

## Right to Liberty and Freedom of Expression in Islam

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Of all the rights and liberties, liberty of thought and expression is the most basic and valuable right for any dynamic and progressive society. To retain the creativity of a society, the right of free thinking and speech must be granted to its individuals without any reservation and discrimination.

Generally speaking, freedom of Expression and thought means that:

“Every individual has the right to express and communicate any idea that he entertains and that there should not be any curb on him in the exercise of such right by the state or any of its agencies”.(1)

Freedom in Islam is one of the most sacred rights, which gives dignity and richness to the achievements of man on this earth. Islam considers liberty to be the foundation of all human values and human dignity. It is liberty that distinguishes man from the rest of creation. The Quran affirms with great emphasis the freedom of choice granted to man. The very essence of virtue is the free choice of a right.(2)

According to Islam, the real base of an individual freedom is his full faith in Towhid, (believe in one Allah). This concept of Towhid is the real source for the freedom of man in his individual and social capacity. It provides him a strong base. “He lives and dies for Allah; he loves no one and fears no one, but for the sake of Allah. His hopes and expectations are linked with the will of Allah. His body could be made captive but his soul is completely and eternally free from all captivity. Being benevolent to fellow beings, he demands no reward from them”.(3)

The Quran has elaborated this concept in many of its ayat, like:

﴿وَمَا أَسْأَلُكُمْ عَلَيْهِ مِنْ أَجْرٍ إِنْ أَجْرِيَ إِلَّا عَلَى رَبِّ الْعَالَمِينَ﴾

“O my people! I ask to you No reward for this (Message). My reward is from The Cherisher of the World”.(4)

﴿قُلْ إِنْ صَلَاتِي وَنُسُكِي وَمَحْيَايَ وَمَمَاتِي لِلَّهِ رَبِّ الْعَالَمِينَ﴾

“Say: Truly, my prayer and my service of sacrifice. My life and my death, are (all) for Allah, The Cherisher of the World”.(5)

Influenced by the above mentioned teachings of Quran and like others a believer in Islam leads his whole life free from all fears and shackles. In no case he is ready to become the mental slave of other

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27. *Roznama Jang*, 24 February 1978.
28. *Roznama Nawa-e-waqt*, 13 January 1985.
29. Gen.K.M.Arif. op. cit., p.231.
30. Afzal Iqbal, op.cit., p. 131.
31. Criag Baxter, op. cit., p. 45.
32. Afzal Iqbal, op. cit., pp. 130-132.
33. Muhammad Waseem, *Politics and The State in Pakistan*, p. 412.
34. Hamid Khan, *8<sup>th</sup> Amendment: Constitutional and Political Crises in Pakistan*, *Wajidalis, Lahore*, 1995, p .22.
35. Muhammad Waseem, op. cit. p. 393.
36. Ibid. p.415.
37. G.W.Choudhury, op.cit,p. 181.
38. Lawrence Ziring, op.cit., pp. 500-501.
39. Mushahid Hussain, *Pakistan's Politics: Zia Years*, Progressive, Lahore, 1990,pp. 263-268.
40. Faiz Ali Chishti op.cit., p.90.
41. *Roznama Jang* 19 August 1988.

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5. Faiz Ali Chishti, *Main, Bhutto aur Zia*, Jang Publishers, Lahore, 1991, p.20.
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13. *Dawn* 8 August 1978.
14. G.W. Choudhury, *Pakistan: Transition from Military to Civilian Rule*, Scorpion England, 1988, p. 113.
15. Afzal Iqbal, *Islamisation of Pakistan*, Vanguard, Lahore, 1986, p.118
16. *Ibid.* p.116.
17. Hasan Askari Rizvi, *op. cit.*, p. 234.
18. G.W. Choudhury, *op. cit.*, pp. 35-39.
19. Shahid Javed Burki & Criag Baxter, *Pakistan Under the Military. Eleven Years of Zia ul Haq*, Westview Press, America, 1991, pp. 36-37.
20. Hafeez Malik, *Soviat American Relations with Pakistan, Iran and Afganistan*, Macmillan, Hangkong, 1987, pp.130-131.
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22. Ian Talbot, *Pakistan: A New History*, Oxford University Press, Karachi, 2012, pp. 137-39.
23. Shahid Javed Burki and Craig Baxter, *op. cit.*, p.18.
24. Gen. K.M. Arif, *op. cit.*, p.327.
25. Muhammad Waseem, *Pakistan under Martial Law, 1977-1985*, Vanguard, Lahore, 1987,p.8.
26. Afzal Iqbal, *op. cit.*, pp. 125-126.

any caretaker Prime Minister because he wanted to keep the strings in his own hand, nevertheless there were Chief Ministers in the provinces. He always met foreign leaders in privacy so that no third person knew about the nature and outcome of those meetings.(41)

Zia had a manifold complex and mysterious personality. No body knew what he was up to the next moment. His mystery was never unveiled in a period stretching to 11 years. He had the guts to do any dam thing, always remained comfortable while take any difficult and hard decision. In difficult moments he had the skill to keep cool and retain his senses. He could keep an eye on the cards for his opponents and in a light pray mood he could push them to a cover where they could not keep but to expose. In this process he without expressing any feeling and enthusiasm remained in search of an opportunity when he could turn the table while his opponents had nothing but to watch.

### **Analysis-Discussion:**

His tenure still remains significant but controversial on national and International levels. He posed himself as the champion of Islam and a public figure. He occupied a central place in the leadership of the Muslim world. But today his rule is seen in a different perspective than it was seen in his life time. He imposed Martial Law without justification and then on the pretext of accountability and introduction of Islamic order he held referendum and prolonged his rule by holding elections on non party basis. One sided accountability, sectarian basis of Islamization and nourishing of theocratic and ethnic parties were the factors which he used for eliminating his opponents and keeping himself in power for long. After the dissolution of the Soviet Union his Afghan policy has isolated the Muslim world and the single supper power has turned its guns towards Islam. Jihad is being interpreted as terrorism. The Muslim world had to pay quite a heavy price for the U.S. support which he used as a warranty for his autocratic rule.

Even when the International scenario had changed Zia showed no tolerance for democracy or any curb on his powers. He used civil and military bureaucracy as his weapons. He could not adjust with the tamed democracy under Junejo. He wanted to rule according to his wishes whereas Junejo wanted that the institutions should be controlled by the political elite. For the advancement of his aims and goals Zia always justified his strategy to use Islam for reaching his destiny. During his tenure the foreign scholars admired Zia for his anti-Soviet policy but in view of changing circumstances specially due to rise of Taliban in Afghanistan with Pakistan's support, his regime has been seen in an altogether different perspective and reference.

After a lapse of almost three decades his policy and decision, have become an open secrete which do not paint a positive picture. Generally during whole of his tenure he remained busy in search of legitimacy for his rule or using Islam as a pretext to prolong it. On the whole his tenure circled around the acute desire for keeping legitimacy and managing his survival while internal conditions related to social, economic and military factors alongwith International scenario always remained supportive for him.

thereof. The situation of Law and Order in the country had come to the worst and owing to the inadequate policy of the Prime Minister the country had to face economic chaos and crisis. Moreover the Prime Minister had neglected the process of Islamization which had been started to bring Pakistan in line with the Islamic order. In the end he reasserted his pledge to introduce Islamic order and expressed hope for a bright future of the country.(38)

The reasons as given by Zia for the dismissal of the government were based on such circumstances which were not evenly created but already prevailing before Junejo was sworn in as the Prime Minister. Bribery, bad Law and Order condition had been witnessed even during Zia Martial Law regime. As far as the change relating to negligence of the government to Islamize the country was concerned Zia had ignored the fact that the task which could not be completed by him in eight and a half years even being an all powerful ruler, how the same could be completed by Junejo in a period of only three years. The issue was lying somewhere else in fact Zia wanted to see Junejo just as a puppet in his hand while Junejo was busy in enhancing his powers as enjoyed by the Prime Minister in a parliamentary form of Government. Zia under the feelings that the Prime Minister was ignoring him and his hold on the strings was loosening, dismissed Junejo with the hope to get a better and suitable choice.(39) On 20<sup>th</sup> of July 1988 Zia announced that the general election would be held on the 16<sup>th</sup> of November instant, but well before the fixed date, on 17<sup>th</sup> August he was killed in an aircraft near Bahawalpur; and the country was once again facing the same condition of uncertainty as in July 1977 when he imposed the 3<sup>rd</sup> Martial Law in Pakistan.

Zia's period witnessed a series of contradictions. The journalists were flogged on the one hand, while on the other the press got some air to breathe. Bhutto was hanged but the judge who had acquitted Bhutto in a murder case was elevated to the position of the judge of the Supreme Court. Under his policy of Islamization, he gradually weakened the civil bureaucracy, judiciary and the political parties, the only institution which was fairly strengthened was the army while he used Islam to prolong and strengthen his personal power.

Whatever the issue Zia always went for homework and planning before any action because his first and the last aim was to keep his power base safe and sound. He had least consideration about the consequences, repercussions and complications caused by his actions thereafter. (40)

Bhutto appointed Zia as the Chief of the Army Staff in 1976 because he had succeeded in entering in his good books and winning over his trust and confidence. He always presented himself as an obedient and faithful army officer who had no familiarity with political affairs, this made Bhutto to select him as the COAS in suppression of eight Generals who were senior to him. Zia himself never trusted any one and for this reason he did not appoint a deputy till he lifted Martial Law and ceased to be the CMLA. He always feared that if appointed his deputy might overthrow him and occupy his position. In 1988 when he dissolved the Assembly, he did not appoint

On 12<sup>th</sup> August 1983 while addressing the Majlis-e-Shura he vehemently criticized the parliamentary system and said that the system was responsible for the crises faced by the country in 1977. He also knew that the people longed for the parliamentary system and his attempt to introduce the Presidential system would be strongly opposed by them, hence he inserted such amendments which retained its parliamentary features but transformed it into a presidential form of government.(35) He pleaded that by virtue of the said amendment his aim was to create a balance between the powers of Prime Minister and that of the President. Eighth amendment remained effective till 1<sup>st</sup> of April 1997, which provided not only comprehensive constitutional protection and safeguards to all his actions taken under Martial Law since its imposition but also made the President all powerful. After the grant of indemnity for all of his actions taken thereof he lifted the Martial Law on 30<sup>th</sup> of December 1985.(36)

### **The Dismissal of Junejo:**

In spite of the fact that the 1985 elections were held under the parliamentary system, Zia still wanted to keep the system under his thumb. Under the 8<sup>th</sup> amendment he kept to himself the power to nominate the Prime Minister while an effective and strong role for the President was also assured. His plea was that by virtue of the 1984 referendum, the people had empowered him to run the system in his own discretion whereas Junejo desired the complete revival of the parliamentary democracy and eager to widen his power base as the Prime Minister. The pursuit of their respective aims taking the both in opposite directions caused a considerable gap between the Prime Minister and the President. Substantial differences cropped up bringing the Afghan policy of Zia on the fore front. Junejo was for the earliest solution of Afghan problem to get rid of the negative impact caused on the country's economy by the huge influx of Afghan Muhajrin. He aimed at their earliest and peaceful dispatch to their own country; but Zia had an aim quite contrary to that. To him being Muslims it was mandatory to support Afghan Muhajrin because the Afghan war was within ambit of the concept of Jihad as imposed by the Islamic order. He opposed signing of any agreement unless there was total peace and tranquility in Afghanistan after the Mujahidin had achieved final victory. The significant reason behind his stance was that the immediate and early solution of the Afghan problem would deprive him of the western aid received on the pretext of the regional peace and solidarity. Junejo was in favour of signing the Geneva accord while Zia opposed the same; nevertheless Junejo in disregard of Zia's opposition signed the Geneva accord.(37)

On 29<sup>th</sup> of May 1988, Zia in exercise of the powers vested in him as the President under clause 58(2b) of the amended constitution of 1973 dismissed the Junejo Government and dissolved the National and Provincial Assemblies. While explaining the reasons behind his action he said that the Assembly had failed to achieve the aim for which purpose it was constituted

punishments were imposed on those who would violate the order. The government had total control on means of communication. Owing to his harsh and hard line policy Zia had never faced any strong and potential opposition. After getting the needful done Zia was hopeful for his desired positive results on the fixed date the elections were held in the country.(31) Quite a large number of voters went for polls ignoring the boycott call given by MRD. Almost 52% votes were polled, with a higher ratio in the rural areas than that of the Urban. In the elections for the National Assembly 56.82% of the total registered votes were polled. (32)

Though the election results did not meet the hope and aspiration of Zia, nevertheless the same were a source of sheer disappointment for the MRD as well. Except one of Zia's minister, his advisors and mayors of big cities lost the election against 30 seats of the National Assembly the electorate rejected such candidates who were supported by the government and elected those who were just making their entry in the politics. More than 50% of Zia's nominees as members of Majilis-e-Shura could not survive in open competition. Jamat-e-Islam put its candidates against 63 seats of the National Assembly while only 8 of them could be successful. Muslim League and Pakistan Peoples Party secured 70 and 40 seats respectively. These candidates contested the election in disregard of their party policy. In the new elected Assembly the feudals maintained their majority however, some big feudals were replaced by relatively small land holders. Zia after long deliberation and in consultation with the Pir of Pagara nominate Muhammad Khan Junejo as Prime Minister of Pakistan, who belonged to Sindh.(33)

### **The 8<sup>th</sup> Amendment and Islamization:**

General Zia wanted to introduce a parliamentary system which was to be presidential in its nature and character. After having occupied the apex position for the last 8 years, Zia could never be ready to transfer substantial power to the Prime Minister which was the utmost spirit of a standard parliamentary system. He found way to his goal by unilaterally inserting the 8<sup>th</sup> amendment in the constitution, which substantially increased the presidential powers. After the 8<sup>th</sup> amendment, the constitution 1973 retained its Parliamentary nomenclature but for practical purposes it became more of a presidential system than that of a parliamentary form of Government. He gave effect to the 8<sup>th</sup> amendment through his Presidential order no.14 issued on 2<sup>nd</sup> of March 1985.(34)

Zia had always preferred the Presidential form of government even since the imposition of Martial Law in 1977. He had expressed the same on several occasions through his speeches and statements. To his view the presidential form of Government was in consonance with the Islamic order.

persuading the people to boycott the referendum. According to the official results Zia was declared elected President for 5 years obtaining 97.71% votes. The leaders of the Movement for the Restoration of Democracy (MRD) declaimed to accept the outcome. They claimed that less than 5% of the total registered voters had voted in the referendum. Only two of political parties i.e. Jamat-e-Islami and Muslim League (Pagra group) provided their full support to the referendum and its outcome.(26)

In a country like Pakistan having 95% Muslim population and created in the name of Islam, it is hardly possible that people in good number would answer in negative, the question asked in the referendum. In fact Zia's utmost desire was to see himself an elected President behind the veil of Islam; hence the ballot paper did not contain any question regarding the merits or demerits of the government, the voter was rather asked to vote for/vote against the promulgation of the Islamic order in the country. Had he put himself as a candidate for presidency, it is more than probable that he would have lost the ballot.(27)

### **Islam and democracy:**

Addressing the Baloch sardars on 23<sup>rd</sup> of February 1979 Zia said "Allah has given us the opportunity to clean politics. Unless the society is established on healthy foundations, there would be no use of holding the elections: hence when it would be certain to get positive results, the elections would be held in the country.(28) But yielding to the constant pressure mounted by the political parties and International forums, he decided to hold general elections. After becoming President for five years and promulgation of the political parties registration act, he found himself on a sound and strong pitch. There was no risk involved in holding the general elections. In February 1985 he held elections for National and Provincial Assemblies albeit on non-party bases.(29) Though political parties demanded elections on party basis but he did not concede to the demand with the argument that election campaign launched on party basis could result in tension. Moreover, he declared that there was no concept of political parties in Islam. In a sense he equated Ayub Khan in his contempt for political parties. He believed that in the absence of the political parties the country could be run smoothly and successfully. In fact he opposed democracy and favoured autocracy which could provide him unilateral power essential for the process of Islamization of the country. He argued that if the elections were held on party basis the process of Islamization would not be possible. Infact, whatever the circumstances, he was not prepared to share power with the political parties.(30) After announcement of the election schedule, many opponents of the Zia regime were arrested while public meetings and procession were banned. Harsh and severe

mujahidin. He was of the view that if the Soviet forces were not given a tough time through Guerrilla war, they would definitely proceed further. His Afghan policy somehow had coincided with U.S. Afghan policy. The U.S. desired that the Soviets should exhaust their all resources in this war. Infact the U.S. since long, was in search of the opportunity to take the revenge of her embarrassing defeat and full out in the Vietnam war of 1960s. Zia's Afghan policy received strong support from Jamat-e-Islami, Jammiat-ul-Ulami Pakistan and senior officers of the armed forces. Though Zia provided substantial military aid to Afghan mujahidin but on external forum he always took the stance that Pakistan neither intervened in the internal affairs of any country nor she had enough resources to help Afghan mujahidin and fight against supper power like the Soviet Union.(22)

Soviet intervention in Afghanistan sabotaged the democratic process in Pakistan. Public attention was concentrated on solidarity and defence of the country; on which pretext the military government made its footing rather strong in Pakistan's politics. As consequence of this war Pakistan had to receive and accommodate a huge influx of Afghan refugees which created social, economic and defence related problems. Narcotics business flourished in the country which made Pakistan the biggest export of heroin to the U.S.

During this period Kalashnikov culture was established. The U.S. aid to Pakistan further soared Pak-Soviet relations.(23) The Islamic concept of Jihad was undermined and Pakistan's good will among the community of Nations was badly affected. Negotiations to solve Afghan problem began in June 1982 which lasted till 1988. On the 15<sup>th</sup> of April 1988, Afghanistan and Pakistan signed Geneva accord while the U.S. and the Soviet Union signed the same as International guarantors. According to Geneva accord the Soviet forces had quitted Afghanistan by February the 15<sup>th</sup> 1989.(24)

### **Islam and Referendum:**

Zia, being a non elected head of the state was eager to get him elected and become the President under the constitution. For this purpose he decided to hold a referendum on the 19<sup>th</sup> of December, 1984. The question was "Do you support the process started by General Zia-ul-Haq to bring the Laws in consonance with Holy Quran and Sunnah, and to protect the ideology of Pakistan?" It was deemed that an affirmative answer would mean to elect General Zia as the President of Pakistan for a term of five years. In the referendum Zia used Islam as shield because none of the Muslims could declare that he/she did not support the imposition of Islamic system in the country.(25) To make the referendum a success the government used all available public machinery and resources. Harsh punishments were announced for those who would be found engaged in

all powerful to nominate such person who could provide him unconditional support. The main purpose of this council was to work as an advisory body and to maintain a liaison with the public. The establishment of Majlis-e-Shura, practically, conveyed the message to the people that the process of Islamization had been started. The majlis had no substantial bearing because the final authority to decide belonged to the President.(19)

The steps taken by Zia under his Islamization policy had little substantial impact on the state and society. It was believed that the imposition of Hadood Laws would decrease the number of crimes but the said Laws become controversial in terms of their impact. Lashing of criminals in public was witnessed but in consequence of the imposition of Hadood ordinance sectarian differences cropped up and plagued the country increasing already existent political and social imbalance. Tolerance for religious differences, and variance came to the lowest ebb and Pakistan earned a bad name outside for imposition of those harsh punishments. These steps could not decrease the ratio of crimes nevertheless after inception, the crime rate lowered but for a little whole. The only beneficiary was Zia who through his Islamic slogans and steps taken for Islamization kept the people busy and satisfied and on this pretext successfully prolonged his rule.(20) Zia through his pledge for promulgation of Islamic system, a few initial steps taken in this direction attracted some support in the lower middle and middle classes of the society, which included Jamat-e-Islami and few other religions groups.

### **Islam and Afghan Policy:**

1979 witnessed a full hot weather in International relations especially that of between the super powers proved to be a blessing in disguise for Zia. He was the principal beneficiary of the scenario which helped him the most to prolong his autocratic rule. The foremost of the supporting events for Zia was the Soviet invasion of Afghanistan; which fetched him the support of the western and Islamic world alongwith the back up from the Non-Aligned Movement. The immediate gift was the substantial military and economic aid. As Pakistan since its establishment had been depending on foreign aid, hence this large scale aid had positive result on its economy and brought somewhat visible prosperity in the country. Zia named the Afghan war as "Jihad" and declared that the same would end with the final victory. He resisted against all internal and external pressure for any sort of change or revision in his Afghan policy. Pakistan is still facing the significant repercussions of Zia's Afghan policy.(21)

Zia termed the Soviet intervention in Afghanistan as a naked aggression and provided military and economic aid to the Afghan

It appears that to Zia the way capturing power had no or little significance; he was in sought of legitimacy for his rule by presenting his objectives in a somewhat peculiar way, hence his best option was the introduction of Islamic system to get, his rule, legitimized by the public.

Through his statements he aimed to ensure the public that the main objective behind his capture of power was the imposition of the Islamic system in the country. For time and again, in his speeches, he said that Pakistan had gone astray from its Islamic foundation and the real cause behind its problems was the long subjugation of its political and social institutions by the Britain colonialism which had affected its legal system the most because there was a huge differences in Western and Islamic legal systems. Islamic legal system having a spiritual base, is derived from Quran and Sunnah, hence an Islamic society could be evolved only by imposing Islamic legal order.(15)

Bhutto government had already taken several steps to make the legal system consonant with the Islamic Laws. For instance, under the 1973 constitution, Islam was declared as the state religion and a council of Islamic ideology was constituted however, its terms of reference were limited and its recommendations were not incorporated. To empower the said council, Zia not only reconstituted it but also increased its membership to make it effective. (16)

In pursuit of his policy of Islamization Zia turned his attention towards the sectors of Law, culture, education and economy. On February the 10<sup>th</sup> 1979 Zia issued a presidential order to establish Benches of Sharia Court in the country. This Presidential order empowered the High Courts to declare any such law or act of the Governments as null and void, which was in contravention with the Islamic laws on petition/request/application from any citizen, any provincial government or federal government of Pakistan.(17)

The function of the council was to review the laws and make recommendation to make them according to Quran and Sunnah. The recommendations made by the council included fixation of prayers, interval during working hours, promulgation of Hadood Laws, interest free banking, Nazim-e-Zakat, appointment of Nazimeen-e-Salat, to make the teaching of Islamic and Pakistan Studies as compulsory subjects on B.A/BS.c level, elimination of bribery, introduction of the Laws of Qisas, Diyet, Evidence, and Shufa. On the whole council reviewed 235 laws and recommended amendments in so laws. While 66 laws were referred to the federal Sharia court its perusal and consideration. (18) To maintain a liaison between the government and the public, a federal majlis-e-shura was nominated by Zia to keep the same operative till the creation of the new Assembly. Zia was

promulgated the Provisional Constitutional Order (PCO) under which the judges had to take fresh oath and were deprived of any such supervisory power for which Anwar-ul-Haq had dreamed while signing the judgment in Nusrat Bhutto case. This judgment had a very serious and significant repercussion on the Political scenario no lesser than the Munir judgment in Maluvi Tamizuddin Khan case (1954-1955). This judgment gave a new dimension to the ongoing political process. Majority of the political parties which were demanding fresh polls since the imposition of Martial Law, turned to be the supporter of the process of accountability under Martial Law before holding any elections. This demand attracted Zia for strengthening, prolonging his autocratic rule and to deal with Z.A. Bhutto and his PPP. He had the opportunity to eliminate these opponents hence to make the accountability process broad base and vigorous, he constituted eleven special tribunals for the purpose.

This accountability process began with Bhutto and the rest of the PPP leadership. A number of cases were proposed against Bhutto but the most significant of these cases turned to be the Ahmad Raza Qausari murder case which ended up with the execution of Bhutto on 4<sup>th</sup> of April 1979 in Rawalpindi jail.(11)

Zia spent initial years in efforts to eliminate Bhutto and his party from the political scene. After his execution he felt much relieved of Bhutto phenomena. He strengthened his power base and was successful to give the impression that he was a man of strong nerves to resist any kind of pressure.(12)

### **Zia and Islamization :**

During 1977 movement, the slogan for introduction of Nizam-e-Mustafa become much popular and gained a significant support. Keeping in view the situation he owned this popular slogan and declared to transform the political, social and administrative structures of the state in accordance with the Islamic norms and principles which subsequently became his base for attracting and gaining popular support.(13)

For legitimizing his rule, he started giving political interpretations of Islam and its system. Under the support of a religious circle having some of credibility, he launched a campaign to give new interpretation to the concepts like democracy, Islam and power. In one of his interviews he said “the Muslims and especially the Pakistani Muslims behind in one God, one Prophet, one Book and one ruler. In Islam it is not important that how someone had captured the power. Under the system it is important that ruler must be a practicing Muslim. If he fulfills the said condition, the people obey him otherwise they oust him.(14)