psychology of International Conduct, p. 70.

(8) Carlton Hayes, Essays on Nationalism, p. 4.

(9) Walter B. Pillsbury, The Psychology of Nationalism and Internationalism, p. 57.



is the mental state or community in behaviour." (10) Gilchrist brings in religion and common interests as factors of nationalism. "Nationality is a spiritual sentiment or principle arising among a number of people usually of the same race, resident on the same territory, sharing a common language, the same religion, similar history and traditions, common interests, with common political association and common ideals of political unity. They (these elements) are the basis of nationality not nationality itself which is a spiritual principle super-vening when some or all of these elements are present." (11) Holland Rose points out to the strength and permanency of the spirit of nationalism once acquired. "It (nationalism) is an instinct, and can not be exactly defined; it is the recognition as kinsmen of those who were deemed strangers; it is the apotheosis of family feeling, and begets a resolve never again to separate; it leads to the founding of a polity on a national basis, independent of a monarch or a state, though not in any sense hostile to them, it is more than a political contract; it is a union of hearts, once made, never unmade. These are the characteristics of nationality in its highest form--a spiritual conception, unconquerable, indestructible. So soon as clans, tribes, or provinces catch the glow of this wider enthusiasm, they form a nation. (12) Hocking and Muir emphasize the psychological and emotional aspect of nationalism. "Nationhood is a

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(10) Ibid., p. 5

(11) R. N. Gilchrist, Principles of Political Science p. 26

(12) Holland Rose, Nationality as a Factor in Modern History, p. 152.

psychological fact, a sort of composite selfhood. The kernel of a nation, like the kernel of an individual self, is a hopeful impulse to definite policies of self-expression, contrasting with those of other selves." (13) "Its essence is a sentiment; and in the last resort we can only say that a nation is a nation because its members passionately and unanimously believe it to be so." (14)

It may be, however, that Renan's definition of nationalism quoted by W. Willoughby is the best. "Ernest Renan, after showing by various references to historical facts that the secret of nationality is not to be found exclusively in race, language, economic interests, religion, geographic features or military necessities, he says: 'A nation is a soul, a spiritual principle. Two things constitute that soul. One is the possession in common of a rich legacy of memories; the other is the actual consent, the desire of living together, the disposition to give value to the undivided inheritance they have received.... To have a common glory in the past, a common will in the present; to have done great things together, the desire to do still more; these are the essential conditions of a people'." (15)

All the above definitions leave unsolved a major difficulty. They all take the nation to be one entity and do not stop to consider the individuals or groups within it who

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(13) W. E. Hoeking, op.cit. p. 169

(14) R. Muir, Nationalism and Internationalism. p. 51.

(15) W.W.Willoughby, The Ethical Basis of Political Authority, p. 338.

are in all respects similar to the other members of the community except that they do not share the same national feeling. Can these individuals or groups be rightly called Spaniards, Frenchmen or Arabs? And can it be said that a certain region of a national state is a part of the fatherland if a large section or a majority of its inhabitants feel a different nationalism from that of the whole?

The question is of peculiar importance to the Arabs because local nationalisms exist among some sections of the people of Arabia. Do the Pan-Arabs tolerate such local nationalisms and consequently give up their claim to that particular region hitherto considered as an integral part of the fatherland? To take a concrete example, Lebanon and Egypt possess, as far as the writer knows, the strongest local nationalisms in Arabia. Do the Pan-Arabs have to accept the situation as it stands leaving these two countries to pursue their own particular national development, or do they have the right and even the obligation to spend their best efforts trying to weaken these local nationalisms and to strengthen the Pan-Arab feeling?

During the years 1923-1924 the French military authorities did their best to stimulate a local feeling in the Rhineland with the view of separating ultimately this portion of German territory from the German nation. They succeeded in their efforts to certain extent and some of the German inhabitants of these regions agitated against the German government asking for "the creation of a new Rhineland state within

the German Republic" (16) basing their claim on a feeling of local nationalism. Naturally, the German government paid no attention to these demands and when it grew strong enough it suppressed them. Its action is morally and politically justifiable.

A better analogy is afforded by the recent attitude of the Third German Reich towards Austria. Both of these states formed one country under the Holy Roman Empire. Later, rivalry and dissensions began between Austria and Prussia because each strove to spread its hegemony over all the German people. This rivalry led to the formation of two distinct and independent empires. In the post-war period German nationalism, with the express aim of uniting the two countries, developed. Hitler and the Nazis, after they assumed office in Germany, deliberately encouraged the feeling of unity among the Austrians. The government of Austria supported by foreign powers and by a section of the Austrian population endeavoured to suppress the Pan-German sentiment and to foster a local Austrian nationalism. This conflict was ended when Hitler incorporated Austria into the German Reich because he felt it his duty and right, as a Pan-German, to put an end to that local nationalism which was developing in Austria and which threatened the future of German unity.

The attitude of <sup>the</sup> Germans in these incidents is comparable in some respects to that of the Arabs at present.

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(16) Moritz J. Bonn, Rhineland-Encyc.Br., 14th edition.

Since the Pan-Arab takes the Arab lands to constitute one country bound together by the ties of Arab nationalism, every attempt to loosen the bonds between these lands is of the same nature and is to be treated in the same way as was the attempt of the Rhineland separatists and the Austrian nationalists. The unity which was symbolized in Germany by the nation organized in a state and which the Rhineland separatists tried to break, is symbolized in the case of the Arabs not so much by a political organization which does not yet exist, but by the idea of unity which will take the form of a Pan-Arab state in the future. The Pan-Arabs are justified in preserving the security of the idea of their future state to the same extent as the Germans, in the above examples, were justified in preserving the territorial integrity and national unity of their people. The Rhineland population are not a part of the German nation only because they are ruled over with the other Germans by the same government, but because they have other common affinities with the German people of which common governmental institutions are not the most important. Thus the absence of a common political structure to all the Arabs does not mean that they have lost their spiritual and territorial unity as an idea.

The Pan-German Nazis conceived of a Pan-German state, worked for its realization and finally fulfilled their aspirations in spite of the political independence of the two countries. Therefore, the interference of the Pan-Arabs to

prevent the rise or development of a local nationalism in any part of Arabia is to them of the same nature e.g. as the intervention of Damascus, on a national issue, in the affairs of Aleppo. Neither of these two actions may be called imperialist because, to the Pan-Arab, all Arabia is one vast field of activity in which Arab nationalism should prevail to the exclusion of all antagonistic doctrines. The interest of the whole, which is represented in Arab nationalism, is to take precedence over the supposed interests of the parts represented in such movements as Egyptian, Syrian or Irakian nationalisms. The fact that such movements exist does not place the territories outside the Arab fatherland because the Pan-Arab retains the right of bringing the people of these lands to what he considers to be their real and true nationalism since all the objective factors of nationalism as a doctrine point to it.

The danger of local nationalisms on the Pan-Arab idea should not, however, be exaggerated. Local nationalisms thrive only in Lebanon and Egypt. "...in the rest of North Africa, we do not, as in Egypt, find a well-marked territorial patriotism. Anti-European hatred there is plenty, but such 'patriotic' sentiments as exist belong rather to those more diffused types of nationalist feeling known as 'Pan-Arabism' and 'Pan-Islamic Nationalism.' (17) ....The basic reason for

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(17) This statement is supported by the authority of Bashir Bey Sa'dawi in an interview which the writer had with him in Damascus, February, 1938.

this North African lack of national feeling, in its restricted sense, is that nowhere outside of Egypt is there a land which ever has been, or which shows distinct signs of becoming, a true 'nation.'" (18) The particularist feeling of Yaman is of the same type as that of the North African territories explained above.

Even Egypt is not devoid of a strong Pan-Arab sentiment. "You may say if you wish (though I think it untrue) that the Egyptian politicians do not really care what happens in Palestine, that they raise the question only for demagogic reasons;...-the same charge that is made against the governing clique in Iraq. But does not the very fact that the cabinet feels obliged to defend the Arab case (19) indicate that there must be Egyptians who do have a lively interest in Arab nationalism?...The politicians may be insincere and their appeal may savor of demagogy, but the fact that they make it shows the inclination of the electorate." (20) The Pan-Arab torch is held in Egypt by such eminent writers as Abdur Rahman Azzam, Ahmad Al Zayyat and Al Basyouni, President of the Egyptian Senate, while Lebanon has given many outstanding leaders to the Arab movement.

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(18) Lothrop Stoddard, The New World of Islam, p. 187.

(19) The writer is referring to the speech of the Egyptian Foreign minister in the League Assembly, September 18, 1936.

(20) Robert G. Woolber, Pan-Arabism and the Palestine Problem, in "Foreign Affairs" January, 1938, p. 309.

To summarize briefly the point of view of the Pan-Arab one can say that starting from the premise of an Arab country unified to some extent by Arab nationalism and thus providing the rudimentary basis of a future all-comprehensive Arab state, every doctrine or movement which tends to weaken this unity of idea is of the same nature as the attempts to weaken any existing state and can be dealt with in the same manner. The pan-Arabs who take it upon themselves to guard and serve the unifying idea feel themselves to be under the obligation to oppose any force which threatens to frustrate the realization of the idea and in doing so they claim to be acting strictly within the national frontiers which they have set for themselves.

The dissenting groups in Arabia may, however, refuse to be called Arabs. What is the attitude of the Pan-Arabs toward them? Bernard Joseph solves the difficulty by defining nationalism in the following words: "Nationality as a quality is the subjective corporate sentiment permanently present in and giving a sense of distinctive unity to the majority of the members of a particular civilized section of humanity, which at the same time objectively constitutes a distinct group by virtue of possessing certain collective attributes peculiar to it such as homeland, language, religion, history, culture, or traditions. Nationality as a concrete designation denotes a group possessed of the quality of nationality as so defined. The first part of this definition has been so worded as to take



account of the fact that the nationality of an individual can not be said to be determined by the existence or non-existence within him of this sentiment, but by his appertaining to a group which as a whole does feel the sentiment or acts accordingly." (21)

According to this definition the individuals who are undistinguishable from the rest of the nation in their "collective attributes" but who as yet do not possess the "subjective corporate sentiment" are deemed to be members of the nation and potential nationalists who will be converted some day to the national idea. The other members of the nation are the true nationalists.

Borrowing elements from this and from Renan's definition, Arab nationalism may be defined as follows: it is that spiritual and emotional sentiment unifying the majority of Arabs and giving them a distinctive quality, found in actual consent, in the desire of living together and the disposition to give value to the undivided inheritance they have received, in a common glory in the past and a common will in the present, in the consciousness of having done great things together and the desire to do still more; who (the Arabs) at the same time objectively constitute a distinct group by virtue of possessing certain collective attributes peculiar to them such as homeland, language, culture, history, traditions, and common interests.

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(21) BERNARD JOSEPH, *Nationality: Its Nature and Problems*, p. 309.

# MISSING PAGES

14 - 18

A. THE OBJECTIVE ELEMENTS

1. Gregariousness

Among the first class of factors, gregariousness, is given as a reason for bringing individuals and groups together. "As instinctively developed we may look upon the nation as an outgrowth first of the social instinct which makes the mere presence of other individuals pleasant...." (1) But this theory does not explain how these units, when brought <sup>together</sup> by the instinct of gregariousness, happen to constitute a social group in the form of a nation and not a social group of a different type and variety.

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(1) W. B. Pillsbury, op.cit., p. 57.

## 2. Geographical Unity

Common territory is given as another factor of nationalism. People inhabiting the same territory come naturally in contact with each other. Friendly relations as well as hostile intercourse may grow out of this contact.

# Some writers, however, believe that the peculiar conditions of the climate and the soil of a certain territory lead normally to the promotion of a homogeneous nation. "The special characteristics of any human society are the product in the first instance of its natural surroundings..... These influences are fundamental for upon them will depend the basic activities of the human beings who inhabit the territory: their food, their clothing, their type of dwellings and methods of subsistence. And on these things depend...their forms of government, their family life, their intellectual culture, even their religion and morality." (2) In another place S. Herbert says "Geography may influence a given population in two ways, directly and indirectly, by producing a consciousness of likeness between its members, and a consciousness of difference between themselves and the members of some other population." (3)

X Geography has another importance as an element of nationalism "...there is no nationality of which the basis was not formed by the homeland in which the nationality lived a continuous communal life for some period or other." (4)

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(2) S. Herbert, op.cit., p. 24.

(3) Ibid., p. 21.

(4) Bernard Joseph, Op.cit., p. 84.

These statements are reasonable but the effort to deduce from them the argument~~s~~ that countries with no geographical unity, such as Arabia, cannot form a nation is misleading. "Geographical unity may help to make a nation, but it is not indispensable nor is it the main source of nationhood." (5)

Thus the extreme climatic and geographical variations in the U.S. between north and south, and east and west, are not a sufficient cause to lead to the formation of distinct nationalisms in these four regions.

Negatively, the identity of natural and climatic conditions between Belgium and Holland, and between Belgium, north-western Germany and the plains of north-eastern France, was not a sufficient cause to prevent the formation of a Belgian nationalism distinct from Dutch, German and French nationalisms, and for sometime even hostile to the first two.

Such instances can be multiplied indefinitely *but and* the conclusion is that, though a valid factor in constituting a nation, geographical unity does not afford by itself all the bases of nationalism nor is it considered an indispensable factor.

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(5) R. Muir, op.cit., p. 39.

### 3. Fear and Hate

Fear and hate are important factors in forming Arab nationalism. This <sup>is</sup> to be expected because none of the independent territories of Arabia are strong enough at the present time to feel reasonably secure against aggression. Consequently none of them can live its own life peacefully and devote itself to the perfection of its culture and personality.

In the case of the Arabs weakness breeds fear and fear generates hate. The Arabs realize that their weakness is largely due to imperialism therefore they are afraid of the imperialist and in the cases where they can not drive him away they hate him; the more intensely because they feel their impotence. These two dominant feelings work very effectively among the Arabs to join them together without regard to political opinion or to social distinctions.

In the same way as the forces of fear <sup>and</sup> hate work to unite the people internally, they also work to unite the different parts of Arabia. Pillsbury says "the modern nation always began as a combination to resist oppression." (6). Thus each Arab territory seeks help and aid in the other lands because of its weakness in confronting imperialism. That help and aid it can get partly because it recognizes some common bonds to all Arabs.

But these two factors should not be overemphasized. They are negative, and for that reason of temporary life once the cause of their existence, imperialism, is removed.

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(6) W. Pillsbury, op.cit. p. 100

In fact, the abounding distrust and hatred among nations is not spontaneous or physically inherited. There is no sufficient reason to believe that nature has endowed us with a repugnance specially aimed against those who are not of our blood. "...that there is any inherent racial prejudices in the human animal is disproved by innumerable instances of perfect interracial harmony and cooperation. People of different races differ in their capacities and achievements, due in large part to differences in economic opportunities, cultural background, climatic stimuli and social environment." (7)

The fear, and its result hate, which the Arabs feel against the imperialist, loosely called racial prejudice, is roughly proportional to the injury which they expect from him, or which they believe has been done to them. It is a group reaction to losses threatened or experienced; a response, not inborn, but continued by tradition and by the fresh memories from harm received. So if the dread of political and economic defeat can be dispelled these fears can no longer be made available as alters to racial hatred; this antipathy can then be reduced to its own intrinsic weakness and the main problem to solve remains to be national antipathy and not racial hatred. (8) This brings up the problem of race as an element of Arab nationalism.

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(7) F. Schuman, *International Politics*, p. 297.

(8) George M. Stratton, *op.cit.*, pp. 64 & 65.

#### 4. Race

Authors differ greatly in the importance they give this factor. Some give it preponderant influence. (9) They claim that the members of a certain racial group are issued from the same race to which they are indebted for their common characteristics. The members of the same group have a firm belief in their superiority as individuals and as a nation because they hold their race to be superior to other races.

Such a belief is not supported by history nor by biology. The successive events of history show the dominating influence of a certain people over a period of time followed by the rise of a new people so that no one race was dominant, either politically or culturally, through all the periods of history. There has also been constant shifting of races and mixture of populations throughout the ages. "In dim far-off times there took place such a migration and mingling and interbreeding of peoples that all semblance of racial purity has long since vanished. (10) Muir holds the same opinion. "There is no nation in the world that is not of a mixed race; and there has never been a race which has succeeded in including all its members within a single national entity." (11)

On the other hand "The veriest novice in biology knows that 'racial purity' is entirely nonexistent among the nations of the earth..." (12) The least that can be said in

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(9) Burgess regards a nation as "a population of an ethnic unity, inhabiting a territory of geographic unity.", J.W.Burgess, Political Science and Comparative Constitutional Law, Vol. I, p.1. See also Arthur de Gobineau, The Inequality of Human Races, H.S.Chamberlain, The Foundations of the Nineteenth century.

(10) F. Schuman, op.cit., p. 298.

(11) R. Muir, op.cit., p. 39.

(12) F. Schuman, op.cit., p. 297.



this question of racial purity and superiority is that the subject is still highly controversial. H. Rose says that "anthropologists, ...have proved that so-called racial divisions based on language and tradition are not fundamental." (13) Therefore, as a conclusion, it can be safely said that, Scientifically, the factor race should not be of great value in the formation of nationalism.

The theory of Arab nationalism presented in this thesis does not consider the question of racial purity among the Arabs to be important because it recognizes the fact that the Arabs have invaded all the Arab lands, have settled there and inter-married with the native population. (14)

Nevertheless it is natural that the racial sentiment enjoys some influence especially among the Arab masses. The reason being that it is simple, concise and clear. All persons of whatever mental or educational capacities can grasp it and it appeals to their pride and vanity. Another reason for its vogue is that few individuals in any community can trace their descent far more than three or four generations. Consequently, within a period of seventy to hundred years the assimilated descendants of a foreigner lose trace of their forefather and of his nationalism. By the end of that time they consider themselves as truly Arabs as any other person. A further reason is that the Arab has always been proud of his race. "He regards himself as a ruler and he

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(13) H. Rose, op.cit., p. 144.

(14) جيبى زيدان، تاريخ المدن الإسلامي، ج ٤، ص ٤٢.

justifies this opinion by ruling any community where he is found, even when greatly outnumbered by other less kingly races."(15) This is, however, no support to the racial purity of the Arabs. "The Arabs, like many other races priding themselves on their breeding, are in reality by no means pure-bred; but in their case their racial pride and extraordinary tenacity of tradition has enabled them to escape the usual effects of a dilution of the national stock." (16)

In this sense racial feeling is wholesome to the Arabs because it cements the assimilation of an original foreigner and makes it easier for him to share more completely and fully in the national life, traditions and history; and it gives a stronger cohesion and unity to the Arab people as a whole. "Some degree of racial unity is almost indispensable for nationhood; but it is enough that the various elements in the nation should have forgotten their divergent origins, and that there should be no sharply drawn cleavage between them. (17)

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(15) P. Harrison, *The Arab at Home*, P. 330.

(16) R. Coke, *The Arab's Place in the Sun*, P.23.

(17) R. Muir, op. cit., p. 39.

# MISSING PAGES

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## 6. Economic Interests

From an economic standpoint, a united Arab nation has several advantages. (36) In the first place, it insures a greater degree of self-sufficiency. It is a generally accepted principle among economists that the general welfare of the peoples of different countries is promoted when each country specializes in the production of those things in which it has the greatest comparative advantage, and exchanges freely with others its available surplus products and services. Specialization in this way results in greater total production of commodities and services, and consequently in a higher standard of living for all the peoples concerned.

Restrictions on foreign trade are considered by most economists justifiable only when they are intended to protect viable infant industries or to protect domestic producers against dumping. In spite of these economic principles, however, nations have adopted, especially in recent years, policies directed towards self-sufficiency to protect themselves chiefly against the consequences of economic interdependence in case of another world war. Under such a state of economic and political nationalism, the wider the territory of the nation, the greater is the degree of self-sufficiency that can be attained and the less harmful it is likely to be. The Arab territories as organized at present in separate states cannot hope for a high degree of self-sufficiency unless they unite.

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(36) I am specially indebted in this section to advice and help from Profs. S.Himadah and H.Sawwaf.

The Arab territories which have been parts of the Ottoman Empire, have formed for hundreds of years one economic unit in what concerns trade. There were no customs houses or tariff barriers between them, and trade was exchanged freely. That was conducive to prosperity in all of them which was enhanced by their admirable geographical position. "They (the Arabs) stand to day, as they have stood throughout history, astride a great artery of world trade, an artery moreover which modern developments in road and air transport are continually making more important. By whatever means a direct connection is attempted between Europe and India and mid-Asia, by the Suez Canal, by the land route through Turkey, Irak and Persia, or by the air route through north-east Africa, Egypt and Irak, Arab territory will be crossed and Arab or Arabicized people encountered." (37)

This commercial prosperity ought to have increased with the development in the means of transportation and communication to the advantage of all territories concerned. But the political and consequently the economic divisions of Arabia have obstructed and hindered the full development of trade to the detriment of all. A national Pan-Arab state is therefore to the advantage of Arab merchants because it has in its favor all the advantages which support the theory of free trade.

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(37) R. Coke, op. cit., p. 11.

In the second place, the bad economic effects of the present-day foreign trade restrictions on specialization can be mitigated to a large extent in a state possessing a large territory. In such a state it is more likely to find diversity and abundance in natural resources, and, generally speaking, specialization can take place within a wide territory and when the natural resources are diverse and abundant far more than in a small country with few resources. With the differences in natural resources and human equipment in the different regions of Arabia, in a Pan-Arab state each of these regions will specialize in the production of those things in which it has the greatest comparative advantage, with a resulting greater and better production.

In agriculture countries specializing in the production of a certain commodity get a better price for it in a vast protected market than they can get by competing on the international market. An Arab territory need not be afraid of the competition of a second one if they are cultivating the same product at the same cost. As to the price of the surplus of that commodity produced beyond the national consumption, it is determined, in any case, on the international market. But if the two territories produce the same product at varying costs the less suitable land will have to give up that sort of cultivation and devote itself to another one in which it has a comparative advantage. The result in the long run is a better distribution of agricultural occupation

in Arabia as a whole with a corresponding more efficient productivity. One disadvantage should not be passed unmentioned. Agricultural protection may result in higher costs of living for the Arabs if the prices of foreign agricultural products are cheaper than theirs.

In the third place, a Pan-Arab state will facilitate industrialization. Industry, which is necessary for a well-balanced economy, cannot be developed without a large home market, because new industries have to rely for the disposition of their products first upon home demand. "The home country and its colonies are always the chief markets for the sale of industrial commodities especially if backward countries become industrialized and erect barriers."(38) A large home demand, which a united Arab state provides, will enable the operation of industries on a large scale and thereby secure the economies<sup>e</sup> of large scale production for the well-being of all Arabs and avoid unnecessary duplication. The economies of large scale production may enable some industries, especially those of agricultural character, to compete in the world market.

In the fourth place, when the Arab territories form one economic unit capital can be concentrated more easily in the centers suitable for industrialization. The unproductive use to which Arab capital is put at the present time in certain Arab territories for the purpose of creating, arti-

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(38) C. Hayes, Historical Evolution of Modern Nationalism, p. 238.

ficially, enterprises for which that particular country is not fit, would be avoided. (39)

As a result of the foregoing factors, the Arab laborer will secure higher wages and a higher standard of living. His work will be more effective and productive and, consequently, his share in the produce will be greater.

A national Pan-Arab state solves, in the long run, most of the material difficulties of the Arab producing groups and offers a better standard of living to the consumer and places Arab society on a sounder economic basis.

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(39) To give a few instances of such artificial enterprises, Egypt is manufacturing soap and cigarettes though it imports all the tobacco and olive oil. (see S; Arafah, "Industry in Egypt", June 1936, p. 30 & 31.) Egypt is planting also citrus trees while it is not particularly fit for that. Tobacco, olive oil and citrus fruits are better produced in Palestine and Lebanon.



## 7. Political and Military Interests

In the case of the Arabs, political interests and military necessities are a potent factor in forming Arab nationalism.

The political interest of nation-states which takes precedence over all others is self-preservation and independence. The activities of all individuals and groups within the nation are directed in the first place to the satisfaction of this interest. This state of affairs is obvious in periods of national danger and fear of external aggression, and in periods of internal conflict and disruption. The problem now is to find out whether this need for self-protection does not operate among the Arabs, consciously or unconsciously, to make Arab nationalism an imperative need.

The foreign policy of every state is still very largely determined by national considerations. In all cases, the effectiveness of the national policy of any state to secure its aspirations in the political sphere is, in the last analysis, a matter of bargain. The bargaining power of any state is determined by the influence it can exert as against the influence exerted by the other party. That influence is measured in terms of financial, economic, and man power, the stability of internal social organization and cohesion, all of which find their test in the phenomenon of war. In fact, war, or more exactly, the ability of any nation to wage war

with chances of success, remains the final criterion of the effectiveness of national foreign policies. In the case of a bilateral conflict the stronger nation necessarily gets what it wants. If such a conflict involves third parties, which is very probable, still the strong and big nations, very likely, get the upper hand. Furthermore, there is no doubt that a powerful nation finds allies more easily than a weak one. The reason being that alliance means reciprocal help, and a strong power counts more heavily in the international balance than a weak one does.

Each of the Arab lands with no exception is too poor financially, economically and in man power, to liberate itself alone, if it is still colonized, or to live a secure and peaceful life, if it has gained its autonomy.

In fact the Arabs fell an easy prey to modern imperialism mainly because they were disorganized into hostile or indifferent groups. If Arab history, old and recent, serves any practical purpose it ought to teach the Arabs that unity of purpose and action is the only safe, sure and quick method of liberating the colonized Arab lands, and of preserving the existence and freedom of the independent ones.

A survey of the actual situation of the Arab lands confirms the necessity of unity for national deliverance.

French Morocco, Algeria and Tunis have been unable to throw off the yoke of imperialism mainly because each of them has worked for its freedom independently of the other

and of the remaining Arab territories. Their revolutions have been haphazard, carried on separately, differing in the time of occurrence, and with no common organization. Their peaceful demands were ineffective partly because they lacked the unanimous peaceful support of the Arabs of North Africa and Asia.

The revolution of Spanish Morocco in 1925 failed because the Arabs of French Morocco started a new revolution at the same time and thus made cooperation possible between the French and the Spanish armies instead of helping the Arabs of Spanish Morocco with men and munitions without making it necessary for France to interfere. If they had done that Spanish Morocco might have become independent and could later have helped them in a possible revolution against France.

As to the resistance of Tripoli against the Italians it would have had great chances of success if it had received aid and help from neighboring Arab territories without necessitating a fresh revolution in any of them involving a second European power.

In other words, the principle to be followed in case of a revolution in an Arab territory is to combine the efforts, of as many Arab territories as possible against the imperialistic power involved in the revolution but to desist from any action which is likely to bring in <sup>armed</sup> conflict another European power.

In what concerns peaceful demands there ought to

be full and complete cooperation between all Arab territories at all times and in all circumstances without exception.

Egypt the largest, most populous and richest, Arab territory at the present time, cannot become independent of a certain type of direct British political control if it does not form a part of a Pan-Arab state. That is so because Italy has ambitions in Egypt and threatens it from the west and the south.(40) Egypt is a vulnerable country and will therefore constantly seek Britain's aid; and in exchange for that help Britain will not be slow in asking for concrete advantages.

Egypt may however decide to protect its borders without British support. It may be able to do that at the expense of draining its resources on armaments and of lowering tremendously a standard of living already low. It is therefore to the immediate interest of Egypt to join in the pan-Arab movement which aims at liberating Libya from the italians.(41)

The condition of Palestine does not need a detailed treatment because it is well known. Palestine realized better than any other Arab land its absolute dependence on Arab support to cope with the zionist danger and with British imperialism.

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(40) See "International Conciliation", Jan. 1938, no. 336, for an article by Gioacchino Volpe on the interests of Italy in the Mediterranean in general and in Egypt and Suez Canal in particular.

(41) On the subject of the absolute dependence of Egypt on adjacent Arab territories for safety see:

عبد الرحمن عثمان، الديمقراطية العربية وصل آت ان تحقق، في كتاب "اصح ما كتبت" ص 117

As to Syria, the recent dream of an early and complete independence has been soon dispelled by French unstable policy and Turkish aggressiveness. The latter danger may be more eminent and to deal with it Syria cannot rely on its own strength but has to seek the support of the other Arab territories.

The claims of Turkey do not stop at the Sanjak of Alexandretta and the Jazira; they extend to Mosul and its rich petrol wells. Iran has also a boundary dispute with Irak which does not feel very secure if it ever has to face both enemies at the same time and alone.

The Saudi Kingdom and the score of satellite Emirates on its borders are under British influence in varying degrees because England can always threaten to rouse the tribes against them by lavish grants of money and to cut from them the sources of munitions and war materials. "The independence of Arabia itself is more nominal than real, since its outlets to the outside world are almost entirely in the hands of Great Britain." (42) Unless the Kingdom of Nejd and Hijaz and the other Emirates are relatively independent of England financially and economically, and unless they can command the loyalty of a large army with adequate materials to put down any rising among the tribes, they remain puppets in Great Britain's hands.

The case of Yaman is different and rather complicated. Yaman is a Shi'a country of the Zaydi sect. It has

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(42) R. Goke, op.cit., p. 293

not known foreign domination at close quarters and does not realize therefore its dangers. It flirts with Italy, and its foreign policy and a restricted part of its internal administration are under Italian supervision.(43) The Imam of Yaman, on the other hand, has had in 1933, a war with the conservative Sunni Wahhabis of whom he is afraid. This fear may lead him to accept Italian help and control to repulse a possible Wahhabi invasion. This does not mean that the Yamanites love the Italians and welcome domination. It is exactly the reverse. But the Yamanites may prefer the veiled and creeping Italian influence the danger of which is not apparent to an open military invasion by the Wahhabis. The only solution to this sad situation is to assure Yaman that it will find complete equality with all Arab territories in a secular, federal Arab state built on the principle of nationalism, and that it will enjoy complete religious freedom on its territory.

The situation of Lebanon is somewhat similar to that of Yaman. A large part of the Christian and Shia Lebanese are afraid of religious intolerance if they unite with the other Arabs. That is the main reason why, at present, they prefer French control to Arab unity. These Lebanese identify Pan-Arabism with Pan-Islamism and therefore reject both. They do not pretend to be politically independent of France nor want to become so in the near future. They will

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(43) See the Treaty between Yaman, and Italy, drafted and signed in San'aa, September 4, 1937. Published in Annahar, no. 1266, December 16, 1937.

probably, desire independence, as a section of the Arabs, when they become sure that their local autonomy and religious freedom will be completely safe-guarded in a secular Arab federation. As Arabs, they can only get their independence then through the help of the other Arab territories.

Arabia, as one geographical unit, is admirably situated for purposes of defense. The only land frontiers Arabs have to worry about are those in the north with Turkey, and to the east with Iran. For the rest Arabia is either bounded by the sea or by the desert. The result is a great reduction of military expenditures for the units of the Arab federation. At the present time each Arab region is spending a good part of its revenue to defend itself against foreign danger which comes from a foreign country, or from an Arab land dominated by imperialism. After the establishment of the Pan-Arab state the source of the second danger disappears and the finances of that land are eased. A relatively small army will be needed to defend all the Arab lands, smaller in number than the sum of all the armies maintained at present in the different Arab lands. A strong navy, on the other hand, will be needed to protect the long Arab coastline.

## 8. Language

The Arabic language is the stronghold of Arab nationalism and the outstanding feature of Arab unity, for so long as the Arabs speak and write the same classical Arabic there is always hope of reviving the old ties which have weakened with the passing of time.

The reason why the Arabic language occupies such a prominent place in founding Arab nationalism is because of its classical purity which has come down, unchanged in any large measure, from the first century after the establishment of the Arab Empire. This purity is due to the Koran which has established the classical bases of Arabic prose for all times. If that was not the case each Arab land, especially those of north Africa, would have evolved a distinct written language of its own as it has evolved a different colloquial dialect and the elementary unifying factor among the Arabs would have disappeared. In fact if the Arabic language did not exist as a minimum unifying force no hope of evolving an Arab nationalism embracing all Arabia would have been entertained by any Arab. "There is indeed nothing that will so readily give unity to divergent races as the use of a common tongue, and in very many cases unity of language and the community of ideas which it brings, have proved the main binding force in a nation. (44)

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(44) R. Muir -op; Cit., p. 43.



Language is to the Arabs an essential pre-requisite of Arab nationalism not only because it is difficult and unnatural to think of a nation without a national language but also because "Languages are the most direct expression of national character. They are the first impression of the mind of man on the outer world. The words he coins in order to describe objects and emotions closely correspond to his idea of them; the system he contrives in order to use such words is a direct image of his way of thinking. A grammar is a philosophy." (45)

Those nations which do not possess a national language are an exception. Their small number proves this character and they can never be as homogenous in their internal structure and life as if they possessed one common language. "persons who speak different languages do not draw the same conclusions from the same premises. Nor are their standards of ethics, manners, literature and justice usually the same. The basis of national psychology may be said to be partly linguistic." (46)

So important is the role of language in forming the nation that in current speech the nationality of every person is assumed to be that of his native tongue and this is <sup>true</sup> to a very large extent.

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(45) Salvador de Madariaga, Englishmen, Frenchmen and Spaniards, p. 183.

(46) Bernard Joseph, op. cit., p. 54

"Language is everywhere the best index of an individual's cultural environment--of the linguistic and cultural group with which he identifies himself and of which he is a member. By the same token, one's mother tongue is everywhere taken as the best criterion of one's nationality. Most of the nations of the earth are nations, not so much because they are politically independent and socially unified, as because their peoples use a common speech which differs from that of other nations...For the most part, distinctions of nationality in the social and cultural rather than in the legal sense, are coterminus with distinctions of language... Language is almost universally regarded as the most important single criterion of national sentiment and allegiance."(47)

"Unquestionably unity of language is a binding force of the utmost importance, more especially because the colour and quality of language largely determine the colour and quality of the thought of those who use it."(48) A language therefore does not simply express the mentality of the people who first evolved it and gave it its rules, but it works, later, to influence the mentality and psychology of those who speak it as a mother tongue.

A nation whose members speak different languages is an unstable nation because its members lack the possibility of communicating their ideas and sentiments with each other.

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(47) F. Schuman, op. cit., p. 299

(48) R. Muir - op. cit., p. 42

and free communication is the basis of every society. The difference in languages becomes an insurmountable barrier except in a country so highly civilized as Switzerland where a majority of the population understand at least two languages.

Language is not important to the Arabs only because it is the primary means of communication between the living members of the nation. It enjoys the same importance because it is the connecting link between the present generation and its literature, traditions, history and culture.

"A common language means also a common literature, a common inspiration of great ideas, a common heritage of songs and folk-tales embodying and impressing upon each successive generation the national point of view." (49) So that every educated Arab from Morocco to Yaman reads the same classical works of the great Arab poets, enjoys the same tales and is fascinated by the same prose. The unity of the Arab lands in what concerns the past literary treasures is complete. In recent times Egypt tends to take the first place in literary achievements and the works of its poets and writers are spread to the most remote corners of Arabia.

Thus in one very important basis of nationalism in the most influential factor, viz., in language and literature, the Arabs are as much unified as any other nation of the world. "A nation's literature is at once the record of its past and the expression of its hopes. It reveals the national soul.

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(49) R. Muir, <sup>ibid.</sup> op. cit. p. 43.

the collective mind, to us in all the stages of their development." (50) " In fiction and belles letters are revealed the mind and soul of a people in its most intimate mood, in that complex of purposes and attractions which one may characterize as the national genius."(51) And the minds and soul of the Arabs are shown in their language and literature which are held by them to be sublime and eternal.

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(50) S.Herbert - op. cit., p. 46

(51) B; Joseph - op. cit., p. 114

# MISSING PAGES

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## 10. Culture and Civilization

When the Arabs emerged from the Peninsula and subdued the different states which they encountered, they met flourishing civilization which they did not destroy but from which they learnt, took elements from each and discarded other elements, added to them and formed from all a distinctive civilization and culture to the perfection of which Persians, Syrians and Byzantines contributed.

This culture and civilization spread over all the Arab lands and gave them its own imprint. "The Arabs did not only conquer; they persuaded the conquered peoples to copy them, and gradually to adopt their language, habits and ideas. Not only that but they drove them so deep down that their successors have never been able to eradicate them. Where the Arab laid his hand—Syria, Mesopotamia, Egypt, north Africa, Morocco—there is his mark quite clearly seen to-day, in spite of the efforts of Persian, Turkish, French, British and Spanish to remove it.....Perhaps, in spite of his crude habits and his obvious political failures, we must after all grant him to be about the most successful imperial colonizer that history affords." (74)

The older cultures and civilizations were partly absorbed but the remaining elements were driven to the background where they died out gradually but completely. So that

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(74) R. Coke, op. cit., p. 72.

if the present inhabitants of Irak, Syria, Egypt and North Africa look back into their civilizations, cultures, literatures and art they do not trace them directly to the Kaldaians, Aramaians, Phoenicians, Pharaonites, Byzantines and Berbers respectively because the civilizations and cultures of these peoples have died out completely after they have given what they had to the civilization and progress of the world, but they trace them to the Arab civilization.

Consequently, every study or research or propaganda which aims at tying the Arabs directly with any of the older civilizations without giving preponderant influence to that established by the Arabs is either futile or misleading.

The culture existing at present in the different Arab lands is distinctively Arab and it has to be so for a "national culture embraces national history, national customs, national art, and, most logically, national language and literature." (75) These elements have been shown to be possessed in varying degrees by the Arabs in all Arab territories. For this reason the Arab culture of Syria is not different from that of Irak, Egypt, the Peninsula and north Africa, because the inhabitants of all these territories took active part in moulding it. "Culture is the child of intensive intellectual life which is necessarily coloured by the character and surroundings of the individuals which bring it into being. It is something which develops solely by the accumu-

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(75) C. Hayes, Historical Evolution of Modern Nationalism, p. 107.

lation of the works of many intellects and the customs and moral dogmas which grow up over long periods of time." (76) Therefore "culture (which) is the set of customs, the language arts, literature, likewise the laws of a people"(77) is of the strongest bonds which work for the national unity of any people since it implies the actual existence of other important factors. Even art is a national phenomenon depending on the national culture for "true art is not the caprice of an individual, but the expression of the genius of a people created by the circumstances which went to make up its peculiar national life--Art is the expression of the distinctive life of the nationality to which the artist belongs, of the sum total of his national heritage." (78) Taine agrees with this view "An artist, to be truly great, must take his materials from his own country and his own time and furthermore must select from them those traits which best express the national genius and combine them in such a way as to depict most perfectly the national character."(79) That is why Arab art whether expressed in decorations, architecture or music is such a unique thing.

Professor W. Hocking holds culture in very high esteem and considers it to be the essential element in nationalism. He says: "Culture is primarily neither cause nor

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(76) B. Joseph, op.cit., p. 122.

(77) W.E. Hocking, Spirit of World Politics, p. 179.

(78) B. Joseph, op.cit., p. 123.

(79) Stated in C. Hayes, Historical Evolution of Modern Nationalism, p. 183.



effect of national life: it is the national life, and the extent of the nation is the extent of its distinctive culture... Be it said, however, it is cultural pregnancy rather than cultural fruit which constitutes the nation: if the fruit is not yet present, nationhood may still be there."(80) Therefore the remark, made sometimes, that the present Arab culture is of no great value and that for this reason it cannot serve as a firm basis for the building up of Pan-Arab nationalism is besides the point even if it were true because what really counts in creating <sup>the Arab</sup> a nation is not the culture it owns at the moment but the ability of the Arab people to evolve a significant and worthy culture. This ability the Arabs certainly possess and this is proven by their past history.

There are two main criticisms directed against Arab culture as an effective means of Arab nationalism. The first is that the old Arab culture does not exist at present but has lapsed and its effect is only one of memory. That may be true of Arab civilization in its material phase, which has been largely destroyed, but not of Arab culture if culture is what it is defined to be, i.e., the sum of national history, traditions, customs, language, art and literature, all of which exist to this day and are being revived and added to.

The reason why Arab civilization did not integrally endure to this age is because it "...has been of an abstract nature, moral and intellectual rather than applied;"(81)

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(80) W.E. Hocking, Spirit of World Politics, p. 179&180.

(81) T; Lawrence, op.cit., p.44.

As to the old Arab culture, it exists in all Arab territories except where it has been partly superseded by a foreign culture which at best can only reach and assimilate relatively few individuals, such as French Culture in Algeria and Lebanon. "But under everything, across all the divisions, beneath the veneer of European control and transplanted western civilization, there still goes on the same life, the same hopes, the same prayers, the same outlook which has made Fez a copy of Mecca and the Riffi tribesman a recognizable cousin of the Iraki bedouin." (82)

This quotation answers also the second attack directed against Arab culture. This attack claims that there are different cultures in the Arab lands and not only one. According to this view the Arab city dweller possesses a different culture from that of the villager and especially from that of the beduin. So that an Arab territory inhabited mainly by beduins or beduin villagers such as Yaman or the Peninsula is necessarily different in culture from Syria or Egypt.

This argument is the result of a false method of investigation. Those who uphold it compare an Arab student of a certain university with a beduin and find the difference enormous. Or they compare a Lebanese with an Egyptian farmer and the difference is overwhelming. Both processes are unscientific because the comparison is carried with materials which have not reached the same degree of development. The right way to carry such a comparison is to take several adult

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(82) R. Coke, op. cit., p. 270.

persons from different parts of Arabia, give them the same education and then try to detect a difference in their culture. It will be the same in essentials because the bases of that culture acquired at home and in the environment in which the child grew are similar in Arabia. This is proved by the fact that if the Arab peasants or beduins are compared the members of each category will be found to be homogeneous. A peasant of Egypt has the same social habits, moral standards, and mental outlook as a peasant of Syria and Irak. As to the beduins, their similarity and sameness are even more complete whether we examine the beduins of Morocco, Egypt or Yaman.

In a word, the apparent difference of culture between Arab groups is mainly a difference in the social life and the level of instruction received not a difference in the basic elements of culture. In other words, it is a difference in degree not in kind. So that if a beduin of Najd and a beduin of Tunis are educated their similarity persists and they will possess the same kind of culture as that of an educated citizen of Damascus or Bagdad if some allowance is made for environment and family background. Such allowance ought to be made because some variation in the outlook and mentality of the inhabitants of a vast country, such as Arabia, is to be expected no matter how strongly that country is unified nationally. This opinion is supported by Haines and Haines who say: "It is not at all surprising to find that a citizen of Massachusetts can little appreciate or

understand the point of view and reactions of a native Texan, just as the Texan cannot sympathize with the ways of life and attitude of a native of Massachusetts."(83)

The difference in culture between the Arabs is more superficial than real. It is engendered by two causes: nearness to or remoteness from western influences; and the degree and type of education received. When the Arab national State is able to give the same type of instruction to all Arabs apparent cultural differences tend to disappear;

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(83) Charles G. Haines and Bertha M. Haines, Principles and Problems of Government, p. 474.

The elements of Arab nationalism which each Arab experiences and is subjected to not as a result of his volition and choice but simply because he is born an Arab i.e., because of his status, have been mentioned and discussed. It is now time to consider the factors of Arab nationalism which are acts of will on the part of the Arabs and spring from their consciousness.

## B. THE SUBJECTIVE ELEMENTS

It was said at the beginning of this chapter that the factors of ARAB nationalism may be grouped in two categories and that these categories are complementary. "The consciousness of nationality and the diverse concrete attributes thereof are complementary. The diverse elements by themselves are of no value from the point of view of nationality until the members of the national group appreciate their existence sufficiently to have acquired a national consciousness; conversely, the national consciousness could not possibly have originated except in the existence of such common attributes."(84)

National consciousness is therefore the synthesis of all the subjective factors of nationalism and forms the counterpart of the objective elements.

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(84) Bernard Joseph, op.cit., p. 127.

## 1. A Will to Live Together

National consciousness among the Arabs finds its chief and fundamental manifestation in a will to live together and to form one nation in order to do things in common and to achieve national hopes and aspirations. This will is effective to the same extent to which Arab national consciousness is widespread and active. It is therefore strong in the Asiatic Arab territories though the national idea behind it is not clear in all of them but is sometimes mixed with the Pan-Islamic feeling. It is only a question of time and of enlightenment before the two become quite distinct.

In North Africa, to the exception of Egypt, the will to live together is as strong as it is in the Arab Asiatic territories, but the movement has a stronger Moslem color not only because the Arabs there are more religious but mainly because all the Arabs there are Moslems while all the foreigners and imperialists are either Christians or Jews. Therefore Islam served as a political rallying point for the Arabs. In this way Islam represents for the North African Arab a political creed as well as a religious faith. (85)

This will to live together is normal when it arises among the Arabs and is spontaneous in its beginning.

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(85) From an interview with Bashir bey Sa'dawi and Mr. F. Sulh.

But hostile external factors have deviated its course among some Arabs and it has become necessary to foster that will by encouraging it and by explaining the conditions of its existence and success.



## 2. A National Soul

Chief among the elements which work to create the national consciousness is the recognition by the individual members of the nation that they possess a national character, that is, a national soul or genius. "There is such a thing as a national character. Opinions may differ as to the influences which create or alter it...But the fact is there and stares us in the face...History, geography, religion, language, even the common will are not enough to define a nation. A nation is a fact of psychology. It is that which is natural or native in it which gives its force to the word nation. A nation is a character."(86)

Le Bon who is a partisan of the racial theory ascribes the national character to the action of the race. He says "Dans des circonstances données une agglomération d'hommes possède des caractères nouveaux fort différents de ceux de chaque individu qui la compose. Il se forme une âme collective. Dans l'âme collective, les aptitudes intellectuelles des hommes, et par conséquence leur individualités s'effacent. L'hétérogène se noie dans l'homogène, et les qualités inconscientes dominant."(87)

Stratton agrees with Le Bon and applies the latter's theory of the mob mind to the nation. "The national spirit is the many minds of the population organized in a special way for special purposes. The nations mind or spirit sti-

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(86) Salvador de Madariaga, Englishmen, Frenchmen and Spaniards, p. XI.

(87) Gustave Le Bon, Psychologie des Foules, p. 16.

mulates the citizens to think and feel and act in new ways, so that out of their minds and bodies comes a whole system of acts which would never come were it not for the nation."(88) Later he says "The chief nations have their individuality, each with its own peculiar life. They give forth abilities of various types. They differ in their corporate behavior, inner and outer." (89) Thus we come to have a nation such as the Germans whose inner and outer behaviour is disciplined while other nations are undisciplined. "We can speak of the soul of a people, meaning thereby certain fundamental characteristics of their psychology which we believe to be widespread and important in the shaping of their social behaviour." (90)

In this sense the Arabs have a national character or soul. They possess or believe they possess some distinctive psychological traits. The Arab, it is said, does not stand the slightest injury or insult whether personal or collective. He has to avenge himself or retaliate.(91) The Arab also does not accept any sort of oppression, foreign or native.(92) He dislikes unjust authority and is ever ready to overthrow it; in other words, he is strongly democratic.(93) He is polite, good-natured, lively, manly, patient, courageous, and hospitable to a fault."(94) He is

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(88) G. Stratton, op. cit., p. 94.

(89) Ibid., p. 123.

(90) L.T.Hobhouse, The metaphysical Theory of the State, p.132.

(91) G.Zaydan, op.cit., v.5, p.52 (In Arabic), R.Nicholson, Literary History of the Arabs, p.92, 93.

(92) De Lacy O'leary op.cit., p. 20, 21, P;Harrison op.cit., p.330.

(93) See P.Harrison, op.cit., p. 10, R;Coke, op.cit., p.25, DeLacy O'Leary, op.cit., p. 20.

(94) S.Zwemer, Arabia: The Cradle of Islam, p.264.

proud,(95) frank,(96) loyal "even to the last extremety."(97) He is brave and a warrior by nature.(98) He is easily stirred up (99) by a noble cause to the point of self-sacrifice.

It is not necessary that each of these attributes be actually possessed by the Arab people. It is perhaps more important that the Arabs consider these qualities to be the desirable ones, to cultivate them and to believe that they possess them. In this way is the national type or national genius created.

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(95) P.Harrison, op.cit., p. 330.

(96) Ibid., p. 7.

(97) S. Zwemer, op. cit., p. 264 and R. Nicholson, op.cit., p. 83.

(98) Ibid., p. 82 .

(99) S. Zwemer, op.cit., p. 263.

### 3. A Feeling of Difference from other Groups

Besides the national genius, national consciousness implies the recognition on the part of the Arabs of a feeling of difference from neighboring groups. Not only a feeling of difference from the present imperialist and western nations but even more, a feeling of difference from those countries with which the majority of Arabs have ~~had~~ strong religious ties such as Iran and Turkey. "Les Etas, par définition, représentent ce qui distinguent et divise les peuples les uns vis-à-vis des autres. L'Etat, dans les rapports de peuples à peuples, est l'expression même de l'égoïsme national." (100)

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(100) Lucien Romier, Nation et Civilization, p. 90.

#### 4. Irredentism

Irredentism is another factor in the formation of Arab national consciousness. The Pan-Arab feels that his duty is not ended and his task not accomplished so long as a part of Arabia remains outside the Arab federation. His obligation is to see that all Arab lands are comprised within the Arab state. Irredentism played a very important part in the formation of Italian nationalism before the world war. It is greatly influencing the development of German nationalism at the present time. It will, most probably, have as great an influence on the evolution of Arab nationalism. Schuman contends that "It is difficult to mention a single major combat between states in the past century in which irredentist ambitions have not played a significant role in the determination of state policy." (101) It is likely that irredentist claims will play the same important role in the future in what concerns the Arabs.

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(101) F.Schuman, op.cit., p. 327.

The agencies which are the most active in creating or maintaining among the Arabs the will to live together as well as the belief in a national genius, the feeling of difference from other groups and irredentism are the army, public education, propaganda in the broad sense of the word and political parties.

a. The Army

In case the army is non-partisan, removed from politics and representing no vested interest, it becomes the great school for men. There the members of the nation lose their momentary differences and prejudices against each other and merge into one organization intended for the service of the country. Social distinctions tend to disappear and the principles of efficiency and power as a result of ability find fuller realization than anywhere else. A spirit of friendship and of reciprocal confidence with discipline and obedience dominate the army and make of it a unit morally strong and integrated. It is in the army that the individuals ought to acquire a new outlook on public questions. All the conditions in the army make it possible for them to view public matters in the light of the general welfare and not from the angle of their personal or certain special interests. By feeling that all nationalists have one medium of defense in which the citizen serves either directly or indirectly, the feeling of group solidarity and unity is multifold strengthened.

## b. Symbols

Closely tied up with the army is the use of symbols. Their role in the national life is very important because, says Maurice Barrès, Nationalism cannot be built on ideas only, so long as they remain arguments subjects to reasoning; they have to be doubled by their emotional force.(102) Symbols may take many varying forms. They may be flags, banners, slogans, music, uniforms, or they may take more abstract forms and center around ideas and conceptions. In any case, "The thoughts, emotions, and behaviour patterns of people everywhere are organized around symbols and attitudes...."(103)

National honor is perhaps the symbol which exercises the greatest influence on the individual citizens. It is "the symbol of the prestige, the dignity, the power and the self-respect of the nation-state and of all its patriots."(104) It is undefinable because the determination of what things or acts involve or touch the national honor depends on the psychological condition of the people at the time when the question arises.

## c. Propaganda

The symbols are popularized and spread to reach all the people by means of propaganda which, in the broad sense of the word, may include education.

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(102) Maurice Barrès, *Scènes et Doctrines du Nationalism Français*, p. 90.

(103) F.Schuman, *op.cit.*, p. 733.

(104) *Ibid.* p. 328.

The agencies of national propaganda are numerous. They include the press, telegraph, telephone, wireless, radio, and cinemas. The individual cannot help becoming impressed, convinced and conditioned by the national idea when these agencies are used for that purpose. "By constantly appealing to national sentiment propagandist never fail to emphasize the mystical side of their subject. For the masses, the nation does not represent a material interest or a very definite idea. It is primarily a sentiment."(105)

#### d. Education

Education is one of the most efficient means to create and disseminate Arab national feeling. By education is meant here a national system which makes an effort to cultivate a rational feeling of nationalism among the students, and not the hundred different systems, mostly foreign, which exist in Arabia at the present time many of which are frankly hostile to Arab nationalism and the best of which are only sympathetic. Among the different grades of education, primary compulsory education is the most important as a means of spreading nationalism because it works on young minds and spirits which it can mould to fit its purpose<sup>m</sup> and because it reaches the largest number of every new generation.

The importance of education as an element of Arab nationalism cannot be overemphasized. "I think we can

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(105) Francis Delaisi, Political Myths and Economic Realities, p. 218.



ascribe its development (nationalism) largely to the spread of education and the facilities for trade and travel." (106) Unfortunately, these very important factors of nationalism (propaganda and education) have <sup>not</sup> been exploited by the Arabs to their full capacities. There is however an unofficial movement in most independent Arab ~~countries~~ <sup>territories</sup> toward a unification of the programs of public instruction. The governments are not averse in principle to the idea and it is hoped that in a few years an appreciable rapprochement and integration of public educational programs will be made. "An intellectual outlook, certain ways of thinking and speaking, certain mental habits, become common to all cultivated men of one country through education;"(107) The task of Arab nationalism becomes then easier and it can spread more quickly among these groups of cultivated Arabs.

#### e. Political Parties

Arab political parties which spread over all or some Arab territories are a great help in creating national consciousness because they establish the functioning organization which tries to give systematic and concrete interpretation <sup>t</sup> of the national feeling. They help to create the national will, and later to express its aims and to put at its disposal organized units ready for operation.

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(106) H.Rose, op.cit., p. 142-

(107) Francis Delaisi, op.cit., p. 168 .

From the national point of view, a political party spreading over several Arab territories helps to create a uniform public opinion on national issues and to keep it interested. In this way it strengthens the ties between the populations of the different territories and makes them acquainted with the problems of each other. It prepares the ground for common action and works for a united national program.

Unfortunately such well organized political parties spreading over several <sup>or all</sup> Arab territories do not exist yet. Such a task remains to be fulfilled in the future.

The willed factors which <sup>partly</sup> create national consciousness among the Arabs have been enumerated and discussed . They are: the will to live together, the national genius or soul, a feeling of difference from other groups, and irredentism. Then the agencies which foster these factors were seen to be the army and similar social and political institutions, the symbols attached to the army and to the other phases of the national life, the different means of propoganda, education and political parties.

Some of these factors are <sup>partly</sup> lacking in some Arab lands. Others such as the army and political institutions and parties are mainly organized locally. Nevertheless, and in spite of these obstacles, national consciousness among the Arabs is progressing. The weak factors such as the belief in the national genius and the feeling of difference, are being strengthened in those territories in which they are weak. Simultaneously, a constant and steady effort is being made to make the operation of the other factors such as the means of propoganda, political parties, education, the different Arab armies, and the feeling of irredentism, cooperative and all-embracing and not localized.

Arab national consciousness in its fullest manifestations, is a rational feeling, or in other words, an emotion based on knowledge and understanding. It implies three things. <sup>108</sup> (D)

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(108) From a lecture "national Consciousness" given by Dr. C. Zurayk at the Women's Club, Damascus, February, 1938 and published in:

A knowledge of the Arab past: an understanding of the nature of the Arab psychologically and racially, of the spiritual and intellectual forces latent in him, of the conditions under which he emerged from the Peninsula, dominated the other races and then subsided, and of the effects of inheritance and of environment on this process. Then, an appreciation of the value of the Arabic language and of its essential qualities which have enabled it to remain supreme such a long period of time in such vast areas. And finally an appraisal of the importance and value of the old Arab culture and civilization, of its origin and development, and an explanation of the sudden rise of the Arabs to world eminence and their equally quick decline.

In other words, Arab national consciousness implies, in the first place, an understanding of the Arab personality evolved and influenced by the past of the Arabs. In the second place, it means an understanding of the present conditions and situation of the Arabs. That entails a grasp of the true spirit of the West with which the Arabs are in close contact, and a knowledge of the possibilities found in the Arab individuals; how to bring these possibilities to the light and give them adequate scope for full realization and how to cure the rotten and sick phases of Arab life. Lastly, the conscious Arab should have a clear vision of the

destiny of his nation and of its mission derived from its past experiences and present life, for every nation has something unique to contribute and the Arab nation is not an exception.

This is national consciousness in its perfect manifestation. A few individuals in each nation, the select leaders, understand it fully and completely. The masses get at best a glimpse of its meaning and implications. With them, the emotional part of the subject is more prominent than the rational.

### Chapter III

#### RISE OF ARAB NATIONALISM

Nationalism is a new concept to the Arabs. It is a product of Western thought, evolved in Western Atmosphere and under Western conditions;

From the time the Arabs entered into world history, in the relatively recent times, to about the end of the last century, they were universal in outlook. Religion, which is essentially universal in nature, was of preponderant influence over Moslem and Christian Arabs alike.

### A. Arab Nationalism Originated in a Reaction

Arab nationalism has its roots mainly in a reaction. It is, therefore, a negative phenomenon in origin. A reaction presupposes necessarily a cause, a stimulus, and an interaction between the cause and the object.

The Arabs have known Western nationalism, at first hand, in its ugliest shape. What Tagore said of it is the exact picture in which the Arabs saw it. "...the spirit of conflict and conquest is at the origin and in the center of Western nationalism; its basis is not social cooperation. Because this (Western) civilization is the civilization of power, therefore it is exclusive, it is naturally unwilling to open its sources of power to those whom it has selected for its purposes of exploitation. Therefore, the Western Nation acts like a dam to check the free flow of Western civilization into the country of the no-nation." (1)

This aggressive and imperialist foreign nationalism is the positive fact which stimulated the beginning and development of Arab nationalism. Imperialist aggressiveness set the Arabs on guard against the new-comers but did not, immediately, make the Arabs nationally minded. Nationalism is an attribute that can not be acquired in a moment in the same manner as one acquires a concrete object by an act of purchase. It is a spiritual and emotional attribute which

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(1) RABINDRANATH TAGORE, Nationalism, p. 21.

needs careful cultivation through a period of time before becoming a personal quality.

The imperialism of Western powers and its reaction, the vigilance, caution and mistrust on the part of the Arabs, give us the immediate basis of Arab nationalism. Of these two hostile and antagonistic dynamic forces Arab nationalism is the synthesis. It draws its elements of strength and its spiritual attributes from the teachings of both camps. Thus it is now more that mere caution against and distrust of the imperialist. Arab nationalists now see in Western nationalism what is beyond its imperialistic manifestations. This is due to the spread of education and to the growing acquaintance of the Arabs with the more liberal spirit of the West. Arab nationalism has become a positive, constructive force.

As such, Arab nationalism is not old. Its first manifestation as an active, wide-spread movement was the Arab Revolution of 1916. That was the first time in modern history that the Arabs sought publicly to form an independent national Arab state comprising most of the Arab lands of Asia. (2)

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(2) This is borne out by the correspondence between Sherif Hussain and Sir H. MacMahon 1915, mentioned by Amin Said, *The Great Arab Revolt*, v. I, p. 129. (In Arabic)



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## Chapter IV

### ENDS AND AIMS OF PAN-ARABISM

Every doctrine, movement or organization justifies itself by its ends and by the service it is able to render in conformity with these professed ends.

Pan-Arabism has therefore to indicate its ultimate end and the service it proposes to render to accomplish that end. The first is the welfare of humanity.

This thesis believes in the ideal of humanity because it realizes that the political organization of peoples along national lines may be a transient phase in the history of mankind and that the ultimate form which society might be desired to take may consist in an inter-national organization. The writer does not claim that the belief in an ultimate end of humanity is shared by most Arab nationalists. Similarly, the opinions given in the following pages do not pretend to interpret the current theories and beliefs among Arabs. The task of the reader is greatly simplified if he keeps in mind, while pursuing the development of the thesis, that it is not a descriptive piece of work. In other words, it does not study Arab nationalism as it is at present, but as it should be. It does not attempt to explain the prevalent theories at the basis of existing Arab nationalism, but to give the writer's own views on the subject.

The ideal of humanity is so remote and vague, as will be explained later, that it loses its meaning to the

average Arab. Its place is taken by the ideal of the Arab nation. The service which Pan-Arabism renders in conformity with the end of the welfare of the Arab nation is the development of Arab personality and character and the elaboration of a national culture.

But the Arabs, dispersed as they are at the present time, cannot be the object of any such service. An organization, a structure which holds them together, should exist and the establishment of the Pan-Arab state becomes an immediate need which necessarily takes precedence, in point of time, over the other aims already mentioned. The building of this structure entails the use of policies and means of action. The nature of these will be discussed in turn.

The value of any of the aims mentioned in the above order is to be judged in reference to its contribution to the realization of the aim preceding it. The value of such a contribution is to be measured in absolute terms. Thus, the existence of an Arab state is justified when it makes the operation of the principle of Arab nationalism easier and fuller. In turn, Arab nationalism justifies itself when it can produce Arab individuals of a high quality, and a distinctive national culture. This service forms the link between the individual, passing through the nation, and the ultimate goal of humanity. If the service is not performed, the nation loses its right to existence.

We pass now to a detailed study of the ends of Arab nationalism and try to find the justification for each end separately. We begin with that of humanity.

## A. The Ultimate End of Humanity

There seems to be a fundamental craving in human nature for self-realization in self-abandonment, even by self-sacrifice, outside of one's own self in an intangible and lofty cause. G. Catlin, speaking of religion, mentions this need in human beings, he says " Its development (of religion) offers a means by which the individual may lose himself in an adoration for that which is greater and more significant than himself....This desire for identification has, psychologically, to be satisfied in some form. The task is to find the form that is least dangerous and yet most profound." (1) Later he says "The fact remains that there is a need....for ideal love and for a symbolic object of ideal love; and not only for human personal love, but for impersonal love. Until that love finds its object and satisfaction there will be no spiritual peace." (2) Hobhouse is in complete agreement with him. He says "If we find happiness anywhere, it is only in merging ourselves in some greater object." (3) Hocking expresses the same idea "The human self inheres in something beyond itself; and that something is mental". (4)

A correspondingly strong tendency in human nature is to evaluate ends and actions by the number of people of acceptable morality they profit. An action which brings

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(1) G. Catlin, Preface to Action, p. 129.

(2) *Ibid.*, p. 140.

(3) L.T. Hobhouse, *op. cit.*, p. 137.

(4) W. Hocking, *Man and the State*, p. 351.

happiness to ten persons ranks higher in esteem than the action which brings the same kind and quality of satisfaction to one person only. This example can be stretched to cover all the inhabitants of the world in contrast to any particular fraction of it.

The two above criteria give us the bases of our judgment of ends. The noblest ideal is that which offers to everybody the widest opportunity and the strongest stimuli for intellectual, spiritual and moral development, and which is evidently so good and noble that individuals consecrate their lives to the fulfilment of its precepts and their whole existence is absorbed by its doctrines. Such an ideal seeks the good and the beautiful not for the enjoyment of one individual, a certain class or a particular group but for every human being because he is such. This is the ideal of humanity, the fullest and noblest of which man can conceive.

However with the exception of a few very highly gifted individuals such as some very great scientists, philosophers and religious leaders, the vast majority of human beings are unable in any way to contribute directly to the welfare of humanity. In fact, most people cannot have any clear conception of that ideal because it is so overwhelmingly big and vast.

"The failure of abstract internationalism, with the consequent resurgence of national emphasis everywhere in the

world, is due to the experimental discovery that the universal things—ideas, truths, interests—can't live by themselves: the universal has to live by touching ground in the careers and thoughts of human beings; and human beings continue to think regionally, because, with all the wide-flung circuits of their lives, the great mass of their cooperations in family, livelihood, custom and law remain regional." (5) People ought to realize a sense of responsibility to the welfare of other human beings, but most people in every generation cannot think except in terms of their own experience of things set in the framework of the localities and conditions they know. Humanity to them is remote and vague. "While perhaps men should accept obligations world-wide in scope, in practice they inevitably confine their service to those about them, whom they know." (6) They have to content themselves with serving an ideal nearer to their senses and understanding, of which they can have a more or less accurate mental picture, to which they are tied by objective spiritual and material interests and to which they can directly contribute concrete services. This more intimate ideal takes the place of that of human welfare in the minds of most individuals.

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(5) W.E.Hocking, Spirit of World Politics, p. 192.

(6) R.Buell, International Relations, p. 7.

## B. The Arab Nation as an End

What is then this ideal which presents to the individual similar possibilities and stimuli for developing his spiritual, moral and intellectual aptitudes, as those presented by the ideal of humanity, but which has the greater advantage of appearing real and tangible to the average citizen? And also, what is the social and political organization which can be the functioning unit of this ideal?

Is the individual, taken in himself as a unit, the adequate social grouping which offers the stimuli mentioned above, and does he deserve, therefore, to become his own ideal? Do his efforts to attain wealth, success and comfort, which constitute happiness for him measured in terms of his personal satisfaction, deserve to absorb his loyalty and life and thus constitute an ideal for him? No, because the attitude of such a person is material, exclusive and anti-social. He represents the type, so common at present among Arabs, of selfish, indifferent creatures who feel no interest in or responsibility for a wider and nobler cause outside of their immediate selves, whose horizon is limited to the material enjoyment of their physical existence. These people represent the baser element in every community and their existence has no permanent value so that if they pass away at any moment their loss is not felt regretfully by any appreciable part of the community, and they leave no gap behind them. Such is the worst life and end.

A higher specie of human organization than the one mentioned above is the family. Family loyalty and cohesion have always been strong social forces. But the family is by its nature exclusive and limited in its possibilities of achievement. It can not absorb the complete devotion of the individual because such a devotion can not find full expression in it. Its scope is too narrow for intellectual, spriritual, and, now, even material purposes.

A wider and broader social unit for the satisfaction of these sides of personality is needed. The city-state of Greece was the first organized society which made it easier for the individual to develop his personality as he chose. Still, it limited him: inside the state as to the classes of people he can frequent, and territorially in considering all non-Greeks barbarians and all other Greek states enemies. Thus the Greek city-state was doubly exalusive. "Even under the old conditions the Greek and Italian and Flemish City-States perished, because they were too small to protect themselves against larger though less closely organized communities; and industrial progress is an invader even more irresistible than the armies of Wacedon or Spain."(7)

At present, the city is less exclusive than the Greek state but also less self-sufficient. It offers few values to which citizens can devote themselves. This is due to the present organization of the world on a large scale basis, not in economic and financial matters only but also

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(7) Graham Wallas, Human Nature in Politics, p. 285.



in respect to spiritual and cultural questions. As a result, a substantial part of the people are forced to turn their eyes away from the city and to search for a vaster and more comprehensive field which can provide them with the atmosphere and stimuli they need.

People thought that they realized their dream in a world empire of the Roman type, or in religion. But the first is based on actual inequality internally and externally (all foreigners were barbarians), and even in its best days it stressed order and authority rather than the free development of personality. That is necessary because it is an Empire and controls peoples who are not of its race or nationality and do not desire to become so. Rome, unlike Greece, has not influenced the world by its ideals and philosophy, but by the results of its political domination. Political domination implies necessarily suppression of the individual and group character of the people dominated. Thus a world Empire cannot possibly afford an adequate scope for the realization of the ideals of all individuals concerned. These individuals cannot work for the welfare of all the people involved in a world Empire since the notion of Empire means subjection and consequent moral degradation of many peoples.

Religion satisfies better than all other principles the need for a metaphysical ideal cause. In its purity every important religion is excellent because its spiritual

and cultural side is more prominent than its material and institutional aspects. In its purity also, religion is less exclusive than the other social organizations. But once it becomes institutionalized in an organized Church, religion loses both advantages. Like the old empires it becomes authoritarian and dogmatic. It ceases to satisfy the need for a spiritual and intellectual expansion on the part of the individual, and claiming to regulate both the internal lives and the external conduct of its members it becomes fanatically intolerant and exclusive and thus loses its second advantage. So that at the present time, instead of looking to organized religion as the embodiment of men's spiritual and intellectual aspirations and as the best medium for their fulfilment, it is only by loosening Church organizations and breaking their dogmatic authority that millions of souls can regain consciousness of themselves and of their aptitudes.

The most important types of social organization which have existed in the past have been discussed briefly. It has been shown that none of them provides the conditions, which would make of it an ideal. The self-centered individual is not to be reckoned with. The family is too limited economically and culturally to be of any avail. The city state provides for its citizens that stimulus which gave the world the fine Greek philosophy and art but is too narrow in membership and very limited in its possibilities. The

imperial organization of which the best type is the Roman represents no natural and spontaneous grouping of people but domination, authority and control. As to organized religion, it represents the same principles of hierarchy and authority as the empire but its defects are aggravated by its dogmatic interference in the affairs of the soul and the mind.

All of these forms of human organization are lacking in one element or another. They are all too exclusive and some are very dogmatic but that is not their essential defect. They fail mainly because, with the exception of the family and the city-state, they do not spring up spontaneously among groups of people, i.e., they represent no natural harmonious spiritual, cultural, and material interests among human beings but are artificial creations of a certain philosophy or a certain might.

The two exceptions are based on a community of interest and are therefore more viable and stable but they are suffocated by their own narrowness and consequently have lost their importance as <sup>ideal</sup> social groupings *by themselves*.

The only social organization based on a spontaneous feeling of harmony and solidarity and broad enough to satisfy most human wants is the nation with its spirit of nationalism. A nation is essentially based on a feeling of solidarity (8) which arises out of a conscious community of cultural, spiritual and material values. These interests are

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(8) R.N.Gilchrist, op.cit., p. 27.

objective facts which any outsider can not fail to see. They are not simulated rationalizations. And once these elements are apparent one may be sure that a nation exists or is in the process of development; and history has repeated its lesson of the indestructibility of nations once they become conscious of themselves. This is the social organization which can become the ideal in the place of that of humanity too remote and obscure for the average individual Arab.

The Arabs constitute their nation as their ideal for two reasons.

1. As a Means to Humanity

They believe, first, that the higher ideal of humanity can best be attained by them through nationalism which "makes possible differences in civilization and culture and opposes too rigid uniformity the world over." (9) Humanity is not enriched by a uniform type of individuals produced from one factory using the same material and the same measures in its process, but is made healthier by variations of human types and experiences.

Cosmopolitanism, "modernism", (10) materialism and impersonalism are the forces which want to arrive to humanity by a short-cut, from the individual directly to the whole of mankind without passing through the nation, and their failure has been complete. They fail because they tend to view each individual as an anonymous entity similar to anybody else. "The vice of such internationalism is decadence and the complete eclipse of personality, ending in a type of character and social life which (is horrid). (11)" As to "modernism", it attacks weak peoples and makes them forget their habits, customs and traditions, and adopt, at their face value, Western habits and mode of life. "...It is not

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(9) C. Hayes, Essays on Nationalism, P: 250 .

(10) By "modernism" is meant here the superficial adoption of Western habits and ways of living not because of a recognition of their value but simply because they are Western.

(11) A. Zimmern, op. cit., p. 53.

easy to discover how to handle a whole society of prigs from which the health-giving winds of nationality and tradition have been withdrawn." (12) "True modernism is freedom of mind not slavery of taste. It is independence of thought and action, not tutelage under European schoolmasters." (13) "What is merely modern--as science and methods of organization--can be transplanted; but what is vitally human (meaning culture) has fibers so delicate, and roots so numerous and far-reaching, that it dies when moved from its soil." (14)

Cosmopolitanism, modernism and materialism, go hand in hand to destroy all that is of distinctive value in individuals and groups. This is the outcome of the effort to reach humanity without passing through the nation. The imperialist powers realize the effectiveness of these weapons in keeping weaker peoples and in this case the Arabs, unconscious of themselves and subjugated. Imperialist policies demoralize their victims by inculcating them with the perverted concepts of internationalism and modernism presented under such titles as "assimilation", "developing backward peoples" and "educational missions". They succeed to a large degree because "what is imposed on them by overt tyranny men resist, and win self-respect by resisting; but the corruption that creeps in as an 'improvement' men imitate and succumb to." (15) "Rousseau in his 'Considérations sur le

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(12) A. Zimmern, op.cit., p. 54.

(13) R. Tagore, Nationalism, p. 75.

(14) Ibid., p. 81.

(15) A. Zimmern, op.cit., p. 53.

Gouvernement de la Pologne' addressed the Poles in this way: 'You do not know how to prevent the Russians from swallowing you. Fix it at least that they cannot digest you. The virtue of your citizens, their patriotic zeal, the particular form which national institutions can give your spirits, these are the only ramparts which are always ready for your defense and which no army can force.'" (16)

From the preceding discussion it becomes obvious why nationalism, especially to a weak people such as the Arabs, is absolutely indispensable as a step between the individual Arab and humanity. Nationalism "has a cultural and educational value. It develops the self-respect of nationals. It will inspire and enable the backward peoples to put an end to the economic exploitation from which they suffer, and will eventually save the whole world from being turned into a cockpit of capital and labor. It is a spiritual protection against cosmopolitan materialism." (17)

Mazzini emphasizes the importance of nationalism as a stepping-stone to humanity. To him "The nation was 'the intermediate between humanity and the individual' and 'nations are the citizens of humanity as individuals are the citizens of the nation.'" (18) In another place Mazzini says: "' The pact of humanity cannot be signed by individuals, but only by free and equal peoples, possessing a name, a banner, and the consciousness of a distinct existence.'" (19)

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(16) C. Hayes, Historical Evolution of Modern Nationalism, P. 26.

(17) C. Hayes, Essays on Nationalism, p. 250.

(18) G. Wallas, Human Nature in Politics, p. 289 quoting from (Mazzini, Life and Writings "Smith, Elders 1891" v. 5, p. 273, 274.

(19) Ibid., p. 289 quoting from the same source v. 3 p. 15.

Besides these advantages which in theory make of the Arab nation an indispensable social organization between the individual Arabs and humanity, there are historic facts which necessitate in this age the presence of national entities in any international scheme for organizing the world.

"It seems paradoxical that political nationalism should grow stronger and more virulent as economic internationalism increases." (20) It is idle to stress the point that since the economic and financial structures, which are at the foundation of the social and political life of every community, have become international in all civilized countries since the Industrial Revolution, the super social and political structures should follow the same trend. This seemingly logical phenomenon does not happen because "The Industrial Revolution is essentially mechanical and material not intellectual. It provided means for the dissemination of any ideas which influential individuals entertain. It happened that before Industrial Revolution began, nationalism was becoming a significant intellectual movement even more significant than internationalism. Consequently, while the newer industrial machinery has been utilized for international ends, it has also been utilized, even more, for nationalist purposes." (21)

Another reason for the presence of this disequilibrium between the economic and social structures is that "The

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(20) C. Hayes, Historical Evolution of Modern Nationalism, p. 237.

(21) Ibid., p. 237.



ordinary consumer never gets into touch with the powerful mechanism of international trade which is almost exclusively handled by the great importing and banking establishments and from which he is separated by a host of intermediaries... These incredibly ingenious mechanisms do not strike the attention of the masses as much as the smallest political event. This is due to the fact that machinery is to a great extent automatic, and automatism which creates habits, kills curiosity." (22) But even if trade and economic consumption are to a large extent international, still they are far more national. (23) "The home country and its colonies are always the chief markets for the sale of industrial commodities especially if backward countries become industrialized and erect barriers." (24)

A third reason why the economic and social trends do not coincide is because the masses of the people are educated nationally, only a small percentage of <sup>the</sup> elite have international education. In fact, it is mainly because the individual has a national mental outlook that he has been unable to catch up with the international economic development. But even if this outlook of the citizen is changed and he is made more conscious of the international economic movement, still there is a secure place for the national sentiment because "International organization rests, not upon a sentiment, but

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(22) Francis Delaisi, *op.cit.*, p. 144

(23) C. Hayes, *Historical Evolution of Modern Nationalism*, p. 238.

(24) *Ibid.*, p. 238.

upon a rational and administrative necessity." (25) Such a necessity can not absorb the loyalty of the individual who will remain nationalist for a long time to come.

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(25) G. Catlin, op. cit., p. 247.

## 2. Because of its Services

The second reason why Arab nationalism deserves to become the ideal is because of the services it proposes to render to the Arabs. Speaking of the state, which in the case of the Arabs we identify in scope with the nation, Hocking says "Its function as educator is its most characteristic function, and its chief contribution to history is its product in men. ...the form of the state's aim is the making of history; its substance is the making of men." (26) And this is exactly what Arab nationalism wants to do, to produce finer and better developed Arabs, possessing a unified national culture.

It can place each Arab in his right environment where he can realize his personality and capacities because there he is rooted by all the natural influences of birth, education, geographical conditions, mental outlook, and sentimental attachment to persons and things. Maurice Barrès, speaking of nationalism, says "C'est ma filiation qui me donne l'axe autour duquel tourne ma conception totale, sphérique de la vie." (27) Thus the Arab is not an anonymous figure lost in the sea of humanity. He is before that individualized and given a specific and distinguishing character. He becomes an individual with his own personality evolved in his typical environment and not simply a number, a sample of the universal human product.

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(26) W.Hocking, Man and the State, p. 173.

(27) M.Barrès, Scènes et Doctrines du Nationalisme Français, p. 12.

The Arab nation has two aspects. It is represented in every individual who belongs to it, and it has a corporate phase. Analysed into individuals, the worth of any nation is the worth of its average citizen. And the value of a human being resides in his personality and character which are his basic attributes. "...it remains true that nothing is more vital to national progress than the spontaneous development of individual character, and that free play of intellect which is independent of current prejudice, examines everything by the light of reason and history, and fearlessly depends unpopular opinions." (28) Sidney Herbert asks "What is that gives its main value to social intercourse? It is individuality. This development of the unique in personal qualities is the avowed aim of our educational system...The full possession of character, personality, is the end for which we strive....Nationality is to a social group what personality is to an individual. It is a complex product of heredity and environment leading to differentiation. That being so, the justification for its persistence is clear."(29)

Viewed as a whole, the worth of a nation is not the added values of its citizens because individual personality and character do not increase by addition. The distinctive mark of a nation is in the collective, positive, constructive and permanent attribute which it can present to the world. This is its culture.

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(28) J. Bryce, op.cit., v.1, p. 59 .

(29) S. Herbert, op. cit., p. 156 .

These two attributes, individual personality and national culture, are not separate and distinct. On the contrary, they interact and invigorate each other continuously. Culture, of course, depends on the individual but it also helps to produce a finer type of person.

The Arab nation is being prevented from fulfilling its mission and service. Its duty is to remove the hindrances and obstacles placed in its way and to move forward to its destiny. "The world needs the Arab. Perhaps no race has a richer contribution to bring than he. It is not simply for the Arab's own sake, but to make that splendid contribution available to the world, that men work for the redemption of Arabia. And if anything in this world can be regarded as certain, it is that this racial endowment will never be developed under coercive foreign tutelage. The whole genius of the Arab is against any idea that an alien civilization imposed by superior military force will ever take root in Arabia. The Arab has an outstanding contribution to make to the world, the lack of which is a universal loss, but the only hope of making that contribution available is by permitting the Arab to develop his own institutions and his own civilization in the full uncoerced freedom which to him is the very breath of life."(39)

The mission of the Arabs, has been in the past, to combine elements from the cultures and civilizations of the East and the West, to add to them and then to transmit them

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(39) P. Harrison, op.cit., p. 334.

in a full and beautiful synthesis. This mission remains theirs and it may be their lot to find the solution for many of the unsolved and perplexing problems of the world.

What this thesis tries to make clear, perhaps at the cost of some repetition, is that having accepted humanity to be a desirable ultimate goal <sup>for the Arabs,</sup> an effort is made to prove that the way to reach that goal is by organizing <sup>the Arabs</sup> ~~man-~~ kind in <sup>a</sup> national ~~groups~~ groups. All the Arabs will form one nation and not several because it was demonstrated in chapter two that the Arabs possess in common most of the objective factors on which nationalism can <sup>be</sup> built, while separately, the Arab territories possess few distinctive attributes which warrant the <sup>growth</sup> establishment of local nationalisms in them.

It was said that besides acting as a stepping--stone to humanity, Arab nationalism has an important service, to fulfil. If it does not render this service, that is, if it does not succeed in developing the personality and character of its members and is unable to work out a national culture, it loses its claim to life and the Arabs might as well belong to another nation. "The right of a nation to existence depends, not alone on its merits, but on the merits of the possible alternative grouping." (30)

The alternative groupings open to the Arabs are either incorporation in a bigger human organization or disintegration into several smaller groups.

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(30) W.E.Hocking, Spirit of World Politics, p. 199.

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It has just been shown that to enter into a wider organization without having first developed one's own individuality and culture means an eclipse of that national personality for ever. But to fall to pieces and to disintegrate is perhaps even worse. The economic and political disadvantages of localism among Arabs have been already discussed. (32)

There remains therefore the conclusion that Pan-Arabism is the best possible grouping for the Arabs at the present time. This cannot be claimed by local nationalisms in Arabia. These cannot prove that they are the best possible groupings since, from a national point of view, they cannot reasonably maintain that they have a distinct group character which they are afraid to lose if they join the other Arabs, because that character does not find its bases in attributes peculiar to them but in qualities common to all Arabs. From the political and economic point of view particularism in Arabia presents to the localities themselves grave dangers which we do not need to repeat.

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(31) Cf. pp. <sup>115, 116, 117.</sup> ~~123, 124, 125, 126.~~

(32) Cf. Ch. II, Section A, nos. 6 & 7.

### C. The Arab State

Arab nationalism remains ineffective, it was said, so long as it is not politically organized. This political organization, the state, is to be closely corresponding in extent, purposes and scope of action with Arab nationalism. This has to be so because the state is the framework, the structure, and the agency through which Arab nationalism fulfills itself. Arab nationalism without the Arab state is comparable to a soul without a body or to a set of industrial plans without a factory to apply them; in other words it is incomplete as ideal. On the other hand, the Arab state without Arab nationalism is of no value at all from the point of view of this thesis. An Arab state may be of a religious or a cosmopolitan nature; as such, it is in complete contradiction to the aspirations of the Pan-Arabs. The true and complete ideal of Pan-Arabs is not an Arab nation nor an Arab state but an Arab National State.

As the political and legal framework of Arab nationalism, the Arab state has to determine and regulate the details of the social, economic and political conditions which make the operation of the principles of Arab nationalism and the rendering of its service smooth and easy. An Arab state which oppresses unduly its citizens or which strives to abandon its culture and adopt a new one forfeits its right to existence because it is not fulfilling its function.



The establishment of the Arab state entails the use of policies and means of action. The value and moral quality of these policies should be judged relatively to time and place. They are justified in so far as they lead to the realization of the aim for which they are intended to lead. "Un moyen doit être approprié à son but et ne vaut que par rapport à ce but." (33) This aim is in the present case, the establishment of the Pan-Arab state; all the necessary means which lead to it are acceptable with the following qualification: "Tous les moyens; mais non pas ceux qui seraient contraires à l'intérêt du pays. Pas davantage ceux qui ne pourraient être avoués hautement." (34)

These policies should cause the least amount of misery and suffering to all concerned. But this does not mean that misery and suffering are to be absolute obstacles to national action. No attribute or act is good or bad in itself but in reference to the circumstances involved. This does not mean, however, that attributes and acts are morally neutral. All it means is that though many acts or attributes are good in practically all cases, while others are bad almost always, yet none of them is absolutely good or bad if found involved in sufficiently strong circumstances which tend to change its character. Life, individual and collective, is a continual balance of values. The predominant

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(33) DE ROTX, Nationalisme de l'Action Française, p. 19.

(34) Ibid., p. 60.

value in every case is to be determined in reference to a certain ideal common to all cases while taking due cognizance of the circumstances of each case separately. There is no absolute rigid rule of right and wrong which is to limit the actions of the Arabs or to modify their policies.

Lord Acton attacks nation-states saying that "where political and national boundaries coincide, society ceases to advance, and nations relapse into a condition corresponding to that of men who renounce intercourse with other fellow men." (35) Nevertheless, at the present time, "Nations make States; not states, nations." (36) And if it is true that nationalism is "...only by accident a political problem. It has become political because wicked and autocratic governments have interfered with the social and traditional life, and offended the deepest instincts of the nations concerned," (37) still the Arabs have to accept the fact as it stands and build their national state in order to safeguard and develop their national traditions and culture. There are also several advantages in nation-states: "In the first place, the system of nation-states enriches the world by ensuring the existence of a happy variety of types within the same civilization. In the second place, the sense of kinship and of common interest which binds together the citizens of a nation-state ensures a willing and loyal acceptance of the laws of the State such as other forms of

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(35) J. Acton--History of Freedom, p. 290

(36) H. Rose, op.cit., p. 148

(37) A. Zimmern, op.cit., p. 71

organization can never hope to obtain. In the third place, the national form of State alone renders possible the development of what we call self-government, the organized cooperation of the body of free citizens in the management of their own affairs." (38)

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(38) R. Muir, op.cit., p. 221.

# MISSING PAGES

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### E. Type of Arab Nationalism (49)

The task of the Arab National State is therefore not an easy one. It has to provide the social, economic and political conditions which meet and solve the above difficulties and which form the stable foundations of future Arab life. We are therefore obliged to distinguish two periods in the development of Arab nationalism and of the Arab state. The first, with which we are concerned in this thesis, is the militant period, the period of construction, of fight and of overcoming external and internal dangers and obstacles. The second is the period of fruition where the Arabs reap the results of their efforts and sacrifices. It is the period of stability, peace and harmony in which the Arabs turn to consolidate what they have acquired so laboriously during the first period and to improve upon it. These two periods are not sharply separated but they shade imperceptibly into each other and elements of each may be found to some degree in the other.

"Man's history is being shaped according to the difficulties it encounters. These have offered us problems and claimed their solution from us...These difficulties have been different in different peoples of the earth, and in the

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(49) It should be again reminded that the statements which follow may not agree with any theory advocated by Arab nationalists at the present time. They represent what, in the writer's opinion, the nature of Arab nationalism should be if it is to succeed.

manner of our overcoming them lies our distinction." (50)  
For this reason it is not likely that Arab nationalism will be the same as any other in the world. It borrows its features from different types of nationalism: humanitarian, liberal, traditional, jacobin and integral, (51) and in its final form it is conformable to the genius of the Arab people and to the circumstances which give rise to it.

Speaking always of the first period in Arab national development, the Arab nation is to be paramount over all its component elements and its interests are to override all private interests. However "La subordination n'est pas la servitude, pas plus que l'autorité n'est la tyrannie." (52) This subordination of individuals and groups to the nation is justified because in this first stage of national development the very life, self-respect and moral existence of the Arab is dependent on the previous existence of the Arab national state. In other words, the claim of the Arab national state is justified because it represents moral ends necessary for the well-being of its members and which can not be reached by the Arab individuals alone. "It (the State) could not claim the free service of its citizens unless it stood for moral ends." (53) and "The only ground for obedience to the state is where its purpose is morally superior

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(50) R. Tagore, op.cit., p.3.

(51) For a discussion of these types of nationalism see Carlton Hayes, Historical Evolution of Modern Nationalism.

(52) Charles Maurras, Quand les Français ne s'Aimaient pas, p. 193.

(53) Alfred Zimmern, op.cit., p. 59.

to that of its opponents." (54) However, it is not simply the purpose announced which can justify the Arab National State and any other institution, but the purpose realised, when this is set over against the reasonable possibilities of realisation.(55) But under all circumstances and even when the supremacy and all-inclusiveness of the Arab National State are accepted in principle, "The maxim...holds that authority must not encroach upon individual liberty except where there is a clear social gain. The encroachment must be minimal." (56)

The all-inclusive power means that the Arab National State possesses the authority and the right to embrace within its competence, to control, direct or supervise the activities, cultural, political or economic, of Arab individuals and groups and to place them at the service of the nation. This might be considered an undue infringement on individual freedom but "There are no absolute ethical principles which operate to render illegitimate the exercise of the State's possible control with reference to certain matters or for certain purposes. Whatever State action which tends to secure the promotion of the welfare of its citizens is ethically justified." (57) As a counter part of this all-inclusiveness of the Arab National State, it assumes responsibility for the intellectual, moral and material welfare of its members. The Arab National State

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(54) Harold Laski, *The Dangers of Obedience and Other Essays* p. 16.

(55) Harold Laski, *The State in Theory and Practice*, p. 19.

(56) George Catlin, *op.cit.*, p. 280.

(57) Wested W. Willoughly, *The Ethical Basis of Political Authority* p. 283.

is one social unit, one big family, in which each shares in the common prosperity. There are to be no social distinctions, no moral degradation resulting from the loss of self-respect and from lack of opportunities, and above all no hunger and misery under any circumstances, no poverty and no undue sickness. The Arab National State is a partnership, socially, politically and economically. It is to be so or to perish. For if human reason cannot provide a system of organization to satisfy these essential primary needs for everybody it is perhaps as well to give up hope and lapse into barbarism again.

Because it is paramount and all-inclusive Arab nationalism labors for unity and is intolerant of internal dissent regarding its ends and aims. When a nation is confronting an imminent foreign danger and a program of profound and comprehensive internal reforms it cannot afford to weaken itself by factions disputes and conflicts. The advantages lost by lack of lengthy deliberation and compromise are over-compensated by swift and concentrated action. Further, "...it is very hard for people with strong vitality to tolerate, not merely error, but slackness and idleness in others...." (58)

Unity among the Arabs is to be achieved at all costs and the primary pursuit of national politics is to inspire all public men and to permeate all the Arabs. This

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(58) F.Foakes-Jackson in "Freedom in the Modern World, p. 77. Edited by H. Kallen.



is within the power of the National State to do because "...from the ethical point of view, there are no definite limits to the extent to which it (the state) may legitimately exercise the powers of control over human conduct which it possesses." (59)

But in order to secure unity among the Arabs, the Arab National State does not resort solely to coercion. It is greatly helped in its task by Arab nationalism which is to be democratic in the sense that it is to become a part of the personality of the vast majority of Arabs and to recognize in them the right to share in the formation of the national life and destiny. Arab nationalism is to be a popular conviction supported by the multitudes, else, if it relied wholly on coercion, it might be victorious by the action of a convinced minority for a short spell of time but it remains shaky in its foundations. Education in nationalism for the masses is one of the first duties of Pan-Arabs. Pan-Arabism becomes then a sort of religion representing everything highest for Arab mentality and founded in the limitless conviction, passion and self-abandonment of which the Arabs have been capable in the past toward their other religions.

But if Arab nationalism is democratic it is none the less revolutionary. There are in Arabia social, economic

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(59) Westel W. Willoughby, op.cit., p. 286.

and political injustices, some of which have been briefly mentioned, which require effective and quick remedy. ~~before Arab nationalism can be supreme.~~ The pan-Arab does not hesitate a moment to overthrow these injustices by violence. For "Subjection to coercion is, in itself, i.e., detached from its purposes, an evil in the sense that it causes mental or physical ~~irritation~~ and pain." (60) When moreover, the purposes of that coercion are bad, even if that coercion be political, the need to overthrow it is the more pressing. "...There is no inherent merit in political coercion which justifies it apart from the results reached, or expected to be reached by it." (61) "Men do not obey authority for the sake of obedience. They obey it for the purposes they believe to be secured by its operations. ...men obey the state not merely for the sake of order, but also on account of what they deem that order to make possible. ...The implication is the clear one that the exercise of coercive authority in a society is never unconditional."(62) ~~There~~ There are cases where continued submission to religious organization, to social conventions, to customs and to political authority is not to be praised but becomes unmanly and destructive of the best Arab quality viz., self-respect. "Our business when we meet a wrong is to challenge it lest authority be victorious over justice.

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(60) Westel W. Willoughby, op.cit., p. 257.

(61) Ibid., p. 261.

(62) Harold Laski, The State in Theory and Practice, p. 17.

For the price of our freedom is an ultimate courage to resist. We owe not state or church a blind or unreasoning obedience. We owe it only the utmost insight of which our judgment is capable." (63)

Against the paramount and all-inclusive power of his national state the Arab possesses the right of perpetually challenging and scrutinizing its policies and actions because "Only in a state where the opportunity to criticize is free is the use of force, at any rate over a period, likely to appear justified in any society." (64) But the right of the Arab does not need to stop at the point of criticism. When a question of vital importance is settled in what he conceives to be an unjust manner his duty is <sup>to</sup> resist, passively or even actively. Freedom is bought dearly at the price of constant vigilance and ready activeness. Order may be occasionally disturbed; but there are kinds of order which are closely akin to death.

This philosophy does not lead to anarchy for a man does not defy authority for a slight reason but only when injustices have become acute and general so that he finds ready support from other individuals suffering from the same abuses. "Organized disobedience is always the price of injustice. Men do not revolt until wrong has driven them to revolt. They are not the prey of agitators unless

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(63) Harold Laski, *The Dangers of Obedience and Other Essays*, p. 23

(64) Harold Laski, *The State in Theory and Practice*, p. 70 .

they have so suffered that the agitator's message transcends for them all other considerations." (65)

The point at which this feeling of despair, anger and hatred is reached among any group of Arabs concerning any question cannot be prophesized beforehand. "All we can say is that at times in the history of a state there may well come a point where the maintenance of order seems to some group of men worthless as an end compared to achieving, by other than constitutional means, some good deemed greater than peace." (66)

In this way a continuous equilibrium is achieved in the Arab National State between its paramount all-inclusive authority and individual liberty. The Arab state is supreme but in practice it, or more correctly those who exercise its powers, are reminded from time to time, by occasional resistances, of their public duty lest they grow abusive and irresponsible. "La force abusive, partielle et oppressive du pouvoir, est faite de la faiblesse des citoyens. Et cette faiblesse a trois causes: l'ignorance, la misère et l'incertitude de la vie. Il n'ya donc qu'un moyen de faire équilibre à la dérégulée du pouvoir, c'est de donner à tous le citoyens toute la force qu'ils peuvent recevoir." (67)

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(65) Harold Laski, *The Dangers of Obedience and Other Essays*, p. 23.

(66) Harold Laski, *Authority in the Modern State*, p. 53.

(67) Jean Jaurès, *Pages Choisies*, p. 351.

The Arabs owe a duty to their past, a service to their present and an obligation to their future. The Arabs of this age are the trustees of a rich legacy of culture and traditions which they should understand, absorb and transmit to future generations of Arabs, after they have given their own contribution to it. That they can do when they reform the external and internal injustices from which they suffer and when they form a corporate whole thinking alike on essentials and considering this legacy of theirs as one and as belonging to all of them.

**PART TWO**  
**CONSTITUTIONAL ORGANIZATION**  
**OF THE**  
**ARAB STATE**

## Chapter V

### THE THEORY OF ARAB FEDERATION

#### A. Definition and Nature of Federal Government

##### 1. Definition of Federalism

"Federal government may...be defined as a system of central and local government combined under a common sovereignty, both the central and local organizations being supreme within definite spheres, marked out for them by the general constitution....which creates the system...." (1)

In other words, a federation is a system of government which embodies two distinct agencies, federal and local, to execute the will of the state. Each of these agencies is so far independent of the other, that the one cannot destroy the other or limit the powers of the other or encroach upon the sphere of the other as determined by the state in the constitution. (2)

Further, neither is in essence an agency or a subordinate of the other though one, usually the central government, may use the other as a medium, for the execution of its laws and rules if that is permitted by the constitution; "The central government of a federal State, being conceived of as the organ of a true central State, is not to be regarded as

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(1) James W. Garner, Political Science and Government, p. 348.

(2) John Burgess, Political Science and Comparative Constitutional Law, v. 2, p. 5.

the common organ through which the member states of the Union realize certain of their individual ends." (3)

This is in the essence of the system, for federalism "is characterized by a tendency to substitute coordinating for subordinating relationships or at least to restrict the latter as much as possible. ....The basic aspect of federalism is pluralistic, its fundamental tendency is harmonization and its regulative principle is solidarity." (4)

Two points about federal government should here be made clear. The first is that the term does not mean only the central government of a federal system as is often understood. The local governments in a federation are as much a part of the federal system as the central government is. (5)

The second point is that it is inaccurate to speak of a "Federal State." A state, even what is termed a federal one is always one indivisible unit, (6) else it loses its state character; and, juristically regarded, all states are alike in character. (7) The correct term is either a "Federal-ly Organized State" or a "Federal Government". By that is meant that the "state employs two separate and largely independent governmental organizations in the work of government."(8)

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(3) W.W.Willoughby and Lindsay Rogers, An Introduction to the Problem of Government, p. 459.

(4) Max H. Boehm, Federalism, in E.S.S. , p. 169.

(5) James W. Garner, op.cit., p. 349.

(6) Stephen Leacock, Elements of Political Science, p. 420.

(7) W.W.Willoughby, The Fundamental Concepts of Public Law, p. 183 ff.

(8) John Burgess, op.cit., v. 2, p. 18.



"A federal governmental structure provides a regional, as distinguished from a functional, division of powers." (9) This regional distribution of powers is the essential contribution and service of the federal system to the science of government because "The aim of a federation is to gain the advantages of the concentrated power of great states, while retaining the advantages of local interest found in small states. Accordingly, there is always created some central, permanent authority, having powers applying throughout the federation. On the other hand, the separate states are continued, not as administrative districts, but as units of government, protected by the Constitution from federal interference in local matters." (10) In other words, "a federal state is a political contrivance intended to reconcile national unity and power with the maintenance of 'State rights'".(11)

This clearly signifies that federalism is a compromise between ordinarily opposed forces compelled, under external pressure or internal needs, to agree on leading a common political life.

It is therefore reasonable to anticipate the disappearance of federal organization in every state where the opposing forces mentioned do not maintain an equilibrium.

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(9) Carl Friedrich, Constitutional Government and Politics, p. 206

(10) A.B.Hart, Introduction to Federal Government, p. 17.

(11) A. V. Dicey, Law of the Constitution, p. 139.

The disappearance of the federally organized state may result in the formation of two or more independent states, or in the constitution of a single unitary government depending on whether the centrifugal or the centripetal forces in the federation win the struggle.

From this consideration several political scientists draw the conclusion that federalism is a transitory state of political organization. Professor A. Dicey says: "Federalism, when successful, has generally been a stage towards unitary government. In other words, federalism tends to pass into nationalism." (12) Professor John Marriott says also, "There is no doubt that, speaking generally, federation has marked a stage, in some cases a transitory state, on the road towards unification, not on that towards disintegration." (13) And finally, professor John Burgess agrees that "Federalism in legislation will pass away with the complete nationalization of the state, and there will remain only the principle of local autonomy in administration." (14)

Other equally important writers see in federalism an ultimate system in itself and believe the world to be moving towards it. (15)

Whatever be the truth in this matter, it has no great practical importance because the adoption of the federal system by any state is not usually a matter of choice. After

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(12) Ibid., p. LXXVI

(13) John A. Marriott, The Mechanism of the Modern State, v. 2, p. 385.

(14) John Burgess, op.cit., v. 2, p. 184

(15) See W.W. Willoughby, The Nature of the State, p. 232, and Haines and Haines, Principles and Problems of Government, p. 466.

reviewing the political development of the United States, Germany, Switzerland, Canada and Australia, professor W.W. Willoughby and L.Rogers conclude that "With reference to all these the federal form was adopted, not willingly as the best possible form of political rule, but more or less unwillingly as a means of securing the amount of national strength and unity that circumstances made indispensable, while preserving, as far as possible, the independence of the several states to which their citizens had become historically attached." (16)

Similarly, when the Arab territories want to establish a common political organization it is very likely that a federal system will be the outcome of their local controversies, interests, jealousies and disputes, and of their desire for unity. (17) This is the reason why this thesis is attempting to give a sketch of the organization of the future Arab federation. The resulting federal system need not necessarily be of the type of any federation known at the present time. "...the balanced combination of 'unity of the whole aggregate' with 'separateness of parts' which constitutes Federality, may be realized in very various modes and degrees."(18)

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(16) W.W.Willoughby and L.Rogers, op.cit., p. 485.

(17) This opinion will be subsequently justified in section C.

(18) Henry Sidgwick, The Elements of Politics, p. 532.

## 2. Nature of Federalism

Though federal organization may vary with different countries, the theory of the nature of federalism is constant and applies to all federations. Furthermore, it is tied up with the question of sovereignty in federations.

"The theory of federal government is that by dividing the functions of government between two political organizations, a national state and a group of associated local states, the whole process of governing may better be carried on." (19) The difficulty begins when it is attempted to identify and locate the supreme authority in the federation i.e. sovereignty. The difficulty is of course of an academic interest rather than of a practical one. To quote Carl Friedrich, "Having first posited that all states possess an indivisible sovereign, jurists have strained human ingenuity to discover such a sovereign in a federal state. But as a wit remarked later, even the incredible learning of a German scholar could not find something which was not there." (20) This may be true and all the problem of sovereignty may be regarded as an artificial creation of the mind to satisfy the intellectual demands of scholars and legists and to provide a theoretical justification for certain beliefs or events.

Nevertheless, the problem of sovereignty and its location in a state federally organized has been used equally

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(19) A.B. Hart, op.cit., p. 11.

(20) Carl Friedrich, op. cit., p. 175.

effectively by two antagonistic schools of thought to gather around them the loyalty of the largest number of citizens. I am referring particularly to the conflict which started in the United STATES with the elaboration of the Federal Constitution, and which may spring up in any other federation, between the upholders of the states' right theory and those upholding the prerogatives of the national government, and which ended, in what concerns the United States, with the defeat of the South in the Civil War. Each group was led to take its particular position by its special political, material and cultural interests but the theoretical justification of each revolved around the theory of the nature of the union and of the location of sovereignty.

The writer is not competent to give the history of that interesting conflict of ideas (21) but the position of both schools may be described very roughly in the following manner. Those of the states right theory maintained that the several states are older than the Union in point of time, that they were severally sovereign before the Union existed and that there was no reason why they should lose their sovereignty after the Union came into existence. The practical consequence of this theory is that the several states maintained their right to withdraw from the Union any time they wanted to and to reject any decision of the

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(21) For a valuable discussion of the subject refer to Charles Ed. Merriam, a History of American Political Theories, and American Political Ideas.

central government which is prejudicial to their particular interests. These are known as the doctrines of secession and nullification.

The conflict between this group and the opposing one was settled finally by a trial of force. In that armed conflict, the supporters of the states right theory were defeated. Since that time the theory has been discredited so that, at present, the other theory which will be presently stated, is dominant.

This second theory is better given in the words of professor W. Willoughby. "In a Federal State, its foundation rests in itself. It is created by the people as a whole, and the so-called individual states are creations of its will. This is true whatever may have been the historical steps by which the Federal State has been created. From this standpoint, then, we are to consider the citizens of a Federal State as first diverting themselves of their old State Sovereignties, and then, as a people, establishing a national Federal State. These two volitional acts may be synchronous and made apparent by a single outward act, viz., the establishment of a federal control, but they are distinct acts from a political standpoint. The unit states are destroyed when their citizens transfer their allegiance to the central power. They are recreated by the federal constitution."<sup>(22)</sup>

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(22) W.W. Willoughby, The Nature of the State, p. 254. See also by the same author, Fundamental Concepts of Public Law, p. 196.

The practical consequences of this theory is that the states have no right to withdraw or to nullify the acts of the central government taken in the lawful manner. "Such a union becomes, legally, indissolvable so far as the action of the separate state governments, or of the central government, is concerned." (23)

As to the sovereign powers of the component states, "... it follows, by definition, that the creation of a federal state annihilates the sovereignty of the component states, -not only limits it or divides it, but annihilates it." (24) "A truly federal government is the denial of national independence to every state of the federation." (25) "Hence there is no middle ground between a confederacy and a federal State. Either the States of a union are severally and wholly sovereign, in which case there is no real central State but only a government which acts as the common agent of these States and with delegate power; or there is a single national State, wholly sovereign, but exercising certain of its powers through the governmental organs of its constituent non-sovereign states." (26)

It is then accepted by many prominent modern political scientists that sovereignty resides in the federation and not in the individual states; and that in the federation, "sovereignty does not lie in the central government, it lies in the body, wherever and whatever it may be, which has power to amend the constitution. (27)

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(23) Stephen Leacock, op.cit., p. 420

(24) Ibid., p. 240

(25) A.V.Dicey, op.cit., p. LXXIX

B. Federation as Distinguished from Confederation and  
Unitarism

The notion and implications of federalism become clearer and more distinct when related forms of government are described and analysed.

Such a discussion is of special importance in a work interesting primarily Arab readers because many Arabs have no clear idea of the differences involved. When the future pan-Arab state is discussed, many Arab speakers and writers refer to it as "The Arab Empire" *الامبراطورية العربية* "The Arab Unitary Government" *الوحدة العربية* or "The Arab Federation" *الاتحاد العربي*. These different appellations do not represent, as yet, theoretical differences revolving around the form of the future Arab state-organization, but are used interchangeably because those who employ them have no accurate understanding of the different meanings for which the terms stand.

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- (26) W.W. Willoughby and L. Rogers, *op.cit.*, p. 459. See also W.W. Willoughby, *Fundamental Concepts of Public Law*, p. 194
- (27) Stephen Leacock, *op.cit.*, p. 240. See for a confirmation of this idea A.B. Hart, *op.cit.*, p. 18



## 1. Federation Versus Confederation

A federation, it was said, is a form of government in which a central organ is created to carry on certain functions in which all the component units are interested, while the local units derive their powers and competence directly from the constitution and are not legally subordinated to the central government. The central government, in turn, is not an agent of the local units but exists by its own right as derived from the constitution. The union of the component units in the federation is permanent and indissoluble. In other words, the federation is a state: one and indivisible.

A confederacy, on the other hand, is not a single state. "It is a collection of independent sovereign bodies united on stated terms for certain purposes. Each of them is, legally, free to withdraw from the confederacy when it pleases." (28) "Consequently, no central State is created, and sovereignty lies wholly within such individual political units. What union there is in the Confederacy, is the creation of the wills of the individual states." (29) This means that "...the individual States retain their character as States, and their relations to each other are of an international or treaty character." (30) A confederation cannot therefore be permanent and indissoluble.

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(28) Stephen Leacock, op.cit., p. 239

(29) W.W. Willoughby, The Nature of the State, p. 254.

(30) W. W. Willoughby, The Fundamental Concepts of Public Law, p. 195.

As to the central government created in a confederation by the sovereign units it may be viewed. "...as in effect a branch of the government of each of the associated states, and all the authority that it exercises as obtained by delegation from these States. The instrument which defines the powers of the central government and the corresponding obligations of the States may be known as a Constitution, but accurately speaking, it is nothing more than a treaty or compact between the States, and derives its validity from their consent to it." (31)

What is then the essential criterion which finally determines whether a certain government is federal or confederate?

Professor H. Sidgwick gives three criteria which, in his opinion, distinguish a federation from a confederation. (32) In the first place, he says, the units or part-states should not retain the right of withdrawing from the union at will. In the second place, "If...the federated communities are completely controlled by a single common government in all their foreign relations..., it seems clear that they become a single state from an international point of view, however great may be the internal independence of the parts." In the third place, an important requisite of federalism is that "...the central government should enter normally into important direct relations with the citizens, instead of merely

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(31) Ibid., p. 192 .

(32) Henry Sidgwick, op.cit., p. 538 .

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## 2. Federalism versus Unitarism

Unitary government is one "where the whole power of government is conferred by the constitution upon a single central organ or organs, from which the local governments derive whatever authority or autonomy they may possess, and indeed their very existence... It is characteristic of this form of government that there is no constitutional division or distribution of power between the central government of the state and the subordinate local bodies. There is, in short, but one common source of authority and but one will exerted." (35) This is the essential criterion which serves as a basis for differentiation between federalism and unitarism. "The clearest formal difference between a federal state and a unitary state... is ...that in the former the power of the ordinary legislature of the whole is constitutionally limited in favor of the autonomy of locally distinct parts." (36)

Other minor differences exist between federations and unitary governments. H. Finer mentions eight of them some of which are not essential, that is, do not necessarily constitute points of difference. He says: "A federation reveals these qualities different from those of extreme unitary states:

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(35) James W. Garner, op.cit., p. 346

(36) Henry Sidgwick, op.cit., p. 532

- a. The distribution of legislative powers.
- b. The distribution of administrative powers.
- c. Representation of the States in the Federal Parliament.
- d. Special revenue arrangements.
- e. Special judicial arrangements
- f. Stipulations relating to the form of state government.
- g. Specially difficult amending processes.
- h. A special application of the theory of allegiance and secession." (37)

Since the purpose of this section is to explain different forms of government so as to choose from them that which best suits Arabia, two variations of <sup>the</sup> unitary system must be described.

a. Centralized Government

"Centralized government is that form in which the state vests all governmental authority in a single organization. In this form there is no constitutional autonomy in the localities, no independent local government. The local government is only an agency of the central government, established, modified and displaced by the central government at its own will." (38)

Centralization operates both in the sphere of legislation and administration. In legislation, one common

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(37) Herman Finer, The Theory and Practice of Modern Government, v. 1, p. 270

(38) John Burgess, op.cit., p. 4

authority determines the policy of all the country and of every governmental unit in it. It also issues the laws, statutes and decrees necessary for the execution of the policy thus established. Under such a system it is assumed that the local governmental units are not competent to determine what are the needs of their locality, what is the best policy to satisfy them and how that policy should be executed. Or it is thought wiser and better from the national point of view to concentrate legislative powers in the central body.

Centralized administration, on the other hand, may be defined as one "...in which there are close relations of control and subordination between officials responsible to different levels of government..." (39) Authority is derived in an unbroken line from the highest officials in the capital to the pettiest public employees in the remotest parts of the country. "Administrative centralization involves the creation of a hierarchy of officials appointed by the central government who either directly perform the functions of local government or effectively supervise their performance." (40)

We do not need to enter into a discussion of the causes of growth of centralization, of its advantages and disadvantages because our purpose is simply to describe its nature so as to make comparison possible between it and other types of government.

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(39) Leonard White, Introduction to the Study of Public Administration, p. 77.

(40) W. J. Shepard, Centralization, in E.S.S., p. 310.

b. Decentralized Government

Decentralization in a broad sense covers such related concepts as develtution and regionalism which are manifestations of local government and life at which decentralization aims. In this broad sense "...Local government may be said to involve the conception of a territorial, non-sovereign community possessing a legal right and the necessary organization to regulate its own affairs. This in turn presupposes the existence of a local authority with power to act independently of external control as well as the participation of the local community in the administration of its own affairs. The extent to which these elements are present must in all cases be <sup>a</sup>question of degree."(41)

It is therefore conceivable that the local units of a decentralized unitary government possess the same amount of autonomy and freedom of action as the units of a federation. In this case, it is difficult to distinguish one form from another by merely examining their powers, or to prefer one to another since both systems satisfy local needs to the same extent. Further, "For all practical purposes the transition from federalism to decentralization remains one of degree." (42) This means that a federation may imperceptibly develop, in practice but not legally, into a decentralized system. The reason for such a transformation may be found in the general centralizing trend noticeable

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(41) William A. Robson, Local Government, in the E.S.S., p. 574.  
(42) Max H. Boehm, op.cit., p. 169.

in many federal countries. "An examination of the constitutions of federal states during the past century and a half reveals a definite centripetal tendency." (43)

The difficulty mentioned above increases when special types of decentralized government, such as regionalism, are examined. Regionalism is closer to federalism than decentralization is and therefore harder to distinguish. "Regionalism has been called...an intermediate state between administrative decentralization and federalism." (44)

The criterion of distinction between federal and unitary government whether centralized or decentralized has been given above. (45) In decentralized government the situation may be summarized in the following words. "The legal distinction between federations and decentralized unitary governments rests upon more mechanical considerations than the scope of the powers of the constituent members of federal systems. The method whereby such powers are allotted is crucial. A federal government can hardly be said to exist if the allotment can be altered by ordinary legislation." (46) (Italics mine).

It is therefore the source of authority not the scope of the actual authority enjoyed which distinguishes the units of a federation from those of a decentralized government. The federal parts derive their powers directly

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(43) W.J. Shepard, Centralization, in E.S.S., p. 309.

(44) H. Hintze, Regionalism, in E.S.S., p. 208.

(45) See page 159.

(46) Arthur W. Macmahon, Federation, in E.S.S., p. 175



from the federal constitution and are, within their scope, independent of the central government; while the decentralized local units derive their power from the central government which, legally, is always competent to restrict ~~or~~<sup>or this power or</sup> even <sup>to</sup> withdraw <sup>it</sup> ~~them~~ completely.

Several other differences between the members of a federal union and the autonomous administrative districts of a unitary state may be mentioned. (47)

I. Though not recognized as sovereign entities, the members of a federation usually stand towards each other as independent and foreign powers. This means that each member body constitutes a jurisdiction outside of which none of its acts, --executive, legislative, or judicial, --have any force.

II. The members of a federation have usually a citizenship of their own.

III. Subject to few restrictions, each federated body is able to determine for itself the form of its own government, --a right which includes also the authority to establish for itself such local government agencies as it sees fit.

IV. Legislative authority is given to each federated part to determine for its own inhabitants the great body of the law, civil and criminal, substantive and procedural, which regulate their private relations, whereas local government agencies have no option but to enforce the laws which they receive from the central government.

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(47) W.W. Willoughby, the Fundamental Concepts of Public Law, pp. 271-276.

V. Local governments, however autonomous, are conceived of as primarily the agents to carry out, within their respective areas, the will of the central government. As thus regarded, the operations of local governments are commonly subject to greater supervision and control by the central authorities than are the activities of the members of a federation.

VI. For the most part, it is within the discretion of the federated units to determine whether or not their constitutional powers shall be exercised. For local governments, their duties are more often mandatory in character.

VII. Because of the wide range of their autonomous powers, the member parts of all federated unions are equipped with practically complete frame-works of government,--executive, legislative, and judicial,--so complete, in fact, that, should the central government be destroyed, these parts would be practically ready at once to exercise through their existing governments the functions previously performed by the central government.

In enumerating the differences between federation and decentralization no attempt was made to prefer one to the other because "There is nothing in the distinction between federalism and decentralization which would imply an inherent superiority of one over the other; their advantages and disadvantages can only be contrasted in terms of the peculiar conditions of the time and place under which a particular government is supposed to operate." (48)

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(48) Carl Friedrich, op.cit., p. 206.

C. What form of Government is Best for Arabia

With the help of the material available in the preceding two sections it becomes possible, given the present conditions of Arabia and its needs, to determine which of the forms of government already discussed is best suited to that country.

The method followed is to discuss the existing conditions in Arabia which are related to the subject and then to find out which of the forms of government mentioned is best adapted to them.

The problem can be dealt with in two ways. First, we can mention the factors which work for union in Arabia, and, secondly, discuss the conditions which prevent complete unity. In this way, namely, by elimination, we can form an idea of the type of government suitable for the Arabs.

The other method used to corroborate the results of the first is to mention the general conditions which are favorable to federalism anywhere and then to show that they exist in Arabia to a large extent.

Pan-Arab nationalism and its many constituent elements mentioned in chapter II would be satisfied with nothing short of complete unity of all the Arabs if ~~they~~ ~~were very strong~~ and other factors were favorable. With this pan-Arab feeling which is working for Arab unity and spreading and becoming more vigorous and active all the time, may be mentioned the Pan-Islamic sentiment which, in some sections of Arabia, as has been explained, takes on a political national color and works for a similar type of union as pan-Arabism.

Arab nationalism is therefore dissatisfied and opposed to any permanent organization of the Arab territories along the lines of treaty alliances or independent and sovereign units in a confederation. It considers these two types of organization inadequate from two points of view. In the first place, neither of them satisfies the spiritual craving of the Arab nationalists to merge their lives and fortunes in a wider and more comprehensive entity. In the second place, both do not bring about satisfactorily the material advantages, such as security from invasion, economic prosperity and the like, which the Arabs await from union.

We can therefore dispense with a consideration of the confederate form of government as unsuitable to the Arabs from a nationalist point of view. It is an organization too loose and unstable to satisfy the aspirations which the Arabs attach to their future state. (49)

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(49) Consult pp. <sup>156</sup> 175 & <sup>157</sup> 176 on the weakness of the confederate form of government.

Pan-Arab nationalism, it was said, would demand complete political unity of the Arabs, in other words a unitary government, if there did not exist adverse conditions necessitating a different form of government.

The first of these adverse conditions is the great territorial extent of Arabia. This fact alone necessitates the breaking up of the country into several units for administrative and functional purposes if for nothing else.

The second unfavorable condition in Arabia to the establishment of a unitary government is that there are in some sections a strong feeling of religious difference. It is wise to placate this feeling by granting the population powers of self-government. Such a grant of powers would be <sup>difficult</sup> incompatible <sup>in</sup> with a unitary organization but is quite in accordance with the principle of federalism.

Many Arab territories have lived in their recent history, independent of each other leading a practically separate life. It may be difficult for them, though they <sup>had</sup> possessed a common historical past, to give up their locally evolved traditions and mode of rule and to merge suddenly in a wider organization and lose their identity completely.

A fourth important obstacle to complete unity is that there are in Arabia varying levels of civilization which necessitate different treatment of the political and social life of the various sections. It is obvious that it is very difficult and unwise for the central parliament to legislate uniformly for such dissimilar territories as Lebanon and Najd.

From these various differences arises the natural desire on the part of the several Arab territories to retain their own customs, private laws and methods of local government. "When states or parts of states which have either been formally independent or have enjoyed a large amount of practical autonomy, are united -- either voluntarily or through conquest - into one political community, the portions thus combined are likely to desire to retain important differences in laws and customs. Such differences may be intensified by differences in race, in religion, or in the level of civilization attained." (50)

The last obstacle to a unitary government which, in the long run is of a secondary nature, is the presence in some Arab territories of dynasties which would naturally oppose any unitary tendency but which are more likely to accept a federal government within which they can retain a substantial part of public power.

All these difficulties and obstacles may disappear with time and make unitary government a practical possibility for the Arabs. Future improvements in the means of communication and transportation may remove the obstacle attached to the great geographical extent of Arabia, while the progress and strengthening of the national spirit among the Arabs, with the spread of education and civilization may overcome all the local sentiments and differences.

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(50) Henry Sidguick, op.cit., p. 530.

A decentralized unitary government may then take the place of the federal organization but for the present mere decentralization does not satisfy Arab territories, many of which will insist, and with good reasons, on having a constitutional guarantee of their local rights which means in essence a federal form of government.

It is obvious then, that federalism in Arabia is adopted as a compromise between the force of Arab nationalism on the one hand, aiming at a complete and solid unity of the Arabs, and the obstacles found in its way in the form of local loyalties and traditions on the other hand. "The structure of federal systems represents a balance between the particularism of the small state, jealous of its sovereignty and independence, and the forces of national unification."\*\*

The suitability of federal government to Arabia can be demonstrated in a different way; namely, by enumerating the conditions of federalism and by showing that most of these conditions are found in Arabia.

First among these conditions is a feeling of nationalism. Carl Friedrich says, "Nationalism, then, is an internal as well as an external force, providing common objectives for a group of autonomous units." (51) J.S. Mill is satisfied with "A sufficient amount of mutual sympathy among the populations", (52) while A.B.Hart says "A consciousness of common nationality is an aid, but not an essential."<sup>(53)</sup> The presence of this condition in Arabia has been mentioned and explained in chapter two.

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\*\* W.J.Shepard, op.cit., p. 206

(51) Carl Friedrich, op.cit., p. 177

"Another such force is economic. This force, rather than nationalism, has been shown to have stood at the cradle of American development. In Switzerland it was important too. And in Germany it was surely not wholly lacking." (54) A.B.Hart says (55) also that common national interests whether political or economic, which can be promoted by union, are important conditions of federalism. (56)

Common community of origin or history, of language or of religion is a third factor. (57) A.V.Dicey says that for the formation of a federal government "There must exist, in the first place, a body of countries ... so closely connected by locality, by history, by race, or the like, as to be capable of bearing, in the eyes of their inhabitants, an impress of common nationality. It will also be generally found that lands which now form part of a federal state were at some stage of their existence bound together by close alliance or by subjection to a common sovereign....But it is certain that where federalism flourishes it is in general the slowly-matured fruit of some earlier and looser connection." (58) John Marriott gives the same idea in the following words: "First, there must be a group of communities, so far united by blood, or creed, or language, by local contiguity or political tradition, as to desire union..." (59)

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(52) J. S. Mill, Representative Government, p. 296.

(53) A. B. Hart, op.cit., p. 22.

(54) Carl Friedrich, op.cit., p. 177.

(55) A. B. Hart, op.cit., p. 22.

(56) The Presence of this force in Arabia is discussed in pp. 39-51.

(57) The presence of this factor in Arabia is discussed in pp. 27, 51-68.



Another factor is that of geography. (60) "The physical contiguity of countries which are to form a confederated state is certainly a favourable, and possibly a necessary, condition for the success of federal government." (61) "Its natural place (federalism) is in states having great territorial extent, inhabited by a population of tolerably high political development...but not of entirely homogeneous nationality in different sections." (62)

A very important condition remains. "...the separate states (in a federation, should not be) so powerful, as to be able to rely, for protection against foreign encroachment, on their individual strength. (63) If they are, they will be apt to think that they do not gain, by union with others, the equivalent of what they sacrifice in their own liberty of action...not less important..., is that there be not a very marked inequality of strength among the several contracting states. ...The essential is, that there should not be any one State so much more powerful than the rest, as to be capable of vying in strength with many of them combined. If there be such a one, and only one, it will insist on being master of the joint deliberations: if there be two, they will be irresistible when they agree; and whenever they differ, everything will be decided by a struggle for ascendancy

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(58) A.V.Dicey, op.cit., p. 136. See also A.B.Hart, op.cit., p.22.

(59) J. A. Marriott, op.cit., p. 386.

(60) Arabia does not form one geographical unit but it is very vast in area and its territories are contiguous.

(61) A. V. Dicey, op.cit., p. LXXV.

(62) J. Burgess, op.cit., p. 6.

(63) The application of this point to the Arab territories is discussed in pp. 44-50.

between the rivals." (64) When the Arab Federation is formed, <sup>it is</sup> ~~none~~ <sup>that any</sup> of the territories will be greatly superior in wealth or strength to the other units. ~~This problem is discussed in greater detail in section E. of the present chapter.~~

As a conclusion it can be said that "...federalism undoubtedly appears as the form of political organization suited to groups or communities which have partly general and common objectives, traditions, and interests, and partly particular or conflicting objectives, whenever these divergences follow a territorial pattern." (65) This conclusion applies to the Arabs at present because they show the general characteristics mentioned, but it will not apply to them when the spirit of nationalism overcomes the local feeling as it probably will do.

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(64) J.S.Mill, op.cit., pp. 297-298. See also for the same argument, J.A.Marriott, op.cit., p. 386, and A.V.Dicey, op.cit., p. LXXV.

(65) C.Friedrich, op.cit., p. 176. See on the same subject : Haines and Haines, op.cit., p. 466, A.V.Dicey, op.cit., p. LXXV, and Stephen Leacock, op.cit., p. 243.

D. Advantages and Disadvantages of Federalism

It is profitable now to mention briefly the advantages of the federal system since it is the form of government suited for Arabia at the present time.

1. The Advantages

The most important advantage of federalism is perhaps that "It has made possible governmental union for states with extensive territories and different groups unwilling to consent to complete political unity, for it permits uniform, federal regulation of appropriate subjects and self-government in matters which are deemed of prime local importance and which can be cared for by regulations differing according to the wishes of the inhabitants of the political subdivisions." (1) Leacock also says, "...the federal system has the advantage of permitting the legislation of each (unit) to accord with differences of environment caused by climate, racial elements, local custom and antecedents."<sup>1</sup> To Garner "It...combines the advantages of national unity with those of local autonomy and the right of self-government. It furnishes the means of maintaining an equilibrium between the centrifugal and centripetal forces in a state of widely different tendencies. It is the only

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(1) W.W. Willoughby and L. Rogers, op.cit., p. 455. See also Ibid., p. 484.

1 Stephen Leacock, op.cit., p. 244.

political system which makes it possible to have uniformity of legislation, policy, and administration throughout the entire country, in respect to those matters concerning which uniformity is desirable and at the same time makes possible diversity where diversity is desirable by reason of the varying conditions and standards which prevail in different parts of the country."

A. B. Hart maintains that the federal system can be obtained when centralization would be resisted and that it is easier to get an expression of popular feeling in federal units than in mere administrative sub-divisions. Thus the political education of the people is better provided for and local government is encouraged.<sup>1</sup>

In other words, federalism is conducive to individual liberty since "...the amount of governmental coercion is likely on the average to be less in proportion as the powers of local government are extended at the expense of the central government." James Garner is of the same opinion. "By permitting the inhabitants of each component state a large measure of self-government their interest in public affairs is stimulated; they are better qualified for determining their own policies and regulating their own local affairs than uniformed, overburdened, distantly removed bureaucrats are; and in consequence of the division of competence, the central

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- James Garner, op.cit., p. 418 See also W.W.Willoughby, The Fundamental Concepts of Public Law, p. 221.

1 A.B.Hart, op.cit., p. 24.

-- H. Sidgwick, op.cit., p. 543.

authorities--legislative and administrative--are relieved of the burdens and congestion which oppress them where the unitary state prevails<sup>1</sup>." James Bryce says also that federalism prevents the rise of a despotic central government, absorbing other powers and menacing the private liberties of the citizen.

A further advantage is that "The federal form of polity also diminishes--in proportion as the functions of the central legislature are restricted--the practical difficulties which extent of territory tends to throw in the way of good government." \* "Under such a system experiments in government and legislation may be tried out...It is therefore particularly adapted to states of vast area and diversity of conditions..." \*\* C. Friedrich agrees that "...the rather fortuitous advantage of providing an opportunity for limited experimentation in one or more of the component units deserves mention."(1)

More important than the preceding advantage is the safety and security and the ability to resist foreign danger which accrue to the members of the federation. The Arab territories need this security as was explained earlier. \*\*\* "...Weak and disunited nations stimulate the greed of foreign powers, and because of their own weakness are easily attacked. In defence and policy, the national government is firmer than

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1 J. Garner, op.cit., p. 418

- James Bryce, The American Commonwealth v. 1 , p. 350.

\* Ibid.

\*\* J. Garner, op.cit., p. 418, see also J; Bryce, The American Commonwealth, v. 1 , p. 350.

(1) C. Friedrich, op.cit., p. 206

\*\*\* Refer to Chapter two section seven.

the different units. There will be one policy toward all foreign states not varying and perhaps conflicting policies. Weakness and division at home would invite dangers from abroad."

Aside from deviating foreign danger to a great extent, "What Federalism does, and this is its great benefit, is to establish the presumption that there shall be no war, that disputes shall be settled by agreement, and that the central authority shall be specially sensitive to the needs and claims of the local authorities. An atmosphere of continuous conciliation is created and maintained, of subordination of all authorities to the fellowship"<sup>1</sup>

If the Arab territories remain divided hostility may arise among them. The causes of hostility may be due to territorial disputes, envy and jealousy of the greatness and wealth of a particular unit, industrial and commercial competition, and the probability of incompatible alliances between the different units and different foreign states. The country, if not united would likely become a prey to the artifices and machinations of powers equally the enemies of all." "Nor would alliances, defensive-offensive which might be formed between these units produce that cooperation and harmony that would be necessary to put and keep them in a formidable state of defence against foreign enemies." (1)

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- The Federalist, Paper IV.  
1 H. Finer, op.cit., p. 338  
-- The Federalist, Paper VII.  
(1) Ibid., Paper V.

Considering the internal relations of the units, war may arise among them as it did some years ago between Saudi Arabia and Yaman. These internal wars "...will be more destructive than between ordinary States because they are not prepared to resist offense having no fortifications on their borders. It will be necessary for each unit to establish a fortification system around itself and to develop a strong standing army which will cost much. That, instead of having one general fortification system for all the units which will lessen the costs on the different units and will be more effective because it can command more resources in men and material."

With the military disadvantage of separateness is combined an economic one. " A small state with large and powerful neighbours incurs some degree of high-handed aggression....and the milder disadvantage of being usually obliged to yield in disputes...Farther, so long as modern states endeavour, by elaborately arranged tariffs, to exclude or hamper the competition of foreign producers in their markets, it will generally be some disadvantage to the members of a small state that they can only rely on a comparatively small area of unrestricted trade. Of these disadvantages military weakness has been historically most important."<sup>1</sup>

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- Ibid., Paper VIII

1 H. Sidgwick, op.cit., p. 542

## 2. The Disadvantages

The first disadvantage that can be mentioned is that federalism involves a duplication of governmental activity, that it is complicated and therefore expensive. Marriott says, "...we must...conclude that a reduplication of organs, legislative, administrative, and judicial, is one of the indispensable marks of true federalism."<sup>1</sup> "A federal government is thus a complicated as well as an expensive method of political rule."

An important disadvantage is that which results from the weakness of the system caused by the division of powers between the central government and the units. "A federal constitution is, as compared with a unitary constitution, a weak form of government....Yet the comparative weakness of federalism is no accident. A true federal government is based on the division of powers."\* "...the rigidities which arise from a division of powers are inherent in the federal scheme and are the price which has to be paid for the advantages set forth above.(1)

"The distribution of all the powers of the state among coordinate authorities necessarily leads to the result that no one authority can wield the same amount of power as under a unitarian constitution is possessed by the

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1 J.Marriott, *op.cit.*, p. 417. See also, J.Bryce, *The American Commonwealth*, v.1, p. 341

- W.W.Willoughby, *The Fundamental Concepts of Public Law*, p. 218. See also A.B.Hart, *op.cit.*, p. 25

\* A.V. Dicey, *op.cit.*, p. LXXVII.

(1) C. Friedrich, *op.cit.*, p. 207



sovereign. ...A federation therefore will always be at a disadvantage in a contest with unitarian states of equal resources. Nor does the experience either of the United States or of the Swiss confederation invalidate this conclusion."

"First of all, in the conduct of foreign affairs federal government possesses an inherent weakness not found in unitary government. ...the individual members of the federal union, by virtue of their reserved powers over the rights of person and property, may embarrass the national government in enforcing its treaty obligations in respect to aliens residing in the (federation). In the domain of internal affairs federal government has also shown itself to be weak for the reason that it means a division of power between coordinate authorities in legislation and administration... It means, or may mean, diversity of legislation in respect to matters concerning which the general interests of the country require uniformity of legislation."<sup>1</sup>

"In addition, it (federalism) is politically and administratively weak. It is politically weak because authority is divided, and there is even the danger that the member States will refuse to fulfil their constitutional duties, or, at least, will be negligent and lax in so doing. Administratively viewed the federal system is an unsatisfactory one because State borders constitute jurisdictional lines which state authorities cannot cross." (1)

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- A.V. Dicey, op.cit., p. 167. See J. Bryce, The American Commonwealth, v. 1, p. 341.

1 J. Garner, op.cit., p. 420

(1) W.W. Willoughby The Fundamental Concepts of Public Law p. 215-219.

Several other minor disadvantages are mentioned by Professor Hart.<sup>7</sup> The functions of the central government are removed from the direct influence of most citizens whose primary interest rests in local politics. Another such disadvantage is the tendency to carry national politics down into state and municipal politics. Thirdly, the permanence of federal government is less assured because it is less essential. The central government may be paralyzed without affecting the state governments or seriously disturbing order.

James Bryce mentions other disadvantages\* such as the liability to dissolution by the secession or rebellion of the units, the liability to division into groups and factions by the formation of separate combinations of units, the absence of power of legislating on certain subjects wherein uniform legislation is needed, and the want of uniformity among the units in legislation and administration.

Finally, federalism tends to produce conservatism and legalism. ... "The one thing that must strike the modern observer of any federal constitution is the growing impatience with its rigid encasement, the ever insistent demand that the form shall be made equally elastic with the spirit."<sup>1</sup>

The tendency of federations toward conservatism is due to several causes. "The constitution of a Federal

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- A; B. Hart, *op.cit.*, p. 25

\* J. Bryce, *The American Commonwealth*, v. 1, p. 341

1 H. Laski, *The Problem of Sovereignty*, p. 275. See also for a similar opinion C. Friedrich, *op.cit.*, p. 206.

state must, ...generally be not only a written but a rigid constitution. ...Now this essential rigidity of federal institutions is almost certain to impress on the minds of citizens the idea that any provision included in the constitution is immutable and, so to speak sacred. ...The difficulty of altering the constitution produces conservative sentiment, and national conservatism doubles the difficulty of altering the constitution."\*

"Federalism, lastly, means legalism--the predominance of the judiciary in the constitution--the prevalence of a spirit of legality among the people." This requires a high degree of political development among the people in order to be able to accept compromises made legally and to abide by them. "Therefore irrespective of any other considerations, the federal system is not suited to a people who are not habituated to the rule of law and disposed to acquiesce to judicial determinations even with reference to matters of the greatest political importance."<sup>1</sup> Burgess, Hart and Dicey agree in this opinion.--

It seems therefore that because of this particular character federalism is not in complete accordance with the temperament of the Arabs who are sometimes said to be dominated by a strong spirit of partisanship and impatient of

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\* A.V.Dicey, op.cit., p. 169.

- Ibid., p. 170.

1 W.W.Willoughby, The Fundamental Concepts of Public Law, p. 220.

-- See J. Burgess, op.cit., p. 5, A.B.Hart, op.cit., p. 25, A.V.Dicey, op.cit., p. 175.

judicial processes. But the difficulty might be solved by adopting a system different from judicial review referred to above.

The writer admits that a certain body in the central government should have the authority to make compromises binding on the units and the central government alike, but that body need not be necessarily the judicial branch. It may be the legislature or the executive. In that case the judicial review and the judicial processes which are said not to enjoy great sympathy and respect among the Arabs, are eliminated. The new system, the legislative or executive review, may prove more acceptable to the Arabs and will be discussed later.<sup>1</sup>

Legalism is then reduced. But even if it were not, the federal form of government has to be adopted by Arabs because its advantages outweigh its disadvantages.

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1 Refer to Chapter VI, section C.

## Chapter VI

### CONSTITUTIONAL ORGANIZATION OF THE ARAB FEDERATION

#### A. Consequences of the Adoption of a Federal System of Government

##### 1. Division of Powers

For various reasons which have been enumerated, federalism appears to be the system of government which best reconciles, the present will of the Arabs for national unity and power, as well as the need of particular districts to preserve their own methods of internal rule and their freedom.

From this consideration it necessarily follows that governmental powers have to be divided, as is always the case in federations, between the central agency and the local units. "The distribution of powers is an essential feature of federalism." (1)

The principle of division is that "Whatever concerns the nation as a whole should be placed under the control of the national government. All matters which are not primarily of common interest should remain in the hands of the several States." (2) "The principle of federal union is sometimes stated to be that the federated parts are to be independent as regards 'internal matters', while they have a common government for 'external matters'". (3) In other words, "The principle.... is that those affairs which are of common interest to the

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1. A. V. Dicey, op.cit., p. 147  
2. A. V. Dicey, op.cit., p. 139  
3. H. Sidgwick, op.cit., p. 533

federation as a whole and which require uniformity of regulation should be placed under the control of the central government while all matters not of common concern should be left to the care of the local governments. In short, there should be one government for national affairs and a number of local governments for local affairs." (4)

The principle of the division of powers is thus very clear but its application is not easy because it is sometimes very hard, to determine what matters are of common interest to the whole federation and what others are of interest to the particular units only. Further, the problem is rendered more difficult, by the fact that a differentiation of functions may be of value and work smoothly at the time and amid the circumstances in which it has been elaborated, but may be worthless and cause friction under different conditions.

Certain functions such as relief work for the unemployed, social legislation for workers, or the organization of cooperative associations of different sorts for farmers, which at the present time, are either completely neglected in Arabia, or left to private charity, or regulated municipally or locally, may, in the future, develop to such an extent as to necessitate federal regulation. Such illustrations are numerous in the history of the development of federal powers in other federations.

Therefore, it is sound to conclude that "Federalism, by its very nature, necessitates constant adjustment of govern-

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4. J. Garner, op.cit., p. 349

mental functions between the central government on the one hand, and the integral federated units on the other. It is always difficult, perhaps impossible, to draw a fixed line delineating the respective functions of the central agency and the local units." (5)

Since the division of powers is inherent in the nature of federal organization we should describe the general character of that division in the Arab Federation. This character is dictated to us by the political, social and economic conditions and needs of the Arabs in their internal life and external relations. (6)

To satisfy these needs the Arabs require strong, effective and uniform control. Such a control would have been best exercised by a unitary government which is the most efficient system for those purposes. (7) But some circumstances in Arabia render the adoption of a unitary government impracticable at present. (8) For these reasons the Arabs accept the federal organization as a compromise and as a transient stage in their political development.

These two considerations: the need for the greatest amount of central control and uniformity compatible with federal organization; and the fact that the Arab Federation is considered as a step towards complete unity, determine the general character of the division of powers between the central government and the local units. They mean that the largest amount of powers possible should be placed in the hands of the central government which should be so constructed as to exercise them with the utmost efficiency and vigor.

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5. Walter Thompson, Federal Centralization, p. 3

In brief, there are two alternative methods which might be followed in dividing the powers between the central government and the local units. The first, and the most common one, is that the central government is given the express or delegated powers while the local units retain the residue of powers, that is, all the powers which are not expressly given by the constitution to the central government.

Evidently, according to this method the greater portion of powers goes to the local units. This system of allocation of powers if followed in the United States, Australia, (9) Switzerland, (10) and was followed in pre-war Germany, (11) and to less extent in Weimar Germany. (12)

It is a system of compromise, as all federations are. In such a system the local units which are very jealous of their freedom and original powers, insist on retaining the maximum powers feasible with the federal organization and on guaranteeing themselves against a possible increase of the central government's powers by reserving such probabilities of new functions for themselves.

The second method of allocation of powers which can be followed is that adopted by Canada. (13) There, the local units possess the express or delegated powers, while the central government holds the residue of functions. In this way,

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6. See Chapter IV, section D.
  7. See A. V. Dicey, *op.cit.*, p. LXXVII
  8. See *Supra*, pp. 167 + 169.
  9. See James Bryce, *Modern Democracies*, v. 2, p. 173
  10. See *Ibid.*, v. 1, p. 342
  11. See J. Burgess, *op.cit.*, v. 2, p. 28
  12. H. Finer, *op.cit.*, v. 1, p. 361 says: "The Reich has only the powers expressly given to it, and any others which can be proved to follow from it closely...."
  13. See J. Bryce, *op.cit.*, p. 459



all spheres of activity which are newly created by the developments of modern life enter directly within the competence of the central government.

And since most of these activities usually pertain to the regulation of the developing industrial life of the community, to the growth of large business enterprises and to the increasing social undertakings, most of which tend to fall normally within the scope of functions of the central government, it is possible to generalize that this method of dividing powers between the central and local governments is better adapted to the requirements of modern life than the former method whenever the particularistic feeling among the units is not too strong.

This opinion is <sup>expressed</sup> ~~supported~~ by W. Thompson who says, "With modern industrial methods, not only is there an interdependence of agencies of production, but there is a forced integration of all business enterprises.....Isolation in business obviously is an impossibility... Commercial or financial depression in one region is felt in others. ...For this reason it has become imperative that the federal government should supervise commercial and financial activities." (14) Herbert Groly says, "In this connection it is sufficient to insist that a more scrupulous attention to existing Federal responsibilities, and the increase of their number and scope is the natural consequence of the increasing concentration of American industrial, political, and social life." (15)

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14. W.Thompson, op.cit., p. 319, see also pp. 312-318

15. Herbert Groly, The Promise of American Life, p. 274.

The local units are usually very jealous of their powers. Consequently, when the central government finds it necessary, for the general good, to assume a residue function which has become of national interest but which falls within the competence of the local units, there is usually a great deal of friction before such a function can be transferred to the central government. In many cases such a transfer is virtually impossible so that the central government has to recur to various indirect and sometimes inefficient methods of control. Such friction and the consequent waste of time and energy would be avoided if the system of allocation of powers used in Canada were adopted.

If, on the other hand, the reverse occurs, that is, if a function which can be better fulfilled by the local units falls within the competence of the central government, the latter can better afford to be more broad-minded and magnanimous and delegate that particular function to the care of the local units since it does not suffer from a feeling of inferiority as the local units usually do, though it may.

For these and other reasons (16) it would therefore seem advisable for the Arab Federation to follow the system of Canada in the division of powers between the central government and the local units.

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16. Mentioned in pp. ~~215 & 215a~~ p. 186. Consult also footnote no. 6 in this chapter.

## 2. The Supremacy of the Constitution

The supremacy of the constitution is another principle inherent in the federal system of government.

The principle means that the national constitution evolved and adopted or accepted by the different units is equally binding on them and on the central government which it creates. The federal constitution "...must be the result of a deliberate and conscious act of political construction. A Federation is made, not born." (17) The federal constitution has not evolved gradually and imperceptibly. For this reason its supremacy is more felt and obvious than that of a unitary government.

Consequently neither the local units nor the central government are able to change by themselves, the terms of the constitution or to discard the obligations incidental to it. They are equally bound by its terms: "It is characteristic of a federal government that the ordinary central legislature has no unlimited power of modifying the division of power between itself and the legislatures of the separate federated states : the division is fixed by the constitution, which the ordinary central legislature; no less than the local legislatures; is bound to obey." (18)

From the principle of the supremacy of the constitution follow three considerations:

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17. J. A. Marriott, op.cit., v. 2, p. 409  
18. H. Sidgwick, op.cit., p. 535

a. A Written Constitution

The first is that "The constitution must almost necessarily be a 'written' constitution." (19) Professor Marriott agrees with this opinion. He says: "It follows... that the results of this conscious and deliberate act (which sets up the federation) must be embodied in a written document or Instrument." (20)

The need for a written constitution in a federation is manifest. "A written constitution seems to be a prerequisite of federalism." (21) A federal constitution includes the allotment of powers between the central government and the local units and the mode of their exercise. In other words, it embodies the conditions upon which the several units have accepted to give up their complete independence and to merge into a federation. If <sup>the</sup> constitution is not written, any component unit or the federal government is liable to claim privileges, rights and powers which it thinks have been given to it by the constitution while the other units may deny its claim. In this case the conflict is grave because no one may be able to determine exactly what the constitution established since that act is not written in one document but is dispersed in several enactments, or is not written at all but constitutes a general practice.

The absence of a written constitution in a federation may lead to continuous friction, trouble, and disturbance

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19. A. V. Dicey, op.cit., p. 142  
20. J. A. Marriott, op.cit., v. 2, p. 409  
21. Arthur W. Macmahon, op.cit., p. 175

between the central government and the local units or between the units themselves and may occasionally cause revolt if the issue contested is of great importance to a certain unit and if this unit claims that its version of the federal unwritten constitution is the right one.

All these dangers of federalism are avoided by the adoption of a written constitution because in the case of divergent interpretations recourse can be had to the written document which is always available and in the majority of cases unequivocal.

b. A Body to Safeguard and Interpret the Written Constitution.

Even if a written constitution be adopted its supremacy is not completely assured because disputes and conflicts may still arise between the central government and the units, or among the units themselves.

These disputes cannot be due to the absence of a written text regulating the subject but to a difference on the interpretation of a certain text. They are therefore likely to be fewer in number and less acute especially when the written constitution is comprehensive and carefully elaborated.

When such a difference in the interpretation of a certain article of the constitution arises there ought to exist a body having authority to interpret the constitution and to declare which party is right. "...in every Federal Constitution there must be....somebody, presumably judicial in character,

entrusted with authority to safeguard the Constitutional Instrument and competent to interpret its terms." (22)

Actually, there is no federation, of which the writer knows, which has not set up such a body. In many cases it is a Supreme Court which has been given the authority to safeguard and interpret the constitution. In some other cases it is the federal legislature which has that right.

c. A Rigid Constitution

The final consideration which follows from the supremacy of the constitution is that "The constitution must be... a 'rigid' or 'inexpansive' constitution." (23) "...two factors, easy process of amendment and inherent complexity, together constitute what is often discussed as the relative flexibility or rigidity of a constitution." (24)

A federal constitution is rigid if it cannot be amended by the ordinary processes of making law but needs a special and complicated procedure. "It is not, indeed, absolutely necessary that the modifying organ should be different from the ordinary central legislature, provided the process of changing a constitutional rule be made more difficult than that of ordinary legislation." (25)

In general, the advantages of a rigid constitution are that "..."provides effective safeguards against what one

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22. J. A. Marriott, op.cit., v. 2, p. 410

23. A. V. Dicey, op.cit., p. 142

24. C. Friedrich, op.cit., p. 164

25. H. Sidgwick, op.cit., p. 536

might term mob military, or...majority tyranny. It seems for that reason better adapted to a constitutional order which is not deeply rooted in tradition... If, moreover, the form of government is new and untried, a firm constitution lifts it somewhat above the party struggle.... While a firm constitution makes constitutional amendments more difficult, it obliges advocates of such changes to concentrate upon the essentials and to build up solid popular sentiment behind them." (26)

All the above advantages apply to the federal form of government and particularly to the Arab Federation. One advantage, special to federalism, may be added. If the federal constitution is flexible, the federal parliament may change or amend it without paying enough attention to the opinions and interests of the different units. These may become dissatisfied and fall apart. The federation then disintegrates. A rigid federal constitution, on the other hand, makes it certain that no change can be brought about in the relations between the central government and the local units, or among the local units, except after lengthy deliberation and discussion.

The important disadvantage of rigidity which, however, does not offset the other advantages, is that changes in the competence of the federal government rendered indispensable by new economic and social conditions and circumstances, cannot take place quickly enough to satisfy the growing needs of the community.

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26. C. Friedrich, op.cit., p. 165

This disadvantage is diminished if the principle be accepted that the constitution should always be understood and interpreted in a liberal spirit so as to keep pace with the changing conditions of the community and should not necessarily always be interpreted in its literal implications. This idea is admirably stated by W. Thompson who says: Some "opinions contemplate a constitution as a living instrument rather than as an archaic document in danger of becoming obsolete. The language of the Constitution remains fixed. The concepts mean the same, but the facts and conditions to which they apply are subject to constant and vital changes with the necessary effect that the application of the old concepts to new situations bring new and different results. This is due to the change in conditions, and not to any change in concepts." (27)

In another place he says, "Constitutions like governments and other institutions are living things. They are not dead documents. One generation cannot bind the future with the written word." (28)

It is unwise for the generation which elaborates the constitution to bind irrevocably and for ever the political life of future generations along a set of established principles. This may lead to political stagnation but it is more likely to lead, in the case of the hot tempered Arabs, to a disregard of the constitution or to its overthrow. It

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27. Walter Thompson, op.cit., p. 329

28. Ibid., p. 349



is therefore essential that the opinion quoted above about the nature of constitutions should prevail among the Arabs so that future generations will find it easy to adapt the federal constitution to their needs and to interpret its terms in a broad and liberal sense.

#### B. Powers of the Central Government and the Local Units (29)

Governmental powers in the Arab Federation are distributed in such a way that the central government possesses all the powers granted to it by the constitution and those which are not delegated to the local units, while the latter possess only the powers expressly granted to them by the constitution. The implication of this principle should be that whenever there is a conflict between the central government and the local units on the exercise of a certain function, the presumption should always be in favor of the central government.

##### 1. Powers of the Central Government

"We may here best begin by stating the general principles of apportionment of power. The prime historical motive of federation has been the need of defense. It is therefore first of all requisite that the federal government should have control of the military and naval power." (30)

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29. The discussion is based on a study of the national governments of Australia, Canada, Switzerland, Imperial and Weimar Germany and the United States. The powers enjoyed by the central governments of these federations will be mentioned. These powers form the material from which the powers of the Arab central government can be selected.

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† This is a power possessed by the central government of every federation and it is usually an exclusive power, that is, the local units have no right to organize an army for themselves, except within definite limits set usually by the constitution. This is expressly stipulated in the American and Swiss constitutions. (31) To this military and naval power may be added the function mentioned by the constitution of the United States which "...vests in congress the exclusive power of legislation for the district of the seat of the United States government; for all places purchased by the general government within the commonwealths for the erection of forts, magazines, arsenals, dock-yards and other needful buildings; and for the territory of the United States not yet erected into commonwealths." (32)

"Closely connected to this is the necessity that in its dealings with outside states the federation should conduct itself as a unit. The control of foreign relations must therefore rest with the central power." (33) Foreign relations embrace the following activities: declaring war, concluding peace, negotiating and ratifying treaties, and ordinary diplomatic relations.

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30. S. Leacock, op.cit., p. 245, see also J.Bryce, The American Commonwealth, v.1, p.33

31. Refer to J.Burgess, op.cit., v.2, pL 154, He says: "The Commonwealths are expressly prohibited from keeping a standing army or ships of war, in time of peace, without the consent of the Congress." and to J.Bryce, Modern Democracies, v.1, p. 342

32. J. Burgess, op.cit., p. 159

"Since neither foreign relations nor war can be conducted without financial support, it is further necessary that the federal government should have some power of taxation of the individual citizens. It is not enough that it should be able to requisition the component commonwealths for the money it needs: this was amply seen in the collapse of the finances of the old confederation (1781-89)." (34)

This power of taxation by the central government may either be limited to indirect taxes such as in Switzerland (35) or it may extend also to direct taxes as it does in the United States. (36) Further, in many cases when the revenue levied by the central government, from the taxes allowed to it by the constitution, is not adequate, the central government is given the right to levy a certain sum from the component units proportional to the wealth and capacity of each. (37)

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33. S. Leacock, op.cit., p. 245. See also J. Burgess, op.cit., p. 248-251, 133, 276, W. Munro, The Governments of Europe, p. 70b. J. Vincent, Government in Switzerland, p. 50-51, R. Brooks, Government and Politics of Switzerland, pp. 48-65, 331-74.
34. S. Leacock, op.cit., p. 245
35. See F. Ogg, The Governments of Europe, pp. 110-116.
36. "Congress may, with the preceding exception, ...lay and cause to be collected every species of tax, which the wit of man can devise, upon any object." J. Burgess, op.cit. p. 151. This also applies in the case of Weimar Germany, see H. Finer, op.cit., p. 379.
37. See J. Burgess, op.cit., p. 174 for the application of the principle in Imperial Germany, and R. Brooks, op.cit. pp. 48-65 for its application in Switzerland.

"As a second class of governmental duties may be ranked all those which are only effective in so far as uniformly performed. Of this nature are the control of coinage, the regulation of patents and copyrights, and the conduct of the postal service." (38) These powers are enjoyed by the central governments of Australia, (39) Imperial Germany, (40) Switzerland, (41) and the United States. (42)

"Third in the list will stand a variety of public affairs in which, though uniformity is not absolutely essential, it is nevertheless largely contributory to national progress. In this connection may be mentioned the control of the more extensive transportation facilities (those which constitute 'interstate commerce'), the regulation of the banking system, and the establishment of a general tariff." (43)

Of these powers mentioned, the most important is the regulation of interstate commerce. "The commerce clause has been the principal constitutional provision by which the increasing exercise of federal power has been justified (in the United States.)" (44) The control of interstate commerce includes the control of the means of traffic, transportation and intercourse between two points situated in different units of the federation. (45) "Along with the power to regulate commerce, we may class the power of Congress to fix the standards of weights and measures." (46)

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38. Stephen Leacock, op.cit., p. 245

39. Refer to J. Bryce, Modern Democracies, v.2, p. 174

40. Refer to J. Burgess, op.cit. p. 171

41. Consult J. Bryce, Modern Democracies, v. 1, p. 342

42. Consult J. Burgess, op.cit., pp. 139, 142, 143

43. S. Leacock, op.cit., p. 245, 246. See J; Bryce The American Commonwealth, v. 1, p. 33

44. W. Thompson, op.cit., p. 350

45. J. Burgess, op.cit., p. 137

In the United States the power of Congress to regulate internal and external commerce (commerce meaning both intercourse and traffic) is exclusive as against the commonwealths. (47) In Switzerland, this power as well as the regulation of the banking system and tariffs, is also exclusive to the central government. (48)

"Trade - interstate and external -- tariffs, currency, banking, patents, weights and measures... are in Australia Federal matters,..." (49) In Imperial Germany, legislation in respect to foreign and internal commerce was not exclusive but was exercised concurrently with the commonwealths. The Imperial legislature had also the power to determine and regulate the system of weights and measures (50) "to authorize the construction of Imperial railways for defence and general intercourse." (51)

"As a fourth class (of powers) may be placed the debatable category of subjects whose allotment to the federal or component government is a matter of opinion and must depend on the circumstances of the case. Here the conspicuous examples are seen in the regulation of marriage and divorce and in the control of public education. Beyond this as the fifth and final class lie those duties which certainly ought to be left to the constituent governments to perform. Here

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46. Ibid., p. 141

47. Ibid., p. 134. See R. Cushman in the Political Quarterly, Oct.-Dec. 1937

48. R. Brooks, op.cit., pp. 331-47, J. Bryce, Modern Democracies, v. 1, p. 342

49. Ibid., v. 2, p. 174

50. J. Burgess, op.cit., p. 169

51. Ibid., p. 283.

again opinion may differ, but public works of merely local scope, public charities, the regulation of the liquor question, etc., are generally included." (52)

There is a great deal of difference of opinion on the allocation of the powers mentioned by Professor Leacock in the last two categories. In the United States, for example, the regulation of marriage and divorce and the control of public education are purely local matters. In Australia and Switzerland, on the other hand, the regulation of marriage and divorce are federal questions regulated by national law (53) while education in the latter country is a concurrent power subject to the regulation of both the central and the cantonal authorities. (54)

Again, the regulation of the liquor question considered by Leacock to be usually a local affair was regulated by the central government of the United States for many years while the central government of Switzerland still has a monopoly of the liquor industry. (55)

Other powers exercised by the national governments of some federations may be mentioned.

Certain central governments guarantee to the local units a special form of government and are under the duty of putting down any constitution of a local unit which does not conform to the type guaranteed. This function is imposed by the constitution on the national governments of the United

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52. S. Leacock, op.cit., p. 246

53. On Australia refer to J. Bryce, Modern Democracies, v.2, p. 174, and on Switzerland to R. Brooks, op.cit., pp. 48-66 and 331-47

54. Ibid. and J. Vincent, pp. 39-51

55. Ibid.

States and of Switzerland. (56) Another power enjoyed by some central governments is the right to interfere in local affairs to keep order and security if the local units are unable to do that. (57)

A very important power is vested in some federal governments when the constitution stipulates that the legislation of the central parliament cannot be treated as invalid by any other branch of the central or local governments whether judicial or otherwise. This interpretation was accepted in Imperial Germany. (58) It is still followed in Switzerland. (59)

Inversely, local laws which violate the federal constitution or legislation are declared invalid. In Weimar Germany such a conflict used to be referred to the Supreme Court of State. (60) In Switzerland "It would appear that, the Federal Court can treat as invalid Cantonal laws which violate the Constitution." (61) In America, federal statutes, if made conformably with <sup>the</sup> law prevail against the state constitution and state statutes. (62) In Germany, "Whether the Imperial government has any power of annulling a State law on the ground of unconstitutionality is not very clear, but... no such power exists under the Imperial Constitution." (63)

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56. Refer to A.V.Dicey, op.cit., p. 477, J.Bryce, The American Commonwealth, v.1, pp.53-70, and to R.Brooks, op.cit., 48-65.

57. See Ibid., and J.Bryce, The American Commonwealth, v.1, pp.53-70. See also J.Burgess, op.cit., p. 286 on the right of the German Emperor to interfere in case of insurrection or rebellion in any part of the Empire.

58. See A.V.Dicey, op.cit., p. 479

59. Ibid., P. 477

60. H. Finer, op.cit., p. 363



A supplement to this important power is the right given to some national governments to disallow the legislation of the local units. In Switzerland "The Constitution.... permits the National Government to disallow cantonal laws." (64) Similarly, in Canada, "The Dominion Government has authority to disallow the Act passed by a Provincial legislature. This disallowance may be exercised even in respect of Provincial Acts which are constitutional, i.e. within the powers assigned to the provincial legislatures under the Constitution." (65)

Another group of powers exercised by some federal governments include: first, the right of the central legislature to change the federal constitution. Thus in the German Empire the constitution could be "... changed by the Imperial legislature in the way of ordinary legislation. But no law amending the Constitution can be carried, if opposed by fourteen votes in the Federal Council." (66)

Secondly, in some states local constitutions need to be accepted by the central government before they become lawful. In Switzerland, for example, "The Cantonal Constitutions, and amendments thereto, need the guarantee of the Confederacy. This guarantee will not be given to articles in a Cantonal Constitution which are repugnant to the Federal Constitution, and amendments to a Cantonal Constitution do not.... come into force until they receive the Federal Guarantee." (67)

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61. A. V. Dicey, op.cit., p. 477
  62. J. Bryce, The American Commonwealth, v.1, p. 248.
  63. A. V. Dicey, op.cit., p. 479
  64. J. Bryce, Modern Democracies, v.1, p. 439
  65. A.V.Dicey, op.cit., p. 478. See also J. Bryce, Modern Democracies, v.1, p. 459.
  66. A.V.Dicey, op.cit., p. 479
  67. Ibid., p. 477

Thirdly, constitutional conflicts within the units and political conflicts between them may be solved by the central government. The German Imperial legislature had the right to legislate "in settlement of constitutional conflicts within the commonwealths provided one party shall have appealed the question to the Federal Council, and the Federal Council shall not have been able to affect a settlement by mediation. Conflicts of a political character between commonwealths should be determined by the Federal Council." (68)

In the United States, controversies between two or more States, between citizens of different States, ... and between a State, or its citizens, and foreign States, citizens or subjects, fall under the jurisdiction of the federal courts. (69)

Related to this, and as a fourth power, may be mentioned the right of the central government in the United States to interfere for "The protection of citizens against unjust or discriminating legislation by any State." (70)

Finally, the Central government may be given the right to exercise the constitutional powers of the units if these choose to remain inactive.

The powers<sup>mentioned above</sup> enjoyed by different central governments of federations may be given in the following short summary:

- a. The control of the army and the navy.
- b. Foreign affairs.

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68. J. Burgess, *op.cit.*, p. 181

69. J. Bryce, *The American Commonwealth*, v.1, p. 235.

70. ~~J. Bryce, *The American Commonwealth*, v. 1, p. 33.~~

*Ibid.*, p. 33.

- c. The power of taxation.
- d. The control of coinage, the regulation of patents and copyrights and the conduct of the postal service.
- e. The control of foreign and interstate commerce, the tariff system, the more extensive transportation facilities, and the regulation of the standards of weights and measures.
- f. The power to interfere in local affairs to keep order and security.
- g. The power to invalidate local legislation and to consider national legislation always valid.
- h. The power to change the federal constitution and to refuse to accept a local constitution unless it satisfies the central government.
- i. The power to settle constitutional conflicts within the units and political conflicts between them.
- j. The power to protect citizens against discriminatory legislation and to exercise some of the constitutional functions of the units if these neglect them.

There are two different systems which can be adopted by federal governments in exercising their powers. The federation may be either administratively centralized or decentralized. The best example of the administratively centralized federation is the United States where the central government has its own complete system to administer its laws and decrees in all parts of the country.

A federation administratively decentralized is Switzerland where the laws and rules of the central government are carried on mainly by the cantonal authorities. (71) The same situation existed in Germany before the war and under the Weimar Republic except that here the central government supervised more effectively the execution of its laws by the local authorities. "Germany (of 1871) was also the most prominent example of another conceivable type (of an administratively decentralized federation), that in which the states, being the executors of Federal laws, the Federation is endowed with supervisory power." (72) Similarly, the Weimar Constitution stipulates: "Federal Statutes shall be carried into execution by the state authorities, unless these same statutes decree otherwise; but that the Federal government superintends the affairs which derive from its legislative power. (73)

From the powers enjoyed by the central governments of different federations, related in the preceding pages, and from the different systems by which these powers are exercised, it is possible to enumerate the powers which the Arab national government may find it desirable to undertake, and the system which is more preferable for the execution of its policies.

We should always keep in mind the principles enunciated above (74) which make it imperative on us to give to

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71. R. Brooks, op.cit., pp. 331-47

72. H. Finer, op.cit., p. 276

73. Ibid. p. 364

74. Refer to ~~pp. 215 & 215a~~ p. 186 and to the footnotes mentioned there.

the central government the greatest amount of powers feasible with the federal organization, and to adopt the system which renders the exercise of these powers most effective and efficient.

The powers of the central government in an Arab Federation might be divided into two categories. The first includes the exclusive powers, that is, those powers which can be exercised by the central government only. The second category includes the concurrent powers. These are exercisable by the central government at its discretion, and until it regulates any subject within its competence, local law is valid, but when the central government legislates local law can only be passed within its terms and in consonance therewith. If the national law is withdrawn the localities recover their power to legislate. (75)

a. The Exclusive Powers.

- (1) The control of the army, the navy and all the territories used within the federation for military purposes.
- (2) The conduct of foreign relations including the declaration of war, the conclusion of peace, the negotiation and ratification of treaties and the ordinary diplomatic relations.
- (3) The power to levy taxes on Arab citizens for the purposes of the national government. These taxes should be direct or indirect subject to the will of the central authorities. The

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75. This definition of concurrent powers is given by H. Finer, op.cit., p.362.

central government might take over a tax which previously had been collected for the benefit of the local unit on the condition of providing another adequate source of revenue for the locality. Further, if the revenue which flows to the central government is not adequate, that authority should be able to levy additional sums on the governments of the units proportional to the wealth and capacity of each.

(4). The control of coinage, the regulation of patents and copyrights, and the conduct of the postal service because the nature of these services requires uniform regulation throughout the country.

(5). The control of the transportation and communication facilities of all sorts which extend beyond the confines of one unit.

(6). The control or regulation of the banking system of the country and of all credit agencies.

(7). The establishment of a general tariff system and the regulation of external commerce.

(8). The regulation of interstate commerce and the power to fix the standards of weights and measures. Such a national power makes it impossible for a unit to establish tariff barriers and to issue discriminatory legislation against the products and trade of another unit.

(9). The power of the central parliament to determine the constitutionality of its own laws.

(10). The power to declare invalid local laws which violate the federal constitution or federal legislation.

- (11). The power to refuse to accept local constitutions if they do not conform to federal standards.
- (12). The power to disallow local legislation.
- (13). The power to interfere in local affairs to protect the citizens against unjust or discriminating legislation.
- (14). The power to legislate in respect to citizenship and to establish a uniform rule of naturalization throughout Arabia.

b. The Concurrent Powers

- (1) The power to legislate in respect to crime and civil relations. These powers will ordinarily be enjoyed by the local units, but they <sup>central government</sup> should enact a model criminal and civil code. The central government's criminal code can be applied when it is formally adopted by a certain unit. But every Arab should be free to regulate his civil life by the federal civil code if he prefers it to the legislation of his locality and declares his choice beforehand.
- (2) The power to settle industrial and labor disputes which extend beyond the limits of one unit.
- (3) The power to enact a minimum of social legislation for the workers and peasants on which the units can improve.
- (4) The power to interfere in local affairs to secure order and tranquility if the local government is unable to do that.
- (5) The power to establish in Arabia a minimum unifying educational program and a system of public schools. However, the local units retain the right of adding more material to the program and of having their own system of public schools

on the condition of applying the minimum requirements set by the national government.

- (6) The power to exercise the constitutional functions of a unit which chooses to remain inactive.
- (7) The power to mediate and solve constitutional conflicts within a unit or political conflicts between different units.

The Arab national government should be administratively centralized, that is, it should possess its own body of civil servants dispersed all over the country and responsible to it alone.

The advantages of such a centralized administrative system are: first, the central government will be surer of receiving effective and loyal service and of seeing its decisions put into operation more quickly and smoothly than if it entrusted the execution of its policies to local agents especially when the national measures are not popular with that community.

Secondly, the civil service system of the national government is likely to be of a better quality and its personnel of a higher caliber than the administration systems and the personnel of the units. The national government therefore will probably get better and more efficient service. The central administration serves then as a model for the local units.

Further, "It does not need to be pointed out that it is an element of weakness in any federal State to be obliged to resort to the authorities of the member states for the enforcement of its commands." (76)



The chief disadvantages of such a system is that it means to a great extent duplication of administrative work, and consequently, extra expenses and possibilities of friction between the agents of the central government and the local units whenever they happen to be engaged in similar functions in the same place.

## 2. Powers of the Component Units

Besides <sup>the</sup> concurrent powers already mentioned the following powers commonly allotted to the units of different federations should be exercised by the component units of Arabia.

a. In the first place, each unit should have the right to evolve its own constitution which becomes valid when it is accepted by the central government. The amendments, total or partial of local constitutions are subject to the same condition. However, the federal constitution of Arabia should not require the units to adopt a similar form of government because there are great differences in conditions between some sections of Arabia which require different types of government.

b. It follows that the local units should exercise all the powers--legislative, executive and judicial--which pertain to the organization of the governmental structure.

c. The units <sup>should</sup> possess the right to participate in the work of the central government and to be represented therein. "It is a natural, if not a necessary, characteristic of a federal polity that the separate political existence of part-states as members of the whole state should be somewhat represented in the structure of the common government." (77) Similarly, they <sup>should</sup> possess the right to participate in any proposed amendment to the federal constitution. (78) More than that, certain

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77. H. Sidgwick, op.cit. p. 534

78. This will be discussed in the following section.

rights should be reserved to the units which cannot be changed except with the assent of the unit possessing the right. (79) Thus, "In America, besides the unusual difficulty of amendment, no state can be deprived of its representation in the Senate without its consent." (80)

d. The power to levy taxes for the purposes of the local government.

e. A final class of powers includes all those functions, which are primarily of local interest and cannot be enumerated exhaustively, such as public works of local scope, public charities, the administration of the public domain owned by the unit, the development of the productive capacities of the territory, the establishment of public schools and places for recreation and similar functions.

It should be remembered that the powers of the central Arab government and the local units, enumerated above, are not exhaustive, and that any new function which arises falls normally within the competence of the national government which possesses the residue of powers.

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79. See A.V. Dicey, op.cit., p. 479 for the application of this principle in Imperial Germany.

80. H. Finer, op.cit., p. 324

### C. The Organization of the Central Government.

The Arab national constitution is written and rigid. It divides the powers of government between the central agency and the local units giving the express or delegated powers to the latter and the residue of powers to the former.

It establishes also the form of the central government determining the organization and powers of each organ and its relations with the other organs. The study of this problem is the object of the present section.

"No particular form of government" says A.B. Hart, "is essential in a federation." (81) But a study of the five or six federations mentioned above<sup>(82)</sup> gives us the most dominant forms of national government in democratic federations. (83)

The nature, advantages and disadvantages of these governments will be examined mainly with three criteria in mind: stability and vigor of the central government, and its responsiveness to public opinion. The central Arab government tries to combine the best elements of every system for establishing an organization which suits the Arabs, meets the conditions in which they live, remedies the evils from which they suffer<sup>(84)</sup> and gives efficiency and energy to the central government.

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81. A.B. Hart, *op.cit.*, p. 24

82. See *supra*, p. 196 footnote.

83. Democratic designates here any form of government which is not absolute or dictatorial.

84. They are mentioned in chapter IV, section D.

## 1. The Presidential System

The first type of national government and the one which was applied in the earliest of modern federations is the presidential government of the United States. Of this type also, though with a good deal of variation in application, was the Imperial government of Germany from 1870 to the end of the World War. (85)

In general and broad terms, "Presidential government is that form in which the state, the sovereign, makes the executive independent of the legislature, both in tenure and prerogative, and furnishes him with sufficient power to prevent the legislature from trenching upon the sphere marked out by the state as executive independence and prerogative." (86)

The essential features of the system are the following: (87)

- a. I. An executive head of the state irresponsible to the legislature and irremovable by it except by impeachment.
- b. II. A group of ministers appointed and dismissible by the President, acting under his authority and responsible to him and not to the legislature.
- c. III. A legislature elected by the citizens for a term of years and not subject to dissolution by the chief executive. Its power of passing law is subject to a veto by the chief executive.

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85. See J. Burgess, op.cit., p.30

86. Ibid., p. 11

87. J; Bryce, Modern Democracies, v. 2, p. 463.

λ. IV. The presidential system is intended for safety, not for speed and vigor. "...the American Constitution tends to put stability above activity, to sacrifice the productive energies of the bodies it creates to their power of resisting changes in the general fabric of government." (88) This is so because the presidential system is based on the theory of checks and balances which demands "that each of these departments (legislative, executive and judicial) should share in the powers of the others or exercise a certain control over their actions..." (89)

The advantages of a presidential system are that it fixes the weight of responsibility upon a single person. In the second place, it is energetic if the chief executive is an active person. In other words, "The presidential system is highly personal." (90)

In general, this system is especially valuable in countries which want to preserve and consolidate what they have acquired rather than to embark on new experiencies. It is a stable system which permits the prosecution of a continuous internal and foreign policy for a number of years known beforehand during which there is no change of the executive personnel. It is stable because a shifting of the political balance can take place only at definite periods set for elections, and because the legislature can, by withholding funds check the executive, while the executive by its veto can check the legislature. (91)

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(88) J. Bryce, *The American Commonwealth*, v. 1, p. 114

89. R. Gettell, *op.cit.*, p. 204

90. Lindsay Rogers, in *The Political Quarterly* Oct.-Dec; 1937

91. J. Bryce, *Modern Democracies*, v.2, p. 470

Consequently, the legislature which cannot displace the executive head, is not distracted from the work of legislation by debates and manoeuvres intended to discredit the existing cabinet and to install a new one. (92) It is also a gain for the work of administration in general that the members of the cabinet are not obliged to give constant attendance in the legislature since they are not responsible to it.

The chief disadvantages are that "The presidential system leaves more to chance than does the parliamentary. Everything depends on the character of the President." (93) The second disadvantage is that there is very little cooperation between the legislature and the executive. Each body works independently of the other. Delay, confusion, much working at cross purposes are the result. This causes disputes and friction between the two bodies. A consequence of this separation has been the development of the committee system in the legislature of the United States. These senatorial or congressional committees work independently of each other because there is no general guiding committee doing the type of work fulfilled by the British Cabinet for example.

The change of higher executive officials, and of many of the lower ones, which usually takes place at every presidential election, gives a jerk to the governmental machinery and causes, in the long run, a discontinuity of

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92. Ibid.

93. Ibid., p. 469

of policy. Moreover, there is a loss of responsibility and efficiency in the president during the last part of his term. (94) This of course applies more to the United States than to Imperial Germany where there was no fixed term of office for the Imperial Chancellor. (95)

Further, if the chief executive and the two houses of the legislature are elected for different terms "there may not be such a thing as a President in Power, because the party of the President may be in a minority in one or both Houses in which case it cannot do anything which requires fresh legislation." (96)

The summing remarks about the presidential system from the point of view of the criteria set for us, are that it is a stable system under all conditions, vigorous if the chief executive happens to be able and active and if he possesses a favorable majority in the legislature, and finally, it is a system less responsive to public opinion than the parliamentary because the executive holds power for a fixed term and cannot be removed at the pleasure of the voters or their representations.

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94. J. Bryce, *The American Commonwealth*, v.1, p. 298

95. See J. Burgess, *op.cit.*, p. 287

96. *Ibid.*, p. 301



## 2. The Parliamentary System

The parliamentary system or, as it is sometimes called, the cabinet government, "...was never seen anywhere till the English developed it by slow degrees, and it is a very delicate system, depending on habits, traditions, and understandings which are not easily set forth in words, much less transplanted to new soil." (97)

Parliamentary government may be defined as that "form in which the state confers upon the legislature the complete control of the administration of law. Under this form the legislature originates the tenure of the real executive, and terminates it at pleasure; and under this form the exercise of no executive prerogative, in any sense and manner unapproved by the legislature, can be successfully undertaken."<sup>(97a)</sup>

The system has three essential features. (98) In the first place, there is a titular executive head of the state either elected for a term of years or hereditary. In the second place there is a group of ministers, virtually, if not formally, selected and dismissible by the representative legislature and responsible to it. Finally, there exists a legislature of one or two chambers, elected by the citizens for a term of years but in some countries liable to be dissolved by the executive head.

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97. J. Bryce, *The American Commonwealth*, v. 1, p. 279.

97a. J. Burgess, *op.cit.*, p. 13.

98. J. Bryce, *Modern Democracies*, v. 2, p. 462

"The essence of the scheme is that the executive and the majority in the legislature work together each influencing the other, the Cabinet being in fact an executive committee of the legislature. The working of the scheme presupposes the existence of parties and a strong sentiment of party unity." (99)

The chief excellence of the system is that "...it maintains permanent harmony between the different branches of government; but in attaining this result, it sacrifices entirely the independence of the executive, and destroys practically the independence of one of the two houses of the legislature." (100) This is particularly true in countries with a multiple-party system. In such a situation it is very hard for the cabinet to lead the parliament because usually it has to rely on the support of different groups who agree only on a few points and differ on many more. In this case, it is these groups which dictate the policy to the cabinet and not the reverse.

But in countries with a two-party system, one party has always a majority and its leaders naturally assume office. In such a case it is rather the cabinet which tends to lead the parliament. "The executive, when supported by legislature, can carry out the wishes of the majority with the maximum of vigour and promptness. (101)

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99. Ibid., p. 465

100. J. Burgess, op.cit., p. 14

101. J. Bryce, Modern Democracies, v. 2, p. 464.

"Another great advantage...is the better information of the legislature upon all subjects concerning which it must act, through the presence and voice of the heads of the administration in the chambers... To some minds this advantage is balanced, in some degree at least, by the disadvantage of an undue administrative influence thus gained over the legislature." (102)

"The presence of ministers in a legislature has two other advantages. Being in contact with members of the opposition party and with their own they have opportunities of feeling the pulse of the legislature. The other advantage is the concentration of responsibility. For any fault committed the legislature can blame the cabinet and the people can blame both the cabinet and the majority." (103)

The disadvantages of the system can be mentioned briefly. It is said that "The system intensifies the spirit of party. The conflict is unending. In the legislature it involves an immense waste of time and force. In practice the opposition party opposes most of the measures of the cabinet and criticizes most of their acts not only the bad ones." (104)

Further, "A system which makes the life of an administration depend upon the fate of the measures it introduces disposes every cabinet to think too much of what support it can win by proposals framed to catch the fancy of the moment and to think too little of what the real needs of the nation are; and it may compel the retirement, when a bill is defeated, of men whom the administration needs." (105)

Examined in the light of the criteria mentioned above (106) the parliamentary form of government is very responsive to public opinion. It is vigorous when the cabinet is supported by a faithful and consistent majority in the legislature. On the other hand, it is always unstable especially so when the country has a multi-party system. In that case, the system loses its vigor and weakens the more it becomes unstable.

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102. J. Burgess, op.cit., p. 14  
103. J. Bryce, Modern Democracies, v.2, p. 464  
104. Ibid., p. 466  
105. Ibid.  
106. See Supra, pp. 219 + 220.

### 3. The Executive Council System

The Executive Council System has evolved in the particular circumstances of the Swiss Confederation and it finds its best application/<sup>in</sup>that country.

The system borrows elements from the presidential and parliamentary forms and adapts them to the nature of the people and the country. (107)

In the first place, there is a small administrative council chosen by the legislature for a short term of years to carry on the executive business of the state. This council works under the direction and control of the legislature, in other words, is responsible to the legislature but cannot be removed by it. This means that the legislature controls effectively the work of the executive, can annul its decisions and reverse its policy but cannot force it to resign. The members of the council do not sit in the legislature but are allowed to attend its meetings and to address it whenever they like.

In the second place, the legislature consists of two houses elected for short terms and not subject to dissolution by the executive. And finally, a new element is introduced in the direct functioning of government. The people, that is the whole body of citizens, can influence politics directly through the use the referendum and the initiative.

The chief advantages of the system are its simplicity and the concentration of power in the hands of the executive council. "Policy, foreign and domestic, is continuous. No time is wasted in party strife. Economy and efficiency are secured." (108)

The system combines responsibility with permanence. It enables Switzerland to keep its best statesmen in office irrespective of their party affiliations. It is not necessary for the members of the executive council to belong to the majority in the houses. (109)

"The conditions of Witzerland which have given rise to its institutions are peculiar: a small nation, few of its citizens are rich, highly intelligent, long trained by local self-government, little distracted by party spirit." (110)  
"It would be hard to introduce such a system in any country where the passing of laws has been long associated with party strife, and where the distrust of opponents..., makes each side suspect whatever proceeds from the other." (111)

The system achieves stability by fixing the tenure of the executive for a definite number of years and by the practice of reelecting to the executive council those members who have distinguished themselves regardless of their party affiliations. In this way executive policy can be continued for a number of years much longer than the legal term of the council.

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108. Ibid., p. 473

109. Refer to R. Brooks, op.cit., pp.103-33, W. Munro, op.cit. pp. 705-12, J. Vincent, op.cit., pp. 210-20

110. J. Bryce, Modern Democracies, V.1, p. 473.

111. Ibid., p. 474

The system is highly responsive to public opinion for two reasons. First, the executive is responsible to the legislature though it cannot be displaced by it. Secondly, the people have a direct influence over the legislature and executive alike through the use of <sup>the</sup> initiative and referendum.

The executive council usually leads the legislature effectively. It acts as the guiding committee for the whole legislature though with less effect than the British cabinet because the members of the executive council have no party solidarity among themselves nor do they necessarily lean on the support of a majority in parliament.

These two considerations, and especially the first, necessarily diminish the vigor of the Swiss executive. A plural executive is always weaker than a single one.

#### 4. The Form of the Central Arab Government

The preceding brief discussion of the three dominant forms of central organization in federal governments should give us the necessary clues which suggest to us the best elements in each system from the point of view of stability, vigor and responsiveness to public opinion which can be incorporated in the Arab central government taking into consideration the more pressing needs of the Arabs at the present time.

A few remarks should be made before attempting to reach a conclusion. It is very likely that the central Arab government will be monarchical not republican, and we assume that this monarchy will be a democratic one not absolute nor dictatorial. Further, the writer believes, and has tried to justify his belief, (112) that what the Arabs need, more than anything else during the first years of the establishment of their state, is quick and vigorous governmental action internally and externally.

In every democratic government there is a balance achieved between the principles of stability, vigor, and responsiveness to public opinion; and every people, consciously or unconsciously, tips the balance in favor of the principle which is nearest to its heart or which best satisfies its pressing needs, and then evolves its governmental institutions accordingly.

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112. Refer to chapter IV, section E.



Stability means two things: that there should be no conflict, dispute or bargaining on the exercise of public power between the three branches of government, and secondly, that none of the three branches should be subject to abrupt and quickly recurring changes either in their functions and policies or in the persons exercising the powers of government.

A government is considered vigorous when decisions are arrived at quickly and easily and carried on with the maximum of efficiency and the minimum of friction. A vigorous government usually means a strong executive branch exercising a great deal of authority without undue interference from the other branches.

Responsiveness to public opinion means that the representatives of the people or the people themselves should possess the right to make their will effective in public affairs.

It is evident that, in general, stability is in accordance with the requirements of a vigorous government but less so with a government which wants to be completely controlled by the whims of the electorate or their representatives because these whims are liable to sudden and abrupt changes. Consequently, a great degree of the effectiveness of public opinion is always achieved at the cost of some stability which reflects on the strength of government. Inversely the more a government is stable and vigorous the less effective is public opinion likely to be.

a. The Executive Branch

The executive branch in the future Arab federal government should hold its powers directly from the constitution and not by delegation from the legislature. The two branches should stand on an equal footing each exercising its authority independent of the other but in cooperation. The system would be similar to that of the United States though it would differ from it in important points as will appear in a moment.

~~a. The Executive~~

Since it is assumed that the Arab Federation will be a democratic monarchy, it follows that the king shall reign but not rule. The real executive should be an individual appointed at the discretion of the king once every seven years. The real executive, let us call him the Chancellor, should not be elected by the electorate directly or indirectly because it is not thought wise to entrust such a responsibility to the masses who have had no democratic experience and who are not sufficiently interested or enlightened to give the matter due consideration.

The Chancellor should not be elected by the legislature because that would weaken him when he has to face the legislature and to take a firm stand against it.

For these reasons it is thought better to adopt, with some modifications, the system which was employed in

Imperial Germany. The only real power the king should possess is to choose the Chancellor every seven years. And in that choice he should be completely free from any considerations of party affiliation or parliamentary majority. Once the Chancellor is appointed, all executive power should pass into his hands and the role of the king should be reduced to that of the English king, namely, to warn, to advise and to be consulted.

The tenure of office of the Chancellor should be fixed because if it were not he, or the king or both allied together might become despotic. The term should be seven years because it is a period of time long enough to enable the execution of a stable and continuous foreign and domestic policy, and not too long to constitute a danger to public liberties.

The Chancellor should appoint his own ministers who would be placed at the head of the different administrative departments and who would form a cabinet in the American sense. The ministers should be responsible to him alone. They should have no group solidarity and any or all of them should be subject to dismissal at any time by the Chancellor.

The powers of the Chancellor should be the following:  
1. Powers which relate to foreign affairs.

The Chancellor should have the right to determine and conduct foreign policy, to negotiate political and commercial treaties and agreements which become valid with the

assent of the majority of the upper house. By this stipulation the Chancellor would be prevented from pursuing a purely personal policy but he will remain quite strong because the majority whose assent is required would not be obstructive and difficult to get as it is in the United States.

The Chancellor should receive and appoint ambassadors. He should be able to declare defensive war if the country were attacked but for a declaration of offensive war the recommendation of the Chancellor and a favorable vote of parliament should be required.

~~A.~~(2) Powers which relate to domestic administration.

The Chancellor should have a wide range of ordinance power. Statute law should determine the broad outline of the administrative system and organization. Administrative methods and technique on the other hand should be determined and regulated by ordinance. This power includes the right to elaborate on the general principles and directives enunciated by the legislative.

When violence and disturbance occur in any unit of the Federation, the Chancellor should intervene if appealed to by the government of the unit, or on his own initiative, to secure public order.

He should promulgate the laws and should control the federal army. He should prepare the federal budget, defend it in parliament and execute it.

III. (3) Powers which concern legislation.

The Chancellor might or might not be a member of either House of the legislature. In any case he should have the right to appear before either of the two houses, to address them, to initiate or defend his measures in them and to answer questions. He should be free to send any of his ministers in his place. A greater degree of cooperation and integration between the two departments would be arrived at in this way.

In the second place, the Chancellor should formulate policy and introduce bills in either House orally or in a written form and prepare the work of the legislative chambers. Further, the Swiss system should be adopted whereby every private bill presented by a member of the legislature should be referred to the executive and no action should be taken on it in the legislature except after hearing the recommendation of the executive which should give its opinion on the subject within a fixed time. This would place effective leadership in the hands of the executive as it is in England and Switzerland. It would ease the work of the legislature a good deal because this body would devote itself to the discussion of bills which had already received a partial study. It would also remove the need for a committee system similar to that of the United States working semi secretly with very little integration between the work of one committee and another. (113)

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113. See J. Bryce, *The American Commonwealth*, v.1, p. 158.

The chancellor should have the right to veto any law passed by the legislature. His veto should be capable of being overridden by a two thirds majority vote in each House. He should be able also to dissolve the lower House if it is obstructing fresh legislation and to appeal to the electorate. If the electorate should return a hostile majority he should resign and in that case the king would not be able to reappoint him or one holding the same opinions and advocating the same policy.

#### **FF.(4) The power of Appointment**

The Chancellor should have entire freedom in appointing his ministers. He should also appoint the ambassadors and some of the higher administrative officials and the judges of the federal courts. But for all of these appointments, except for the nomination of his cabinet ministers the assent of a majority in the Council of Provinces would be necessary. The other administrative officials should all be appointed according to the merit principle.

Finally, the judicial powers of reprieve and pardon should be exercised by the head of the state.

#### **b. The Legislature**

"We may say that modern constitutional law has settled firmly upon the bicameral system in the legislature with substantial parity of powers in the two houses." (114)

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114. J. Burgess, op.cit., p. 106

"The necessity of a double, independent deliberation is the fundamental principle of the bicameral system in the construction of the legislature." (115) "The occasion of the adoption of the bicameral system in the different states was to secure the representation of diverse and possibly conflicting interests." (116)

In every federation, including Arabia, these diverse interests are found <sup>to</sup> having centripetal and centrifugal tendencies. These tendencies alone are sufficiently important to require different methods of representation in the central government.

This reason, with the advantage of independent and wise deliberation resulting from the existence of second chambers, have decided all federal governments without exception, to adopt a bicameral legislature. The more numerous house, represents the country at large and the people as individual citizens, while the smaller house represents the people as organized in local units.

The two houses of the federal legislature in Arabia should be equal in power and coordinate. They should have the right to deal with any subject requiring legislation unless it is included in the ordinance power of the Chancellor.

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115. Ibid., p. 107

116. Ibid., p. 108

The initiation of legislation, even if it pertains to revenue questions, should be permitted in either house. Every bill should require a majority vote in each house and be accepted by the Chancellor before it becomes law. Either house should be able to interpellate the Chancellor or his ministers on any question and ask for information.

The federal legislature should be the only judge of the constitutionality of its laws, so far as these laws are ordinary laws which fall normally within the competence of legislatures or laws which interpret the federal constitution. But the interested party should be able to contest laws which are more than interpretative in character and which constitute actual amendments to the federal constitution. The federal courts should decide this conflict and determine if the contested law constitutes an amendment. If the decision is to that effect the legal process of amendment should be followed. If on the other hand, the courts decide that the law is only interpretative the House regains its full power and jurisdiction.

The House should have the power to invalidate local legislation. Further, local constitutions and amendments there- to should not become valid unless they are assented to by the central legislature.

There should be little stress on committee work in either house because that function should be undertaken to a large extent by the Chancellor and his cabinet.



## 1. The Council of Provinces

In the proposed Arab Federation, the constitution should assign to each unit the number of its representatives in the Council of Provinces which represents the units as separate entities. "It is not essential to the federal form of government that the member states should all stand in exactly the same relation to the federal government as regards their respective autonomous powers or of their citizens to participate in the control and management of the general government." (117)

Accordingly, if it happens that the component units in the Arab Federation vary greatly in size, population and power, the more important units should be allowed a greater part of activity in the national government. This principle is followed in Canada where "A number of senators proportionate to population is assigned to each province", (118) and was followed by the Bundesrath of Imperial Germany. (119)

The component Arab units should have complete freedom in determining the manner of the election or appointment of their representatives in the Council of Provinces, and the term of their tenure. But they should all be remunerated from the national treasury. This system which was used in Imperial Germany and is still in force in Switzerland (121) accords better with the varying types and levels of governmental organization in the Arab units than does a uniform system of election and tenure as that used in the United States and Australia.

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117. W.W. Willoughby, *The Fundamental Concepts of Public Law*, p. 208.

118. J. Bryce, *Modern Democracies*, v.1, p. 460.

119. See J. Burgess, op.cit., p. 78

Representation in the Council of Provinces should not be instructed. Only one of the six federations studied adopted the principle of instructed representation. That was Imperial Germany. The more commonly accepted principle of uninstructed representation means that the representatives of each unit are elected or appointed because of the confidence which the population or their governments have in them. These representatives should be entrusted with the task of defending the interests of their locality and of the country as they think best. Further, it should not be necessary for the representatives of each unit to agree and to follow a common policy. This is the system of representation which should be adopted in Arabia.

The purposes which the Council of Provinces should be expected to fulfil are the following: to conciliate the spirit of independence and reasonable equality in the several Arab territories, to create a body qualified by its moderate size and the experience of its members to advise and check the Chancellor in his powers of appointment and treaty-making, to restrain the House of Representatives, to introduce stability in the government, and to establish a court proper for the trial of impeachments.

In addition to the general powers of the federal legislature, the Council of Provinces should have the power to

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120. See Ibid., p. 78

121. See Vincent, op.cit., pp. 175-187. But in Switzerland the members of the Council of States are remunerated by their own governments.

approve or disapprove by a simple majority the Chancellor's nominations of federal officers including judges, ambassadors and higher administrative officials. It should also have the power to ratify or to reject by a simple majority the treaties, commercial and political, negotiated by the Chancellor.

The Council should constitute the body having the power to try impeachments preferred by the other house against high officials. A two thirds majority should be needed. (122) The Council should be able also to settle by compromise constitutional disputes within the units provided an appeal has been made to it. If the Council does not succeed in its mission the dispute should be decided by the House of Representatives.

## 2. The House of Representatives.

The House of Representatives should be elected in a uniform manner, determined by federal law, throughout the whole country.

The term of office should be four years which is the period accepted by many legislatures. An election recurring at shorter intervals keeps the country excited and in turmoil while a longer tenure may place the representatives out of touch with their electorate and may make them careless about their responsibilities.

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122. This is the system used in the United States. See J. Bryce, *The American Commonwealth*, V. 1, p. 105.

The House of Representatives should be the guardian and the interpreter of the federal constitution. It should be therefore the authority which has the final word in settling all conflicts and disputes pertaining to the nature of the constitution and in declaring unconstitutional any bill, measure or policy undertaken by any public authority, central or local subject to the restriction mentioned above. (123)

This power of determining the constitutionality of its own laws and of declaring unconstitutional acts of other public authorities subject to the restriction already mentioned, should be granted to the legislature and not to the judiciary in order to make the gradual evolution of the constitution possible by interpretation without having to recur to the complicated and difficult procedure of amendment. A House of Representatives elected every four years is more likely to be in touch with the social, economic and political needs of the country than is the judiciary. It is therefore easier for the House to give to the constitution the application demanded by the general sense of the people.

This is the reason also why the Council of Provinces should not share in this power. The members of the Council may be elected or appointed by their governments for life or for long terms. In that case they lose touch with the electorate and are not fit to give to the constitution the interpretation which accords with the circumstances.

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123. See page ~~230~~ 234.

The veto of the Chancellor should be effective against the constitutional decision of the House of Representatives in order to put a check against possible political abuse. It should be possible for the House to override this veto by a two thirds majority. The Council should have no right to interfere in constitutional issues. The two thirds majority in the House should be sufficient to make its decision final. In that case, the Chancellor should lose his power to dissolve the House on that issue.

A retiring House should give a vote of confidence for or against the Chancellor. If the vote is unfavorable and the new House expresses a similar vote the Chancellor should resign and the king should not be able to appoint a person advocating the same or a similar policy. In this way the people can check on the actions and policies of the executive once every four years and the Chancellor is forced to take due consideration of public opinion.

A situation may arise where there is hostility and antagonism between the House and the Chancellor. Cooperation between the two branches becomes difficult and as a result the whole work of government is obstructed. The Chancellor may choose to continue his period of office and to persist in his policies in spite of the friction and obstruction, without appealing to the electorate by a dissolution of the House. In that case the House should have the right to dissolve itself and to submit the issue to the people at an immediately

succeeding election. If the new House contains a hostile majority to the Chancellor this person should resign and the king should not be able to appoint a person advocating similar policies.

However, it should not be possible for a House to dissolve itself before a year has passed on its own election. The reason being that it is necessary to fore-stall hasty and excited action on the part of the electorate, to give it time to deliberate and to examine the merits of the allegations of the House against the Chancellor and to give the latter a chance to defend his position.

To solve a conflict and a deadlock arising between the two Houses of the legislature, the federal constitution of Arabia should adopt the system used in the United States.(124) A committee from each House should meet in conference and settle matters by compromise. If no compromise is possible and if the Chancellor does not give his moral support backed by the veto power to either House, the conflict continues till one side yields, or it ends by adjournment which involves the failure of the measure disagreed upon. This is the natural solution for a conflict between two bodies possessing equal powers.

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124. See J. Bryce, *The American Commonwealth*, v.1, p. 189.

### C. The Judiciary

The federal judiciary in Arabia should be limited in its functions because it should not be granted the power of judicial review and because <sup>very likely</sup> there <sup>would not</sup> exist <sup>a</sup> uniform system of civil and criminal law applied in all Arabia.

The judicial organization does not enter within the scope of this thesis. It would be necessary and sufficient, however, to mention the more important functions exercised by federal judiciaries in general and which should be exercised by the federal courts in Arabia.

In the first place, the jurisdiction of the courts in Arabia should extend to all cases in law and equity arising under the constitution, the laws of the Federation, and treaties made under their authority. (125) Secondly, it should extend to all cases to which the Federation shall be a party. (126) Thirdly, it should cover all suits between the Federation and the local units. (127) This includes conflicts of jurisdiction between federal and local authorities. Fourthly, the jurisdiction of the federal courts should extend to the following types of cases: constitutional controversies between two or more units, conflicts between citizens of different units, controversies between a unit, or its citizens, and foreign states, citizens, or subjects, cases affecting ambassadors, other public ministers and consuls. (128) Finally, the criminal jurisdiction

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125. This power is exercised by American Federal Courts. See J. Bryce, *The American Commonwealth*, v. 1, p. 232.

126. *Ibid.*

127. F. A. Ogg, *The Governments of Europe*, pp. 437-39. This power enters within the competence of the federal courts of Switzerland.

of the federal courts in Arabia should cover the following subjects: cases of high treason against the state, crimes and misdemeanors against the law of nations, political crimes which occasion federal intervention, crimes against the safety of public credit and the national currency. (129)

The above list of powers which the Arab federal courts should exercise is by no means exhaustive. It simply mentions the more important categories of cases which fall under the jurisdiction of federal courts in federal countries and which should constitute the minimum of federal competence in Arabia.

#### 4. Amendment of the Constitution.

Most constitutions provide the means of their own change. "A federal constitution must include a governmental organ-permanent or temporary-having the function of modifying the constitution when a change is required." (130)

There are two processes which can be distinguished in the partial or complete amendment of a constitution: the proposition of the amendment, and the adoption of the proposal.

In the first process three methods may be used. The amendment can be proposed in a petition by a specified number of citizens. The Swiss constitution adopts this method as one means of proposing amendments. (131)

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128. This competence is enjoyed by the American federal courts, see J. Bryce, *The American Commonwealth*, v. 1, p. 235.

129. This competence is enjoyed by the Swiss federal courts, see F. Ogg, *op.cit.*, pp. 437-39

130. H. Sidgwick, *op.cit.*, p. 536.

131. See F. Ogg, *op.cit.*, pp. 430-34



Another method of proposing amendments is by a certain number of the local legislatures. The American constitution stipulates that "the legislatures of two thirds of the States may require Congress to summon a Constitutional Convention. Congress cannot refuse..." (132)

The last and most common method is to initiate such proposals in the central legislature itself. This <sup>practice</sup> is the ~~practice~~ followed in the United States, (133) in Switzerland, (134) in Australia (135) and ~~this practice~~ was followed in Imperial Germany. (136)

The fact that the Arab electorate is not highly educated and well enlightened precludes the use of the first method mentioned. The other two methods may be used together to provide a greater opportunity for the local units to express their desires directly.

Amendments to the Arab constitution <sup>should</sup> ~~can~~ be advanced, then, by the federal legislature or by a majority of the local legislatures.

Once the amendments are proposed the second process, namely, the adoption of the amendment, begins.

Many federal countries (Australia, United States, Switzerland) submit the proposed amendment to the local legislatures, to the citizens of the federations, or to both, and if the proposals are accepted by these bodies the amendment is carried.

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132. J. Bryce, The American Commonwealth, v.1, p. 365.

133. Ibid.

134. F. Ogg, op.cit., pp. 430-34

135. See J. Bryce, Modern Democracies, v.2, p. 175.

136. See J. Burgess, op.cit., p.254, and A.V. Dicey, op.cit., p.479

In Arabia the amendment, to be carried, should be accepted as a first step by a two thirds majority in the federal legislature. Then it should be submitted to the local legislatures and if two thirds of these adopt the proposal the amendment becomes operative and effective.

This method assures the participation of the citizens of the federation in the process of amendment through their representatives in the House. The amendment should not be referred to the electorate directly because the masses of the people are not well enlightened and it is desirable therefore to restrict their direct action as much as possible, and because it is preferable to spare the country any undue excitement which would result from popular action on such a wide scale.

This method gives also complete satisfaction to the local units because their action is required twice in the process of amendment: through their representatives in the Council of provinces, and directly by the vote of their legislatures.

The veto of the Chancellor should not operate against the vote of the federal legislature when it accepts an amendment because the purpose of the veto which is to bring about a further and a more deliberate consideration of the subject is fulfilled by the discussion which should be carried in every local legislature. Further, even if it were allowed, the veto of the Chancellor would be ineffective since it can be overridden by a two thirds majority which is the bare majority needed to pass a proposed amendment in the federal legislature.

The system of government outlined in the preceding pages has tried to sketch the major features of a governmental organization fulfilling the following requirements: stability with flexibility in the relations of the central government with the local units, and in the relations of the different organs of the central government; a vigorous, efficient and unified national government with a vigorous national executive; responsiveness to public opinion.

Stability in the relations of the central government with the local units is achieved by the establishment of a rigid constitution which allots to each authority its own sphere of functions and guarantees to it a great degree of freedom. No party can encroach on the other and in case of conflict between local and national <sup>public employees</sup> ~~authorities~~ the dispute is solved by the federal courts. Further, stability is greatly enhanced by the stipulation that no amendment to the federal constitution becomes lawful unless accepted by a great majority of the units.

Flexibility on the other hand is obtained because the residue of powers is left to the central government which can assume new functions necessitated by the changing conditions of society without friction with the local units. Further, since the central legislature is the guardian and interpreter of the constitution and, in addition, possesses the right to disallow local legislation and to refuse local constitutions and amendments thereto if they do not conform to federal constitutional standards, it can evolve national and local laws

and practices within the margin of constitutional interpretation to suit new conditions without having to recur to constitutional amendments which are complicated and hard to carry.

Stability within the central government is achieved in the same way, namely, in that each organ derives its powers directly from the constitution and is not subordinated to the other organs. Flexibility results from the fact that the organs of the central government, especially the legislative and the executive branches, are not separate and removed from each other but are unified and work in harmony and cooperation.

This is the reason why the national government as a whole, and especially the executive branch, is vigorous and efficient. Each organ holds power by its own right but they are, nevertheless, unified. The Chancellor has the right to appear in both houses of the legislature, to address them, to propose measures and policies and to defend them. Further every bill has to be referred beforehand to the executive for consideration. This makes the executive an effective guiding committee of the legislature and gives unity to the work of legislation. On the other hand, the legislature can always interpellate the executive and ask for information on the functioning of any branch of government. There is in this way a concentration of responsibility and no loss of force due to friction between the two branches. Their work is harmonious and they influence each other reciprocally.

The vigor and efficiency of the executive is secured by his long term of office, his wide ordinance power and his veto power. The Chancellor can count on a long term of years to carry on a consistent domestic and foreign policy. This is facilitated by his use of the ordinance power especially in what concerns internal policies and reforms. He is removed by the use of his veto power from the influence of the whims of changing parliamentary majorities, but he cannot easily ignore a persistent trend of opinion in the legislature since he often participates in the work of that body and can feel its pulse.

A situation of antagonism and a spirit of obstruction can not dominate very long the relations of the executive and the legislature. If the House is hostile to the Chancellor and for that reason obstructs legislation, and if the latter believes that the House does not represent the opinion of the community he dissolves it. If the new elections confirm his belief work runs on smoothly. If, however, a hostile majority is returned the Chancellor must resign; a new person of a different political color should be appointed and cooperation with the legislature becomes easy.

The Chancellor may choose not to dissolve the hostile House. In that case, the House can dissolve itself and the fate of the Chancellor depends on the results of the election.

The House may not choose to recur to this costly procedure of self-dissolution in order to show its disapproval

of the Chancellor. An easier course is to wait the end of its term and give a vote of non-confidence in the Chancellor. If the new House gives a similar vote the Chancellor should resign.

In this way the executive is never placed directly at the mercy of the legislature. The Chancellor therefore never loses his independence. However, the system remains ultimately responsive to public opinion which is placed above both organs and acts as the final and effective arbiter of their conflicts.

In a word, the system of national government in a federated Arabia would be stable, vigorous and democratic. Considered as a whole, the system would be unified, its branches cooperate together, their efforts be directed to one aim and produce harmonious results.

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