

**DELINEATIONS OF GOVERNANCE THROUGH ISLAM IN NASCENT PAKISTAN:
DEPARTMENT OF ISLAMIC RECONSTRUCTION AND ISLAMIC LAW
COMMISSION.**

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Abstract: *Pakistan since its creation in 1947 has struggled to delineate the specific role of Islam in the politics of the country. On the one hand, it seemed certain that there is unanimity that religion should play a leading role in the polity of the country, paradoxically there were starve differences in the nitty-gritties of its implementation. This interplay was one of the reasons for the delay in the constitution-making of the country that took nine long years to draft an indigenous constitution. Department of Islamic Reconstruction was set up by the Government of Punjab in 1947 while Islamic Law Commission was provided by the first constitution of the country to provide recommendations for implementing Islamic values in the polity of the country. By skimming through Assembly debates and other contemporary works, this paper will argue that the establishment of these two institutions in nascent country manifests the inner thinking of the then governments to develop a control around the ulema to better control the population.*

Keyword: Islamic Reconstruction, Islamic Law Commission

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Introduction:

Islamic Law Commission provided by the first indigenous constitution of the country and the Department of Islamic Reconstruction is one of the most ignored institutions in the history of the country. This study is significant in the sense that it traces the roots of the Islamisation that became the emblem of opposition during the Bhutto government from 1973 to 1977 and governmental official insignia during General Zia ul Haq Government. The author of this study felt it necessary to explore the history of these institutions to better understand the traces of better governance through Islam.

This paper is divided into four major sections, the first section will provide a brief literature review on the topic of this paper followed by the other section that deals with the paradoxes encapsulated into the genesis of Pakistan's independence and the conducive hybrid environment that led to the rise in the strength of the *ulema* who aspired to have veto power over the future legislature. It will then explore the establishment of 'Department of Islamic Reconstruction in Punjab' under the Chairmanship of Muhammad Asad, talks of Maulana Mawdudi, lobbying by Shabbir Ahmed Usmani, and the governmentality of Liaqat Ali Khan's government which led to the approval of Objectives Resolution. It will be followed by the working of the second Constituent Assembly and the influence of the *ulema* on the draft of the constitution that was promulgated on 23 March 1956 and the last section will deal with the working of the Commission, reasons for the delay in its appointment, its composition, and its functioning until the constitution was abrogated by Iskandar Mirza in 1958. Finally,

the concluding paragraphs will summaries the findings of this paper.

Review of Literature

The first work related to the topic of this study is by Syed Afzal Haider. He has remained a member of the Council of Islamic Ideology from 1990 to 2003. In his work *Islami Nazariyati Kaunsal: Irtiqai Safar Aur Karkardagihe* explored the history of the Council of Islamic Ideology. He very briefly wrote about the Islamic Law Commission and its member(Haider, 2006).Another distinguished scholar who has worked on the history of the Council of Islamic Ideology is Professor Jamal Malik. He examined the Islamisation process in Pakistan through the functioning of the various institutions that included, The Council of Islamic Ideology(Malik, Colonialization of Islam: Dissolution of traditional institutions in Pakistan, 1996)(Malik, Islam in South Asia: a short history, 2008).Dr. Mohammad Amin and Rubya Mehdi both have also worked on the Islamisation of the laws in the country and discussed partially the history of the Council during the Zia era(Mehdi, 1994)(Amin, 1989). The first assembly of Pakistan that was both its Constituent Assembly (CA) and the Legislature met for the first time on 10th August 1947 and elected Mohammad Ali Jinnah (Jinnah) as its Governor-General. The next day while giving the speech as the head of the state, addressing to the future framers of the constitution and elaborating the sketch of the future constitution Jinnah said: '...we are all citizen and equal citizen of one state...'(The Constituent Assembly of Pakistan Debates, 1947). Simultaneously, on the other hand, giving the ceremonial task of hoisting the flag in East Pakistan to Mufti Muhammad

Shafi and in West Pakistan to Shabbir Ahmed Usmani, they use of slogans like: '*Pakistan Ka Matlab Kia? La Ilaha Illallah*'. Such slogans in the rallies of the League mainly manifest the other side of the picture and also explain the nature of aspiration of *ulema* from the new country.

As a consequence of these paradoxes both: Bhupendra Kumar Datta (Datta) and Shabbir Ahmed Usmani (Usmani) had entirely distinct perspectives during the discussion on the Objectives Resolution, the first legislative development of the country that provided the guidelines for the future constitution. Datta, a member of East Pakistan during the discussion in CA on the Objectives Resolution in March 1949, while suggesting an amendment in it, said that: '...I have reason to believe that were this resolution to come before this House, within the life of the great creator of Pakistan Quaid-i-Azam it would not have come in its present shape...' (The Constituent Assembly of Pakistan Debates, 1947). While Usmani, also from East Pakistan referred the statements of Quaid-i-Azam from the letters which he wrote to Gandhi in August 1944 and from the extracts of his Eid greeting message, contended that 'it is wrong to say If Quaid-i-Azam had been alive this resolution would not have come up before this House'. (The Constituent Assembly of Pakistan Debates , 1949)

These were the kind of paradoxes inbuilt into its creation in the initial days that led to believe the *ulema* and consequently to the majority common population that *raison d'être* of the new country was Islam. On the other hand, promoting confidence to those who believed that politics and religion are two different domains, and usage of Islamic notion

by the governments will be the only means to keep united the otherwise fragile country. This led to the attitude of the government which is referred to here as govern mentality in the context as provided by Michel Foucault that 'the methodological set of tactics based on the major form of knowledge which allows the exercise of albeit power having the population at its target and having security apparatus as its essential instrument'. (Foucault, 2007)

Thus, govern mentality in Pakistan involves the attempts of the Pakistani government to extend its power to the domain of religion i.e. Islam. Edward Saeed in his essay, '*Foucault and the Imagination of Power*', also points out that according to Foucault in modern government there is an unstoppable expansion of power, this increase in the domain of power support the administrators and technocrats to establish a disciplinary society (Said, 1986). The surge of the various governments in Pakistan to adopt the techniques to integrate *ulema* in the regime to know their aspiration was their attempt to extend their control over them to better govern the population and make them better governable. Before going to discuss the Objectives Resolution, that retrospect the governmentality of the Liaquat Ali Khan's government it would be necessary to see briefly what were the factors which led to the opinions of the members of the CA during the constitutional development process for which it would be necessary to understand that what was the understanding of the Pakistani population at that time with the term Islamic country?

Department Of Islamic Reconstruction In West Punjab 1947:

The province that was then called West Punjab (later called Punjab) till 1955 after the

partition, was one of the largest provinces by population and it was only second to largest one then called East Bengal (later in 1955 renamed as East Pakistan and Bangladesh after 1971).(Census of Pakistan 1951, 1951)

Nawab Iftikhar Hussain Mamdot and one of the biggest landlords of Punjab who supported Mohammad Ali Jinnah to secure support against the unionist party in Punjab, elected as the members of the Punjab legislative assembly in 1946 was appointed as its Chief Minister of East Punjab. Lubna Kanwal in her work had studied the working relationship between the provincial government of Punjab and the central administration from 1947 to 1955. She argues about Mamdot that 'he was conservative in political outlook and resisted the interference of center in provincial matter'(Kanwal, Ali, & Abid, 2012).In this background it would not be wrong to say that to influence the Constituent Assembly, he invited Maulana Asad (Asad), and an institution namely 'Department of Islamic Reconstruction' was established and Asad was appointed as its Chairman. Being the first governmental institution that had Islamic in its nomenclature established by the provincial government of East Punjab to deal with the issues related to Islam and to influence the Constituent Assembly so that the Constitution that was to be drafted will be based on the Islamic principles. This department existed for nearly a year and later became dormant, the information about it can only be traced in chunks from the books of Muhammad Asad, its chairman.Allama Muhammad Asad's (1900-1992) earlier name was Leopold Weiss, an Austrian Jew who converted to Islam in 1926 and came to India in 1932. After 1959 he resigned from the government of Pakistan

service and lived his remaining life in Morocco and died later in Spain. His famous works include *The Principles of State and Government in Islam* (Berkeley and Los Angeles: University of California Press, 1961). *The Road to Mecca* (New York: Simon & Schuster, 1954). *Islam at the Crossroads* (Kuala Lumpur: The other press, 2005) and *The Unromantic Orient: A Journey in the Middle East*, trans. Elma Ruth Harder (Kuala Lumpur: Islamic Book Trust, 2004). The second set of important sources regarding this department are the Provincial assembly archives to see if any budget was allocated to it and then lastly from the handbook of the history of the Council of Islamic Ideology itself.(Asad, *The Principles of State and Government in Islam*, 1961)

Asad in his work wrote about his meeting with the Chief Minister East Punjab, Nawab Iftikhar Hussain Mamdot. The latter asked his opinion to contact the central government to consider the Islamic aspect while drafting the future constitution. The annual budget allotted to this department for the years 1948-1949 was 76,440/- PKR(Government of West Punjab, 1948).This department became dormant after 1948 when Asad was appointed at Punjab University, Lahore, and later transferred to foreign services as the in-charge of the Middle Eastern division with the task to establish relations with these countries.

One of the reasons for the disappearance of this department was that it was established on the personal desire of the Chief Minister, and he resigned in 1949 due to differences with the central leadership of the League, and formed his political party, 'Jinnah League' and contested the 1951 provincial elections against League and led the opposition in the newly

elected provincial assembly. This episode of his differences with the central leadership of the League also explains that the mentality of creating such a department at the provincial level was to influence the Constituent Assembly in the constitutional development process. It became evident when the department sent a 'Memorandum for enforcement of *Sharia* in Pakistan' to the CA on 18th August 1948, which said that 'what is most urgently needed is an unambiguous declaration on the part of the government that the establishment of an Islamic policy was not just a pre-partition slogan but the real aim behind its demand'(Council of Islamic Ideology, 2016).

This memorandum further mentioned the functions and the duties of this department and suggested to set up the regional councils in all the cities of the country which should be composed of prominent citizens and social workers to help to build up a truly Islamic society and separate '*Shariat* committee' to be set up composed of 'responsible *ulema*' of all school of thought to codify laws devised from Quran and Sunnah(Council of Islamic Ideology, 2016). Further, the lectures of its chairman were also broadcasted by the Lahore Broad Casting station which was about the principles of Islam and was significant for public opinion. These lectures centered around the theme that it was the government that was responsible to provide a conducive environment where the population can practice the lives according to the principles devised from injunctions of Islam.(Asad, This Law of ours and other essays, 2001)

This department established at Punjab was unable to directly impact the working of CA concerning constitution-making during 1948,

however the Objectives Resolution that will now be discussed in this part of the study had some suggestions sent by the Asad in his memorandum for instance bestowing the sovereignty to Allah, and later the appointment of *Board of Talimaat-e-Islamia* as the memorandum laid down that a '*Shariat* Committee must be appointed by the government in near future that should be composed of responsible *ulema* from all the sects to carry out the codification the social and economic laws from the Quran and Hadith that can be promulgated in the country'. Although I was unable to find any direct credit given to the department of Islamic Reconstruction during the available proceedings about the Objectives Resolution or the later in the appointment of the *Board of Talimaat-e-Islamia*. After the resignation of Chief Minister in 1949 and the appointment of the Asad in the Middle East division of the foreign service by the central government so that he could work to create good ties with the Muslim world, this department vanished in the pages of history. Having discussed here the working of this department it can be said that despite the fact that it was a provincial department that nothing directly to contribute to the constitutional development but still its role is not ignorable as the Objectives Resolution (1949) and the establishment of the *Board of Talimaat-e-Islamia* (1950) was the steps ahead in the same direction.

Islamic Law Commission 1957:

Since the struggle started for drafting the constitution nine years ago, while skimming through the demands of the *ulema* it was evident that *ulema* wanted a mechanism to abstain the future legislatures from drafting any law repugnant to Quran and Sunnah to

assure their role in the future political setup. In this regard, they wanted the right of veto for themselves being appointed to the Supreme Court and giving the right of challenging any legislation in the said court. This is clear from the above recommendations of *ulema* in their first convention of 1951, 1953, and 1956. On the other hand, the govern mentality was to keep Islam in the center but through a board or a commission of advisory nature. Further is not explicating the qualification of its members. So, having this is the leverage to appoint anyone like the member of the body having ‘*Defacto*’ authority over Islam to extend its control. It is evident likethe Islamic Reconstruction authority was established in the Punjab government in 1947 or the BTI appointed in 1949 and the Commission recommended by the draft of the 1956 constitution. Foucault helps us to understand this approach of the respective governments that ‘power is not something which is imposed on another but as a network or a web of relations which circulate through society’(Mills, 2006).

The mentality of appointing such a Board of conformist nature was in line with the policy of the state to integrate *ulema* in the power corridor. The Constitution was finally promulgated on 23rd March 1956, and its article 197 and 198 dealt with the establishment of the Islamic Law Commission (Commission) and an Islamic research Institute (Institute) with the following stated functions.

The President was to appoint within one year of the promulgation of the Constitution, the said Commission. Besides, the above said provision of article 197 of the constitution further provided for the President to ‘establish

an organization for Islamic research to assist in the reconstruction of Muslim society on the true basis (The Constitution of the Islamic Republic of Pakistan 1956, 1956).

The constitution was silent on the connections of these departments as the research done by the department was to consider by the commission to work for the stated purpose. It was also silent on the qualification and the experience of the expert who was to be appointed to the Commission giving the leverage to the government to appoint anyone which it feels suitable. The *ulema* has earlier pointed out in their recommendations to the draft of the constitution that such members must have at least ten years of teaching experience in a *dini-madrassa*. Secondly, this article not made it compulsory for the legislature to consider its recommendation as was recommend by *ulema* to make it compulsory for the legislature to enact laws based on the recommendations of the commission twice a year.

The said Commissionwas nominated one day before the limit was about to be expired on 22ndMarch 1957. The and name of its members were announced even with more delay(Notification No. F. 19(1) 56-Ref dated 22 March 1957, Karachi, The Gazette of Pakistan, Extraordinary published by authority, Registered No. S. 1033, 633).Before proceeding to the profiles of its chairman and the members of the commission it would be pertinent to discuss what were the reasons for the delay in its appointment through the debates in the National Assembly between 23 March 1956 to the 22 March 1957 when the Chairman of the Commission was announced. During this one year, several members of the legislature pointed to the government to

appoint the institutions as envisioned by Article 197. The very first reference in this regard was made by Syed Misbahuddin Hussain a member from East Pakistan, on 28th March 1956 that the government has allotted any budget for the establishment of the Islamic institution provided in article 197 of the constitution(The Constituent Assembly of Pakistan Debates, 1956).In the next month Maulana Hafiz Athar Ali of the *Nifaz-e-Islam* party, criticized the government on 21 February 1957 in the National Assembly, that the 'institution provided in the article 197 of the constitution has not yet been set up by the government, so it must take steps for implementing these provisions'(The National Assembly of Pakistan Parlimentry Debates, 1957). Likewise, demands were reiterated by Farid Ahmad a member from East Pakistan when he asked that 'will the minister of education be pleased to state whether an organization for Islamic research and instruction in advance studies to assist in the reconstruction of Muslim society contemplated in article 197 has been set up? If not, what are the reasons, therefore? Do government propose to take steps to implement the provisions of that article?', similarly, on 9th March, Yusuf A. Haroon a member from West Pakistan, asked a question that 'will the minister of education be pleased to say body stated in article 197 have been set up? If not, Why?'(The National Assembly of Pakistan Parlimentry Debates, 1957)(The Constituent Assembly of Pakistan Debates, 1958).

Based on these few references made here it can be said that government benches were criticized several times during the assembly debates to appoint the members of the Commission. So, it cannot be said that the

government had mistakenly forgotten to appoint the Commission and suddenly someone told the President on March 21, 1957 that you have to appoint the Commission as it was the limit provided in the constitution and the notification was at once issued on 22nd Mach 1957. Instead, it is apparent that the consciously government delayed the appointment of the Commission. From the responses to the questions is by the Education Minister, this governmentality of postponing the appointment and searching for 'suitable ones' is visible. As in response to the question of Hafiz Athar Ali and Farid Ahmed, the then Minister for Education, Zahir ud Din replied that, '... Because of the provision in the constitution for the establishment of Central Islamic Research and Instruction Institute, a provision of PKR 3.5 lakh has been made in 1957-1958 budget and steps are been taken to implement the provision of the constitution'(The National Assembly of Pakistan Parlimentry Debates, 1957).While in response to the question of Yusuf Haroon the then in-charge of Ministry of Education, Basanta Kumar Das, replied that, '... An organizing committee has been set up with the approval of the President to draw up detailed plans for the working of the proposed institute...'(The Constituent Assembly of Pakistan Debates, 1958).In the light of the statement on both the instance from the education minister it manifest that the Chairman and the members of the Commission were well thought out names, so in its composition, we can trace out the govern mentality of the governments. The name of the Chairman of the Commission was Justice Muhammad Sharif as its, a judge of the Supreme Court of Pakistan. Justice

Muhammad Sharif was the judge of Lahore high court and the acting judge of the Supreme Court from 13th April 1954 to 1st April 1958, during which he was given the additional charge of the said Commission. After the appointment of the Commission, other members were appointed on 17th August 1957 with a further delay of five months.

The appointment of the Commission under the Chairmanship of Justice Muhammad Sharif was criticized by the members of the opposition. The most severe criticism regarding the qualification of the nominated Chairman was pointed out by Pir Muhammad Ali Rashidi. His criticism was based on two grounds: firstly the Chairman cannot understand Arabic which is the language of Quran and Sunnah and secondly being not an authority on Islamic knowledge, he said that ‘... Judges who have for most of the time carried on with the old system of laws are no longer consistent with Islamic laws or with the laws of Quran and Sunnah... you should have selected the greatest Muslim divine for this purpose’(The Constituent Assembly of Pakistan Debates, 1958).

From the government benches, A. H. Dildar who was the Minister of Food and Agriculture, and the Sardar Amir Azam Khan (Law Minister) defended the appointment of a one-man commission. Sardar Amir Azam Khan said that he ‘took over as law minister only three months ago... after consulting with the Chief Justice of the Supreme Court he constituted the Commission... which is now complete with the appointment of its Chairman’(The Constituent Assembly of Pakistan Debates, 1958). After his statement, the debate went into legal hair-splitting that whether the appointment of its Chairman can

be regarded as the appointment of the Commission. At the end, debate finished with the final words from the Law Minister that ‘Commission will be expanded soon... eminent *ulema* shall be considered the list of whom had already been prepared and their profile is being examined... after consultation with its Chairman’(The Constituent Assembly of Pakistan Debates, 1958).

These debates on the appointment of its Chairman gives us a better idea, whereas on the one hand the speeches of the opposition members, for instance, Pir Muhammad Ali Rashidi who himself had been in government before September 1957 never demanded from his government to appoint the Commission when once he was in opposition he was giving such speeches to criticize the government. Likewise, Yusuf Haroon who brought forward this adjournment motion was the secretary of the party that was ruling before September 1957, at that time he never advised the President to appoint the Commission in those six months after the promulgation of the constitution.

The delay was not because it was provided in the constitution on the desire of the ulema and neither because the government does not want to nominate it which is evident from the statements of the governmental benches during the discussion in the house. Instead, it would not be wrong to say that it was because the working of this proposed Commission depended on the stability of the government that itself was crumbling and shattering, this led to the delay in the appointment of the Commission and those members which were earlier in government and did not ask the President to appoint the Commission but when they became the part of the opposition they

started criticizing the government for not appointing it. The governmentality in the appointment of Justice Muhammad Sharif as the Chairman of the Commission can be understood in this sense that the government wanted to appoint it a broadly-based body that will base its decision keeping in view the legal modalities and not only the principles defined in Quran and Sunnah. Another more explainable reason for not appointing someone from the *ulema* as the Chairman would have led to the criticism on the neutrality of the commission itself because the appointment of an *alim* from one religiopolitical party or a sect would have made it controversial in the eyes of all others.

After the appointment of its Chairman, the other ten members were appointed on 17th August 1957. The names of these members were: Maulana Zafar Ahmad Usmani, Maulana Kifayat Hussain, Maulana Ghulam Murshad, Maulana Akram Khan, Maulana Amin Ahsan Islahi, Dr Syed Ijaz Hussain Jafri, Ghulam Ahmed Parvez, Maulana Raghif Ahsan, Allama I. I. Qazi and A. K. Brohi(Notification No. F. 19(1) 56-Ref dated 22 March 1957, Karachi, The Gazette of Pakistan, Extraordinary published by authority, Registered No. S. 1033, 633). A brief explanation of the profiles of these members will help us to explain the approach and the expectations of the government from this constitutional body which was a predecessor of the Council of Islamic Ideology. Since after the appointment of its members it existed for a few months only because the constitution was abrogated and with that, it also ceased to exist. It will only be once again from the assembly debates especially during the budget sessions and the

personal accounts of its members that we can construct if its member ever met and what they discussed as otherwise there is no official record available about the department in the archives.

Maulana Zafar Ahmed Usmani was a renowned Deobandi *alim*, that hoisted the flag at Dhaka on 14th August 1947, as he had played a significant role in the referendum of Sylhet to join Pakistan. He was prominent among those demanding the Islamic constitution in this effort he had earlier written several letters to the earlier Prime Minister that future constitution must be based on the Islamic principles. In 1954 he shifted to West Pakistan and then afterward he lived at Tando Allahyar, Near Hyderabad, and lived till 1974. Another prominent member was Amin Ahsan Islahi (Islahi), he was among the founding members of Jamaat and member of the central executive of Jamaat, and until he resigned from it in 1960 because of the difference with Mawdudi.(Rauf, 2009). He was a student of Hamiduddin Farahi and after he resigned from Jamaat he kept working on Islam and also established *Idara-i-Tadabbur-i-Quran wa Hadith* in 1981 and a quarterly research journal *Tadabbur* was also published by this institute(Idara-i-Tadabury-e-Quran wa Hadith, n.d.).

Next member was Ghulam Ahmed Parvez (1903-1985), He was a friend of Dr. Allama Mohammad Iqbal, and through this friendship, he met Mohammad Ali Jinnah. In 1938 at the request of Iqbal and instruction of Jinnah he also wrote essays in the monthly magazine of *Tolu-e-Islam* (Dawn of Islam). One of the first cover features to appear in the magazine under Parvez was titled, 'Mullahs have hijacked Islam'. He had been a member of the Muslim

League till 1956 and was appointed a member of this Law Commission. After the dissolution of the Constitution and the consequent abolition of the Board, he continued to publish his books and deliver lectures about his interpretation of the Quran to his followers that were called 'Parwezi'(Parwez, 2020). As per his interpretations of Islam, 'No public law can be framed unless all sects unanimously approve it'(Parwez, 2020). He emphasized on 'literal' meanings of the Quran, as he says that *Salat* (Muslim prayer) means *Tanzim* (discipline) not prayer as is normally practiced. As the influence of political *ulema* increased in the country over time, he went into desolation and in 1978, it aggravated to this extent that he was physically thrashed during a lecture at Mughalpura, Lahore(Dawn, 2014).

Kifayat Hussain and Syed Ijaz Jafri were the representatives of the Shia, which compose the considerable representation in the country. Shia *ulema* differed in religious practices with majority Sunnis which are further divided into various groups. East Pakistan representation was also important to be considered while the appointment of the Council to have them on board. Maulana Ghulam Murshad and Maulana Akram Khan were from East Pakistan. Among them Akram Khan was a Bengali Journalist and founder and the editor of Bengali newspaper, '*The Azad*', President of Muslim League East Pakistan till 1960(National Encyclopedia of Bangladesh, n.d.).

A brief pen picture of the profiles of the members of the Commission appointed after more than a year of the promulgation of the constitution had multi-pronged consequences. On the first hand, it had agreed partially on the demands of the religiopolitical parties as at

least one of the members of the two religiopolitical parties was appointed as its member. Simultaneously by appointing Ghulam Ahmed Parwez as one of its members, a modernist, two *Shia* members, and two members from East Pakistan specifically manifest the approach that even if the said commission would have existed from long there are very blinking chances that these members from so diverse background would have agreed on the uniform set of laws to be promulgated in the times to come. This composition endorses the govern mentality of appointing a docile body from among the *ulema* to have their ascent on hand and keeping in controlled and divisive on the other, a technique that ultimately results in the growth of power over the government considering the understanding of Islam among the population which required to have a law not to be against Islam. Another aspect of the very less work done by the Commission in a few months for which it existed shows that the working of such body depended directly on the stability of the government. So the next section will discuss during the few months that Commission existed its functioning derived from the assembly debates, works its members to further explore the attitude of the government towards the said Commission.

There is no official record or any report about the meetings of the members of the Commission, neither it is possible to interview any of the members of the commission, however through the works and the letters of the commission the blinking glimpses of its functionality can be derived, from the website that is administered by the *Idara Tadabbur Quran* and it mentions that he worked as its members. Similarly, in *Tazkara-al-Zafar*, it is

also mentioned that Zafar Ahmed Usmani participated in few meetings of the Commission, and on the working of the Commission he said that ‘... As far as the question of working ability of the Commission is concerned, we can only recommend the government it solely relies on the government to accept it or not’(Shakoor, 1977). The more valid proof that at least once the member met can be seen when on 8th September 1958 Yousaf A Haroon, asked a query from Kamini Kumar Datta, that ‘will the minister of Law be pleased to state progress so far made by the Islamic Law Commission...’, he further asked that, when will it complete the work? If it is functional? If no, why?(The Constituent Assembly of Pakistan Debates, 1958). The Law Minister replied that ‘it was completed in August 1957, and its first meeting was held in January 1958 for three days and two more meetings will be held in the financial year’, he further said that ‘it will complete its work by 23 March 1962 and in the first meetings they prepared draft questions to be sent to the learned people within the country and outside... a budget of PKR 2,15,000 was allotted for the institution and is at the disposal of the department...’(The Constituent Assembly of Pakistan Debates, 1958).

This was the last time when the Islamic Law Commission, was discussed in the National Assembly that was dissolved by President Iskander Mirza almost one month afterward, and the constitution was abrogated with which this Commission also diminished in the pages of history. So, it can be said about its functioning its only progress was ‘one meeting’, based on which it cannot be said that it indeed contributed anything in the legal apparatus of the country. But more important

than its functioning was its presence in the constitution and then the future constitution of 1962 carried it forward with another name i.e. Advisory Council of Islamic Ideology. Secondly, the profiles of its members exhibited the approach of the then governments to entangle *ulema* in the power corridors to have the knowledge to better govern and its presence in the constitution was the start of an un-ending odyssey lastly, its growth and working were directly related to the democratic and political institutions of the country which were packed up due to the Martial law. The constitution of 1956 was abrogated by President Iskander Mirza on 7th October 1958 due to ongoing political chaos which is visible in the resignation of the three Prime Ministers, Hussain Shaheed Suhrawardy, Ibrahim Ismail Chundrigar, and Malik Feroz Khan Noon within few months and the reason discussed briefly in the next chapter. Afterward within weeks, he was also replaced by the then Army Chief and Martial Law Administrator, General Ayub Khan.

Conclusion

In the light of the above discussion, it can be deduced that due to the paradoxes in the genesis of Pakistan’s creation, the emergent problems after its creation, and the specific understanding of Islam among the population it became unavoidable for the government to aloof governance from *ulema* in endeavors to keep otherwise fragile nation united. On the one hand, *ulema* were divided, into sects, religiopolitical orientations, and in relation with conformity with the government but paradoxically they wanted themselves to be the linchpin in the future political apparatus of the country. As modern states are always extending their powers over the subjects

according to Foucault, in the same line the govern mentality of the Pakistani government was also to extend its control over the religious constituency as well through the appointment of conformist boards. The establishment of the Islamic Law Commission by the 1956 constitution manifests the govern mentality by the then government to develop a net around *ulema*. It was not only the government that was keen on providing the provisions related to the Commission, the *ulema* also foresaw their future role in the power corridors through this body. These two institutions under discussion in this paper became the base for the provisions that provided the Advisory Council of Islamic Ideology provided by the future governments. Still, it helps us to conclude that the functioning of the Commission was directly dependent on the will and the stability of the government. As the government during the days when the commission was appointed was itself unsteady and soon packed up by the Martial Law of President Iskander Mirza with the help of Chief of Army Staff General Ayub Khan.

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