

A research study of Amendments in Hudood laws: its causes and effects

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Abstract

Hudood is the plural of Had in arabic language. Its literary meaning is limits while in Islamic terminology it means the capital punishments for the crimes mentioned by the Holy Quran and Sunnah. Through an ordinance the hudood laws were implemented by Gen. Zia-ul-Haq, the president of Pakistan. They are still exercised in Pakistan. Some ammendments were proposed in last decade by the president of Pakistan, Gen. Pervez Musharaf. What amendments were proposed, what are the causes and what will be the effects of those ammendments, this research paper disscusses this issue.

The literal meaning of had is “forbid”, and the hurdle between two things is called Had too¹ Hudood is plural of had which means to “forbid” and in Shariah it means the punishment which is obligated as a right of Allah (SWA)² In Hudood ordinance 1979 it has been defined as following. Section 2(B): Had; means punishment ordained by the Holy Quran or Sunnah It is understood from the above definition that:

- (1) Had is the punishment which has been specified in the Holy Quraan in Sunnah and no individual or group (parliament) has the right to amend or abrogate it³
- (2) Had is the right of Allah and the way to get the goals of Shariah.
- (3) When it (is proved that against any individual then nobody has the right to forsake it.

According to Jurists:

“It is the legal punishment which is applied against the crime when there is no Had prescribed for it in Shariah.”⁴

Tazeer means the punishment of the crime in which the prescribed parameters Of Had are not found.⁵

So Tazeer is the crime, in which there is no punishment of Had because there are critical conditions for execution of Had, and when these conditions are not found so, criminal could not be set free, on the contrary there must be some punishment for him that he may not repeat the crime again, which is called tazeer⁶

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Tazeer has been defined as below:

Penal adjective referring to punishment and penal Code means set of laws governing Crimes and punishments⁷

And the same has been in Tazeerat e Pakistan as following:

Section (2) Every person shall be liable to punishment under code and not other wise for every act or omission of contrary to this provisions there of which shall be guilty within Pakistan.⁸

Shariah court has defined Tazeer as below:

Tazeer is punishment in such a crime for which there no specific punishment in Shariah.⁴

From the detail above it is clear that the main difference between Had and Tazeer is that Had is punishment defined by Allah for any crime, while Tazeer is the punishment specified by government due violation of the state rules.

Pakistan and Hudood laws

Before the imperialists tenure Islamic law had been implemented in all Islamic countries. As Maulana Munazir Ahsan Gelani has written about it: "Islam had been the only constitution of the country in days of each Muslim emperor. As long as muslims were politically dominated, they had been loyal to Islamic constitution."⁹

Since Pakistan came into being this dream has not been brought true (to have an Islamic constitution implemented in the country). Ultimately in 1977AD the public political parties strived and struggled in the leadership of Mufti Mahmood (RH), consequently Zia ul Haq became the ruler of the country.¹⁰ This government revived the Islamic ideological council which recommended Hudood laws to be implemented in Pakistan as a part of criminal law in 1979 AD. One representative from every school of thought participated in this council and they read it out trice.¹¹

The implementation of this provision of law was necessary because there were only two objectionable types of Zina (intercourse) before it.

1. To have sexual relationship with a married female without the prior permission of her husband which is considered usarp or
2. Rape (to have such a crime by force). The punishment of such crime was suggested three years imprisonment or fine, In the light of above report the president of

Pakistan implemented five Hudood laws. The following laws are included in it.

Offence of Zina (Enforcement of hudood ordinance 1979 vii
Offence of Qazf (Enforcement of Hudood ordinance viii 1979)¹²

Punishment which has been prescribed in the Holy Quraan and Hadith for zinabilriza and rape were implemented in these laws. In the same way in case of had e QazfHad and in case of Liaan the cancelation of nikah were suggested. Reforms were brought if there had been any administrative lacks time by time. Yet, nobody objected it. Following amendments were made in this act before 2006AD.

1. In 1980 Provision no. 20 of this ordinance was amended that the hearing of any allegation will be in session court. No authoritative magistrate court can hear it under the provision no.30 of criminal law.
2. The sub provision of provision no.15 of ordinance 1997AD was amended for it least four year prison punishment for rape.
3. Provision no.4 was added in the ordinance that the collective rape punishment is execution for each criminal.
4. In case of Tazeer the punishment through flogs was eliminated.
5. The criminal law of 2004AD was amended that no officer below than SP would be able to investigate it. Without the prior permission of court no accused person could be arrested. No one objected it, because the main purpose of this amendment was reform in the procedure.¹³

Women Protection Act 2006

In 2006AD. One resolution regarding the protection of famines rights was passed in national assembly of Pakistan; eight provisions were added in Tazeerat e Pakistan.

In Schedule II ACT of 1898 one amendment was made, while thirteen amendments were made in Hudood laws (Had e Zina and Had e Qazf 1979). Provisions 4, 10, 13, 15, and 19th of the Ordinance viii of 1979 were also eradicated from the book of law. One provision was added in Muslim marriage Act 1939 (VII of 1939)¹⁴

In the above laws the below provisions are objectionable.

Through woman Protection Act 2006 the sub provisions E and C of provision No.2 of Had e Zina and Qazf Of Hudood ordinance 1979 were eliminated, which were below

(c) Marriage means, marriage which is not void according to the personal law of the parties and married shall be construed accordingly.

(E) Tazir means any punishment other than hadd¹⁵

2. Provisions 3th of Hadensidad e Zinathe of Hudood ordinance 1979 were eliminated, which were below.

(3) Ordinance to override other laws , the provision of this ordinance shall have effect not with standing any thing contained in any other law for the time being in force¹⁶

Due to the elimination of this provision this law became ineffective, because Pakistani courts have made these rules that.

If there is conflict between a general Provision and a particular specific provision ,the later must override the former--when a specific law laid down in any other special law or enactment conferring jurisdiction than nothing in the criminal procedure code shall effect such special jurisdiction for general special bus non derogate i.e. general law does not derogate the special law.

Although the above portion is about the rule of court, but due the omission of provision no3 and making it equal to other laws is overtly against of the below commandments of the Holy Quran: "Whosoever seeks a faith other than Islam, it will not be accepted from him, and he in Hereafter will be among the losers."¹⁷

"Those who do not judge according to what Allah has sent down are the disbelievers."¹⁸

"Those who do not judge according to what Allah has sent down are the the unjust."¹⁹

"Those who do not judge according to what Allah has sent down are the sinners."²⁰

"It is not fitting for a believer, man or woman, when a matter has been decided by Allah and His Messenger, to have any option about their decision, If any one disobeys Allah and His Messenger, he is indeed on a clearly wrong path."²¹

1.PLD Karachi 1974 . 459

2-Al Quran(3:85)

3 Al Quran(33: 36)

The word “validity” and explanatory paragraph from provision no4 ordinance Vii 1979 have been eliminated. Due to the elimination of this word validity mere claim of Nikah is enough to avoid punishment, whether the claim is legal (Shariah comprising), false or based on fake documents¹. Provision no 6 and 7 of ordinance.

Regarding Had Insidade Zina were replaced with provisions no375, 376.1979Vii

In provision no 375 rape is defined as below.

375, Rape - A man said to commit rape who except in the case here in after excepted , has sexual inter course with a women under cumtances falling under any of the five following descriptions .

- (i) Against her will
- (ii) without consent
- (iii) With her consent when the consent has been obtained in putting her in fear of death or of hurt (vi) ²²
- (v) With or without her consent when she is under sixteen years of age. ²³(2)

After this amendment it is clear that an adult girl, less than sixteen years will not be punished after being investigated and proved that she has committed Zina with her own consent, which is totally against the rules of Quran and Sunnah. ²⁴

Girl is legally considered to be major when she gains to menstruate and the earliest time of Girls menstruate is nine years. In case of her non menstruation or absence of other evidence of her puberty, girl\'s majority age according to Imam Abu Hanifa is sixteen years-----According to other three Imams a youth would be considered major if he gets night pollution and a girl begins to menstruate or both complete 15 year of their age²⁵

Provision no 7 about Had e zina of ordinance 1979 was replaced with provision 376 as below.

376 Punishment for Rape (1) Whoever comits rape shall be punished with death or imprisonment for either description for a term which shall be less than ten years or more than twenty five years and shall also be liable to fine²⁶ When Rape is committed by two or more persons in furtherance of common intention of all, each of such persons shall be punished with death or imfrisonment for life²⁷

Rape was defined in Hudood ordinance 1979 provision no 6 as following.

1.If a male or female is Muhsin (married) so he or she will be stoned in open area.

2. If not married, then they will be flogged hundred each in open place. And any other punishment including death penalty will be given if the court suggested.....2.....2-

Hudood ordinance provision of Zina

In this amendment death penalty or 5 to 25 years presonmentfor the rape crime is suggested, which is also a cause of monetary fine. Monetary fine is allowed at all.

Even the days of the Holy prophet (pbuh) the son one person had a sexual inter course with other's wife. The first one's father paid 100 goats and a slave to the husband and freed his son. When the Holy prophet (pbuh) came to know about it, he flogged the boy hundred times and stoned the woman because of her confession. Then he (pbuh) and slave back the goats and slave²⁸

It shows that fine is not allowed. Had Tazeer both cannot be imposed at once on one compelled person. In surah Al-baqarah 173:

“If anyone forced by necessity, Whit out willful disobedience, nor transgressing limits, then he is guilty less.”

In the days of the Holy prophet (pbuh) one female was raped, he (pbuh) punished the boy and quit the woman²⁹

Imam Tirmizi writes:

All the companions and scholars have acted upon the above Hadith in such manner that there is no Had on the one who has been raped whether male or female. Whether he or she is threatened for death or squeezed her for rape.³⁰

One a women was going to offer prayer in the days of the Holy prophet (pbuh), a person raped her. Holy prophet (pbuh) applied Had on him and acquitted her³¹

Hazrat Umar (r u) applied Had on the person who raped female slave and acquitted her³²

As for as Had is concerned in rape, evenif it does not fulfill the conditions of Had e Zina, Ulama committee has named him obscenity and Siahkary to include it in Had. The purpose was that if the extreme punishment could not be applied then it should have the authority of least punishment³³but this proposal was not included in this amendment.

The words of subsection no3 and 5 of provision no20 of Ordinance VII of 1979-
Section 20 are below.

S. section 3 the provisions of subsection 199, section 199 or section 199 -3

Of the code shall not apply to the cognizance of an offence punish dole under section 15 or section 16 of this ordinance.

Due the elimination of the following portion the mentioned provisions have become the part of the Tazeerat e Pakistan. Due the violation of Sub Section 5 the Chapter XXIX has totally restored.

The provision of chapter xxix of the code shall not apply in respect of punishment awarded under section 5 or section 6 of this ordinance

Because of this amendment the provincial government and president have the authority to cancel Had once proved against someone. Even though it is against shariah to authority to someone to cancel or reduce the punishment of Had once proved. That is why it is violation of shariah rules to give the government the authority to reduce it, it is because of the elimination of provision20³⁴

Any kind addition or deduction is a great sin; even any kind of approach is sin too. Once a female theft who belonged to a tribe of Arab, Hazrat Zaid was sent to have approach for her forgiveness, on hearing it the face of the Holy prophet (pbuh) turned red and said: If Fatima the daughter of Mohammad had theft , I would have applied Had upon her2

So this amendment is against the Holy Quran and Sunnah.

So it is confirmed from the Holy Quran, Sunnah and the verdicts of the rightly guided caliphs that Had e Zina is applied upon rape as well as the one who has committed it with consent, although it will not be applied upon the compelled one.so this amendment is against the Holy Quran and Sunnah.

Had e qazf1979 was amended as following?

Amendment of section 14, ordinance viii of 1979 - In offence of Qazf Enforcement of Hadd) ordinance 1979 ordinance No Viii of 19 79 in section 14 subsection (3) and 4 shall be omitted .

The paragraph which was omitted was following:

Where the husband or wife refuses to go through the procedure specified in sub sections (1) he or she as the case may, shall be imprisoned until.

(a) In the case of the husband he, has agreed to go to afore said procedure.

(b) In the case of the wife, she has either agreed to go to through the afore said procedure or acceptor the husband \s accusation, assure.

Section 4 words were below:

(4) A wife who has accepted the husband\s accusation as true shall be awarded the punishment for the offence of Zina ordinance 1979³⁵

Some portions were omitted from act 2006, although after confession not implementing h=Had e Zina is against the rules of Quran and Sunnah. After Lia'an the process begins on the request of the woman, no one can compel her on confession. So thin amendment is against the Holy Quran and Sunnah³⁶

The Holy Quran has described it as below:

“ And those who launch a charge against the chaste women, and produce not four witnesses(to support their allegation).- flog them with eighty stripes; and reject their evidence ever after, for such men are wicked transgressors.”³⁷

Lia'an is a matter between husband and wife. It has been mentioned in the provision no 14 of Hudood ordinance 1979, that the person who accused his wife for Zina and failed to present four witnesses, so the process of Lia'an will start on the demand of woman. And after oaths the Nikah will be considered void. If the husband refused to precede Lia'an, he will be put in prison until he is willing to precede Liaan. This section has been omitted in act 2006, which is why she could not be re-dressed anywhere.

We know our judiciary well that the cases are prolonged for ages without any Solution.

Provision 19 of Hudood ordinance 1979Viii had superiority over other laws, in spite of it was eliminated, which is not right in the sight of temporary law as well as Shariah.

Allah's law is supreme compare to all human made laws. As the Holy Quran says in Surah Al-Imran 85 and Al-Maeddah44, 45, 47 and al-Ahzab34 it has been described. The

detail has been presented in Hudood ordinance 1979vii provision³⁸

In addition during the interpretation of law the courts look into the matters that the in spite of the existence of books on common laws specific laws are lagislated, because some circumstances specific laws are implemented in presence of common laws, because it has supremacy over common laws. Due to this act Hudood laws status has been eliminated. Now executing it is difficult.

The provision of criminal laws has also amended.

It is written in thewomen protector act 2006 table 8 that sexual intercourse with mutual consent is not cognizable crime. It is the responsibility of the accuser to go to the Court of Session and district judge along with witnesses and register the case.After penning down the witnesses, if the judge got satisfied, he will summon the accused one, otherwise he will dismiss the case³⁹

In Islam this the responsibility of Islamic state to establish virtues and forbid evils, as mentioned in the holy Quran;

“Those who, if we establish them in the land, establish regular prayer and establish give Zakat, enjoin the right and forbid wrong.”⁴⁰

State is the claimer in Hudood according Islamic law, because its purpose is to implement Shariah, so state is itself responsible and claimer. It is the responsibility of state authorities to implement Hudood. ⁴¹

So it is obligated upon the rulers to investigate establish witness and implement Had with any claim. ⁴²

According the one member Ulama committee the purpose of eliminating of Zina with self-consent from cognizable crimes is that the accuser is responsible to bring the accused person, witnesses and collect the evidences from the spot and the state is free from all these things. ⁴³

This rule is not only violating Islamic laws, but also English laws, because in English criminal justice the culprit is punished. The one who refused to perform his duties, he will be presented to court and punished. Here crime means illegal work, which is against the benefits of the population or affecting the state belongings. That is the reason that the state is claimer in

such crimes and the case is registered against the criminal by the state.⁴⁴

Due to amendment, on the one hand state has ignored to fulfill its responsibilities, on the other side it is neglecting its constitutional and legal responsibilities, in the first provision of law it has been named with the name of Islamic republic Pakistan. And in provision 2 it has been written: Islam to be state religion⁴⁵

Resolution of Pakistan has been considered the integral part of constitution, which is giving this undertaking that:

1. "Allah Taala is the sovereign authority of Pakistan."
2. The fundamental of Pakistan is Islam.
3. All the anti-Islamic will become void and no un-Islamic will be implemented.
4. Pakistani government will utilize its authority under the limits of Shariah.⁴⁶

The purpose of making the resolution of Pakistan part of constitution is described in the following paragraph:

Where in , the Muslims , shall be enabled to order their lives in the individual and collection sphere in accordance with the teachings , and requirement of Islam as set out in the Holy Quran and sunnah.⁴⁷

The same procedure has been adopted that Muslims may spend their individual and social lives according to rules of Islam. In spite of it the government is making lame excuses and not shouldering its due responsibility.

Causes of amendments in Hudood laws:

Although the president, Prime Minister and the leader of the governing party due to public pressure repeatedly announced that there shall be no law against Islamic law. Then the reasons of these anti-Islamic amendments could be the following:

1. Dismissal of the Islamic recognition of Pakistan: The president came into power, he announced that his ideal is Kamal Ata Turk and he had eradicated caliphate and divided Islamic community into pieces. He banned Arabic.1. Although the present government is Muslim leading, but still it cannot bring such amendments in the existing law, which can make the fundamental constitution of the country according to Islam.
2. foreign pressure and greed: A population conference was held Cairo in September 1994.it was recommended under the supervision of UN that homo sex, abortion female independence should be included in fundamental rights. Islam

is the only hurdle in the implementation of such recommendations. America and English government spent a lot of dollars to get rid of this hurdle. America spent 100 million dollars on this campaign to keep students away from seminaries. British church spent 11 million pounds to eradicate Hudood laws from Pakistan.

- 1- There were two purposes behind it:⁴⁸
- 2- to abrogate Islamic law.⁴⁹

To find the market for its sexual products, because the value of American sexual products is 37,000,000,000 dollars. That is the reason when this bill was passed by our assembly in 18 November 2006, so American state department appreciated it.

Propagation of discriminatory laws: In 2002 the president filed a commission for the status of the women under the supervision of Justice Majid Rizwi, and he suggested Hudood laws should be omitted because there based on gender discrimination, because there is difference between male and female.

For instance, in provision 5(1) of Zina ordinance the word adult is mentioned with male not with female. Likewise in registering the case in Qazf, the authority is given to male. These objections are baseless, because the word female is included in this law. Even it has been mentioned in provision 8 of Tazeerat e Pakistan as following: Section, 8: Gender; The pronoun "he,, and its derivatives are used for any person , whether male or female.⁵⁰

That is why it was said these laws are based on gender discrimination, so these should be eradicated.

One reason for the eradication of these laws was said to be this that many females are in jails because of these laws and no one ask about them.⁵¹

This objection rose since the beginning of these laws. One American scholar came to Pakistan and made a survey report on it; the result was that the in PSC Shariah court due to not availability of Quranic witnesses the male is punished while the female is acquitted without punishment, because she is given the benefit of doubt.⁵²

If the great number of prisoners is considered the fault of a law, and the gets void due to it, then all American laws should be eliminated, because there are 23 lac prisoners, which is double of China and its population is 150,000,000,00 and the

number of prisoners is 14 lac. After each sixth minute one female is raped.⁵³

In September to December 2007 5500 women were murdered.⁵⁴

In spite of that there is pressure on Pakistan to omit Hudood laws, because it causes the prison of females.

4. One reason of elimination is said to be that these laws are the creation of the thoughts and feelings of an individual. It is also a lame excuse, otherwise women protection act 2006 is the desire of one person. Hudood were recommended to be implemented after sixteen months thinking by Islamic ideological council. This law was read out thrice.⁵⁵

1- Islamic ideological council offered government to ensure that no anti- Islamic provision would be included in constitution during constitutional making in future. Under the article (1) 227 it could be decided that bill which is to be presented to legislation, when refereeing it to the concern standing committee, it must be referred to Islamic ideological council as well, So that Islamic ideological council may express its opinion in front of the house.⁵⁶

2- Act 2006 was referred to the council for opinion⁵⁷

3- Only after meeting with president it was announced that the council is supporting it. On the objection of Ulama the chairman uttered that it is against Fiqh not Islam.⁵⁸

5. One objection was that the women witness is not accepted in this law that is why it should be eliminated. It is true in Had e Zina there witness is not accepted, but to be witness is a responsibility, and Islam let her free from this responsibility. So it favor upon them. The cases of Had e zina are less than one percent, except had e zina there witness is accepted in all Tazeerat. Due to these objectionsHudood were made useless because of amendments. As for as Had ezinaiis concerned, so it was never ever proved because of witnesses in the days of the Holy prophet (pbuh), all were implemented due to confession.

5. One another reason is that Ulama ignore such like things after a temporarily brouhaha.⁵⁹

Consequences and effects

No right was given to women in this act, because in the first gathering in March 2006 the council demanded from government that all those things must be rooted out, which are hurdles in the way of the rights, given to women in the Holy Quran and Sunnah,. No one should snatch these rights from females. For example extravagancy in marriages, the curse of dowry, marriage with the Holy Quran and there sale in the name of ----- and other anti-Islamic customs, due to these customs they are deprived of their rights in inheritance, to deprive them from education and honors killing must be banned.¹

Furthermore Ulama committee proposed that deprivation of women from inheritance must be considered Tazreer worthy crime, three divorces must be banned, Nikah e shighar, swarah (one person killed another, so the murderer's is married to the grieved family as a compensation) and wattasatta(two brothers and two sisters marry each other in exchange) a must be included in crimes. But the government neglected all these proposals and excluded many crimes from Hudood and included them in Tazeerat. Now there are many complications for the judiciary whether they have the authority to hear it or not, which makes the justice more difficult. For instance a person blamed that he has committed zina, but due to not fulfilling the critical conditions for Had e zinahe was abandoned, suppose he had kidnapped a girl for this purpose, now to give him punishment the case must re-opened in another legible court, or the victim will avenge himself. All these things are the part of our system today. 40% people are living below standard lives. The country where the the lords of 70,000 villages are land lords, chodheries and khans and arranging a lawyer is mandatory, getting justice is too much difficult. In a country like this, giving rights to women, by getting rid of Hudood is only daydream. Because of this amendment the elite and influential people have got the opportunity to commit more and more crimes. In our country the criminals are presented on TV and radio and they are shown to be righteous. Even the president strives to give this impression that the influential criminals are not involved any illegal activity before judicial investigation. When the criminal belongs to the governing party or any other powerful institution, so he is considered a saint and

pious person, and it is announced in gatherings. The affected people are compelled to live abroad because of poverty, like Shazia Khalid and captain Hammad. This will neither protect any right of women, nor compensate their families. It can only show that are moderate and broad minded in the sight of America and western countries. It will make us sinful for the abrogation of Allah's commandments.

Provision no.3 of Had e insidad e zina of Hudood ordinance 1979 was omitted, as a result federal Shariah court and family courts are facing problems in the matter of their authority. For instance every divorce is considered legal, which is given according to Shariah rules, but in Muslim family laws it not affective unless a notice is sent to the chairman. In this situation the federal Shariah court will have to release its verdict on the accusation of husband first. But to make the divorce affective, he will go to family court. To make this process easy, the female members of national assembly from Muttahida Majlis-e-Amal proposed the following amendments, that the Muslims family laws should be omitted from the constitution then included in common laws. Consequently, law making will be easy. Unfortunately, those who raise their voices for females' rights ignored it. The words of this proposal were following:

2. Amendment of article 203(B) of the constitution: In the constitution of the Islamic republic of Pakistan 1973 in article 203 (B) in paragraph (c) the words and, common Muslim personal Law shall be deleted.

If the national assembly had passed this two lines amendment, then federal Shariah court would have been able to eradicate anti Shariah portions. But it couldn't happen. Only the commandments of Allah (SWT) and his messenger were eliminated from the book of the law. Through an amendment in Hudood laws, the legislation excluded Had-e-Zina and other relevant crimes from the list of those crimes which are considered to be against the state and considered it an individual matter. Although according to Shariah and common law Hudood laws are crimes against the whole population. The case is registered by the state in this matter. But in present situation police and administration do not have the authority to take any step, because Zina is not cognizable anymore. Now either the

victim should go to district and session judge or get the criminal punished, or he should tolerate it.

However the state does not have any concern about it. That is the reason that call girls are happily saying that now we are secured from police, we got rid of monthly payment to them. This 100% true due to excluding these crimes from the police cognition has made the procedure complicated. Neither police can do anything, nor

The FIR could be register through the victim complain, on the contrary she will be requesting innocently to someone to take two witnesses and forward my story to session judge for procedure. Judges are also the part of this society. People do not have good feelings about them. According to the remarks of Supreme Court there is a lot of corruption in these courts. Judges must take serious steps to eradicate it. Judges must stop meeting people in their chambers, it defame the judiciary.⁶⁰

When this is the situation of the judiciary in a country, and society is under the control influential people, getting justice becomes too much difficult. According to a report about a province that there are one Hundred thousand(10,00000) people are born and die in private jails, and they are forced to deadtiring laborwork. When this is the situation in-spite of the presence of provision for the eradication of this brutalizing law, so how can a victim female go to district court to get the justice. No matter, whatever the situation is the steps must be taken according to the rules. That is the reason that the victimized females have only one solution, and that is to commit suicide. Because of this amendment the authority of the federal Shariah court has got limited. The purpose of this court is to decide whether the existing law is Shariah comprising or not. Procedural laws are already out of its authority. All crimes, which are included in Tazeerat, deduction in its punishment or the elimination of punishment as a whole, are under the authority of president according to the constitution of Pakistan, article 45. Had-e-Zina and Qazf have been omitted practically due to this amendment, that is why it has become possible for president to cancel the punishment of the criminal, involved in these crimes. The punishment of Had-e-Zina is Rajam (stoning to death), never proved, due to lack of evidence or confession. Because of the elimination of the override effect of the

provision 3 of Had-e-Zina and provision 19 of Had e Qazf, they have been in the row of human made laws. Although Hudood are the rights of Allah, it is the responsibility of the state to implement it. But now the state is not responsible for after this amendment. A great concern is that there is no resistance from the public side, even if the clear commandments of Islam have been rooted out and replaced by anti-Islamic laws.

Suggestions for betterment

Anyway, Pakistan is an ideological country that is why Islamic law must be implemented here. For this purpose legislation is necessary for every field of life in the light of the recommendations of the Islamic ideological council. The chairman is a renowned learned person. He must take step to give such recommendations that may lead our constitution to be a real Islamic constitution. Shariah may be fully implemented instead of partial implementation.

Flogging and stoning must be restored as punishment for the raper instead of provision no 376 act 2006 of Majmoa Tazeerat e Pakistan, and the victim must be acquitted according to Quran and Sunnah. Zina with mutual consent must be considered a crime against state. It must be omitted from the book of law to district and session judge court along with evidences. It has to be cognizable crime, because all criminal cases are verses state. In the light of the recommendations of Ulama committee obscenity should be given the name of lewdness and included in Hudood, that one court may have the authority to give verdict about such cases. Female ought to be all those right mention in the Holy Quran and Sunnah. Ignorant customs, honor killing, Watta Satta (two brothers and sisters marry each other in exchange), Nikah-e-Shighar, marriage with the Holy Quran and to deprive them from inheritance must be rooted out by the force of legislation. Those who are not abiding by these laws must be punished severely. Hudood laws (Had-e-Zina Provision 3 and Had e Qazf provision 19) of 1979 must be restored, thus Islamic laws are to be superior. Hudood laws should be improved and more affective through legislation in the light of the verdicts of federal Shariah court. It is dilemma for Ulama that people supported and joined them in Tahreek-e-Nizam-e-Mustafa in 1977. As a result they dismissed the

government. But Islamic laws are recommended to be dismissed and no one is ready to raise their voice against it.

Lia'an must be re-instated in accordance to the Holy Quran and Sunnah. If one of them confessed, he or she must be stoned or Had-e-Zina must be implemented. If they take oath, then the process of cancelation of Nikah must be restored. In Islamic criminal laws witnesses are investigated through Tazkith-ul-Shahadah, whether they are able to be witness or not. There is no institution of Tazkith-ul-Shahadah in Pakistan. The courts follow the compiled law, not the scattered one. That is why one institution should be established to make these laws more effective, these must not be abrogated.

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