

## AN OVERVIEW OF ISLAMIZATION DURING ZIA REGIME

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### Abstract

*This research paper seeks to analyze the Islamization process of the legal system in Pakistan during the regime of Zia ul Haq (1977-88). The legal system developed during the said era always remained under debate since it left significant impact on Pakistani political, judicial and administrative spheres. Although, the Islamic laws were ordained to benefit the subjects of Islamic state but were they incorporated by the Zia's government with the same spirit or the intentions were otherwise. Current research has mainly been conducted through primary and secondary sources including e. books, available official records and documents from offices, archives and libraries. The analytical and descriptive research critically examines the different aspects of Islamization process and its aftereffects on the society. Furthermore it will also highlight the benefits of Islamization which were considered to be the main reason for the long tenure of Zia-ul-Haq.*

*Keywords: Zia, Pakistan, Islamization, legal system, politics.*

### **Introduction**

Islamization of Laws remained an enigma throughout the legislative history of Pakistan. At the time of its creation the country inherited the legacy of colonial laws developed through a blend of English legal system and local administrative needs. Since, Islam remained a dominant factor during the Pakistan movement; Islamization of legal system was a logical demand after its independence. The objective resolution of 1949 was a conspicuous

paradigm of it which surfaced a pitched battle among various factions of intellectuals for paving the way to their desired legal systems. Although, Pakistan was designed to be a Muslim state, but the mechanism to implement such vision was intentionally weak, vague or ill defined.<sup>1</sup> *Ulema* urged that *Sharia* should be the only practical form of legal system whereas secular and modernists interpreted merely the broader principles of Islam such as justice equality, equity and consultation as the guiding principles for legal system. Principles of policy provided an Islamic face to the first constitution of Pakistan in 1956 but these broader principles were not enforceable in the courts of law despite the country bearing official title of Islamic Republic. This constitution was abrogated and replaced by the constitution of 1962 but Islamization was still used only as political cosmetic. President Ayub Khan added few Islamic laws but expressed a wholesale rejection of the Islamic laws by cornering the *Ulema* faction. He repeatedly expressed

“The only way of having an Islamic constitution was to hand over the country to the *Ulema* and beseech them 'lead kindly light'”<sup>2</sup>

The process of Islamization had already been started by Zulfikar Ali Bhutto under the pressure of Islamic parties, despite having his personal inclination toward secularism. Indeed, Z. A. Bhutto's populist slogan “Islam, Democracy and Socialism” gave him a land slide win in first general election held in 1970 which also reflected the electric spirit of Pakistan's South Asian Muslim identity.<sup>3</sup> Z.A. Bhutto committed a grave mistake for his lack of attention towards Islamic ideology as a progressive force to meet the demands of modern times.<sup>4</sup> Dissatisfied by the pace of Islamization process under the government of Zulfikar Ali Bhutto, Pakistan National Alliance (PNA) consisting of Islamic parties supported by the political opponents of Zulifkar Ali Bhutto launched a campaign for implementation of Islamic laws under the banner of Tehreek-e-Nizam-e-Mustafa. Zia, after assuming power, was under immense pressure to align his policies with the popular public sentiments of that period. Subsequent developments in the regional scenario, particularly, the commencement of Afghan war added further strength to the need for projection of Islamic faced of the country's legal system. In his first televised speech to the country as head of state General Zia ul Haq declared that:

“Pakistan which was created in the name of Islam will continue to survive only if it sticks to Islam. That is why I consider the introduction of [an] Islamic system as an essential prerequisite for the country”<sup>5</sup>

Islamization had its multilateral utility for the Zia's Regime. It was meant to utilize the pro-Islamic public sentiments against the Russians, declared as infidels and it helped him prolong his rule. Therefore, Islamization of Laws was the primary policy of the Zia's regime.<sup>6</sup> Apart from the alterations to the structure of the judicial system the enactment of the blasphemy laws and the controversial Hudood (Islamic criminal) laws governing areas of personal morality also formed a very important of Zia's Islamization program. Significant changes were made to the law which were

questioned by moderate elements in society, right groups and political and legal commenters.<sup>7</sup>

### LEGISLATIVE DEVELOPMENT TOWARDS ISLAMIZATION

Immediately, after assuming the power, Zia ul Haq announced promulgation of Islamic laws relating to adultery, rape and consumption of alcohol on December 1, 1978. To pacify the Ulema, he (Gen. Zia-ul-Haq) promulgated Islamic laws in installments. These efforts culminated into the process of coating the existing laws in Islamic brand with the commencement of Hudood laws which were being passed by General Zia ul-Haq's own made Majlas Shoora. As parliament was not in session so these law couldn't be able to become Act's they remained as ordinances and orders. Followed by this, the *Shariat* benches were established all over the country on February 9, 1979. For this purpose the constitution was amended to legitimize these courts.

"High Courts were also empowered to declare any such law or act of the Governments as null and void, which was in contravention with the Islamic laws on petition/request/application from any citizen, any provincial government or federal government of Pakistan".<sup>8</sup>

Only Two days later, on February 11, 1979, another measure towards Islamization was announced through introduction of Islamic penal laws. By the end of the same year another amendment in the law was introduced in the form of Qisas and Diyat Ordinance. On December 12, 1979, the Council of Islamic Ideology prepared a draft for this law; however, it could get its final shape during the later year of 1983. The role of Islamic council of Ideology also remained obscure. This council was established during the regime of Z.A Bhutto but it was reconstituted by Zia ul Haq with enhanced number of membership.<sup>9</sup> To provide ideological oversight and justification for the acts of government, the Islamic ideological council was activated six weeks after Zia's 1979 coup and was entrusted with the preparing an outline of an Islamic state. It also had a panel on Islamic law.<sup>10</sup>

The functions of the council were redefined to evaluate the laws and to forward the recommendations to make the laws consistent with Quran and Sunnah. The recommendations made thereby included fixation of prayer timings, promulgation of Hadood Laws, establishment of *Nazim-e-Zakat*, riba free banking, application of *Nazimeen-e-Salat*, elimination of bribery, to make Islamic studies and Pakistan Studies compulsory subjects upto B.A/BS.c level, introduction of the Laws of *Qisas*, *Diyat*, Evidence, and Islamic law of Preemption.<sup>11</sup>

In the middle of next year, the government enacted *Zakat* and *Usher* ordinance and collection of *Zakat* was started in June 1980. This act was met with resistance from various factions of *Ulema*, particularly that of Shias. The *Zakat* ordinance called for the compulsory deduction of 2.5% charity tax from all bank saving accounts. This measure met with widespread protests, particularly from Pakistani Shia's community, led by the *Tehrik-e-Nifaz-e-Fiqh-e-Jafria* who objected to being forced to abide by rules ordained by the

Sunni Hanafi Law rather than a Jafari Fiqh. In response to protests in 1980, Zia revised the provisions for the payment of zakat for Shias. The ordinance was subsequently amended to exempt anyone who believes that compulsory deduction of Zakat is not in accordance with their beliefs.<sup>12</sup>

Islamic Ideological council suggested the government to eliminate Usury from the State-run financial institutions. To meet this challenge, a three phase plan was submitted to the government on September 22, 1980, whereby, steps were taken to introduce interest free banking in Pakistan. As a replacement, a system of Profit/ loss sharing was introduced in the country.<sup>13</sup> In order to further strengthen his rule, General Zia Ul Haq introduced Provisional Constitutional Order on March 24, 1981. Parliament was suspended and substituted with a body of handpicked person called *Majlis-e-Shoora*. The establishment of Majlis-e-Shura, practically, conveyed the message to the people that the process of Islamization had been started. This body, however, had no substantial bearing and the final authority to decide the matters belonged to the President.<sup>14</sup>

The newly introduced Constitutional Order provided for the attendance of three scholars during the proceeding of Federal Shariat court. Ehtram-e-Ramzan Ordinance was introduced in 1981 to provide for measures to observe the sanctity of the month of Ramazan.<sup>14</sup> This ordinance provided the opportunity to the law enforcement personnel to fleece money from those who were caught eating at public places. On March 19, 1982, Punishment of life imprisonment for desecration of Holy Quran was promulgated through a presidential order. During the same year Ushr ordinance was also enforced. The following year was marked with the enactment of Qisas and Diyat ordinance with the approval of Majlise Shoora.<sup>15</sup>

On August 14, 1983, the national day of Pakistan, Zia ul Haq announced *Nizam-i-Salat*, a state backed system to ensure the performance of congregational prayers by all the Muslims.

In 1984, the Law of Evidence was replaced by Islamic *Qanoon-i-Shahadat*. In 1986, a new law was introduced to award capital punishment for derogation of Holy Prophet (PBUH). After almost 11 years, in June 1988, Zia ul Haq announced *Shariat Ordinance* declaring *Sharia* as the supreme law of the land. This Ordinance provided for the Islamization of education and economy, besides the appointment of Ulema as judges and Muftis as court advisors. This ordinance was passed simply two month before the end of his rule.<sup>16</sup>

### **IMPACT OF ZIA'S ISLAMIC LAWS AND PUBLIC RESPONSE**

Islamization of laws brought forth a mixed public opinion, which was extolling, rough, unsettled, suffocating and compulsive simultaneously. Public opinion can be viewed through its division into different sections e.g., intelligentsia, politicians, Ulemas and the masses. Promulgation of Islamic laws was taken as just and yielding of a long-standing aspiration by the ordinary masses. Since Pakistan was created to implement the rules of Islam

for its people. After the creation of Pakistan, although, promises were made in the constitutions of 1956 and 1962 for an Islamic system yet, ground realities remained unchanged.<sup>17</sup> With the implementation of Islamic Laws common people started thinking that they would soon receive the benefits of Islamic system. However, the legislation system and inherent vacuum of the aforementioned laws affected maximum to the same section of society. Soon their hopes changed into disappointments and aspiration for fair justice exhausted. The real purpose of the promulgation of Islamic Laws was to legitimize the authoritarian rule of general Zia-ul-Haq. When Europe & the USA showed their grave concern about "Shariat Laws" the response of the Zia government was well encompassed by Prof. Ghafoor Ahmad in his book, "Zia Kay Akhari Das Sal" as:

"The Promulgation of said ordinances were a shallow step towards the Islamization Process. However, the United States did not like even this exhibitioner step and an explanation was being called from the government. In an official response, the government of Pakistan cleared its position and informed America that, the recently Promulgated "Islamic Laws" neither will be superior to the constitution nor the supreme law of the land. Pakistan foreign office dispensed an order to its embassies in Europe, the messages of the aforesaid nature should be forwarded to the concerned governments."<sup>18</sup>

In Roedad Khan's view, Zia was "determined to recreate the Islamic legal and social order which had originated in the tribal area more than a thousand years ago".<sup>19</sup>

It has never happened that the hand or feet of a rich person, Politician or a bureaucrat amputated, who plundered the wealth of the nation insensitively. While the political opponents and the poor were awarded the punishments of stripes in public. It was seen as a mockery of Islamic laws, where a certain privileged section was immune to the laws confirmed by God.<sup>20</sup> Simultaneously, Zina ordinance created more mess and vulnerability for women than providing them a legal shield. Under this law, if a woman was raped and she had lodged an FIR, she would have to produce four witnesses saint like. If she was unable to provide such witnesses, she was to be punished with 80 strips under the "Qazaf" ordinance. Most sections of society declared it a gross Gender discrimination, which is severely condemned by Islam and always entitled both man and woman liable for their deeds.<sup>21</sup>

Political section of the society although, remain fragmented yet engaged under the Zia regime. It was the political section of the society who had to give a voice to the aspirations of the nation but already discredited. Although politicians were criticizing the pseudo-Islamization of Zia yet, they were only interested in replacing him.<sup>22</sup> While Zia claimed himself as the caretaker of Islamization in Pakistan how 95 % Muslim population could oppose Islam which was manipulated by Zia for his own interests. To serve his political purposes he declared this process as the centerpiece of his

system.<sup>23</sup>

Categorically Islamic legal system as ordained by Allah, implemented by His prophet Muhammad (SAW) and the Pious Caliphs, remained equally unquestioned. But the mode of implementing Islamic Laws pushed the poor masses into a dual system of justice. Police remained in exploiting their own countrymen in the name of Islamic Laws.<sup>24</sup> The jubilation of the public was justified when these laws were promulgated in the country, because people took it as a transparent mechanism of justice as existed during the golden days of Islam. Later. The dejection of the people was justified, because the plight of unprivileged section remained same due to a limited section of the society which was privileged & immune to law.<sup>25</sup> The Zia's Policy of Islamization had little substantial impact on the state or society. The only beneficiary of these laws was President Zia ul Haq, who through his Islamic slogans and steps taken for Islamization kept the people busy and satisfied and on this pretext successfully prolonged his rule.<sup>26</sup>

### **CONCLUSION**

General Muhammad Zia ul Haq assumed power through a military coup in 1977. The political situation of the country was in serious turmoil during those days and Tehriq-e-Nizam-e- Mustafa was on the rise against the previous Government of Zulfiqar Ali Bhutto. General Zia sought the survival of his rule by satisfying the popular sentiments of that time through the introduction of Islamic laws in the country, therefore he introduced various cosmetic changes in the existing English laws to brand them as Islamic laws. In this regard various legal reforms were introduced such as *Haddood Ordinances*, *Qanoon-e-Shahadat* Ordinance etc. In addition to that *Qiyas* and *Diyat* ordinances were also instituted by Zia-ul-haq but were promulgated by later Government of Nawaz Sharif. These laws were never intended to implement the Islamic system in its letter and spirit rather it was a move to win the sympathy of Islamist groups and parties to strengthen his doctoral rule. During this time special courts named Federal Shariat Courts were established, however, these courts were never empowered to implement their decisions and their mandate remained unclear. It was a parallel judicial system with obscure set of functions which gradually lost its utility with the tide of time. Similarly a council of Islamic ideology was also constituted which could not leave remarkable impact on the ideological foundations of the country. These councils were finally used to appease and gratify the religious class through lucrative appointments.

Since Pakistan has various Islamic sects, no serious effort was made to bring all the factions on the same page, rather the government enjoyed strength through the policy of division. Various Islamic sects could not reconcile their stance on the nature and modalities of the Islamic Laws, therefore, no solid move toward achieving the goals of Islamic society could ever be made. Consequently, it spread a negative impression that Islamic laws are flawed and impracticable and cannot meet the challenges of modern

society. It tarnished the image of Islam as a progressive and living force. This thorough study of the Islamization process of legal system during 1977-88 suggests that such acts were charged with personal motives to strengthen and prolong Zia's rule and to win the popular sentiment of public instead of building a practical and implementable Islamic legal system.

### Recommendations

- Islamization should be implemented in Islamic Republic of Pakistan on pure and solid basis not for gaining worldly benefits, so that we can achieve our definite goals and obtain the true spirit of making Pakistan a pure Islamic State.
- All the religious parties should stand on one page and should have effective policies regarding the Islamization of Pakistani society.
- There is a dire need of an effective and Islamic media in order to highlight the spirit of Islamic culture.
- Laws should be made on pure Islamic Sharia/jurisprudence and decisions of the cases should be given according to the Quran and Sunnah.

Though Islamization during Zia-ul-Haq was a quite different step in the political history of Pakistan, which not only made Zia a popular leader but it also strengthened his regime. After his assassination the other democratic governments should have worked for the promotion of Islamization that is still the basic requirement of the Pakistani Society.



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