



A review of the report of the Islamic Ideological Council of Pakistan given in 1980 on Usury

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Abstract:

This article reviews the report of the Islamic Ideological Council given in 1980 on interest free banking in Pakistan. The report of the Islamic Ideological Council has made very strong recommendations for the implementation of the economic system of Islam. The Islamic Ideological Council with the help of Scholars and Economists, did a great job in this respect and made it a responsibility of the government to play its role in fulfilling the objectives of the establishment of Pakistan by acting upon these recommendations. Moreover, the Council set up a commission to minutely study the existing system and then bring into lime light its flaws and prepare its report the same to the government. The said commission proposed a phased approach to freeing the economy from interest, but these recommendations could not be implemented unluckily. Banks and financial institutions started profit and loss sharing accounts in the first phase to eliminate interest, but these accounts were operated under the old system.

The basis of this research effort to analyse the report of the Islamic Ideological Council by adopting documentary method. The Council made a number of recommendations, but little progress was made in implementing thereof. It is strongly needed for financial institutions to take steps in line with the constitutional requirements beyond immediate political interests so that the interest free banking system in Pakistan can succeed and the people can benefit from its usefulness.

Key words: Interest, Economists, Minutely, Flaws, Eliminate

Introduction:

In the constitution of Pakistan 1956, it was made clear that no such law would be enacted as would contradict the rules of Islam in the Qur'an and Sunnah and the existing laws would be moulded in accordance with these rules¹. (1). In order to put it into practice, it was stated in sub-section (3) that the President of Pakistan shall appoint a commission within one year from the day of enactment of this Constitution, the main purpose of which will be to make necessary recommendations to bring the existing laws in line with Islamic rules. The Commission will also make recommendations on the steps to be taken for the Islamic formulation of laws and their implementation. The second important task of this commission was to guide the National and Provincial Legislative Assemblies to compile Islamic rules in such a way that they could be legalized.

In the first phase, The institution came up with the proposal of a commission, but unfortunately even before the commission was formed, General Muhammad Ayub Khan enforced martial law and repealed the 1956 constitution. When the new constitution came into force in 1962, it was also decided to form an advisory council under section 199 on this occasion it was called the "Advisory Council on Islamic Ideology". According to Article 204 (a) of the Constitution, the "Council" will make recommendations to the Central and the Provincial Government through which the Muslims of Pakistan can lead their individual and collective lives. According to Islamic rules, and they will be encouraged to do so. The council was also tasked with reviewing all existing laws in order to make them compliant with Islamic teachings and requirements in accordance with the Qur'an and the Sunnah of the Prophet (P.B.U.H).

The "Advisory Council on Islamic Ideology" came into being for the first time under the 1962 constitution. On August 1, 1962, Justice Abu Saleh Muhammad Akram, a judge of the Supreme Court of Pakistan, was appointed its first chairman and the "Council" formally commenced its work. On March 21, 1963, the first inquiry was made by the Ministry of Finance, Government of Pakistan regarding the prohibition of interest and its alternative system, the "council" continued to function until 1973¹.

A new chapter in Pakistan's constitutional history opened in 1973 when the 1973 constitution declared Islam to be the religion of the state of Pakistan, stating that all existing laws would be made in accordance with Islamic rules and regulations given in the Qur'an and Sunnah. No law will be enacted in future that is contrary to Islamic rules. Article 228 of the new constitution mandates the formation of an Islamic Ideological Council in place of the "Islamic Ideological Advisory Council" to assist in the Islamic formulation of laws and future legislation in accordance with Islamic rules. When the council was reconstituted under the 1973 constitution, it was made more active. Justice Hamoodur Rehman was appointed its first chairman².

Literature review:

All the three constitutions of Pakistan, (the first constitution 1956, the second constitution 1962 and the third constitution 1973) guaranteed and pledged that the government of Pakistan would do its utmost to eradicate the menace of interest from the economy. The government will end usury as soon as possible.

Under the 1962 constitution, a constitutional body called the "Islamic Ideological Council" was established at the national level, in which authoritative scholars belonging to all sects were included. It was included in the official duties of this organization that this organization will formulate such proposals by which the lives of the people of Pakistan can be molded into an Islamic framework.

Following is a summary of the reports submitted by the Islamic Ideological Council in different years regarding the elimination of interest.

1. The Islamic Advisory Council, in its meeting held in Dhaka in December 1969, at the request of the State Bank, declared loans, savings certificates, prize bonds, postal life insurance schemes, etc. issued under the existing banking system in the country as interest-bearing and suggested the formation of a committee to make recommendations for the establishment of an interest free economy³.

2. Article 37 of the 1973 Constitution stipulates that it is the official responsibility of the State to rid the country's economy of interest-bearing transactions as soon as possible. The constitution clearly

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states that over a period of nine years, the entire legal, economic and social system of the country will be molded into an Islamic framework⁴.

3. On September 29, 1977, President Zia-ul-Haq assigned the Islamic Ideological Council to make recommendations for the establishment of an interest free economy. The council set up a 15-member panel of eminent economists and bankers who worked day and night to formulate recommendations⁵.

4. On June 25, 1980, the Islamic Ideological Council submitted its final report to President Zia-ul-Haq. The report gave all the details of the alternative system of abolishing interest and said that the implementation of these proposals could make Pakistan's economy completely interest-free within two years. Chrissy did not sincerely follow the council's advice, but did take some self-serving steps to give the impression that the government had initiated it, and that these measures were the same as non-interest bearing banks. One department was also opened in the name of accounts⁶.

The recommendations and suggestions made by the Council in its 1980 report are unique and exemplary in that it has been prepared by the eminent and intelligent minds of Pakistan who have worked together and prepared this comprehensive report. This report is a unique attempt but it has not been implemented. This report is reviewed in detail below.

Main points of the Council Report on Interest-Free Banking 1980:

Formulation of the Council:

In view of the definite and very strict injunctions of the Holy Qur'an regarding the prohibition of usury, it is the basic duty of every Islamic government to eradicate usury in every sphere of its economic and fiscal life.

Article 227 of the Constitution of Pakistan 1973 stipulates that the laws currently in force in the country shall be in accordance with the rules and teachings of the Holy Quran and the Sunnah of the Holy Prophet (PBUH). No law will be made, which is against these rules and teachings⁷.

Limitations of Interest by Zia government:

There is a consensus among all schools of thought in the Muslim Ummah that the Qur'anic term covers usury in all its shapes and forms. Therefore, taking interest on loans given for productive purposes is as haraam as domestic Expenditure Debts. That is why Article 37 of the Constitution of Pakistan, which deals with the basic principles of strategy, states that it is the official responsibility of the state to take action against usury as soon as possible, and make the economy completely free of interest transactions.

But the fact is that despite the importance of the issue, no significant effort has been made to eliminate interest for 30 years after the formation of Pakistan. The first practical step in this regard has been taken by President General Muhammad Zia-ul-Haq. As soon as he took over the reins of government in 1977 and took many other corrective measures, he asked the Islamic Ideological Council on September 29, 1977, specifically to curb usury, to adhere to the economic principles offered by The Qur'an and Sunnah. In light of this, an economic structure should be developed which is free from the adulteration of interest, as well as, a source of stability and growth for the developing economy of Pakistan. Addressing the nation on 12 Rabi-ul-Awal 1399 AH, he fixed a period of three years and announced that after that the transaction of interest from the national economy would be completely abolished⁸.

Alternatives of Interest based models:

Although the Council is of the opinion that the ideal alternative to interest-bearing transactions in its economic system is the provision of capital on the basis of profit or loss or good credit, The Council has agreed with the suggestion of economists and banking experts that the proposed interest-free banking system should include some other methods such as leasing, real estate lease, deferred payment contract. The investment will also be used on auction and at a general rate of return, with the clear condition that the actual profit and loss of the investment will be known. However, the risk is there that these other methods should be used as a back door for the resumption of interest-bearing transactions, and as a result the investment tradition will be gradually expanded and all these other alternative ways will eventually be eliminated⁹.

Moral values also matter:

“The Council also points out to the Government that the elimination of interest-bearing transactions from the country's economic system is only one part of the overall Islamic system of values and that this move alone cannot be expected to shape our entire economic structure. Therefore, it is imperative that the need and importance of corrective measures such as morality and character building and eradication of false values of life be made clear to the people”¹⁰. It has also proposed a complete overhaul of the existing methods of checking accounts so that the interest free banking system can be sure to succeed.

Gradual policy to be adopted:

“The Council is well aware of the difficulties that may arise in eliminating the interest factor from international trade and foreign aid transactions. Therefore, the report recommends that our initial goal should be to: purify our transactions of usury within the Country. In this regard, the Council has proposed a three-stage action plan with the aim of eliminating interest from domestic trade transactions by December 1981”¹¹. The Council in its report I strongly opposed the establishment of model banks or the opening of interest-free separate counters in existing commercial banks. In its view, such measures would be instrumental in the survival of the interest-bearing system, and all attempts to establish an interest free banking system will fail.

The report hopes that the Government of Pakistan will accept this report presented by the Council on Emissions of Interest as an essential element of national policy and all necessary steps will be taken without delay for its practical implementation.

Council's view on the establishment of an Ideal Islamic bank:

There were three approaches to the council's action plan for eliminating interest from the economy, of which the council had to choose one.

- The first is to establish an ideal bank as a start-up that conducts business without interest, and to take advantage of its experience to bring about a change in the practices of commercial banks and other financial institutions.
- The second option was to first formulate a comprehensive scheme for the non-profit economic system and then set a date for the implementation of the scheme.
- The third method was to gradually eliminate interest from the economic system¹².

Implications of the Council:

The implications of the three methods are as follows.

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1. The idea of setting up an ideal bank sounds great, but if you look closely, it has many flaws. Starting this ideal bank on a scale that really provides a truly useful experience requires a large amount of money to be raised for an organization that is starting a new business along completely new lines. More importantly, if it is left to the choice of the borrowers whether they want to borrow from commercial banks at a fixed interest rate or on the distribution of profit and loss from the ideal bank, then the owner of such a business, who are making huge profits will prefer to take interest bearing loans from commercial banks. However, low-profit or loss-making businesses will be destined to be done in the ideal bank. It is quite obvious that when this ideal bank will be very discriminating and cautious to avoid interest bring heavy loss and will limit its scope so that no exemplary model will be set for others and if one does not bring this harmful factor to mind, the upper costs will be higher and there will be less profit on investment and it will also give less profit to those who provide their money. This will affect the supply of money as a result, the entire business of the bank will be affected and the bank will not be able to get out of this cycle¹³.

In this regard, the Council also considered the proposal put forward by some quarters that initially it should be just to open interest free counters in existing banks which should work along with interest based counters. The Council, after considering all the possibilities of this proposal, realized that it would not only help in the survival and perpetuation of the interest rate system, but would also thwart all attempts to eliminate interest rates from the national economy.

2. The second method could not convince the council, as the abolition of universal and far-reaching practices such as back-to-back interest and the new business system on a new system would create new problems demanding an immediate solution. According to the Council, replacing the existing system with the new system will be easier when a period is set for it and a period will be necessary especially in the case of international transactions which cannot be changed in the near future¹⁴.
3. The third method seems to be more viable and reasonable. "Following this method, the council also submitted its interim report, in which it recommended elimination of interest from constructive loans taken from NIT, ICP, HBFC and commercial banks"¹⁵, thus the first step was to select from which sectors should interest be eliminated first. "While recommending the elimination of interest from NIT, the concern was to provide a means of investment to the people so that Muslims can invest their savings within a reasonable period of time. The choice of the ICP among other financial institutions was to be made because in it the complete elimination of interest was possible without delay. "The fact that houses are a basic need of the people and they should get rid of interest in fulfilling this need was in the view of the council while recommending the abolition of interest on housing loans"¹⁶.

Final suggestion of the Council:

Finally, the Islamic Ideological Council in its above report has presented a comprehensive plan for the complete abolition of interest within a period of three years. After considering the practical aspects of the abolition of interest and the expected effects and consequences, the Council introduced a step-by-step program as follows:

(1) Proposed measures for the first phase:

Most of the council's recommendations on eliminating interest are measures that do not require much preparation in advance. There are many issues that can be decided before the end of the financial year so that The following are the steps that can be implemented from the beginning of the next financial year, ie July 1, 1980:

(A) Official transactions:

(1) The Treasury Bills issued by the Federal Government to the SBP to meet the budget deficit or to meet special financial needs under the prevailing procedure are issued at nominal interest rates, should be issued on non-interest basis.

(2) All loans provided by the SBP to federal or provincial governments should be interest free.

(3) No interest should be charged on loans issued by the SBP to the federal or provincial governments in excess of the prescribed limits.

(4) The loans taken by the government from commercial banks for the purchase of commodities should be taken without future interest. In addition, no interest will be charged on the loans that the SBP will provide to the commercial banks.

(5) The financial assistance provided by the Federal Government to the various Provincial Governments for their developmental or non-developmental expenditure should also be in the form of non-interest bearing loans.

(6) Loans given by the federal or provincial governments to local bodies and autonomous corporations should also be interest free.

(7) Provident fund amounts of the employees of the Federal and Provincial Governments and their various subsidiaries on which interest is paid, should now be invested in NIT units and their profits should be credited to the employees' accounts.

(8) No interest should be charged on pious loans by the provincial governments.

(9) No interest shall be charged on loans provided by the Federal and Provincial Governments and their various subsidiaries to their employees for the construction of houses, purchase of cars and motorcycles.

(10) Nowadays, penal interest is levied for delay in payment of dues of the government. It should be abolished and the penal penalty should be imposed on them¹⁷.

(B) Transactions of banks and other financial institutions:

(1) Apart from those farmers who have decided to avail interest free loans from the beginning of the last financial year, other farmers should also be provided with short-term capital after June 30, 1980 under Bai salam and Bai muajjal instead of providing interest. Should be given.

(2) Commercial banks provide interest-bearing loans to the people for the construction or purchase of houses. -

(3) Non-interest bearing loans should be provided by banks and small business corporations for the purchase of buses, trucks, taxis, wagons, rickshaws and cars.

(4) If banks provide some personal loans, they should be given under the scheme of "special loans" instead of interest.

(5) Interest-free loans should be given to talented students to meet their educational expenses.

(6) Today, the ICP provides interest-bearing loans under the "Investment Scheme". This scheme should be on the interest free basis¹⁸.

(2) Proposed measures for the second phase:

The second phase of interest-bearing measures will begin on July 1, 1981. The proposed measures

for this phase should aim to ensure that, as far as domestic transactions are concerned, the assets of banks and other financial institutions are free from the element of interest. To achieve this goal, it is necessary to prepare a scheme by December 1980 in the light of the recommendations made by the Council and to reform the internal management of the banks and the relevant laws under this scheme¹⁹.

1-During this period, the staff of the banks should be trained in new investment methods in such a way that they develop a missionary enthusiasm to implement the new system and make it a success. 2-Discussions and practical gatherings should also be held in the country to inform about the features and its wisdom and worldly and otherworldly benefits and blessings. Thus, from July 1, 1981, all kinds of government transactions within the country with all remaining elements of interest must be cleansed.

(3) Proposed measures for the third phase:

"The last phase of interest bearing on domestic transactions will start on January 1, 1982. In this phase, all banks should accept new deposits on the principle of participation in profit and loss instead of accepting them on the basis of interest. Banks have changed their monetary policy by eliminating interest-bearing loans from other banks and financial institutions²⁰.

The most difficult issue in international trade and aid transactions is the elimination of interest. The best way to do this is to intensify efforts for greater economic cooperation in Islamic countries so that international trade and aid, at might be interest free. In this regard, the Islamic Development Bank can also play an important role.

Summary of the Discussion:

This article reviews the recommendations of the Islamic Ideological Council regarding the implementation of the Islamic economic system and the establishment of an Islamic welfare state. The Council, with the help of scholars and economists, worked tirelessly and entrusted the government with the responsibility of following these recommendations and playing its part in achieving the objectives of the establishment of Pakistan. The council was reconstituted and a commission was set up to make recommendations for running the economy on the Islamic basis. The commission prepared its report and submitted it to the government in 1980 and also proposed a phased approach to rid the economy of interest. However, financial institutions and banks have not done much in this regard, nor have long-term practical steps been taken to ensure that the interest-free system benefits the people. There is a need for financial institutions to take steps in line with the constitutional requirements beyond immediate political interests so that the interest free banking system in Pakistan can succeed and the people can benefit from its usefulness.

Results of the Discussion:

The results of the effort to implement the Islamic economic system are as follows:

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1- The 1956 constitution is, in many ways, a bright chapter in the constitutional history of Pakistan but, unfortunately, the military intervention which led to the martial law of 1958 canceled it and at the same time the work to be done to enforce the Islamic system remained incomplete. Ideologically the nation and the state again reached the starting point.

2. The 1962 constitution also laid down all the principles on the basis of which the implementation of the Islamic system was possible, but no practical steps were taken to eliminate the system of usury and other social evils.

3. The Islamic Advisory Council was not an authorized body. Its scope was limited to recommendations, but the council made a number of recommendations, but little progress was made in implementing them.

4- During the tenure of General Zia-ul-Haq, the composition of the Council was modernized and the Council was given the responsibility to formulate the recommendations for the elimination of interest, but the Govt. did not take a speedy action to realize these recommendations.

5. The Commission of Ulema and Economists has proposed a three-step approach to run the economy on Islamic principles. But instead of adopting it, such methods were adopted as produced the opposite results, instead of bringing us closer to the destination.

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⁴Ditto

⁵Islamic Ideological Council of Pakistan, Islamabad, Annual Report 1980-81, Gul Awan Printing Press, Islamabad, 2016, P.99, 100

⁶Ditto, P.100

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⁸Ditto

⁹Ditto, P.102

¹⁰Ditto

¹¹Ditto

¹²Ditto, P.103

¹³Ditto

¹⁴Ditto, P.104

¹⁵Ditto

¹⁶Ditto

¹⁷Ditto, P.106

¹⁸Ditto

¹⁹Ditto, P.107

²⁰Ditto