

ISLAMISATION IN PAKISTAN
1977 - 85

79

BASHIR AHMAD

DEPARTMENT OF HISTORY
QUAID - I - AZAM UNIVERSITY
ISLAMABAD
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DECLARATION

I hereby declare that the present study is entirely based on my personal research and that it has not been submitted to any other University for any degree.

BASHIR AHMAD



QUAID - I - AZAM UNIVERSITY
(DEPARTMENT OF HISTORY)

I hereby recommend that the Dissertation
papered under my supervision by Bashir Ahmad
entitled Islamisation in Paksitan: 1977-85, be
accepted in partial fulfilment of the requirements
for the degree of Master of Philosophy in History.



Supervisor/Chairman

External Examiner

GLOSSARY

<u>adl</u>	Justice
<u>aflatoon</u>	devil
<u>amir</u>	Head of the state and government.
<u>auqaf</u>	Organisation of religious institutions.
<u>bailcha</u>	a tool made of iron with a handle of wood.
<u>biradari</u>	cast, brotherhood.
<u>Brailvi</u>	Follower of a Muslim school of <u>Sunni</u> though which believes in superstitions.
<u>chaddar</u>	coverlet, weil.
<u>chowkidar</u>	watchman, guard.
<u>Deeni madrassah</u>	Muslim Religious school.
<u>Deoband</u>	Muslim school of <u>Sunni</u> thought which does not believe in superstitions as the <u>brailvi</u> school does.
<u>dinyat</u>	Islamic studies.
<u>dupattas</u>	stoles (a longvestments to be wear as weil on head).
<u>Eid-i-Miladul Nabi</u>	birth anniversary of the Holy Prophet.

<u>falah</u>	welfar
<u>fatwah</u>	religious decree.
<u>fiqh</u>	Islamic jurisprudence
<u>fitna</u>	mischief
<u>ghair mahram</u>	unrelated person, other than husband.
<u>hadd</u>	(Islamic Law) restrictive or penal.
<u>Hadith</u>	tradition of the Holy Prophet.
<u>Hadood</u>	plural of hadd, meaning restrictive or penal Islamic law.
<u>harabah</u>	war
<u>Hijra</u>	Islamic calendar.
<u>Islamiat</u>	Islamic studies
<u>jagir</u>	estate allotted by the colonial masters.
<u>janta</u>	people
<u>jihad</u>	war for a religious cause- religious duty of Muslims to establish, if necessary by force, the sway of Islam.
<u>kapra</u>	dress.

<u>kharaj</u>	when a Muslim country conquers some new areas and the non-Muslim people of these areas are allowed to live as the loyal citizens of the state. The Muslim state is responsible to protect their rights. In return they pay a tax to the state. This tax is called kharaj.
<u>khateeb</u>	Muslim religious orator who is supposed to deliver speech in each friday gathering.
<u>khums</u>	one fifth of any thing, crop, animal, property or money received in booty goes to the state treasury in a Muslim state.
<u>kufr</u>	infidelity
<u>lathi charge</u>	beating the demonstrators by police.
<u>ma-asher</u>	the tenth
<u>madrassah</u>	Muslim religious school.
<u>Majlis-i-Shura</u>	consultative body in an Islamic state.
<u>makan</u>	house, place to live, shelter.
<u>masjid</u>	mosque
<u>maulvi</u>	conservative Muslim scholar
<u>mudaraba</u>	business on the basis of loss and profit sharing.

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<u>mullah</u>	A religious leader who is meant for leading prayers, delivering cermons or performing religious festivals and ceremonies.
<u>musawat-e-Muhammadi</u>	socio-economic equality of mankind as told by the Holy Prophet.
<u>mustahiq</u>	who deserves to receive <u>Zakat</u> under <u>shariah</u> .
<u>mustahqeen</u>	plural of <u>mustahiq</u> .
<u>muzaraa</u>	sharing cropping ground rent.
<u>nikah</u>	matrimonial rites.
<u>nisab</u>	the money which is paid as <u>zakat</u> .
<u>Nizam-i-Mustafa</u>	system of the Holy Prophet.
<u>numberdar</u>	head of a village - a feudal post of colonial administration.
<u>Qadiani</u>	one who belongs to a sect which has been declared non-Muslim in Pakistan. The leader of this sect had once declared to be a prophet, contrary to the Muslim belief.
<u>qisas</u>	A kind of fine payable to an agrieved party by the oppressor in case of injury and murder etc.
<u>Ramdhan</u>	9th month of Muslim calendar.

<u>riba</u>	interest, usury.
<u>rotti</u>	bread - daily food.
<u>sadaqat</u>	plural of <u>sadqa</u> , meaning alm.
<u>sahib-i-nisab</u>	a person possessing so many sources, which make him bound to pay <u>Zakat</u> under the <u>Sharia</u> .
<u>shahadat</u>	To sacrifice life for the cause of Islam.
<u>Shia</u>	one who follows <u>fiqh Jafria</u> the fifth school of Muslim thought.
<u>Sunni</u>	Follower of any four schools of thought (<u>Hanfi</u> , <u>Humbli</u> , <u>Malki</u> , <u>Shafai</u>).
<u>Shura</u>	consultation.
<u>tazkira</u>	mentioning
<u>tazir</u>	any punishment - other than <u>hadd</u>
<u>tehrrik</u>	movement
<u>Ulama</u>	plural of <u>alim</u> , meaning a Muslim religious scholars.
<u>Ummah</u>	the entire Muslim nation.
<u>Ushr</u>	Islamic tax on agricultural produce at the rate of 10% of total produce.
<u>Ushr-guzar</u>	who pay <u>ushr</u> .

<u>Ushri</u>	The land is <u>ushri</u> if <u>ushr</u> is liable on its produce.
<u>zaildar</u>	head of a group of villages.
<u>zakat</u>	An Islamic tax leviabale on <u>sahib-i-nisab</u> Muslim.
<u>zina</u>	A man and a woman are said to commit ' <u>zina</u> ' if they wilfully have sexual inter-course without being validly married.
<u>zina-bil-jabr</u>	A person is said to commit <u>zina-bil-jabr</u> if he or she unwillingly has sexual inter-course with a woman or man, as the case may be, to whom he or she is not validly married.

TO MY FATHER

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PREFACE

The period of 1977-1985 in the history of Pakistan carries distinction, in a sense that during this period Islamisation was declared as one of the major aims to be achieved by the Martial Law government. When I was thinking over selecting this topic it was Dr. Aslam Syed who first aroused my interest. Throughout the martial law regime the opposition parties disputed the legitimacy of the regime and criticised just the personality of Zia. Evaluation and criticism of the measures taken by the government in connection with Islamisation was not so vocal. This was the situation when I finally decided to select this topic for my M. Phil dissertation. This dissertation is an attempt to pin-point the real objectives of the Islamisation process and the tactics used for this purpose. The elements who contributed to this process have also been discussed. The first chapter deals with the PNA movement of 1977 which was the harbinger of Zia regime. The next four chapters discuss Islamisation measures taken by the government in the areas of Politics, Law and Constitution,

Economics and Education. Introduction and conclusion are besides this.

During the process of constructing this work I incurred many debts of gratitude. My greatest debt is to Dr. Naeem Qureshi, my research supervisor, whose critical scrutiny of my various drafts and exacting standards of scholarship helped me to avoid many errors in argument and style. I would like to acknowledge whole-hearted encouragement extended by my highly respectable teachers Dr. Rafique Afzal, Dr. Iftikhar Haider Malik, Dr. Sikandar Hayat, Dr. Waheed Ahmad, Dr. Riaz Ahmad, Masud Akhtar and Aziz Ahmad. I am grateful to many of my friends who inspired me a lot. Particularly Tanvir Akhtar, Raza Qasim Rizvi, Bashir Ahmad Tahir, Khurshid Wattoo, Mohammad Anwar, Mahmud Multaji, Shakil Ahmad, Zahid Malik, Arshad Shamil, Sofia Khursheed and Naheed Kazim. I owe the helpful dealings of Muhammad Yaqub and Muhammad Altaf of the History Department and the staff of central library of Quaid-i-Azam University, Islamabad. I am also thankful to Dr. Ghazanfar Hussain the Principal of Government Degree College, Bahawalnagar, who always cooperated with me.

INTRODUCTION

It has been fashionable in Pakistan that every successive regime used the sayings of the Quaid-i-Azam in support of her policies. They pretended to be seeking guidance from the Quaid's ideas and ideals. It is, therefore, quite pertinent to start with the Quaid's personal ideas about the state of Pakistan.

It is a fact that the Quaid never used the term "Islamic State" with reference to the country he wanted to create. Nor did he ever use the words "ideology of Pakistan" or the "ideological frontiers"¹. According to Raja Sahib of Mahmudabad the advocacy of Islamic state did not find favour with Quaid-i-Azam Jinnah. He was asked by the latter not to use Muslim League's platform for the propagation of such ideas².

1. Shakil Ahmad, Muslim (Magazine), October 30, 1987.

2. Jang (Karachi) May 7, 1970.

He always "strongly opposed the mixing of religion with politics"¹. Later, when he had won his ideal of Pakistan, the Quaid continued to entertain the same opinion. In his address to the first Constituent Assembly of Pakistan, he said:

"You are free, you are free to go to your temples, you are free to go to your mosques or to any other place of worship in this state of Pakistan. You may belong to any religion or caste or creed - that has nothing to do with the business of the state... we are starting with this fundamental principle that we are all citizens and equal citizens of one state..².

For the Quaid the ideals of secularism were not in conflict with what he described as "Islam's highest principles of honour, integrity, fairplay and justice".

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1. Saleem M. M. Qureshi, Jinnah and the making of a nation, Karachi, 1969, p. 79.
 2. Quaid-i-Azam Mohammad Ali Jinnah: Speeches as Governor General of Pakistan: 1947-48(Karachi), p.9.

His conception of Islam was entirely different from that of the Ulama. For instance, he said in February, 1948 "Islam and its idealism have taught us democracy. It has taught equality of man, justice and fairplay to everybody"¹. In contrast a mullah (Maulana Ata-Ul-Mohsan - sone of the famous Muslim Orator Syed Ata-Ullah Shah Bukhari) says: "Democracy is opposed to Islam and it is an invention of the Aflatoon"². The ulama claim that sovereignty does not belong to people. They do not believe in equal rights for non-Muslims and women. But the Quaid stood for a modern democratic state with sovereignty resting with the people and the members of the new nation having equal rights of citizenship regardless of their religion, cast or creed³. There was to be no discrimination against women. In March 1944, he emphatically declared

1. M. Rafique Afzal, Selected Speeches and Statements of the Quaid-i-Azam Mohammad Ali Jinnah (1911-1934 and 1947-1948), Lahore, 1973, p. 455.

2. Jang, (Rawalpindi), March 26, 1988.

3. Reuter's correspondent, Doon Compbell, May, 1947.

"no nation can rise to the heights of glory unless your women are side by side with you. We are victims against humanity that our women are shut up within the four walls of the houses as prisoners"¹.

The Quaid did not like the Army to come into power and run the civil government. He believed that the Army should obey the orders of the elected representatives rather than thinking in terms of ruling the country². He wanted to run the country on principles of democracy, tolerance, social and economic egalitarianism, fairplay, justice which characterised Caliph Umar's regime. No doubt, the All India Muslim League, in its political struggle made an appeal to the religious sentiments of the Indian Muslims but they knew that the Islamic system meant for social and economic principles of brotherhood, equality and social

1. Syed Matlubul Hasan, Mohammad Ali Jinnah: A political study, Lahore, 1962, p . 195.

2. Muslim, April 12, 1986.

solidarity. During the movement for Pakistan nothing was determined how these principles were to be carried out in a modern industrial society. In the field of economics the question of determining who would control the means of production in this Islamic system, was left unanswered.

In 1949, when the founder passed away, the bourgeoisie and the landlords, posing as the representatives of the Muslims of Pakistan, took over the administration of the state. They made Islam subserviant to the general capitalist ideology, the fundamental elements of which were private ownership of the basic means of production, self interest, laissez-fair economy, strengthening and widening of the elites, and the exploitation of the poor and illiterate masses. The three constitutions of Pakistan represented the same bourgeois Islam. Article 197 of the Constitution of 1956 provided that "the President shall set up an organization for Islamic research and instructions in advanced studies to assist in the reconstruction

of Muslim society on a truly Islamic basis"¹. Under Article 198 measures were to be taken for bringing the existing laws into conformity with the injunctions of Islam and no law was to be enacted which was repugnant to the injunctions of Islam as laid down in the Holy Quran and Sunnah². Article 15 of the constitution provided full protection to the ruling feudal class. It says that "no person shall be deprived of his property save in accordance with law. No property shall be compulsorily acquired or taken possession of save for a public purpose and save by authority of law which provides for compensation thereof....³.

The 1962 constitution of the Republic of Pakistan also gave the same property rights to the landlord classes, as were given in the previous

1. Government of Pakistan, The Constitution of Islamic Republic of Pakistan, Karachi, 1956, p. 143.

2. Ibid.

3. Ibid., p.12.

constitution¹. Article 199 provided for an Advisory Council of Islamic Ideology. The function of this council was to make recommendations to the central and provincial governments on means to be adopted to enable and encourage the Muslims of Pakistan to order their lives in accordance with the principles and concepts of Islam. It was also to advise the National Assembly the Provincial Assemblies, the President and the Governors, on any question referred to the council under Article 6, i.e. a question as to whether a proposed law disregards, violates, or is otherwise not in accordance with the principles of law-making². Article 207 provided for an Islamic Research Institute. The function of the Institute was to organize research in Islamic disciplines in different areas in order to assist in the "reconstruction of Muslim society on a truly Islamic basis"³. But this "truly Islamic basis"

1. Government of Pakistan, The Constitution of the Republic of Pakistan, Karachi, 1962, p.9.

2. Ibid., pp. 95-97.

3. Ibid. p. 97.

was to be determined by the ruling elite. Similarly, Article 18 mentioned that riba shall be eliminated but did not explain how and when¹.

The third constitution of Pakistan contained provisions for bringing all existing laws in conformity with the injunctions of Islam as laid in the Holy Quran and Sunnah. Any law repugnant to such injunctions was not to be enacted². A council of Islamic Ideology was set up to make recommendations to Parliament and the Provincial Assemblies as to the ways and means of enabling and encouraging the Muslims of Pakistan to order their lives individually and collectively in all respects in accordance with the principles and concepts of Islam as enunciated in the Holy Quran and the Sunnah; and to compile in a suitable form, for the guidance of Parliament and the Provincial Assemblies, "such injunctions

1. Ibid., p. 15.

2. The Constitution of Islamic Republic of Pakistan, Lahore, 1973, pp. 122-123.

of Islam as can be given legislative effect"¹. The clause about eliminating riba as early as possible, was repeated but again without any practical plan for its abolition and without explaining its meaning and nature in a capitalist economy². Although the constitution refers to the socio-economic problem in general terms, resolving "to protect our national and political unity and solidarity by creating an egalitarian society through a new order"³, yet it failed to specify clearly how the society was to be reconstructed on Islamic and egalitarian principles or how feudalism and capitalism were to be abolished both of which are repugnant to the Holy Quran and Sunnah.

Zulfiqar Ali Bhutto had to face two religious movements. The first was anti-Ahmadyya movement. Under the growing public pressure Bhutto declared

1. Ibid. , pp. 124-125.

2. Ibid., p. 33.

3. Ibid., p. 17.

the Ahmadis non-Muslims. The second movement was again led by the Ulama. It emerged when the newly formed Paksitan National Alliance declined to accept the results of the general elections of 1977. Initially it was just a protest against the alleged rigging in the elections. But gradually it was converted into a religious movement. The PNA leadership named it as a movement for the enforcement of Nizam-i-Mustafa. The participation in this movement was declared by the Ulama to be an act of worship and a sacred fight against erring regime. However, the details about the proposed Nizam-i-Mustafa were not explained just as it was done in the Pakistan movement and later in the three constitutions, in the case of the Islamic system.

The PNA's Nizam-i- Mustafa movement ended with the exit of the Bhutto government which happened on 5 July, 1977 after a military intervention by General Zia-ul-Haq. In this way the PNA failed to implement its passionate slogan of the Nizam-i-Mustafa which was raised perhaps without completing any home-work. The Army imposed its own law under the leadership of Zia-ul-Haq. He was the first ruler

in Pakistan who committed himself to Islamisation and introduced laws which he claimed were Islamic. But in reality these were geared to strengthen his hold on the country and thus perpetuating his rule. In this study an attempt has been made to analyse the Islamisation efforts of the martial law regime, particularly its measures in the realm of politics, law, education and economics. A separate chapter on the PNA's movement of 1977 has been prefixed to make this study intelligible.

THE PNA'S MOVEMENT

It was January 7, 1977 when Prime Minister Zulfikar Ali Bhutto advised President Fazal Elahi Chaudhry to dissolve the National Assembly and hold the general elections on march 7, 1977, to be followed by elections to the four provincial assemblies on march 10, 1977, under the 1973 Constitution¹. This was the moment which brought the whole opposition to a single platform. Nine of the parties closed ranks and announced on January 11, 1977, the formation of a combined opposition, called the Pakistan National Alliance (PNA)². Though the component parties had some serious difference within, they were successful in achieving an electoral unity. The more significant was their continued cooperation and coordination during the election campaign. The factors which kept the PNA united were largely related to the policies of the ruling Pakistan Peoples party. Before going further, however, it seems pertinent to give a sketch of the ideological identities of the parties with the PNA:

1. Pakistan Times, January 8, 1977.

2. Nawa-i-Waqt, Lahore, January 22, 1977.

The Jamaat-i-Islami (JI) is an Islamic religious-political organisation founded by the late Syed Abul Ala Maudoodi (18 -1979). In 1977, it was headed by Mian Tufail Mohammad. Basically, the JI draws its membership from the lower middle classes, small businessmen with a sprinkling of educated followers from colleges, universities and professions. The JI's pre-partition politics was opposed to the Muslim League's conception of Pakistan. The centre of JI's endeavour was and has been the enforcement of Islamic system in the country, under the teaching of the Quran and Sunnah. The JI; however, has no significant record in electoral achievements. It has always remained anxious to achieve its objectives through electoral or any other means. Apparently the JI does not indulge in the debates on religious questions among the Diobandis, the Brailvis, the Shia or the Ahl-i-Hadith. However its members are very conscious of their point of view. Generally, moderates of the Ahl-i-Hadith, Diobandi and Brailvi schools of thought opt for the membership of the JI. Its limited exposure to the West allows it to

use modern idioms from philosophy, social sciences and humanities to sponsor religious thesis. In this way, it is striving for a kind of neo-fundamentalism. Its opponents on the left blame it for promoting centralisation of power for a fascist system in Pakistan¹.

The Jamiat-al-Ulama-i-Islam (JUI) is a body of Muslim theologians, and independent offshoot of the Jamiat-al-Ulama-i-Hind, founded by the divines of Deoband in pre-partition India. Mufti Mahmud, the leader of JUI, was educated at Deoband under the tutorship of Hussain Ahmad Madni. Madni was one of those Deobandi leaders who supported the Indian National Congress over the Pakistan issue and supervised the campaign against Pakistan². The JUI is striving for the enforcement of the Shariat laws as envisaged in Fiqh Hanfi and interpreted by the Ulama of Deoband like Maulana Qasim Nanotvi

1. Mohammad Waseem, Pakistan Under Martial Law: 1977-85, Lahore, 1987, pp.146-147.

2. Muhammad Munir, From Jinnah to Zia, Lahore, 1980, p. 137.

Ashraf Ali Thanvi, Mufti Mohammad Shafi, Maulana Zafar Ahmad Usmani and Maulana Hussain Ahmad Madni. The JUI has a number of Deeni Mudrassahs throughout the country which feed it and supply workers. It has also a students wing namely Jamiat Tubala-i-Islam (JTI). However, the JTI has no effective role in the educational institutions. The JUI enjoys some support in the NWFP. It has got some experience of running the government in the Province during the Bhutto regime.

The Jamiat-al-Ulama-i-Pakistan (JUP) is headed by Maulana Shah Ahmad Noorani. The JUP started its independent political career by participating in the general elections held in 1970. It represents Brailvi school of Sunni thought. Its leaders feel pride in Brailvi Ulama's pro-Muslim League and pro-Pakistan career during the Pakistan movement. Ideologically the JP offers a more simple and popular view of Islam than the JI. Its chief concern is about ritual and ceremonies associated with the saints and pirs and their mausoleums. This kind of Islam has a greater appeal for the

common man than that of the JI and the JUI. It was the JUP which put forward the slogan of Nizam-i-Mustafa which later became a common slogan of the PNA's movement.

The Tehrik-e-Istaqlal (TI) is a middle of the road party. It was founded by Air Marshal(Rtd) Asghar Khan, a former Commander-in-Chief of the Pakistan Air Force. He is himself the personification of his party. Many prominent tribal, industrial, bureaucratic, professional elites have joined and left the Tehrik but Asghar Khan's personality has kept it live. He is capable of attracting cross sections of the population. During the Bhutto regime he was out of the National Assembly, having lost the elections but he was still able to play the role of an opposition by drawing attention to those policies of the government appeared to him to be undemocratic. He has been running his party according to the book and there have been regular elections within the TI. But somehow he seems to over react in public and later finds it difficult to react his steps.

The Pakistan Muslim League (PML) comprised some of the reassembled factions of the organisations under whose banner Quaid-i-Azam Mohammad Ali Jinnah had led the Pakistan Movement. The Quaid-i-Azam's views about the future shape of Pakistan was free from the theological and doctrinal substlaties. He wanted the immediate uplift of the masses. Once he said, "there are millions of our people who hardly get one meal a day. Is this civilization? Is this the aim of Pakistan? If that is the idea of Paksitan I would not have it"¹. After him, Kiaquat Ali Khan kept the party united but when he was killed in 1951, the PML came under the control of civil and military bureaucracy. The party leaders could not maintain links with the masses. They used the name of the Quaid-i-Azam and his great achievement i.e. Pakistan for their own benifits. But they never paid attention towards party's ideological progress. Thus the PML became just like a club of industrial/feudal elites, always

1. Jamil-ud-Din Ahmad (eld), Speeches and writings of Mr. M. A. Jinnah, Vol. I, Lahore, 1964, p.507.

planning how to enter into the government. Bhutto was the only ruler in Pakistan who depended on his own public support and did not feel any need of the PML, otherwise almost all other rulers used the party's name for their won ends.

The National Democratic Party (NDP), was in fact, the new name of the National Awami Party(NAP) which had been banned by the Bhutto Government. The NAP leaders, including Khan Abdul Wali Khan, had supplied an effective opposition in the National Assembly. They were at that time in 1977, being tried for treason by a special tribunal in Hyderabad jail. Ideologically, the NDP/NAP has been a regionalized leftist party which was co-founded by Abdul Ghaffar Khan in 1957, jointly with such other provincial autonomists like Maulana Bhashani and G.M. Syed. A significant aspect of Wali Khan's politics is his debt to his father. He has inherited his father's political philosophy, his anti-imperialist stance and his devotion to public life. His political constituency remains largely confined to his father's power base, comprising the rural areas of the central NWFP. Due to his political affiliation with the

slogan of Pakhtunistan his credential have remained suspect in the eyes of the state and rightist group.

The Pakistan Democratic Party (PDP), led by Nawabzada Nasrullah Khan, is a rightist faction of no great consequence other than the engaging personality of its President. Nawabzada Nasrullah Khan started his political career from the platform of the Majlis-i-Ahrar-i-Islam which at first was a Congressites, later a nationalist and thereafter a rightist party. The Ahrar's devotion to anti-Ahmadia movement in the 1950s did not match the political thinking of the Nawabzada. However, Suhrawardy's concept of a western democracy attracted him and he thus joined the Awami League. His preparation for the 1970 elections revolved around cooperation between factional groupings under the banner of the PDP. Nawabzada Nasrullah Khan has always remained popular among the leaders but not among the masses. He is not a person who would launch a movement in the pursuit of political ends. Instead, he is a person who would rather bring such a movement to a negotiated end.

The Khaksar Tehrik (KT) is a volunteer crops of extremist Muslims. Founded in the 1930s by Allama Anayatullah Mashriqi, a former member of the Indian Education Service; it had almost been forgotten till its reappearance in 1977. When Allama Mashriqi wrote his Tazkira in 1924, it was condemned as a work full of anti-Islamic and atheistic views. In the 1930s he wrote a series of tracts entitled Maulvi Ka Ghalat Mazhab. In retaliation, the Ulama dubbed his party as the bailcha beradari a threat to Islam and as evil as the Qadiani fitna.¹ One of its members was responsible for an assassination attempt on the Quaid-i-Azam. In 1977 however the PML was in alliance with the KT alongwith other religious parties which had once condemned the party with venom

The All Jammun and Kashmir Muslim Conference (AJKMC) is a rightist party of Azad Jammun and Kashmir. It was led by a former President of Azad Kashmir, Sardar Abdul Qayyum, who had been removed from office

1. M. Rafique Afzal, Political Parties in Pakistan: 1947-1958, Vol.I, Islamabad, 1986, p.27.

by Bhutto. The AJKMC was founded in 1932. Its first session was held in Srinagar in October, 1939. Its history is nothing but the record of struggle of the middle and upper class Muslims for the achievement of their class rights in Kashmir¹.

An analysis of the leadership composition and aims and objectives of these nine political parties will show that most of them had nothing in common with each other. And yet they came together in an alliance. The only common feature was their grievances and differences with the ruling party and its leader, Zulfikar Ali Bhutto. Their primary aim, therefore, was to bring him down from the premiership. The eight point economic policy of the PNA was nothing but a photocopy of the PPP's manifesto. Talk about social justice and end of all forms of exploitation and just distribution of wealth can be found in the manifesto². The manifesto

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1. Prem Nath Bazaz, The History of Struggle for Freedom in Kashmir, Karachi, 1976, p.165.
 2. A.T. Chughtai, "The battle of manifestos"-II, Dawn Karachi, February 11, 1977. (Also see PNA's manifesto: Economic System, points 5-6).

did not use the words 'Rotti, Kapra and Makan', but it promised the "provision of basic necessities of life for all citizens of the country"¹. The PNA's manifesto however, presented a sharp contrast to that of the PPP in that it extended an open protection to the private sector and sought to end class prejudice in the name of the "Islamic Order"². It was a proposal of a mixed economy. But its equilibrium was heavily in favour of free modes of business. Maulana Noorani of the JUP had made it clear that "Islam does not allow anybody to snatch properties of the others"³. Therefore, the PNA leaders had promised to return the cotton and rice factories to their private owners⁴.

The PNA also promised to abolish the family planning centres and convert them into hospitals. Private educational institutions were to be allowed to function alongwith the nationalised one. The tax

1. "PNA's Manifesto" - Economic system, Dawn February 10, 1977.

2. "The battle of manifestos - II".

3. Nawa-i-Waqt (Rawalpindi), March 3, 1977.

4. Ibid., February 11, 1977.

system was to be liquidated and an interest-free economy was to be introduced in support of which the PNA leaders frequently quoted the example of China, overlooking the fact that that country had a centrally controlled economy. The PNA spokesmen pledged to bring down the prices to a reasonable level -- or at least to that of 1970 within six months. The Nawa-i-Waqt which was a pro-PNA urdu newspaper placed it on the front page with the remarks "ناممکن العمل وعیدیں کا اعلان" Such slogans were raised to get support of the masses. The PNA promised to annul the "undemocratic" amendments to the constitution which, it maintained, had reduced the powers of the judiciary, made the executive all powerful and had taken away the civil liberties and the fundamental rights of the citizens. In the opinion of the opposition leaders these clauses had given unlimited authority and protection to the Prime Minister and Chief Ministers of the Provinces².

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1. Nawa-i-Waqt (Rawalpindi), January 27, 1977.
 2. A.T. Chaudhri, "The battle of manifestos"-I Dawn (Karachi) February 14, 1977.

The PNA's view about the enforcement of Islamic punishments was loud and clear. The manifesto promised that the "Prohibitive Islamic injunctions and punishments will be enforced within a month". The opposition charged Bhutto of having conspired with Yahya Khan for the separation of East Pakistan. So it included in its manifesto that high-powered Commission would be set up to determine the responsibility of the East Pakistan debacle and prosecute those responsible¹.

The main issues on which the PNA based their election campaign were mainly the (i) responsibility for breaking Pakistan (ii) high cost of living and rise in prices (iii) curbing of civil liberties and political atrocities (iv) religious issues (v) corruption by the PPP leadership (vi) and compromise with India and "sell-out" on Kashmir².

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1. PNA's Manifesto (State Laws) published in Dawn, February 10 and 11, 1977.
 2. Government of Pakistan, White Paper on the conduct of the General Elections in March, 1977 Rawalpindi, 1978, pp. A197-A205.

Mufti Mahmud, the President of the PNA emphasised that the Alliance would remain united even after the elections "with all the added might [that] it may gather at the polls"¹. But their energies were directed towards the setting up of an Islamic judicial system in the country and the abolition of Obscenity and drinking². The PNA leaders declared that their manifesto was the Holy Quran and if voted they would enforce the Islamic laws within one month³. These high sounding slogans were intended to paper the serious differences over the formation of a combined election manifesto. That is why they over stressed the Islamic issues . Even Asghar Khan, the Chief of TI, declared that if voted to power the PNA would enforce a system of government based on the Quran and Sunnah⁴. And Mian Tufail Muhammad of the JI, for the first time in his life, celebrated the

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1. Pakistan Times (Rawalpindi), February 11, 1977.
"The Mufti had been elected President of the PNA after a long quarl over the 'seats' rather than Islamisation". (Kausar Niazi, Or Line Cut Gai, Lahore, 1987, p.44).
 2. Wifaq, Lahore, February 11, 1977.
 3. Nawa-i-Waqt (Rawalpindi), February 5 and 9, 1977.
 4. Pakistan Times (Rawalpindi), January 3, 1977.

Eid-i-Miladul Nabi (the birthday of Holy Prophet) which used to be celebrated only by Brailvi Ulama¹. As a mark of solidarity and in order to answer Kausar Niazi's charge that the PNA leaders were divided even religiously, Mufti Mahmud joined in prayers with others under the Imamate of Maulana Noorani. To consolidate their internal unity further, about 150 Ulama of the different schools of thought supporting the PNA, decided not to discuss their mutual differences in public meetings any more².

The PNA was an alliance of the opposing political groups. Therefore, while the leaders were using Islamic rhetoric there were others who were talking in terms of democracy and civil rights. In fact, in spite of the religious overtones of the PNA-PPP fight, the real issues centred on the civil rights. In one of its issues the Economist

1. Nawa-i-Waqt (Rawalpindi) March 3, 1977.

2. Ibid.

remarked:

"..... the two most compelling election issues are civil rights and prices. The opposition alleges that the Bhutto Administration has taken away all civil liberties by banning political activity, gagging the press and curtailing the powers of the superior courts"¹.

Shariful Mujahid in his analysis of the priorities of election issues has come to a similar conclusion:

"..... it may be observed that neither Islam nor socio-economic matters were the real issues but in fact restoration of civil rights and democracy were made the central theme of the acrimonious debate"².

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1. The Economist, February 19, 1977, p.71. Also see Air Martial (Rtd) Asghar Khan's statement in Viewpoint, Vol.II, No.23, Lahore, January 14, 1977.
 2. Shariful Mujahid "The 1977 Pakistani Elections: An Analysis" in Manzoor Ahmad etd., Contemporary Pakistan: Politics, Economy and Society, Karachi, 1982, p.76 and 79.

Main Political Themes and Their Relative
Frequency in the Manifestoes and Major
Addresses of the PPP and PNA leaders
(in percentage)

Themes	P.P.P.		P.N.A.	
	Manifesto	Bhutto & Major leaders (a)	Manifesto	Council Members (b)
1. Democratic Institution; Constitution	4.91	(c)	5	5.545
2. Civil rights	4.31	-	25.46	51.201
3. Inherited pol. problems	6.10	(c)	-	-
Total (Political)	(15.32)	(13.92)	(30.46)	(56.74)
4. Socioeconomic problems and reforms	61.06	17.40	46.37	15.73
5. Islamic Ideology	4.46	2.954	8.18	17.730
6. Foreign policy and defence	15.92	4.008	10.45	0.237
7. Miscellaneous	3.14	17.51	1.82	9.534
8. Negative Approach	-	44.198	2.72	0.70 (approx).

(a) Major PPP leaders include, Abdul Hafeez Pirzada, Mumtaz Ali Bhutto and Kausar Niazi, while PNA leaders include all the members of the PNA Coordinating Council (Mufti Mahmud, Asghar Khan, Mian Tufail Muhammad, Shah Ahmad Noorani, Sherbāz Khan Mazari, Nawabzada Nasrullah Khan, Malik Muhammad Qasim, Ashraf Khan, Sardar Sikandar Hayat, and Rafiq Ahmad bajwa), besides Ghafoor Ahmad and Begum Nasim Wali Khan, who addressed major meetings together.

(b) Contents or materials which are either anti-regime PPP or anti-PNA have been computed under "Negative" Approach" head.

(c) Contents under the two heads cannot be easily separated.

As the polling dates came closer the election campaign gained a momentum. There were acrimonious attacks, accusation and counter accusation. The PNA and the PPP both tried to impress each other by arranging long and noisy processions. This they expected to obtain a verdict in their favour and the elections on March 7 would only formalise the people's will. Publicly Bhutto maintained his fighting spirit but privately he is reported to have told his supporters that they should be prepared to move to the opposition benches after the election¹. And to many observers that seemed a very real possibility.

When the voting took place on March 7, the results were not according to the expectations of the observers or the ambitions of the PNA leaders. Out of the 200 total seats of the National Assembly, the PPP secured 155, the PNA 36, the Qayyum Muslim League 1 and the independent 8².

1. Newsweek, June 27, 1977, p.8.

2. Akhtar Rashid, Elections 77 and aftermath: A Political Appraisal, Islamabad, 1980, p.8.

Naturally, the PNA refused to accept the results and alleged that the elections had been rigged massively in accordance with a calculated plan. On March 8, Rafiq Bajwa, Secretary General of the PNA, addressed a press conference in Lahore and presented three demands: (i) the immediate resignation of the Prime Minister (ii) the replacement of the Chief Election Commissioner (iii) the holding of fresh elections under the supervision of the judiciary and the army¹. The PNA also decided to boycott the elections to the Provincial Assemblies scheduled for March 10. The opposition intended to bring the people into the streets, to break law deliberately and to confront with the police and the security forces. In the weeks that followed, the PNA leaders, under an orchestrated plan, developed a massive movement against the alleged rigging. They went about speaking from various platforms and delivering statement after statement against Bhutto and his party. Asghar Khan, for instance, called the

1. Nawa-i-Waqt (Lahore), March, 1977.

results "a farce" and declared that Bhutto was a dictator of the worst sort¹. Nawabzada Nasrullah Khan stated that the movement for the enforcement of the Islamic System could not be stopped by "rigging"². Mufti Mahmud maintained that their struggle was of political and ideological nature and it would be continued till the purpose was achieved. According to him, the PNA's struggle was for the enforcement of Islamic system against the ruling party's socialistic economy and its denial of Islam as a complete code of life³.

The PNA leaders called upon the people to stage a countrywide strike on March 11. They warned that if their demands were not accepted they would organise protest processions from March 14, which would continue till the objectives were achieved. The Ulama of the PNA used their religious rehtoric to the maximum. They called their movement

1. Financial Times, March 10, 1977.

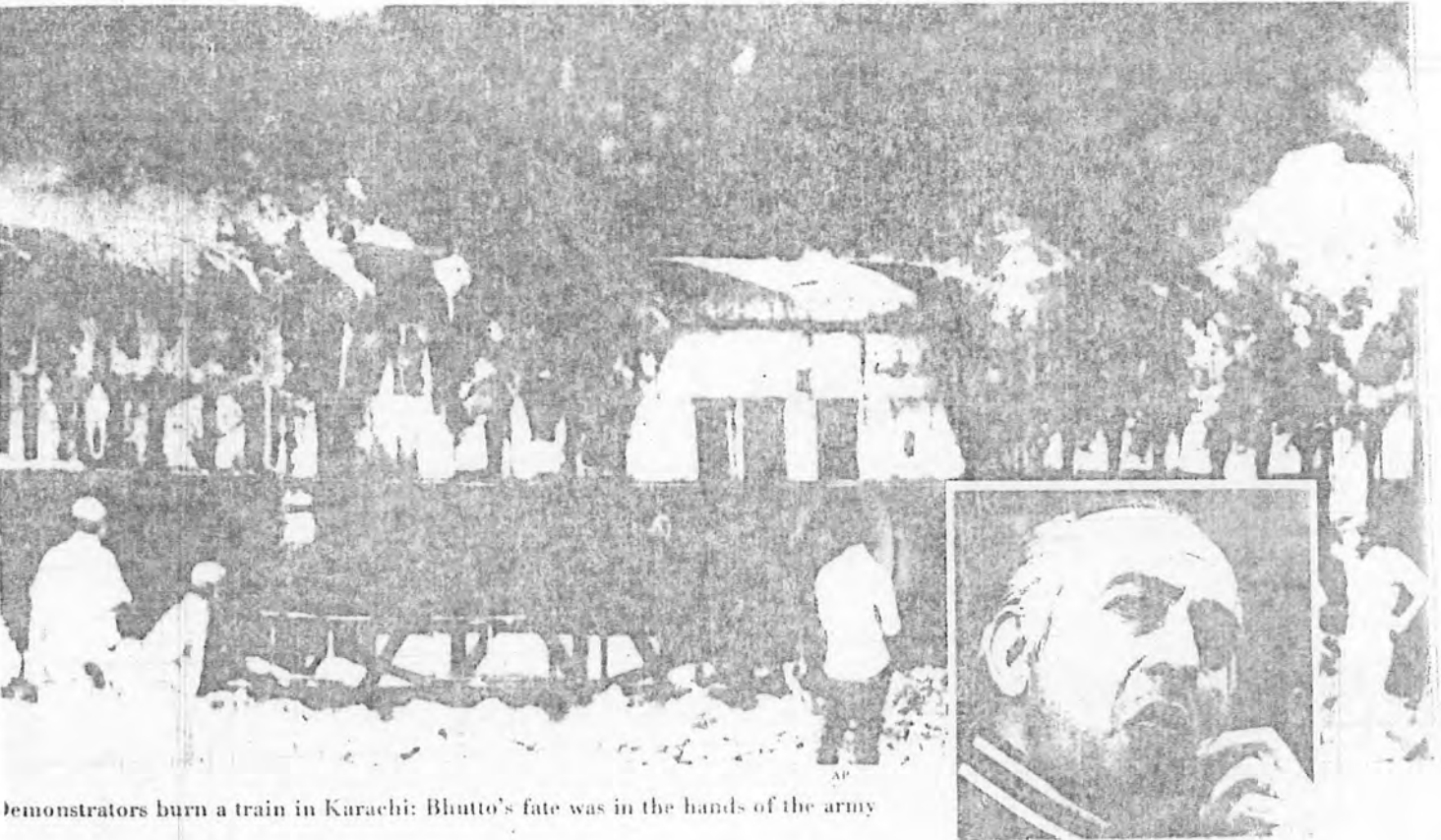
2. Nawa-i-Waqt (Rawalpindi), March 13, 1977.

3. Ibid, March 25, 1977.

"Tehrik-i-Nizam-Mustafa." Consequently, the mosques became the centres of demonstrations in which the lower middle class, very receptive to religious appeals, participated with enthusiasm. They fully exploited Bhutt's unguarded statement that "he drank wine—not people's blood". The Ulama whipped up feelings for a Jihad against an "evil regime"¹. Almost all Khateeb criticised the socialists and the communists of the PPP who they alleged had lost their faith in Islam. Anti-Bhutto processions defied section 144 and mob violence was seen everywhere throughout the country. Public property also became unsafe. Such a trend of the movement increased the worries of Bhutto and compelled to seek help from the Army. Following illustration will help

1. Afzal Iqbal, Islamisation of Pakistan, Lahore, 1988. pp. 104 - 105.

to explain the law and order situation in Karachi.



demonstrators burn a train in Karachi: Blutto's fate was in the hands of the army

(Newsweek, May 2, 1977).

The PNA leaders took the agitation to such a pitch that the "Nizam-i-Mustafa" movement came to be called a worship of God¹. When the

1. This was announced by Maulana Shah Ahmad Noorani vide Nawa-i-Waqt (Rawalpindi), February 26, 1977.

Bhutto Governemnt tried to suppress the movement by using force, it became an added source of irritation for the PNA workers. Its leaders and workers voluntarily began to offer themselves for arrests, wearing garlands of marigold around their necks. And some times held copies of the Holy Quran instead of garlands, symbolizing their movement as a war of Islam against Kufr. This was their Jihad to save Islam which they thought was in danger. The picture below will help to understand the prevalent scene.



مولانا عبید اللہ انور گرفتاری کے لئے مسلم سپر لوہاری گیٹ سے باہر آ رہے ہیں (فوتو نوائے وقت)

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*Nawa-i-Waqt, Rawalpindi, March 17, 1977.

The PNA justified the use of the Mosque for their politics on the plea that religion and politics could not be separated in Islam. Sometimes, however, there were some unhappy incidents in the mosques, especially when Maulana Saeed Naqshbandi the Imam of the mosque adjacent to the tomb of Data Ali Havairi at Lahore, disallowed the PNA workers to use the mosque for political purposes. As a result the PNA workers, some of them wearing garlands of marigolds, attacked and beat the Imam¹. On the other side the PNA's subordinate, Ittehadal-Ulama-i-Pakistan of Lahore, advertised in the newspapers that the use of the mosque for political activities was quite in accordance with Islam and Islamic traditions. A specimen

1. Banjara, "Andhairay Ujalay", Musawat (Karachi), March 24, 1977.

of such an advertisement will explain the point

جدا ہو دین سیاست تو رہ جاتی ہے چنگیزی
(حکیم الامت)

مسجد

- مسجد نظام مصطفیٰ کا مرکز ہے۔
- حضور اکرم صلعم کے دور مبارک میں رسالت اور سیاست کا مرکز مسجد ہی تھی۔
- خلفائے راشدین نے مسجد ہی میں حکومت کو چلایا، عالمی سیاست کو فروغ دیا،
- قیصر و کسریٰ کے ایوانوں کو بلانے کے منصوبے تیار کئے۔
- معاشرتی برائیوں کی روک تھام کے احکام مسجد ہی سے نافذ ہوتے تھے۔
- مسجد ہی آج وہ مبارک مراکز ہیں جہاں سے اسلامی نظام اور اسلامی سیاست کو رواج دیا جاسکتا ہے۔

اور اس سے بڑا ظالم کون ہوگا جو مسجد میں اللہ کے نام کو بلند کرنے
کے ذکر سے لوگوں کو روکتا ہے، (قرآن حکیم)

اتحاد العلماء پاکستان لاہور

(0103)

(Nawa-i-Waqt, Rawalpindi, March 18, 1977.)

The PNA's women wing equally involved in
anti-Bhutto movement. It tried to show that the

women had not voted in favour of the PPP as had generally been claimed¹. Therefore, the repression would make no exception. Women of all ages faced tear-gass and Lathi charges bravely.



Masrur Ahmad

(News Week, April 18, 1977.)

This was a risky step which the PNA leadership took at the hour of its crises as the orthodox Ulama are generally against allowing women to look a

1. Pakistan Times, (Rawalpindi) March 3, 1977.

Ghair Mahram. But at that particular time they openly welcomed the women to come into the streets and fight the war for them.

It is a fact that though the slogan of enforcing the Nizam-i-Mustafa had been raised at almost all public meetings and processions, the PNA Council had never formally enunciated the demand. In March and April, 1977 the Council's major demands revolved round the annulment of the allegedly rigged elections and the holding of fresh elections. Among other demands were the freedom of the Press and the independence of the judiciary. Until 5 July, 1977, when the Army interveined and ousted Bhutto, there was no talk of the Nizam-i-Mustafa on the part of the PNA Council¹. But the PNA's religious element which was leading this movement, always spoke in religious terms. They fully utilized their following and cited Iqbal's verse جُدا ہو دیں سیاست سے to justify their indulgence. But in چنگیزی تو رہ جاتی ہے

1. Omar Asghar Khan, "Political and Economic Aspects of Islamisation" in Mohammad Asghar Khan etd., The Pakistan Experience: State and Religion, Lahore, 1985, pp. 144-145.

spite of their religious overtones, they could not present any blue print or show any homework for the Nizam-i-Mustafa. After the coup of July, 1977, they left the masses disheartened and could not give a practical shape to their aspirations.

The PNA Movement, however, was as much anti-socialism as was pro-Islam. Socialism and Islam were presented as anti-thesis of each other. Bhutto's response to this tendency was very defensive. He deliberately avoided the word socialism in his speeches and replaced it by the word "Musawat-e-Muhammadi"¹. This was adopted largely to counter the PNA whose leadership was talking about returning to an Islamic system by raising emotions of the people². Most of all, Bhutto believed that behind much of the bitter opposition that he had faced since March 7 elections loomed the ominous had of the United States of America. The U.S. Government's attitude towards Bhutto and the statements of some of the PNA leaders, strengthened that suggestion³ under the shade of the American

1. Kausar Niazi, Or Line Cut Gai, Lahore, 1987, p.58.

2. Newsweek, April 25, 1977 , p.11.

3. Ibid. June 13, 1977.

human rights policy, the anti-Bhutto slogans were a clear indication of the policies of the Anglo-American block.

Bhutto tried his best to win over the PNA leadership. Many a time he invited them for dialogue. But the later did not want to break the momentum and demand Bhutto's resignation forthwith with that simultaneous holding elections afresh. Meanwhile some middle eastern Muslim countries, particularly, Saudi Arabia, entered the negotiations and persuaded both the parties to sit together and solve the problem politically. The first draft proposals which the PNA presented before the Government was mainly concerned with the following demands:

1. Lifting of the Emergency and Martial Law, release of political detainees and lifting of restrictions on the press;
2. dissolution of Assemblies;
3. formation of a new Election Commission with adequate legal, financial and administrative powers;

- 4- new governors should be appointed
in all provinces with mutual consent;
- 5- resignation of Bhutto from the Prime
Ministerhip¹.

Meanwhile, the negotiating teams of both the parties held intermittent meetings, sometimes there were breaks. However, the Saudi Ambassador to Pakistan remained active and persuaded both to resolve and finally decide the matter on the table. Thus, by early July, the Government had reached an agreement with the PNA. The things which were settled were purely of a political nature and there was nothing in the nature of the Nizam-i-Mustafa. The PNA's first three demands were accepted by the Government, in principle. Then, it was seen that the PNA Council disallowed the agreement which had already been signed by its negotiating team. So, due to the political differences, mutual misunderstandings, personal animities and vested interests of the PNA leaders, the settled issues remained unsettled². This was the moment when General Zia

1. Professor Ghafur Ahmad, Phir Martial Law Aa Gya, Lahore, 1988, pp.31-32.

2. Ibid. p. 254.

clamped Martial Law in the country. This was the end of Bhutto's Government as well as of the so-called Nizam-i-Mustafa movement.

It is clear from the foregoing that the PNA was a conglomeration of different political parties whose leaders were unhappy with Bhutto due to their own reasons. The main purpose of the PNA was to oust him and his government. But inspite of organizing big public rallies the results of the elections were unexpected which increased their frustration. In consequence, they decided to launch a movement against the election results alleging that the elections had been messively rigged. On his part, Bhutto was not ready to compromise with the opposition. He treid to suppress the agitation by using force. This act of Bhutto was a source of irritation for the PNA, which decided to declare a "Jihad" against the ruling party in the name of Islam. They were bent upon removing the Prime Minsiter Bhutto by any means Under the circumstances they invented the slogan of Nizam-e-Mustafa as the most appropriate means to raise the religious snetiments of the people. But it was

the Army which made the PNA's job easy when it overthrew the Bhutto Government. But the fruits of the religious sentiments raised by the PNA went into the plate of General Zia, who very skilfully enjoyed them during his Martial Law regime. In so doing he left the PNA leaders in such a quandary that they could neither reject nor accept his Islamisation order.

POLITICS

In Islam, unlike in western political system, sovereignty resides in the God Almighty. However, this power is exercised by the people in the name of Allah within the limits prescribed by the Quran and Sunnah. In Pakistan, this concept was given an official recognition when in March, 1949, the Constituent Assembly adopted the Objectives Resolution which set-out the broad principles of government in accordance with the desire of certain Ulama who claimed that Pakistan had been created for the sole purpose of establishing an Islamic state. All this was done soon after the demise of the Quaid-i-Azam whose vision about the future structure of the country was something like this:

"If you change your past and work together in the spirit that everyone of you, no matter to what community he belongs.... is first, second and last a citizen of this state with equal rights, privileges and obligations, there will be no end to the progress you will make

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3

20
6
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14
3
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11

You are free to go to your mosques or to any other place, belong to any religion or cast or creed - that has nothing to do with business of the state. We are starting in the days when there is no discrimination, no distinction between one community and another, no discrimination between one cast or creed and another. We are starting with this fundamental principle that we are all citizens and equal citizens of one state I think we should keep that in front of us as our ideal and you will find that in course of time Hindus would cease to be Hindus and Muslims would cease to be Muslims, not in the religious sense because that is the personal faith of each individual but in the political sense as citizens of the state.¹

1. From the Quaid-i-Azam's Presidential address to the Pakistan Constituent Assembly, 11 August, 1947, quoted in Sharif-al-Mujahid, Quaid-i-Azam Jinnah, Studies in Interpretation, Karachi, 1981, p.248.

In his programme of Islamisation, General Zia-ul-Haq picked the 'Objectives Resolution' from the preamble page of the 1973 Constitution and made it a part of its main text. General Zia interpreted the concept of sovereignty as given in the Objectives Resolution in the sense of political sovereignty and not in the spiritual and otherworldly sense alone. But "Allah's sovereignty over the entire universe" is a proposition that misses the very point of Islam's distinction. The sovereignty of Allah that Islam envisages is much more practical. It is not just the sovereignty of the inscrutable over-seeing power, exscrutable over-seeing power, exercising itself independently, and in supercession, of human effort. It is rather the strictly political sovereignty that operates in and through the exercise of human power. But Zia-Ul-Haq, on the basis of his own interpretation of Islam, wanted to introduce a new Islamic political system and to set up a representative Islamic government under that system¹. And yet

1. English rendering of President General Zia-Ul-haq's address in Urdu delivered on the occasion of the Pakistan Day Parade held in Rawalpindi on March 23, 1979 in : Journal of South Asian and Middle Eastern Studies, Vol.III, No.2, Winter,1979,p.91.

he could not reject the concept of democracy altogether. He had to pay at least a lip service to democracy if he wanted to hold on to power:

"I had declared that democracy was essential for our national existence and that the armed forces genuinely wanted to entrust the reins of the country to the elected representatives. May faith in democracy remains unimpaired and the armed forces even now do not want to remain in power. It is their desire even now that elected representatives should run the affairs of the country, But....I want that our democracy should be imbued with the spirit of Islam and those people who are elected in such a democratic system should have genuine love for Islam, and the country and the spirit of service to the people"¹.

And since Zia-Ul-Haq had his own view of democracy, he demanded a role for the Army in his proposed Islamic

1. Ibid., p.90.

political system, particularly at times of crises. He believed that "Pakistan Armed Forces were responsible for not only safeguarding the country's territorial integrity but also its ideological basis"¹. To him the "preservation of that ideology and the Islamic Character of the country was as important as the security of the country's geographical boundaries"². This meant that the Military rulers wished to reserve the right to step into domestic politics any time they liked on the pretext of protecting Islam and Ideology of Pakistan. Therefore, General Zia-Ul-Haq put forward a proposal for a constitutional guarantee that would enable the military to share decision-making power with the political elite at the national level. He argued that such a provision was essential in an ideological state like Pakistan³. He also talked about a constitutional provision allowing the military

1. Muslim, March 14, 1984.

2. Ibid .

3. i) Defence Journal (Karachi) Vol.VIII, No. 12
December, 1982, pp. 35-38.

ii) Dawn, May 7, 1982.

iii) Jang (Lahore, April 23, 1987.

iv) Pakistan Times, September 15, 1977.

commanders to take over the reins of government at the time of national emergency¹.

To fulfill his intentions, Zia-Ul-Haq with the collusion of right-wing parties, postponed the general elections twice. Replying to a question by a journalist, the President admitted that "he would not indulge in the luxury of holding elections until it was found that the basic causes that necessitated the takeover by the Armed Forces on July 5, 1977, were removed". Consequently, all political parties were banned, their offices sealed and accounts frozen². The President disclosed that the PNA Leaders had told him that the "Polls would not be acceptable to them"³, obviously for the fear that elections might bring back the PPP.

In the beginning, however, President Zia-Ul-Haq had no clear structure for an Islamic government in his mind and all he seemed to be doing was to see "where we have slipped", where Islamic emphasis was

1. Nawa-i-Waqt (Lahore), June 22, 1979.

2. Muslim, October 17, 1979.

3. Ibid. Also see the text of the President's address to the nation in Journal of South Asian and Middle Eastern Studies, Vol.III, No.2, Winter,1979, p.85.

required and also to Islamise the benefits and values given by the modern age¹. At that stage he referred to the practices of the Holy Quran and Sunnah and Islamic History as basis for Islamisation. He further pointed out that many Muslim Countries, including Iran, Saudi Arabia and the Gulf States were practising Islamic Laws without any difficulty.

The examples of Iran and Saudi Arabia, which General Zia referred to in his speeches, are the states of their own kind. Saudi Arabia is a hereditary monarchy and the concept of kingship is alien to Islamic ideals. Iran, on the other hand, is a theocratic government of a religious class which, too, has no sanction in traditional Islam. However, President Zia's observation about these two Muslim states as "Islamic States" shows his aversion for a western democratic system. He believed that Islam did not recommend a particular structure of government, but rather, it emphasised certain fundamental principles which govern the political system of an Islamic state. Whether these principles are applicable in a monarchical

or a theocratic state is not Zia-Ul-Haq's concern. He steers himself clear of the controversy:

"You can rest assured that Islam does not say that we should have a theocratic state or we have a monarch.....Islam does not lay down the form of Government. Islam lays down the principles. it is my earnest desire to follow these principles within the framework of the 1973 constitution as far as possible"¹.

Zia-Ul-haq had no concern with either the theocratic or democratic state. Here, it would not be out of place to mention that his views ran counter to those held by Iqbal, the seer of Pakistan and Quaid-i-Azam Jinnah, the founder of the state. To Iqbal, the Republican form of government was not only "thoroughly consistent with the spirit of Islam" but also "a necessity" in view of the new

1. Dawn, October 28, 1979.

forces that were being set free in the world of Islam¹. And, in the opinion of the Quaid, "Islam and its idealism have taught democracy" and the Islamic Principles "have taught equality of man, justice and fairplay to everybody"².

Yet the military rulers were unable to differentiate between theocracy, dictatorship and democracy. The extremely orthodox religious leaders who lent their support to the military government were also opposed to modern democratic institutions and processes, especially legislature elected on the basis of direct adult franchise. They advocated the establishment of a religious state bordering on theocratic rather than a modern democratic Islamic state. Such a point of view was helpful to the military government to side-track the demand of early elections during 1979 - 1985"³

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1. Mohammad Yousaf Goraya, "Iqbal Ka Nazrayya-i-Ijtehad or Pakistan", Nawa-i-Waqt (Rawalpindi), August 23, 1987.
 2. Mohammad Umar (etd.), Rere Speeches, 1910-1918, Karachi 1973, pp. 143-144.
Also see: Freeland Abbot, Islam and Pakistan, New York, 1968, pp. 187-188.
 3. Hasan Askari Rizvi, The Military & Politics in Pakistan 1947-86, Lahore, 1986, p.238.

If one looks at the nature and character of the mass movements in Pakistan either religious or political, one must conclude that there has never been a single movement against the Parliamentary form of Government. Muhammad Waseem on this point has concluded that "while both the Presidential form of Government and Martial Law have been publicly opposed in 1968-69 and in 1983, respectively, there has never been a movement against the Parliamentary system as such. The 1956-58 period is known for mass pressure for holding elections under the 1956 constitution. As far as the 1977 movement is concerned, it only sought re-election under the 1973 constitution¹.

Nevertheless, in 1979, the military regime postponed the general elections indefinitely. But it did not postpone the municipal polls, which were supposed to be "truly Islamic" encouraging democracy at grass-root levels away from the normal party system².

1. Ibid., p. 238.

2. Duran Khalid, "The Final Replacement of Parliamentary Democracy by the 'Islamic System' in Pakistan....", in Zingel Lallemand, Pakistan in the 80s, Lahore, 1985, p. 266.

Apart from the Ulema, criticism of the democratic system came from men like Justice (Rtd.) Badiuzzaman Kaikaus who emerged as the champion of orthodoxy. Kaikaus even went to the court with a stand that there was no room for the system of general elections in Islam¹. He believed that the legislation made by man were unnecessary because the law of God was already in existence. Neither the Shura, nor the Amir had any right of framing laws². In this way, Kaikaus wanted to make the Amir all powerful. The later was though bound by the decisions of the Shura in worldly and administrative matters, his was to be the final word in case of a difference of opinion among the members of the Shura³.

In such a situation, General Zia saw himself as the classical Amir and, consequently, he appropriated to himself all powers which Justice (Rtd) Kaikaus allotted to his Islamic Amir. A weak legislature, called the Majlis-e-Shura, was formed and all members

1. Nawa-i-Waqt (Lahore), November 5, 1979.

2. Ibid., July 25, 1980.

3. Dawn, November 14, 1979.

of this symbolically Islamic institution were nominated by the Amir (President). The Pakistan Muslim League which had fed almost all the dictators in Pakistan, maintained its historic tradition by providing a chairman to the new Majlis-e-Shura. Khawaja Mohammad Safdar, who could not win his seat from Sialkot either in 1970 or 1977 General elections, obligingly filled this position. A special committee of the Shura (Federal Council) was appointed to give a report on the future political system. This committee recommended the 1973 constitution with minimum essential changes. It also secured the right of the people to form political parties¹. The Council of Islamic Ideology which had also been approached to formulate an Islamic political system is reported to have recommended a federal system, universal adult franchise and separate electorates and did not favour elections

1. Federal Council Secretariat, Report of the Special Committee of the Federal Council on the form and system of Government in Pakistan from Islamic point of view, Islamabad, 1983, pp.3-7.

on non-party basis¹. The revised report of the council, however, imposed certain restrictions on the political parties².

There was another body working on the future shape of political system for Pakistan. This was the Ansari Commission. The Commission submitted a more conservative report. It would be quite appropriate to mention here the main features of its recommendations:

- 1- A consultative system of Government was more suitable to Pakistan than the ones operating in Britain, The USA, France or in other European country.
- 2- The head of the state was to be the head of the Government and he will be called Amir-i-Mumalakat.
- 3- The Amir was to be an unblemished Muslim citizen of Pakistan not less

1. Muslim, July 27, 1982.

2. Council of Islamic Ideology, Constitutional Recommendations for the Islamic System of Government, Islamabad, 1983, p.10.

than 40 years of age having adequate knowledge of Islamic teachings and practising the obligatory duties laid down by Islam.

- 4- The Amir was empowered to appoint in his discretion, ministers as needed, but ordinarily the ministers were to be nominated from amongst the elected members of the Shura.
- 5- The Amir was to have no power to dissolve the Majlis-i-Shura in any circumstance whatsoever, and he was not to suspend the constitution either wholly or in part.
- 6- The women candidates for the membership of the Shura were not to be less than 50 years of age and if the husband was alive, she was to have his written permission.
- 7- Elections to the Majlis-i-Shura were to be held on a non-party basis.
- 8- The Objectives Resolution was to be included in the text as an operative portion of the constitution instead of as a mere preamble.

With the exception of Mr. Justice (Rtd) Muhammad Gul, all the members of the Commission held that the elections on the basis of political parties were harmful for the country. Some members were of the view that the very existence of political parties in an Islamic State was doubtful and was in fact prohibited¹. Mr. Justice Gul differed from certain recommendations of the report and wrote a note of dissent accordingly. The main points which he raised in his note of dissent were as follows:

- a) The recommendations of the report were beyond the limited mandate available to the regime. They were not essential for the process of Islamisation either, and when given effect to, their validity would be tested on the principle of state necessity.

1. Government of Pakistan, Ansari Commission's Report on Form of Government, Islamabad, 1983, p. 36.

- b) The Political Parties were necessary for the betterment of the society. There is no verse of the Holy Quran which disallowed the existence of the political parties. Political parties could not solely be held responsible for the dismemberment of Pakistan. For an organised expression of opinion, the existence of political parties was essential.
- c) The banning of Political Parties would impinge upon the freedom of association guaranteed by the 1973 constitution but would also violate the Declaration of Human Rights by the United Nations to which Pakistan is a signatory state.
- d) The question of the form of government, either Presidential or Parliamentary, should be left to the decision of the future Parliament.

All through the early years of his regime, Zia-Ul-haq toyed with the idea of reconciling his

unlimited powers with the parliamentary form. He always stressed that the future form of government would be federal and parliamentary as had been agreed to by consensus in the 1973 constitution. He tried to assure his critics that whatever he was doing was absolutely necessary for the running of a democratic form of government. He said that he wanted to make sure that after the transfer of power the country would not fall a prey to chaos due to the discatorial behaviour of an individual or the multiplicity of political parties. He, therefore, emphasised that there should be a division of powers between the Prime Minister and the Head of State in a manner that it would not turn one into a dictator and the other powerless and ineffective¹. But the constitutional amendments which were made by General Zia, could hardly created a balance of power between the two offices. Rather, they made the President the main source of power and the Prime Minister quite ieffective. The fact is that for all practical purposes the 1973 constitution was converted from parliamentary to a presidentail form of constitution.

1. Dawn, October 22, 1979.

The fate of the political parties was even worse. Throughout the Martial Law period, the military government tried to prove that the political parties were not recognised in Islam and that the elections were unnecessary¹. General Zia inspite of the fact that he had come to power with the support of the PNA, emphasised his aversion for political parties. Already he had found support from men like Kaikaus who regarded the political parties undesirable on the ground that Islam does not permit the Ummah to be divided into groups and sects. Therefore, there could be no political parties running about with different manifestoes.² This line of argument was initiated first through the Council of Islamic Idology and later emphasised by the Ansari Commission. Then these views were emphasised at the Ulama Convention, held in 1984 at Islamabad. The Convention, presided over by Zia himself, made some important points : i) The retention of western type of political parties was in clash

1. A.R. Changez , "Is Parliamentary democracy Islamic?", Pakistan Times, July 11, 1980.

2. Nawa-i-Waqt (Rawalpindi), June 15, 1980.

with Shariah, ii) only limited parties having certain principles based on pure religious orientation could enjoy the privilege of contesting elections; iii) but once the elections were held, the elected representatives of different parties would have to surrender their rights of alignment with their respective parties.¹

The foregoing indicates that by various tactics General Zia-Ul-Haq succeeded in winning over the orthodox Ulama and religious groups who became his second constituency after the Army. With their blessings he manovered the 1985 non-party elections to his own satisfaction. The opposition was successfully kept at bay through amendments in the Political Parties Act 1962².

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1. Mustafa Sadiq, "Intakhab Ghair Jamati Bunyadon par Kyun"?, Nawa-i-Waqt (Rawalpindi) February 3, 1984.
 2. The amendments were: 1) A political party was required to register itself with the Election Commission in order to contest the general elections; 2) the commission was empowered to cancel the registration of any party if at any time it had reason to believe that the activities of that particular party were prejudicial to the integrity of the country, the maintaining of law and order and the integrity or independence of judiciary or if that party was found spreading disaffection against the Armed forces; 3) the parties were required to hold their elections annually at all levels and to disclose the sources of their income for the Election Commission's scrutiny; 4) the Election Commission was also empowered to withhold or cancel the registration of a party if it was established that a political party had received funds from foreign sources.

The Shia threat on the Zakat issue was also cleverly averted. But it must be stated that the astute General never allowed the Ulama to ride him. He chose to follow their advice only on those issues which seemed to be advantageous. The controversy whether political parties were Islamic or un-Islamic was introduced only to confuse the issues.

From the foregoing, it may be concluded that General Zia-Ul-Haq was able very cleverly to channel to his advantage the Islamic sentiments of the people which had been aroused during the PNA's anti-Bhutto movement. But when it came to legitimizing his "Islamic rule", he had to take shelter behind the "Doctrine of Necessity". This was obtained after a solemn assurance before the Supreme Court that the aim of his government was the holding of free and fair elections and the restoration of democracy in the country¹. Later, however, like many other military rulers of Asia and Africa, General Zia expanded the goals of his coup. He now

1. Aitzaz Ahsan, "July Five 1982- The Five years of Martial Law," Muslim, July 5, 1982.

stressed on the introduction of a process of Islamisation at an evolutionary pace. This Islamisation process served two fold purpose: first it made the opposition (Religious and secular parties) ineffective and, secondly it helped General Zia to perpetuate his Martial Law regime. There was of course, some talk of democracy due to the pressure from the American Congress and the liberal - minded world media as well as from the 1983 Movement for the Restoration of Democracy, but Zia was able to survive in all these challenges by a number of clever moves¹.

To begin with, he held, in December 1984 a "referendum" to prolong his stay. He maneuvered the question for the referendum in such a way that nobody could say no. The question was:

4. "Whether the people of Paksitan endorse the process initiated by General Mohammad Zia-Ul-Haq, the President of Pakistan, for bringing the laws of Pakistan in conformity

1. Muhammad Waseem, Pakistan Under Martial Law 1977-85, Lahore, 1987, pp. 6-7 and 39.

with the injunctions of Islam as laid down in the Holy Quran and Sunnah of the Holy Prophet (peace be upon him) and for the preservation of the ideology of Pakistan, for the continuation and consolidation of that process and for the smooth and orderly transfer of power to the elected representatives of the people, shall be referred to a referendum on the 19th day of December, 1984.

5. The question shall be answered either by 'Yes' or 'No'.

7. If a majority of the votes cast in the referendum is in favour of the answer 'Yes', the people of Pakistan shall be deemed to have endorsed all steps taken by the President of Pakistan for bringing the laws of Pakistan in conformity with the injunctions of Islam as laid down in the Holy Quran and Sunnah of the Holy Prophet and for the preservation

of the ideology of Pakistan and for the smooth and orderly transfer of power to the elected representatives of the people; and General Mohammad Zia-Ul-Haq shall be deemed to have been duly elected President of Pakistan for a term of five years from the day of the first meeting of the House of Parliament in joint sitting¹.

The question had been cleverly designed. Since Paksitanis have deep affiliations with Islam, they could not say anything against the proposition. Only General Zia-Ul-Haq's future was to be decided in this referendum. All anti-referendum propaganda in any form was declared illegal and any one found guilty was liable to three years regorous imprisonment, a fine of half million rupees and for disqualification from any elective office for seven years. On

1. Riaz Ahmad Syed, Paksitan on Road to Islamic Democracy: Referendum, 1984, Islamabad, 1985, p.170.

the other hand Zia held big public meetings throughout the country and asked the people for a 'yes' vote in the name of Islam. It was reported that businessmen and industrialists contributed as much as \$ 20 million for a "get the voter out" campaign, arranging transportation and other facilities to help in the polling¹. In spite of these measures the majority of the electorate "sat things out". But the official results were shown in favour of the 'question'. So was the 1984 - referendum which made General Zia an elected President for another five year tenure. For the one-sided campaign of referendum, General Zia used the members of the Majlis-i-Shura, local councillors, members of the Ushr and Zakat committees and thousands of Nizam-i-Salat committees which were his main stay². Even then, according to a generous estimate, only 10-15 percent turned out to vote³, though the official results showed 62.15 percent turn out, with 97.71 percent votes in favour of the proposition⁴.

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1. Afzal Iqbal, Islamisation of Pakistan, Lahore, 1986, p.137.
 2. Muhammad Waseem, Pakistan Under Martial Law, Lahore, 1987, p.40.
 3. Economist, 18-24, May, 1985, p.29.
 4. Hasan Askari Rizvi, The Military and Politics in Pakistan: 1947-86, p.247.

The next move was the holding of general elections on non-party basis. This was done in 1985. In these elections the participation was very encouraging. About 52.93 percent votes were polled in National Assembly Elections¹. But the result indicated a vote of no confidence in the cabinet ministers who had been the share-holders of the military regime. In a way, this was a vote of no confidence in Zia's policies². The inherent insecurity of his position led him to demand amendments to Paksitan's Constitution in order to "shuffle more powers on to the President's desk". Thus a parliamentary system was converted virtually into a Presidential system. Though the President had maximum constitutional privileges, General Zia wanted to carry on as the Chief of the Army Staff. He could not afford to sever links with his original constituency, i.e. the Armed Forces, and lose its supervision over the civil administration and politics. The separation of the military from the civil component of the polity would have seemed a western concept and practice, a position which might have appeared contrary to his Islamic perception³.

1. Ibid, p.248.

2. Economist, 7-13 September, 1985, p.17.

3. Saleem Qureshi, Military and Islam, London, p.272.

CONSTITUTION AND LAW

Nations are known by their constitutions. Unluckily, Pakistan has no such strong traditions. After persistent constitutional break downs and Martial Laws a constitution was at last accepted in 1973 by all the political parties in the National Assembly. The General Elections of 1977 were the first under this constitution. Unfortunately, the results were not accepted by the opposition and a movement was launched against the alleged rigging in the elections. This movement ended at the imposition of the third Martial law. General Zia, the leader of this Martial Law, however, did not abrogate the constitution. He merely suspended certain of the clauses and then brought about certain amendments. The major changes which the government brought about in the 1973 constitution were introduced over the course of nine years in successive doses as the occasion demanded.

The primary concern of General Zia was to enhance his powers. According to the 1973 constitution the Prime Minister was to keep the President 'informed'

on matters of internal and foreign policy as well as on all legislative proposals which the Government intended to bring before parliament¹. By P.O. No.14 of 1985, this Article was revised under which the Prime Minister was bound to intimate the President about all the administrative decisions or proposals prepared for the legislation. The President could ask the Prime Minister for submission of certain information on the matters decided by the Cabinet². Before the promulgation of P.O. No.14 of 1985, advice of the Prime Minister vide Article 48(i) was binding on the President. The new presidential order rearranged this Article. The new arrangement empowered the President to act in his discretion in any matter in respect of which he was authorised by the constitution to do so. In this connection, all his actions would be final and could not be challenged in any

1. Ahsan Sohail Anjam, The Constitution of the Islamic Republic of Pakistan, 1973, Lahore p. 94.

2. Government of Pakistan, The Constitution of Islamic Republic of Pakistan, 1985, p.28.

court of law¹. Before this, several judges of the superior courts, including the Chief Justice of Pakistan Mr. Justice Anwar-Ul-Haq, refused to take the oath under the new order and resigned or were retired².

The new parliamentary sketch which General Zia introduced, was dependent upon his whims because he could dissolve the National Assembly in his discretion where, in his opinion, an appeal to the electorate was necessary³. The elections of 1985 made the politicians participants in power. But General Zia wanted to keep the ultimate authority in his own hands. As such, under the Revised Constitution Order, he enjoyed the prerogative of appointing from amongst the members of the National Assembly a Prime Minister, who, in his opinion, commanded the confidence of the majority of the members⁴. So far the President

1. Ibid, p.30.

2. Muslim, Islamabad, March 24, 1981.

3. The Constitution of Islamic Republic of Pakistan, Article 51(4A), p.38.

4. Ibid, Article 101, p. 65.

had enjoyed absolute power. In the new situation when the National Assembly had come into being he wanted to serve his legislative powers. Accordingly, he amended the constitution. Under the new arrangements when a Bill was presented for assent, he could, within 45 days (instead of 7 days):

- a) assent the Bill ; or
- b) in the case of a Bill other than a money bill, return it to the Majlis-i-Shura with a message requesting that the Bill, or any specific provision thereof, be reconsidered and that amendment specified in the message be considered¹.

Apart from the administrative and legislative privileges, the President appointed his favourite Ulama in the judicial set up, by introducing the Shariat Appellate Bench in the Supreme Court and the Federal Shariat Court. Although the judgements

1. Ibid., Article 75(i) , p.51.

of the Shariat Appellate Bench were not binding on the Supreme Court yet its decisions are obeyed by the High Courts. The President could appoint three Ulama as the judges of the Federal Shariat Court¹. The appointment of the Ulama in the court minimised risk of protest in the part of judges in regard to their powers, because generally, the Ulama were more submissive and obedient than the judges.

The Revised Constitution Order was enforced just 19 days before the opening of the newly elected National Assembly. It was an open violation of the parliamentary system and confirmed the domination of the President over Parliament². General Zia did not even resign his position as the Army Chief³. The major argument in defence of the adoption of the eighth Amendment Bill was said to be that that was the only way in which the Martial Law could be

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1. PLD., 1980 , p. 89.
 2. Haji Mohammad Saifullah Khan, "Athween Aiani Tarmim Say Assembly Tootnay Tek", Jang, (Rawalpindi), July 29, 1988.
 3. Hazoor Ahmad Shah, Legal Experts find Eighth Amendment negating Federalism, democracy", Dawn, November 15, 1985.

lifted peacefully. It was called the Indemnity Bill as it protected the actions of the Martial Law Regime. The President of Pakistan in an address to the National Assembly on October 16, 1985, after its passage, endorsed this as a wise decision and stated that the amendment made the 1973 constitution into a healthy document. He called upon the members of the National Assembly to assist him in accelerating the unfinished task of Islamisation and transform Pakistan into a truly Islamic State¹. With the over-riding Presidential powers the constitution became a mockery of the parliamentary system.

In the field of legislation the Martial Law government in 1979 introduced the following Islamic laws:

- 1) The offences Against Property
(Enforcement of Hadood) Ordinance,
1979 (vi of 1979).
- 2) The Offence of Zina (Enforcement
of Hadood) Ordinance 1979 (vii
of 1979).

1. Muslim, October 17, 1985.

- 3) The Offence of Qazf (Enforcement of Hadd) Ordinance 1979 (viii of 1979).
- 4) The Execution of the Punishment of Whipping Ordinance, 1979 (ix of 1979).
- 5) The Prohibition (Enforcement of Hadd) Order, 1979 (P.O. No.4 of 1979)¹.

The Zakat and Ushr Ordinance, 1980 (XVIII of 1980) has been discussed in another chapter in addition to the above mentioned five laws, The Anti-Islamic Activities of the Qadiani Group, Lahori Group and Ahmadis (Prohibition and Punishment) Ordinance, 1984 (xx of 1984); and the famous law of Evidence come in the scope of this chapter.

- i) The Offence Against Property (Enforcement of Hadood) Ordinance, 1979.

Under the provisions of the law a person, who has attained the age of 18 years or puberty, commits the theft of at least 4.457 grams of gold or

1. Government of Pakistan, Islamic Laws, Islamabad, 1986, pp. 1-3.

other property of equivalent value is punishable by 'Hadd'. The proof of such theft is made on the confession of the accused person or on the testimony of at least two Muslim adult male witnesses, about whom the court is satisfied that they are truthful persons and abstain from major sins and that they are eye-witnesses¹. If the eye-witness is a non-Muslim the law does not authorise him to appear before the court, even if he is a pious man. However, he can be a witness if the offence is committed by a non-Muslim².

The punishment of the theft liable to Hadd is amputation of the right hand from the joint of the wrist. If the offence is committed for the second time, the left foot upto the ankle is to be amputated. And if the offence is committed for the third time, the thief is to be punished with imprisonment for life. Here, the punishment essentially means the punishment as prescribed by the Sunni fiqh. In the case of a Shia Muslim, the punishment and

1. Ibid p. 4.

2. Ibid .

procedure will automatically changed¹. However, the offence of the theft is liable to Tazir when the proof required for Hadd is not forthcoming and in this case the punishment is provided in the Pakistan Penal Code. Harabah (robbery/dacoity) also comes under the law. The standard of the proof required for this offence in Hadd is the same as above. But when the offence is liable to Tazir the punishment falls in the domain of the Pakistan Penal Code.

Justice Munir has criticised the harsh and hard punishment of the offence and quotes the opinion of a jurist that the hands of "the thief cannot be cut off unless he is given a chance to repent"². He has also quoted Maulana Muhammad Ali saying that the penalty of cutting off the hands is the maximum penalty and can only be inflicted on a habitual offender³. Justice Munir refers to a technical point in law and says that "the offence

1. (Article 2.27 of the Constitution of Islamic Republic of Pakistan has granted permission that in Muslim Personal Laws, "Quran and Sunnah" mean the Quran and Sunnah as interpreted by that sect).

2. Muhammad Munir, From Jinnah to Zia, Lahore, 1980, p.130.

3. Ibid., p. 131.

(Highway robbery or dacoity) is against the state and the society and not against property"¹. Justice Javed Iqbal argues that "...in Pakistan the punishment had been introduced since the past five years but no one had been amputated so far, although hundreds of thefts, robberies or dacoities take place in the country everyday, and in such cases the Tazir punishment is usually awarded"². And according to Afzal Iqbal the punishment for the offence is generally awarded under the ordinary law which may be rigorous imprisonment upto 3 years³.

ii) Offence of Zina (Enforcement of Hadood) Ordinance, 1979.

If a man of not less than 18 years of age willfully performs sexual intercourse with a woman not less than 16 years old, without being married to her, an

1. Ibid. p. 129.

2. Javed Iqbal, "Islamisation in Pakistan", Journal of South Asian and Middle Eastern Studies, Vol.VIII, No. 3, Spring, 1985, pp. 43-44.

3. Afzal Iqbal, Islamisation of Pakistan, Lahore, 1986, p. 114.

offence has been committed under the Haddoo laws. But the Hadd is liable only if the offender is insane and in that case the punishment will be 100 stripes at a public place. In case the offender is an adult married, his punishment is defined as "stonning to death"¹. In the case of rape the punishment for a "muhsan", is stonning to death at a public place; and if the offender is not muhsan he will be awarded punishment of hundred stripes at a public place, and with such other punishment, including the sentence of death². The punishment for Zina or Zina-bil-Jabr where the accused is not an adult, he may be awarded five years imprisonment, or with fine, or both or may also be given 30 stripes³.

The proof of Zina or Zina-bil-Jabr liable to Hadd is made either by the confession of the accused or on the testimony of at least

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1. Government of Pakistan, Islamic Laws, Islamabad, 1986, p.12.
 2. Ibid. p. 13.
 3. Ibid.

four Muslim adult male witnesses about whom the court is satisfied that they are truthful persons and abstain from major sins, and who give evidence as eye-witness of the offence. Rashida Patel has criticised this provision of the law in the following manner:

"The first question that comes to mind on reading this section is : If four truthful males who have not committed major sins were watching penetration necessary for zina and especailly for the heinous crime of zina-bil-jabr, why did they do nothing to stop it? Is that not a major sin in itself"¹.

Justice Munir's criticism on this law seems worth mentioning. He says:

"The Ordinance draws a distinction between a Muslim and a non-Muslim

1. Rashida patel, Islamisation of Laws in Pakistan? Karachi, 1986, p.44.

reserving a sentence of hundreded stripes for a person who is not a Muhsan and that of stonning to death for a person who is a Muhsan but it is submitted that the Quran draws no such distinction, the word used for the offence is Zina which applies adultery by a married man as well as by an unmarried man. In commenting on this subject Maulana Muhammad Ali says that the punishment for adultery is 100 stripes not stonning to death which is contrary to the Quranic injunctions"¹.

During the period 1980-84 many appeals were filed in the Federal Shariat Court against cases tried under this law. Among these cases against approximately 400 men and 50 women under

1. Muhammad Munir, From Jinnah to Zia, Lahore, 1980, p.128.

all categories of Zina were upheld by the court¹.
Out of all Zina cases the Federal Shariat Court did not recommend stoning to death even in a single case. All the cases were disposed of through Tazir punishment².

iii) Offence of Qazf (Enforcement of Hadd) Ordinance, 1979.

"The greatest sin is to associate another with God, or to vex your father or mother or to murder your own species or to give false evidence or to tell lie³.

Under the spirit of the above quoted Quranic verse, the law under the above caption has been enacted.

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1. J. Henry Korson and Michelle Mashiell, "Islamisation and Social Policy in Pakistan: The Constitutional crises and the status of Women", Asian Survey Vol. XXV, No.6, June 1985, p.605.
 2. Javed Iqbal, "Islamisation in Pakistan", Journal of South Asian and Middle Eastern Studies, Vol.III No. 3, Spring, 1985, p.46.
 3. Government of Pakistan, Introduction of Hadood Laws in Pakistan, Islamabad. 1979, p.8.

It defines Gazf in a very comprehensive way:

"whoever by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes an imputation of Zina concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation or hurt the feelings, of such person, is said, except in the cases, hereinafter excepted to commit qazf"¹.

Qazf liable to Hadd stands proved if the accused makes a confession before a competent court or commits the offence of Qazf in the presence of the court or in the presence of at least two Muslim adult male witnesses about whom the court is satisfied that they are truthful witnesses and abstain from major sins.

1. Government of Pakistan, Islamic Laws, Islamabad, 1986, p.19.

The punishment of Qazf under the Hadd is whipping to a maximum of 80 stripes¹.

- iv) The Execution of the punishment of whipping Ordinance, 1979.

This law deals mainly with conditions and mode of execution of punishment of whipping, and lays down the technicalities of exercising the punishment. According to the law, the length and thickness of the whip shall not exceed 1.22 meters and 1.25 c.m., respectively².

- v) The Prohibition (Enforcement of Hadd) Order, 1979.

Under this law import, export, transport, manufacture, possession, packing, sale or service of any intoxicant, including liquor, is strictly prohibited. For proving the offence of drinking liable to Hadd, evidence of two witnesses about which the court is satisfied, is required but not necessarily of eye witnesses. The witnesses may be from medical profession or persons who have smelt

1. Ibid., p.20.

2. Ibid., p.25.

the liquor from the mouth or vomit of the offender. However, non-Muslims residing in Pakistan may consume intoxicant though not in public places. The punishment liable to Hadd is 80 stripes and in case of Tazir the punishment is upto 3 years imprisonment or whipping not exceeding 30 stripes or both.

Rashida Patel again objects to the punishment. She holds that the Quran does not mention any punishment for drinking. The traditions of the Holy Prophet also do not conclusively indicate any punishment¹. Keeping the above objection aside, it is, however, an admitted fact that 'Poppy' production and its use on such a large scale is a result of the restrictions imposed under the Martial Law regime.

vi) Anti Islamic Activities of the
Qadiani Group, Lahore Group and
Ahmadies(Prohibition and Punishment)
Ordinance, 1984.

In 1974, the Qadianies/Ahmadies were declared non-Muslim by the Bhutto government. The Zia government

1. Rashida Patel, Islamisation of Laws in Pakistan?
Karachi, 1986, p.38.

has enacted this ordinance in continuation of the previous legislation. According to the Ordinance the Qadianis cannot now call the prayer. They cannot name their worship places Masjids. They cannot preach their belief, in any way or claim themselves to be Muslims. If any person of this community violates the provisions of the law, he is liable to be punished to a term of imprisonment upto 3 years or fine¹.

vii) Qanun-e-Shahadat Order, 1984.

Originally the law of evidence in Pakistan was drafted by the Council of Islamic Ideology. From the initial stages, the Order remained controversial in all the circles, particularly among the women organisations. Even the Law Commission of Pakistan disagreed with it. The most controversial section of the law is section 6. Rashida Patel has interpreted it as under:

"Section 6 of this draft law had provided that, except for the offences liable to Hadd and qisas

1. Government of Pakistan, Islamic Laws, Islamabad, 1986, p.71.

(wherein the evidence of women is excluded) and matters covered in section 7 (birth and legitimacy), and 8 (evidence by one man) all facts including financial matters shall be proved by the evidence of the adult Muslim male witnesses and in the absence of two such male witnesses by the evidence of two women and one man. Thus reducing the status of a female to half that of a male"¹.

The law was still under consideration of the Majlis-e-Shura when a compromise was affected by the government in the following manner:

"The number and particulars of the witnesses would be in accordance with the Holy Quran and Sunnah, the details of which are as under:

1. Rashida Patel, Islamisation of Laws in Pakistan? Karachi, 1986, p.78.

Also see: "Qanoon-i-Shahadat: Salient Features", Dawn, March 5, 1983.

In Hadood, according to the Hadood Ordinance.

In qisas, according to the qisas and dyat Ordinances.

In other matters, two men, or one man and two women. If the said witnesses are not available, the court shall decide on the evidence of one woman or such other evidence and circumstances as may be available"¹.

The Law of evidence created considerable unrest among the advocates and liberal sections of the society². They observed "Black days", as a mark of protest and took out processions in larger cities like Karachi and Lahore³. On the other hand

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1. Muslim (Islamabad), March 4, 1983.
 2. Organizations like Women's Action Forum (WAF) and APWA took an active part in the campaign against the Law of Evidence Order.
 3. J. Henry Korson and Michelle Maskiell, Opcit., p.606.
(The women protestors were subjected to lathi charge and were tear-gassed by the Police. Several women leaders were arrested).
Also see: Anita M. Weiss, "Women's position in Pakistan", in Asian Survey, Vol.XXV, No.8 August, 1985.

organizations like the Majlis-e-Khawateen-i-Pakistan were encouraged by the Government to give whole hearted support to the process of Islamisation espoused by the Zia's Government¹.

The Ulama also jumped into the foray. They threatened the women protestors that they would obtain a fatwa nullifying the nikah of those who were against the Law of Evidence².

These were the circumstances under which the Law of Evidence was passed and promulgated. Professor Ghafoor comparatively a moderate leader of the JI was asked to express his views about the legal status of women in Islam. His answer was very interesting:

"Legally, women not only have an equal status but a preferential one. The law of evidence for instance, which has been exploited

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1. J. Henry Korson and Michelle Maskeill, opcit, p. 602.
 2. Muslim, March 9, 1983.

as an issue, is really not a
issue. Evidence is a comber-
some thing. As such, it is
not a right but a responsibility"¹.

It has been observed that the Federal
Shariat Court has not applied the full scope
of the Hadood Ordinance. But the session
judges have been a little more keen in
applying the Ordinance. The Shariat Court
accepted an extraordinary number of the appeals
brought before it against the decisions of
the lower courts. The Federal Court upheld
only 19 percent of the convictions and 52
percent were acquitted. The following table
presents the facts in an explicit manner:

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1. Thirdworld International, July, 1988,
p. 47.
 2. Charles H. Kennedy, "The Implementation of
the Hadood Ordinances in Pakistan",
Islamic Studies, Quarterly Journal Vol.26,
Winter, 1987, No.4, Islamabad, p.308.

DISPOSITION OF APPEALS AGAINST ZINA CASE CONVICTION, 1980-1984

CRIME	UPHELD FULLY	UPHELD REDUCED SENTENCE	UPHELD DIFFERENT HUDOOD	UPHELD NON-HUOOD	ACQUIT	REMAND	N
10(2)	19(17)	10	1	0	79(70)	4	113
10(3)	37(28)	14	26	0	55(41)	1	133
11	9(17)	0	6	1	34(65)	2	52
12	3(18)	1	0	10	2(12)	1	17
16	1(2)	3	0	0	49(89)	2	55
18	15(37)	8	0	8	10(24)	0	41
19	1(25)	0	0	0	3(75)	0	4
5	0(0)	0	0	1	0(0)	3	4
15	0(0)	0	0	0	1(100)	0	1
14	0(0)	1	0	0	0(0)	0	1
Zina all	85(20)	37(9)	33(8)	20(5)	233(55)	13(3)	421
Non-Zina	9(15)	23(39)	1(2)	3(5)	16(27)	7(12)	59
Total	94(19)	60(13)	34(7)	23(5)	249(52)	20(4)	480

SOURCE: Compiled by the author from Kennedy file (1987).

Key: 10 (2) = rape; 10 (3) = rape; 11 = Kidnapping ; 12 sodomy; 16 = enticement ; 18 = attempted rape; 19 = abetment of zina crime ; 5 = adultery liable to hadd; 15 = deceitful marriage; 14 = conspiracy to engage in prostitution.

Figures in parentheses refer to relevant percentages.

- a) 10(2) convictions.
- b) PPC 377 convictions.

SOURCE: Islamic Studies 26:4 (1987), p.308.

It will be more relevant to mention that these accused of the Hadood are mostly from the lower classes of the society. Nearly, 42 percent of the male accused have been cultivators, 17 percent common labourers and many of the male accused are beggars, rickshaw drivers, fruit sellers and servants. Over 95 percent of the women accused claim to be employed in the household. About 75% dwell in rural areas. In the entire sample only eleven of the accused (less than 2 percent) held middle class jobs and seven of these were students¹.

The changes brought in the constitution by the martial law regime was a clear-cut attempt to legitimize Army's hegemony over the civil administration under the M.R.D's clamour for the restoration of democracy, the purpose could be fulfilled only by introducing a weak parliamentary system alongwith a strong President, preferably from the Army. Introduction of the Hadood laws was an act of pleasing the orthodoxy which had so far strongly supported Zia. Although the application

of the laws was negligible, but the laws started a new debate in the country and the real issues were swept under the carpet. The implementation of these laws was limited but discriminatory and brutalizing. It encircled mostly the people from lower classes. The rural and urban aristocratic classes which were in alliance with the ruling military janta, were certainly not brought into the arbit of the new laws. On the whole, the constitutional amendments and laws were framed for the vested interests and the forces allied with President Zia. The constitutional shuffling was ill-intentioned and the purpose was to bring the opposition parties to their knees. More clearly, it was meant, to block the PPP's way from coming into power. The side effects of this shuffling, however, were disastrous for the country.

ECONOMICS

The Islamic system of Economics works for adl and cuts through all kinds of excesses. It is opposed to exploitation in all forms. Although it recognizes individual's right of holding property yet it demands from its adherents restraints on the utilization of wealth which is regarded as a trust for Allah. The system works for modelling a society based on the economic concept of profit and loss sharing system and by creating welfare institutions of Zakat and Sadaqat. According to the Holy Quran extravagance is an action of the devil. Lending to a needy person without usury is treated as a good deed. The Quranic philosophy is directed towards the achievement of falah. The concept of falah denotes all types of welfare in the present world as well as in the world hereafter. In the context of Islam, the economic policies should aim at

إِنَّ الْمُبْدِرِينَ كَانُوا إِخْوَانَ الشَّيَاطِينِ ۗ 17:27

17:27 Lo! the squanderers were ever brothers of devils.

Masmaduke Picktholl, The Meaning of the Glorious Koran: An explanatory Translation, London, 1969.p.285.

furthering the collective welfare indicated by the Quranic concept of falah. Under Article 31 of the 1973 constitution, the Government of Pakistan is duty bound to enable the Muslims of Pakistan, individually and collectively, to order their lives in accordance with the fundamental principles and basic precepts of Islam. Alongwith certain other measures, the state stands for securing the proper organisation of the Zakat, auquaf and mosques¹.

As a part of the process of Islamisation, the Martial Law regime of General Zia-Ul-haq promulgated in June 1980, the Zakat and Ushr Ordinance. The Ordinance came into operation from that date except the provisions relating to Ushr. These were enforced later with effect from March 15, 1983. The Ordinance lays down the principles for the collection of Zakat and Ushr and its disbursement to those entitled to receive under the

1. Government of Pakistan, The Constitution of the Islamic Republic of Pakistan, Article 31(2)(c), Islamabad, 1985, p.22.

Shariah. It envisages arrangements for operating the Zakat, Ushr system. Before a detailed explanation of this Ordinance is attempted it seems appropriate to go into the meaning and background of the word Zakat.

Etymologically, Zakat means that which purifies as in the verse Qad aflaha man Zaka and that which fosters. But as a basic tenet of Islam, it has a much wider scope and is used in a particular sense. It is an act of piety under which the rich transfers the ownership of his property to a poor Muslim¹. According to the Encyclopaedia of Islam, Zakat denotes virtue and righteousness in general and it can be used for benevolence and charitable gifts².

The Zakat Ordinance divides the taxable assets into two schedules. In respect of items specified in the first schedule Zakat is deducted on compulsory basis and in respect of those specified

1. Nicolas A. Agnides, Mohammedan Theories of Finance, Lahore, 1960, p.208.

2. The Encyclopaedia of Islam, Vol.II, 1934, p.1202.

in the second schedule, Zakat may be paid either to a Zakat Fund or to the Mustahiqeen voluntarily. According to a western writer, who has analysed the agrarian system in Pakistan, the people are generally of the view that Islam must be voluntary and not forced - and, therefore, the Zakat would hardly be paid from a feeling of performing one's Islamic duty. The use of compulsion to evoke charity and elicit contribution is not something which is considered in accord with the nobler aspiration of Islam¹. Compulsory deduction of Zakat at the source is made in respect of eleven types of assets at the rate of 2.5 percent of the face value, paid up value, surrender value, as the case may be, of the assets as on the first day of the month of Ramadhan each Zakat year based on the Hijra Calander².

For Zakat it is necessary that the nisab should be completed in the beginning and at the end

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1. Richard Kurin, "Islamisation in Pakistan: A view from the Countrysuite", ASIAN SURVEY, Vol. XXV, No. 8, August, 1985.
 2. Zakat & Ushr Ordinance, Chapter 1, Clause 2(xxxii).

of the year and should not have disappeared altogether during the course of a particular year. For instance a man, had Rs. 1200/- in his savings bank account on 1st July, 1980 and Rs. 500/- during most of the year and again Rs. 1,200/- at the end of June, 1981 (valuation date). According to the Shariah he is not a sahib-i-nisab, as his nisab was broken. The Ordinance does not provide any remedy to this discrepancy. Instead, there is a flaw in the Ordinance, as everyone is eligible to withdraw his money from his bank account-just before the valuation date reaches.

The Zakat has never been collected as a joint responsibility. Clause 2 of Chapter I of the Ordinance applies to "a company or other association of persons whether incorporated or not a majority of the shares or assets of which is held by Muslims". The company or association as an entity has been declared as sahib-i-nisab. This provision has been included just to accommodate the complicated business of companies which was perhaps impossible to be stopped.

The Zakat is deducted compulsorily at the source once in a Zakat year, in respect of eleven

assets namely : i) Saving Bank Account ii) Notice Deposit Receipt/Accounts iii) Fixed Deposit Receipt/Accounts paying profit periodically iv) Fixed Deposit and certificates paying profit on encashment v) NIT Units vi) ICP Mutual Fund Certificate vii) Government Securities viii) Shares of Companies and statutory corporations ix) Annuities x) Life Insurance Policies and xi) Provident Funds¹.

But there is no uniformity on the minimum limits of wealth and financial assets, subject to compulsory levy of the Zakat. For items like other deposits in the banks, the minimum limit is beyond Rs. 1,000/-² while for all other categories of assets, it is levied irrespective of the amount. This discrimination is not understandable. Limits for each taxable item should be the same.

The Zakat Ordinance is not applicable to non-Muslims and a Muslim follower of a recognized Fiqh who believes that his faith and fiqh do not

1. Zakat and Ushr Ordinance, Section 2 and 3.

2. Zakat and Ushr Ordinance, Column 1(4).

oblige him to pay Zakat in the manner prescribed. Such Muslims may claim exemption from compulsory levy of Zakat and Ushr by fulfilling certain formalities. In the beginning, however, instances were noted when the Qadianis and Shias who under the leadership of the late Mufti Jafar Hussain, the then Chief of the Tehrik-i-Nifaz-i-Fiqh-i-Jafria, staged a massive demonstration in Islamabad in the summer of 1980, against the compulsory deduction of Zakat by the Zia Government. It was this incident which compelled the Government to amend the Zakat law¹. This exemption to the Shias, however, has also facilitated those who want to escape from paying Zakat by simply declaring that they were Shias.

The governmental agencies and some other institutions have been excluded from the definition of the sahib-i-nisab². Among the items excluded from Zakat are all shapes of foreign exchange. It

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1. Hasan Askari Rizvi, "The Paradox of Military Rule in Pakistan", ASIAN SURVEY, Vol. XXIV, No. 5, May, 1984, p.546.
 2. Zakat & Ushr Ordinance, section 2 clause (xxiii).

was conveniently forgotten that Zakat is equally applicable to all apparent and non-apparent assets whether these relate to trade-money or ordinary business¹ for obvious reasons, the Ordinance did not cover the non-apparent and foreign currency assets.

The nisab in relation to the assets liable to zakat, except agricultural produce and animal fed free in pastures, means 612.32 grams of silver, or cast or gold, or goods for trade or any other asset prescribed under the Shariah. The aggregate value of all must be equal to the value of 612.32 grams of silver, as notified by the Administrator General for each zakat year. But the nisab is liable to fluctuate in accordance with the variations in the price of gold and silver².

Another provision of the Zakat Ordinance speaks that the zakat paid in a year can be deducted

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1. M.A. Mannan, Islamic Economics: Theory and Practice, Lahore, 1980, pp. 274-75.
 2. Zakat and Ushr Ordinance, Chapter I (XV a) (This was a new clause included by the Zakat Administration to the Ordinance, 1980).

from the total income for the purposes of income tax. This provision shows that alongwith the Zakat income tax is laso leviabale on the rest of the assets. This means a double exemption to the wealthy which creates a kind of disparity in clear violation of the letter and spirit of Islamic socio-economic justice¹. The exemption of the assets relating to international trade is also indefensible for it benefits an economically dominant segment of our society, i.e. importers and exporters. In this regard the Zakat Administration is of the opinion that this exemption has been granted in the best interest of national economy². This plea becomes futile because in Islamic economic system justice deserves priority over efficiency. This does not mean that Islam negates economic advancement but it gives first priority to social justice³.

1. Syed Nawab Haider Naqvi, Individual Freedom Social Welfare and Islamic Order, Islamabad, 1981, p. (v).

2. This is the point of view held by Hamid-ud-Din Ahmad, Deputy Administrator, Zakat, Islamabad when he was interviewed in March, 1986.

3. Naqvi, Individual Freedom, p.4.

The public response to the Zakat system has so far been far from satisfactory. Voluntary Zakat payment is quite hopeless. The sahib-i-nisab try to escape from the payment of Zakat. Figures for the first five years will help us to determine the facts about popular response in this system: *

* next page.

**ZAKAT RECEIVED ON VOLUNTARY BASIS
DURING THE FIRST FIVE YEARS.**
(Rupees in million)

YEAR	CENTRAL ZAKAT FUND	ISLAMABAD	PUNJAB		SIND		NWFP		BALUCHISTAN		TOTAL
			PROVINCIAL -	LOCAL	PROVINCAIL -	LOCAL	PROVINCAIL-	LOCAL	PROVINCIAL -	LOCAL	
1980 - 81	0.810	-	0,490	4,818	-	1,030	0,060	0,487	0,007	-	7,702
1981 - 82	1,360	-	0,328	6,138	-	1,035	-	0,635	0,101	-	9,597
1982 - 83	1,220	0,037	0,106	2,176	-	0,951	-	0,121	1,985	-	6,596
1983 - 84	0,350	0,009	-	-	-	0,379	-	0,037	1,391	-	2,166
1984 - 85	1,650	-	0,001	-	-	1,380	-	0,075	0,029	-	3,135
TOTAL	5,390	0,046	0,925	13,132	-	4,778	0,060	1,355	3,513	-	29,196

SOURCE: Central Zakat Administration, Nizam-i-Zakat-O-Ushr Key Pehlay Panch Saal, Islamabad, 1986, p.514

COMPULSORY LEVY OF ZAKAT DURING FIRST FIVE YEARS

S.No.	Name of Asset	First year June 30, 1980 to July 3, 1981	Second year July 4, 1981 to June 22, 1982	Third year June 23, 1982 to June 12, 1983	Fourth year June 13, 1984 to May 22, 1985	Fifth year June 1, 1984 to May 22, 1985	TOTAL
1.	Saving Bank & similar others.	618,15	557,64	590,63	697,95	785,88	3,250
2.	Notice Deposit Receipt/ Account.	70,89	39,32	23,04	20,38	20,69	174,32
3.	Fixed Deposit Receipt/ Account/Certificate	76,05	111,81	147,46	164,28	271,74	771,34
4.	Saving Deposit Certificate/ Receipt.	22,87	29,74	33,82	55,33	74,01	215,77
5.	NIT Units	19,64	19,51	13,65	19,64	21,52	93,96
6.	ICP Mutual Fund Certificate	1,90	1,07	2,63	2,76	3,28	11,64
7.	Official Hundies	1,01	0,83	1,10	1,46	1,05	5,45
8.	Hundies including Shares	25,15	23,49	27,15	32,75	34,12	142,66
9.	Annuities	0,05	0,02	0,01	0,02	0,12	0,22
10.	Life Insurance Policies	2,99	4,49	5,21	5,99	6,70	25,58
11.	Provident Fund	5,55	10,39	10,49	10,77	11,75	48,95
	TOTAL	844,25	798,51	855,19	1,011,33	1,230,86	4,740,14

SOURCE: Central Zakat Administration, Nizam-i-Zakat-O-Ushr Key Pehlay Panch Saal, Islamabad, 1986, p.5 .

Such a negligible participation in the system is basically due to human psychology to which the Pakistani society is no exception and perhaps also owing to the flaws in the zakat laws as enforced in the country. One may refer to Richard Kurin's analysis on this aspect ! "To be effective Islam must be voluntary, not forced". In his view, zakat and ushr can work in a society that is Islamic with a government that is just, and a citizenry that does its duty. But according to Kurin, Pakistani society "is not Islamic, government officials not always just and citizens not always sincere and worthy". In a system where people are liable to misuse and steal funds, the undeserving may get the benefit of the zakat funds and the wealthy may escape from having to pay the tax. Richard Kurin's conclusion is that the implementation of a fair, honest and moral system is impossible in the context of present day Pakistan¹.

1. Richard Kurin, "Islamisation in Pakistan: A view from the countryside", ASIAN SURVEY, Vol.XXV, No.8 August, 1985, p.860.

The fate of Ushr, i.e. Zakat on agricultural produce, is no different. The term Ushr as such, is not found in the Quran. But verse 141 of Sura Al-Anam is taken to refer to the tithe or half-tithe¹. Etymologically, the Ushr is the same as the Assyrian Ish-ru-u which means tribute paid in kind (corn, dates etc.) or in gold and with the Hebrew Ma-asher, the tenth, which the sanctuaries received, but which was also levied by kings and which the Mosaic law wished to introduce as compulsory. According to Pliny, the tenth part of the frankincense harvest was collected by the priests in South Arabia from the god sin(Sabin) to meet public expenses and the maintenance of guests².

Under the Islamic rule, Mecca, Medina, the Hijaz, the Yamen and the remaining Arabian territories were regarded as Ushr lands and this was contrasted with Kharaj lands on which the land tax was levied. During the period of Hazrat Umer when Iraq, Syria, Iran

وَ هُوَ الَّذِي أَنشَأَ جَنَّةٍ مَّعْرُوسَةٍ وَ نَعِيرٍ مَّعْرُوسَةٍ وَ النَّخْلَ وَ الذَّرْعَ ۚ
مُخْتَلِفًا أَلْوَانًا ۚ وَ الزَّيْتُونَ وَ الرَّمَانَ مُتَشَابِهًا وَ غَيْرَ مُتَشَابِهٍ ۚ كُلُوا مِنْ ثَمَرِهِ
إِذَا أَثْمَرَ وَ آتُوا حَقَّهُ يَوْمَ حَصَادِهِ ۚ وَ لَا تُسْرِفُوا ۚ إِنَّهُ لَا يُحِبُّ الْمُسْرِفِينَ ۝

It is He who produceth Gardens, with trellises And without, and dates, And tilth with produce of all kinds, and olives And pomegranates, Similar(in kind) And different (in variety) Eat of their fruit In their season, but render The dues that are proper on the day that the harvest Is gathered. But waste not By excess for Allah Loveth not the wasters.

2. Encyclopaedia of Islam, p.1050.

and Egypt were conquered, the newly acquired lands were treated as Kharaj lands. If a non-Muslim bought Ushr land from a Muslim he had to pay the double tithe (Khums). The land was treated as Ushri if the owner became Muslim. However, Hazrat Umer bin Abdul Aziz discontinued this system¹. The extent of Ushri areas in India during the Sultans of Delhi was not great but there can be no doubt about their existence. M. bin Qasim, Qutb-ud-din Aibak and Firuz Shah definitely dealt with ushr². During the Mughal period there was an agrarian bureaucracy called Mansabdars. Towards the end of the Mughal period, as central power declined many jagirs became hereditary in practice. But the ruling class always obtained its income by lenyin tribute on villages³. The colonial

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1. M.A. Sabzwari, A study of Zakat and Ushr with special reference to Pakistan, Karachi, 1979, p.9.
 2. I.H. Qureshi, The Adminsitration of Delhi, Lahore, 1942, pp.98-99.
 3. Angus Maddison, Class Structure and Economic Growth/ India and Pakistan since the Moghuls, New York, 1971, p.23.

government made some institutional changes in agriculture. The jagirs were abolished (except in the autonomous princely states) and the bulk of the old warlord aristocracy was dispossessed. Their previous income from land revenue, and that of the mughal State, was now appropriated by the British as land tax¹.

The main features of the provisions of Zia-ul-Haq's law relating to Ushr are the following:

- 1) Ushr is to be charged and collected on compulsory basis from the produce of land of landowner, guarantee, allottee, lessee, lease-holder or land-holder at the rate of 5 percent of his share of produce.
- 2) Ushr is payable only if the produce to a person is 5 wasqs (948 Kgs) of wheat or its equivalent in value in case of other crops.
- 3) Ushr liability is to be assessed primarily by the Ushr-Cuzar himself.

1. Ibid. p.45.

- 4) Such a self assessment as a rule is to be accepted by a local Zakat Committee.
- 5) Where the Ushr-Guzar does not file his self assessment or the local Zakat Committees find it manifestly unacceptable, they can make their own assessment based on the information from revenue records or any other source deemed relevant by the local Zakat Committee.
- 6) If the Ushr Guzar is dissatisfied with such a revision he can deposit 50 percent of the assessed ushr and apply to the Tehsil Zakat Committee for the revision of the assessment.
- 7) The decision of the Tehsil Zakat Committee if it does undertake a revision, is to be final.
- 8) The land revenue and the development cess is not chargeable in respect of land on whose produce the Ushr has been charged and recovered on compulsory basis.

So far as the implementation of the rules are concerned it is very selective. There have been numerous complaints that officials are not enforcing the law, particularly when influential land-holders are involved¹. The Chairmen of the Local Zakat Committee, who are responsible for the assessment, collection and disbursement of Zakat and for maintaining its accounts², are mostly the numberdars or Zaildars of the villages. The traditional power structure in villages is usually based on factions drawn along hiradari (kinship), ideology and class relationship. While operating the system of Zakat and Ushr, the Chairman may discriminate against their opponents. Particularly, the discriminations of the Ushr-Guzars belonging to weak factions looks unavoidable. It is due to the fact that our rural society exists on the principle that "the larger the holding (land-holding) the more notable the personage".

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1. Charles H. Kennedy, "Rural Groups and the Stability of the Zia Regime", Craig Baxter, ed. Zia's Pakistan: Politics and Stability in a Frontline State, Lahore, 1985, p.36.
 2. Central Zakat Administration, Qanoon-i-Zakat-O-Ushr: Chand Shubhat Ka Azallah, Islamabad, 1980, p.31.

On February 10, 1979, while announcing certain steps of Islamisation, General Zia-ul-Haq declared that the system of Zakat and Ushr would be a source of public welfare provided it was used in a proper way¹. But the fact is that the system has benefited mostly the Ulama. By giving them authority to assess the eligibility of a person for receiving Zakat money the Ulama have become very powerful. This is evident from the statement of the Administrator General Zakat who, when asked about the criteria of assessment of a mustahiq, pointed out that there were certain juridical implications involved in the matter. To avoid confusion the Zakat Committees have been authorised to determine the eligibility through the local Khateebs or the Ulama². The Ulama were thus brought under the control of the Government through a system of patronage by granting their Madrasahs millions of rupees out of the Zakat fund, during the first five years alone.

1. Nawa-i-Waqt, Rawalpindi, February 11, 1979.

2. Hurmat (Rawalpindi) 14-25 August, No. 3635, 1983, p. 166.

(in millions)

<u>year</u>	<u>Punjab</u>	<u>Sind</u>	<u>NWFP</u>	<u>Baluchistan</u>	<u>Islamabad</u>	<u>Total</u>
1980-81	9,400	0,011	2,756	1,811	-	13,978
1981-82	17,230	0,061	4,122	0,317	-	21,729
1982-83	28,190	1,308	5,742	3,870	-	39,110
1983-84	8,890	4,735	8,463	1,291	0.078	23,457
1984-85	64,590	7,475	12,099	9,642	0.418	94,224
TOTAL	128,300	13,589	33,182	16,931	0.496	192,498

SOURCE : Central Zakat Administration, Nizam-i-Zakat-O-Ushr Kay Pehlay Panch Saal, Islamabad, 1986, p.53.

But the system has not been free from defects. There have been many cases of maladministration, fraud and embezzlement. It has been estimated that the Zakat fund is being deprived of an amount of Rs. 34 billion annually. The rich in particular flout the law and do not contribute their share to the fund. Therefore, the amount of zakat being collected was far below the requirements of those mustahqeen living under the poverty line. The evasion of zakat was in addition to Rs.20 billion income tax which was not being paid every year. In fact, the amount of Rs. 70 million collected as Ushr could be raised upto Rs. 1070 million if the Prize Bond Scheme was abandoned which was only giving shelter to the holders of black-money. This can still improve if

the Income tax system was abandoned and replaced by an effectively enforced Zakat system¹.

Keeping in view the detailed discussion on Zakat and Ushr system, it is rightly said that the rich, the big landlords or businessmen or industrialists, were not paying their share of Zakat and Ushr. It was due to the half-hearted implementation of the relevant laws. A major portion of the Zakat fund was used to get the political support of the religious groups. The lack of sincerity has been the basic cause of the failure of this system. In fact, the failure highlights the need of creating a social atmosphere conducive to voluntary payment of Zakat and Ushr as a religious obligation².

So far as the interest-free Banking and Mudaraba are concerned, efforts had been afoot for quite sometime. In fact, very early in his regime, General Zia had encouraged the major business families to take over and invest in the firms nationalized by the Bhutto Government³. The denationalization programme

1. Muslim, March 11, 1987.

2. Ibid.

3. Robert Laporte, "Urban Groups and the Zia Regime", Baxter, Zia's Pakistan, p.14.

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of the government and the increasing political and economic links with the United States confirms that Zia's economic policy was deeply committed to free market. The introduction of interest-free banking in a capitalist economy where a fairly large proportion of depositors belong to the lower middle class, discriminates against the poor depositors. At the same time, in such a system the investor can receive loans from banks at zero interest with a nominal service charges and thus make a large profit. While the profit to be paid to the depositor is determined by the bankers, they may well be earning much larger profits than the depositor receive under the PLS system. The depositor may thus receive only a nominal profit¹. In this way there is a possibility of exploitation of the depositor who has limited information regarding the inner functioning of a corporation or a bank's investment projects.

The Government though announced that all interest-bearing financial instruments will be replaced by the PLS system, a substantial proportion of the banking sector

1. See Omar Asghar Khan, "Political and Economic Aspect of Islamisation", in Mohammad Asghar Khan(Rtd), The Pakistan Experience: State and Religion, Lahore, 1985, p.149.

was declared exempt from this order. The Federal Finance Minister, while asserting that the interest-free system would supplant the existing system was quick to ensure that all the pledges made under the existing system would be honoured and dealings with foreign governments and international finance institutions would continue unchanged¹. In this way the interest-based system was to be continued in the case of large amounts of foreign exchange being lent to the industrial sector by the state - controlled financial institutions, such as the Paksitan Industrial Credit and Investment Corporation (PICIC), the IDBP and the National Development Finance Corporation (NDFC). The system in fact compells these institutions to stick to the interest-based dealing. So they might not be willing to experiment with the new system because under the circumstances interest is just a "theological issue" with them².

The Council of Islamic Ideology in its report on the elimination of interest has suggested ways of getting round the theoretical prohibition of

1. Dawn, June 15, 1984.

2. Babar Ayaz, "Islamic Banking: Inland in Capitalist Ocean", Ibid., June 17, 1984.

riba while relating to the essential characteristics of a capitalist economy¹. The report rather suggests that the nomenclature of the price of and return on capital, which has come to be known as interest, be altered to profit in the case of Mudaraba companies and service in the case of banks². The concept of Mudaraba is not confirmed by any verse of the Holy Quran or Hadith. Historically, it was a kind of ancient "commercial capital". It existed before Islam in Arabia and South Europe. It was a sort of primitive commercial organization in which the capital owner entrusted his capital to an agent/worker on the basis of profit sharing in a pre-arranged proportion. All risk was borne by the owner³. Moreover, in a capital scarce economy like Pakistan's with a highly unequal pattern of income distribution, the availability of zero interest loans further increases the gulf between the upper and the lower classes. Because the lower class has no property which they could pledge to the banks as 'security'. However, the upper class has all the

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1. Council of Islamic Ideology, The Elimination of Interest from the Economy, Karachi, 1980, (passim).
 2. Ibid. Also see: UBL, Islamisation of Banking in Pakistan, Karachi, 1984, p.7.
 3. Zia-ul-Haq, "Book Review on Studies in Islamic Economics," Hamdard Islamicus, 5, No.1 (Spring 1982) p.105.

advantages to get the zero interest loan. So the drain of wealth will continue to the same old side. The balance again lies with the present set up which has not been replaced so far.

The record of the interest-free operations of non-banking Financial Institutions shows that hundreds of million rupees were extended to big companies which had potential for growth and whose past performance was found satisfactory. But the true spirit of loss and share does not seem anywhere throughout the whole transaction of capital. For example, in October, 1980, the investors and ICP (Investment Corporation of Pakistan) jointly invested funds in the ratio of 60:40, while the loss was shared in 40:60 ratio¹.

While looking into the new system of House Building Loans, one can easily judge that the word interest has been replaced by "a share in the rent of house". Because the person who has borrowed loans from the House Building Finance Corporation has to

1. Jalees Ahmad Faruqi & Shahid Habibullah, Islamisation of Banking in Pakistan, Karachi, 1984, p.12.

refund the original loan and also a share in the rent of the house i.e., the alternative of interest¹. Even the saving bank accounts are also treated by the banks as the conventional saving accounts, with interest designated as profit².

The Council of Islamic Ideology accepted profit and loss sharing system as the ideal Islamic alternative but allowed other methods of financing investment during a period of transition because according to the council, the system could not be applied in its pure form. Apparently, the council has done a great job. But, in fact, it depended mostly on the opinion of Banking bureaucracy, particularly in the financial matters. The Council of Islamic Ideology, recognizing the highly complex nature of the problem, relied on the panel of economists and bankers and adopted the panel's report in its entirety without any change³. It is, therefore, clear that the Islamisation of financial transaction is mostly based upon the thinking of the

1. Ibid. p.21.

2. Hasan Askari Rizvi, "The Paradox of Military Rule in Pakistan", ASIAN SURVEY, Vol. XXIV, No.5 May, 1984, p.545.

3. Jalees Ahmad Faruqi & Shahid Habibullah, Islamisation of Banking in Pakistan, Karachi, 1984, p.10.

top most economists, bankers, financial experts and businessmen of the country¹. In this way, it seems natural for these experts to leave their own class-colours in the system. The Government has tried to involve the Ulama at a supervisory level in the Mudaraba Scheme which is purely a professional field and religious leaders have virtually nothing to do with this field. This has been done merely to obtain favourable decrees from the Ulama. The Government has, therefore, formulated a religious board under the Mudaraba (Floatation and Control), Ordinance, 1980. A company is registered and allowed to start business only when the religious board has certified that the business is not opposed to any of the injunctions of Islam².

The laws on Islamic Economics, introduced by the Governemnt, were faulty. These were adapted to the existing legal code in the light of advices received from bankers and other financial experts. The Zakat and Ushr Ordinance was not applicable to all the Muslim sects. As a result, many people

1. Ibid.

2. Pakistan Publications, Islamisation of Banking in Pakistan, Islamabad., p.11.

flouted the law and did not pay Zakat to the official account. Ten percent of the Zakat fund was reserved for the Deeni Madarassahs which was used to bring the Ulama under official obligation and thus make them inactive politically. Religious Board set up by the government was also given the power to certify that a certain mudaraba business was Islamic. Zero-interest loans were naturally, enjoyed by the industrial classes. On the whole, the laws worked for the good of the religious, bureaucratic, industrial and feudal elites. The masses as such, could not receive any relief from this so called Islamic economic system. They, in fact became the targets of discrimination.

EDUCATION

Education is a vehicle through which a nation can achieve its aims and objectives. Thus, educational policies reflect the aspirations of a people and embody principles of action, considered most suitable to reach the destination. The Quaid-i-Azam had a comprehensive view of education. In his message to Pakistan's Educational Conference in 1947, he had emphatically stated that "we must bring our educational policy and programme on lines suited to the genius of our people, consonant with our society and culture and having regard to the modern conditions and vast developments that have taken place all over the world". The Quaid further stressed on scientific and technical education alongwith character building¹.

Education administration and experts have always been conscious of the needs and implications

1. Government of Pakistan, Proceedings of the Paksitan Educational Conference held at Karachi, 27th November - 1 December, Karachi, 1947, p.5.

of bringing education in conformity with Islam. Fazlur Rehman, Pakistan's first Education Minister, for instance, urged the adoption of a policy which was inspired by Islamic ideology. This ideology, he explained must be characterised by the fundamental principles of Islam - equality; social justice and universal brotherhood. The spirit and content of education must, therefore, undergo a complete transformation with reference to these high ideals of Islam. In his opinion, education was an integrated whole with spiritual, social and vocational as interacting elements that would produce the desired citizen of Pakistan, fit to re-establish the social order of Islam¹.

Fazlur Rehman categorically stated that the present knowledge was against the background of Islamic cultural ideals and aspirations. Therefore, he wanted to preserve the Muslim culture which would erode eventually the western superiority². The teaching

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1. Proceedings of Pakistan Educational Conference, p.5.
 2. Fazlur Rehman, New Education in the Making in Pakistan, London, pp. 20-23 and 30.

of Islamic ideology was proposed as a compulsory paper in teacher - training courses. The University Education Committee in its report in 1948, recommended that religious instructions should be compulsory for Muslim students in schools and colleges¹. In fact, the principles of Islam were to be incorporated in Pakistan's Educational system. Thus, education was to play a dynamic and creative role in the reconstruction of the social order envisaged by Islam. This was how Pakistani education was originally conceived and interpreted by the first policy makers.

The first comprehensive governmental document in the history of education in Pakistan is the Report of Commission on National Education (1959). The Commission took a detailed stock of the whole educational situation in the country and gave priority to higher education. The Commission took no significant view about religious education on mixing of Islamiyat in general education. However, the Commission observed that the moral and spiritual values of Islam together with freedom,

Ibdi., p.23.

integrity and solidarity of Pakistan, should be the guiding principles of the educational system. The proposal for a new educational policy in 1960 made a bold and imaginative attempt at the integration of secular education with Islamic learning. But the attempt was no more than a policy statement. The educational policy of 1972, also made no serious reference to the ideological concerns as such¹.

After taking over the government in 1977, General Zia-ul-Haq's first step towards the process of Islamisation was the re-organisation of the Council of Islamic Ideology. The Council was assigned to prepare a detailed programme for Islamisation in almost all facets of life. Accordingly, the council worked on this assignment and presented reports to the President, on various topics. A sketch of the education reforms, as ordered by the council² was based on four pillars:

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1. I. H. Qureshi, Education in Pakistan - An inquiry into the Objectives and Achievements, Karachi, 1975, p. 56.
 2. Abdul Ghafur Muslim, "Islamisation of laws in Pakistan: Problems and Prospects", Islamic Studies, Vol. XXVI No.3, August, 1987, p.273.

a) Expansion of Education, b) Islamic Studies;
c) arrangement for inculcating Islamic mentality
and way of thinking; and d) determination of
the objectives of education.

So far as the expansion of education was concerned, the stress was on advanced technical education, equal educational opportunities, Urdu as a medium of instruction and adult education. With regard to Islamic Studies, the Council was in favour of organizing religious schools and establishing Islamic Studies Faculties in Universities and Colleges. Side by side, Arabic language was to be promoted to raise the standards of these studies. As to the creation of an Islamic mentality, the council laid down four-point recommendations; 1) reform of missionary educational institutions 2) selection and training of teachers; 3) reform of educational institutions; and 4) reorganization of syllabi.

Lastly, the objectives of education was to be fixed first. The main objective was to create a consciousness among the Pakistanis about the Muslim world at large.

Contrary to the preceding education policies the National Education Policy of 1979: attached the highest priority to the promotion of national ideology. The statement of objectives reflects a changed emphasis on Islam and the Muslim Ummah. For example it stated among its aims:

- a) To foster in hearts and minds of the people of Pakistan in general and the students in particular a deep and abiding loyalty to Islam and Pakistan and a living consciousness of their spiritual and ideological identity thereby strengthening unity of the outlook of the people of Pakistan on the basis of justice and fair-play. To create awareness in every student that he as a member of Pakistani nation is also a part of the Universal Muslim Ummah and that it is expected to him to make a contribution towards the welfare of fellow Muslim inhabiting the globe

on the one hand and to help spread the message of Islam throughout the world on the other¹.

Pakistan Studies and Islamiat have been introduced as compulsory subjects at the intermediate and degree levels. But the approach falls short of the logical implications that Islam has for any educational programme, be at primary or higher education. For instance, text-books on Pakistan Studies mention the Islamic provisions from all three constitutions, presenting them as some early efforts of Islamisation. Not a single chapter was allotted to the political system of the country which was evolved from time to time. Selective statements of the Quai-di-Azam were quoted which show that he was no less than a Maulvi². Books on Islamiat (compulsory) are more or less dogmatic leaving no possibility of question³. This policy shows

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1. Government of Pakistan, Ministry of Education, National Education Policy and Implementation Programme, Islamabad 1979, p.1.
 2. Professor Ghulam Sarwer Cheema and Professor Syed Sabir Hussain, Rahbr-e-Mutaaliah Pakistan(Lazim) for intermediate Lahore, 1986, pp.29-30 .
 3. M. Nawaz Chaudhry, Saeed Akhtar, Tafheem-e-Islamyat, Lahore, 1978, pp.110-193.

an over-emphasis on things which embody the words 'Islam', "Islamic" or 'Islami'.

The pro-government intelligentsia claimed that the ideology of Pakistan is the second name of Islamic Ideology or Nizam-i-Islam¹. These sentences confuse both the teachers and the students. Islamic Ideology is a vast subject having manifold interpretations. Every mind has its own approach about Islam. How can the ideology of Pakistan be substituted by Islamic Ideology? Justice Munir defined ideology in the following words:

"Ideology means the science dealing with the beliefs, notions and theories growing out of fundamental assumptions held by the members of a group; sometimes the members make a conscious effort to acquire the right kind of idea; more often he accepts them unconsciously"².

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1. Cheema and Hussain, Rahbr-e-Mutaaliah Pakistan, p. 24.
 2. Muhammad Munir, From Jinnah to Zia, Lahore, 1980, p. 25.

Justice Munir's above quoted definition shows that ideology takes birth from certain fundamental assumptions, which are not always right. Ideology is a common English word; it is not used with reference to a country. Even the Quaid-i-Azam never used the phrase 'ideology of Pakistan'.

The implementation strategy of the new education policy gives the highest priority to the revision of curricula with a view to reorganizing the entire content around Islamic thought so as to give education an ideological orientation¹. The new text-books now open with certain Quranic verses along with their translation. These verses may not be relevant to the substance of the respective books. Students of Natural Sciences, Medical and Engineering, now have to qualify additional subjects, i.e. Islamiyat and Pakistan Studies. The books contain details on the subjects without any logical context. Hoodbhoy and Nayyar's assessment on this issue seems very

1. Government of Pakistan, National Education Policy and Implementation Programme, p.2.

appropriate:

"Modern textbooks heavily stress the formal and ritualistic aspects of Islam, as against those which emphasise social justice. Science and secular knowledge are held in deep suspicion. Modern education, according to one book, should be shunned because it leads to atheism and worldliness"¹.

The above mentioned writers have analysed the orthodox views on science and argue convincingly that the Ulama have divided science into two kinds; Islamic science and western science. According to the Ulama western science contains no moral values. On the other hand Islamic science takes man to the right path i.e. the path of God. They are, thus, of the opinion that "all the courses should be changed into courses of dinyat"².

1. Pervez Amirali Hoodbhoy and Abdul Hammed Nayyar, "Rewriting the History of Pakistan", Mohammad Asghar Khan (etd.), The Pakistan Experience: State & Religion, Lahore, 1985, p. 174.

2. Ibid., pp. 185-191.

It seems that the orthodox view of Islam rejects all forms of knowledge which are not derived from religion. This is exactly the view which Shaykh-al-Azhar al-Anbabi took in 1887. He maintained that "physics should be studied in conformity with the Sharia and not in the way of the pholosphers, since that would be unlawful"¹. It is stated that western science is a mere continuation of a discipline whose foundations were laid by the Muslims. At the same time Islamic science is held to be more noble than that of the west. While criticising modern science with reference to the west, the traditionalists ignore the fact that Muslim scientists had borrowed heavily from and improved upon, the knowledge of the ancient Greeks. "Indeed, Greek culture itself, on which western culture is thought to be solely based, was introduced into Europe through Arabic translations of the important Greek works"².

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1. Fazlur Rahman, Islam and Modernity, Transformation of an Intellectual Tradition, Chicago & London, 1984, pp.67-68.
 2. K.A. Waheed, Islamic Background of Modern Science and Culture, Karachi, 1977, p.(v).
Also see: Hafeezul Rehman Siddiqui, "Science Dunya-e-Islam say Europe Main", Science Digest, Karachi, January-February, 1988, pp.65-70.

General Zia's own views on science further support the orthodox school of thought. On the opening day of Pakistan Science Conference in December, 1979, he said : "There is no difference between science and religion and particularly between science and religion of Islam"¹.

In the pursuence of the provision to establish separate institutions for female student, it was decided to plan for a women's University. The decision was taken perhaps under pressure from the rightest organizations, particularly the Islami Jamiat-i-Tulaba (IJT), a subordinate of the JI. The IJT was the only students organization which could work unhindered during the Martial Law regime. The plan for a Women's University remained on the anvil until the very end of Zia-ul-Haq. Anita M. Weiss' commentary on it seems quite relevant:

"The government's proposal for a separate women's university would merely perpetuate this lack of knowledge about women needs. Women

1. Government of Pakistan, Ministry of Information and Broadcasting, President of Pakistan, General Mohammad Zia-ul-Haq, Speeches, part IX, (Oct-Dec. 1979), Islamabad, p.238.

in rural areas who must forge for firewood, transport water from wells, transplant rice, cut alfafa for their animals, and perform other tasks do not need lessons in home-economic or do they need to be told to wear their dupattas on top of their heads. They need to be put into contact with new forms of technology that will help them to survive, to learn how to read so as to implement their newly learned skills, perhaps freeing up some time so they can send a child to school"¹.

The government had committed itself to encouraging segregation in education - the separate women's university issue - and had informally

1. Anita M. Weiss, "Women's position in Pakistan", ASIAN SURVEY, Vol. XXV, No. 8, August, 1985 pp. 879-880.

blocked women's sports teams from going abroad¹. In 1983, the Punjab government directed women teachers and students to wear the 'Chadar' during the office hours. A parents' resistance to such compulsions is quoted here. The parent raised some interesting questions:

"Hats off to the three students who have protested about the double standards employed in educational institutions, especially to F.G. College for Women in Rawalpindi I drop my daughter right in front of the gate of the college why does she has to wear a chadar to take two steps into the college? Hence all girls have been badly brought up or is it assumed that all men are wicked? It is also correct that the chowkidars are given too much liberty in checking the girls. They are males. Why do they treat each girl as if she is a criminal?"².

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1. J. Henry Korson and Michelle Maskeill, "Islamisation and Social Policy in Pakistan: The Constitutional Crisis and the status of women", ASIAN SURVEY, Vol.XXV, No.6, June, 1985, p.611.
 2. Muslim, February 23, 1984.

It was further pointed out by the correspondent that a party in the college was cancelled just because the girls were preparing for music, dancing or singing in a purely female function. Whereas two weeks later the girls danced and song to their hearts content in a girls college in Islamabad. The writer called it the height of hypocrisy that when cultural troupes come from abroad everyone goes to watch and praise them¹.

There has always been a set of opinion which considers english language as a hurdle in the process of Islamisation and national integrity. Urdu is believed closer to Islamic ideology. Therefore, in order to develop national cohesion and integrity and, to reduce the anti-Islamic and foreign cultural impact, the government stressed on Urdu as the medium of instruction, fixing a period of 10 years for the abolition of English medium schools². However, the contradiction is the policy becomes clear when one sees the English-medium schools flourishing in the country. The irony is that these schools are reserved

1. Ibid.

2. Professor Mohammad Qasim, Ideological Education, Islamabad, 1987, p.3.

for the children of the elite. Since these schools are in the private sector they are being run from a business point of view.

The Zia government also adopted a policy of encouraging Arabic and Arabic Madrassahs. The Government's plea is that prior to the advent of the British rule in India, Madrassah education was the main source of spreading knowledge among the Muslims. Therefore, the revival of these religious institutions is receiving priority in the new education policy. The Government's rationale can be assessed from the following statement:

"Prior to colonisation, Madrassah was the seat of learning and all education was imparted through these institution. During the colonial rule, this traditional indigenous system of education was relegated into background and the British system of education was planted in replacement"¹.

1. Government of Paksitan, Ministry of Education, National Education Policy and Implementation Programme, Islamabad, 1979, p.43.

Government's priority for Deeni Madrassahs shows its policy of reviving the premodernist reforms of the eighteenth and the nineteenth centuries when all teachings of moral duties were undertaken through religious books. These "books emphasized the consequences of wrong doing not in terms of harm done to social or to the wrong door as part of the society, but in terms of heaven and hell"¹. The Education Ministry has been studying the syllabi and curricula of the Deeni Madrassahs to update their courses of studies and to introduce new subjects according to the needs of modern times. Not surprisingly, the degrees of these Madrassahs have been declared equivalent to M.A. Moreover, the Zakat Council was founded in 1980 and ten percent of its funds were allocated to these madrassahs². These steps have certainly been very beneficial for the Ulama. Naturally there was an extraordinary increase in the registration of new Madrassahs. The following table presents fact about this increase:

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1. Fazlur Rahman, Islam & Modernity, Transform of an Intellectual Traditions, Chicago and London, 1984, p. 52.
 2. Mohammad Sarwer, Jamal Malik, "Pakistan Key Deeni Maddarssay Riasat Key Tabeh Bananay Kee Koshish", Nia Pakistan, Lahore, Book Series 3-4 July, 1988 p.52.

	<u>1979</u>	<u>1983-84</u>
i) <u>Wifaq-ul-Madaris</u> (<u>Deobandi</u>).	334	945
ii) <u>Wifaq-ul-Madaris Ul</u> <u>Salfia (Ahli Hadith)</u>	126	256
iii) <u>Wifaq-ul-Madaris (Shia)</u>	41	116
iv) <u>Tanzim-ul-Madaris</u> (<u>Brelvi</u>)	267	557
v) <u>Jamat-e-Islami's</u> <u>Madrassahs</u>	57	107*

Though the government claimed that the purpose behind giving so much importance to Deeni Madrassash was to patronize and reform religious education but the facts speak differently. In fact, the Government was aware of the potential of Deeni Madrassahs which they had shown in the PNA's so-called Nizam-i-Mustafa Movement. The Government did not want to loose these forts of powers. It was quite successful in exploiting the Deeni Madrassahs for perpetuating its rule.

Opening of nearly five thousand mosque schools is said to be an effort to revive the traditional role of the mosque amongst Muslims as

*. Ibid.

centres of learning. It is also an effort to make the students to get more religious education in a more religious environment¹. Perhaps the objective of this policy is to seek the solution of the present day problems through religious education. But pure religious education can hardly deliver the goods unless a synthesis with modern thought is achieved. Iqbal in his Reconstruction of Religious Thought has emphasised on such a synthesis: He says:

"If the renaissance of Islam is a fact, and I believe it is a fact, we too one day, like the Turks, will have to re-evaluate our intellectual inheritance"².

Illiteracy rate in Pakistan is exceeding 70%. Superstitions are rampant in the society. Uptill now, it seems that Islamisation has not been able to overcome the miserable condition or even illiteracy. About five crore illiterates are more than ten years

1. Professor Muhammad Qasim, Ministry of Education, Ideological Education, Islamabad, 1986, p.5.

2. Allama Mohammad Iqbal, The Reconstruction of Religious Thought in Islam, Lahore, 1982, p.153.

of age, in the country. At this time annual increase in the illiterates is 1500000, whereas increase in literates is only 50000¹. The Martial Law Government, however, used the religious elements very cleverly, particularly in the absence of political activity. Thus it solved its legitimacy problem temporarily at least.

The martial law government in search of legitimacy tried its best to work on a policy which could be beneficial for it. The policy in fact, was to exploit various religious groups. Grants to the madrassahs, opening of mosque, schools, declaring, the certificates issued by the madrassahs equal to the master degree, were the major incentives given to the Ulama. All these steps were not a minor obligations. In the educational institutions, JI's subordinate IJI was at liberty to function even during a general ban on students politics. The demand for a separate women's university was accepted in principle

1. Maqsood-ul-Hasan Bukhari, "Nizam-e-Taaleem Main Fory Tabdeelayon Kee Zaroorat", Jang, Rawalpindi, September 18, 1987.

but could not be fulfilled due to the non-availability of funds. The demand was not accepted to please the women but it was accepted for a satisfaction of rightist students organizations. There problem is that in a system of co-education most of the female students do not favour the rightist students organizations due to which these organizations cannot build their hagemony. This political reason lead them to stress on the demand. The teachers who were thought to be opposed to the regime were not accommodated. These steps, on the whole, neither served to Islam nor to education. However, the policy was beneficial for Ulama and their allied factions. The new policy was also accommodating the Army Service-men, especially in regard with the admissions in the Universities and colleges, and in regard with the scholarship schemes. In this way the third martial law reopened the military's direct influence in the educational institutions.

CONCLUSION

Martial Law regimes are generally more powerful than the democratically elected governments. All their might lie in their ability to harass through brute force. Naturally, such a regime tries to eliminate all opposition and for a time succeeds in its mission. But its policies of harassment indicate some realities i) it lacks public support; ii) and it remains fearful of public reaction. Same was the case with General Zia-ul-Haq's Martial Law government. The regime lacked legitimacy and throughout his rule, General Zia-ul-Haq's primary concern was to look for support from those social classes which seemed to control the public opinion. Thus, apart from his own constituency, i.e., the armed forces, General Zia turned to the Ulama, the landed gentry, the business class and the ant bureaucracy.

The Islamisation process served two-fold purpose: first, it made the opposition (Religious and secular parties) ineffective; and secondly, it helped General Zia to perpetuate his authority.

Although he had obtained sanction through the referendum - 84, for another Presidential tenure of 5 years, yet he persisted in his pursuation of the political position. For this purpose elections-85 were held on non-party basis. The winning members of parliament, who could easily be manipulated, could not pose any considerable opposition to the military hegemony in Pakistan. To please the Ulama, religious rehetoric was given an official projection. Moreover, sizeable grants to Deeni Madrassahs and power of patronization made the Ulama willing tools in the hands of the Government.

The Government carefully constructed the ideological structure which constituted an attempt to conceal those forms of social conflict and economic disparity that could threaten its rule and interest. But the reality of class difference ultimately became open when the government publicised the distribution of Zakat on T.V., Radio and other media. The people were shown standing in the lines and receiving the Zakat money. It was a clear-cut negation of the very spirit of Islam because Islam does not allow any kind of

dissimulation. It was claimed that the Zakat system, at the end will create such a society in which there would be no receiving hand. The supposition itself gives an impression that system was feudalistic in nature and provided safeguard to the feudalistic behaviour. The truly Islamic egalitarian system stands for the abolition of "giving hands", which are the main source of exploitation. Such a corrupt ideology was imposed by appealing the poor and illiterate masses to religion.

The concept of mudaraba (profit sharing), as a principle of Islamic Capitalism was being interpreted and developed to maximize the profit of merchants and industrialists. There is no limit to the earning of profits. So it was in perfect accord with the theories of profit - motive and self-interest of modern capitalism. Moreover, the mudaraba system, as introduced in Pakistan, was not based on any explicit text of the Quran or Sunnah. Despite this fact, the theory of mudaraba, like the un-Islamic institution of muzaraa (sharing cropping ground rent) was being

elaborated as a part of Islamic Ideology. Such a selective propagation of Islam was in line with the spirit of the military regime's economic policies.

While struggling to extend their brand of system to all social and economic spheres the Martial Law Government employed an ideology which was not truly Islamic. It was something different, reactionary and unscientific in its methodology. Whenever there was any threat to its hegemony from the popular forces the regime and its fellow travellers sheltered themselves behind a spurious Islamic ideology. Under this shield, political parties were banned, elections were avoided or held under non-parties stamp. All opposition was un-Islamic.

To over-tune the reality of social divisions, an ideology was employed which preached to unify the masses on a religious or extra-class basis; this resulted in the complete indoctrination of the masses. But since the motives were not pious, the society was pushed into a whirlwind of corruption, social injustice, psychological dependency and political chaos.

Islamic justice and egalitarianism is an ideal to be attained but the implementation of these revolutionary principles need the reform of the existing basis of the society. Without this, the process of Islamisation will ever remain a dream. Not surprisingly, therefore, Zia's Pakistan could not experience the true spirit of Islam free from political corruption, religious exploitation and economic depression. Such an Islam obviously was not the idea and ideal of the Quaid-i-Azam.

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