

Governing Islam in Pakistan

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On 23 March 1956, nearly 9 years after independence, Pakistan gave itself a new constitution proclaiming itself an “Islamic Republic”. Whilst today, other Islamic Republics exist - Iran, Afghanistan, and Mauretania – Pakistan was the first to adopt this title and the first to engage with the meaning of being an “Islamic Republic”. In the study of Pakistan, the constitutional and legal challenge in determining the relationship between state and religion is a major research focus. The definition and regulation of this relationship has implications for citizenship, judgements in legal cases, for minorities’ and women’s issues. Constitutional provisions and laws and ordinances such as the *Muslim Family Law Ordinance* (1961) or the *Hudood Ordinances* (1979), are often considered the indicators of this struggle. Such discussions are framed by the ‘Islamisation-of-Pakistan’ narrative, often understood as the state’s intentional promotion of orthodoxy and a particular interpretation of Islam to legitimise, justify and cement its authority through the use of Islam. With the state as the decision-maker on the one side, citizens are on the other side, either protesting against policies because they are too restrictive or protesting against the state for not being Islamic enough. In this scenario ‘the state’ becomes a black box, a monolithic actor and the complex relationships within and between state institutions, their contestations and discussions remain in the shadow. While the *Guardian Council* in Iran (e.g. Samii, 2001) or Saudi Arabia’s Consultative Council (Dekmejian, 1998) have received some scholarly attention, this is not the case for similar institutions in Pakistan¹.

In my PhD project at the Berlin Graduate School Muslim Cultures and Societies (Freie Universität Berlin) I examine three constitutional bodies that participate in the negotiation and coordination of an understanding of Islam at the official state level. These are first, the foundation, institutionalisation and the current role of the Council for Islamic Ideology, second, the Federal Shariat Court and, third, the Islamic Research Institute. Analysing these three constitutional bodies allows a foregrounding of the power structures involved in the governance of religion in Pakistan in terms of regulation, institutionalisation and bureaucratisation. Instead of examining the interpretation of Islam as such, i.e. content and meaning of ‘injunctions of Islam’, ‘principles of Quran and Sunnah’ and other terms used to refer to a distinct set of values and ethics, I focus on analysing the structures and performances of the particular institutions involved in the governance of Islam. The project thus addresses questions such as: How are the

¹ Jamal Malik’s inquiry in the various institutions that took part in the construction of an official understanding of Islam provides an overview of their activism (1989). Together with Khalid Masud’s study of the Islamic research institute (1976) it is one of the few studies of constitutional bodies dealing with religious issues in Pakistan.

various interpretations of Islam in Pakistan administered and operated on a bureaucratic level? And what are the factors influencing this type of governance? In this short article I will focus my attention on drawing out some of the particularities and the role the *Council of Islamic Ideology* (hereafter: Council) in Pakistan.

Appointed by the President of Pakistan, the Council members possess 'knowledge of the principles and philosophy of Islam' or have a grasp of the current political, economic and administrative problems of Pakistan (Constitution of Pakistan, 1973, Art. 228). The Council provides expert advice on the conformity of laws with 'the Injunctions of Islam' to the national and provincial assemblies, the President of Pakistan and/or the governors of the provinces². These recommendations are purely advisory. In addition, the Council can issue general recommendations to the assemblies as to how the state can assist Muslim citizens to live their lives according to the principles and concepts of Islam. Like the supra-national institutions of the European Union, the Council of Islamic Ideology had to carve out its space of action in the already existing institutional structure and, without any predecessor; it had to find means to turn the constitutional provisions into a functioning organisation with fixed practices (cf. Stone Sweet, 2001: 2). The foundation of the Council in 1962 (established as Advisory Council for Islamic Ideology) also altered existing power relations between state agencies and facilitated the formation of new networks of cooperation and competition. Soon after, the Council started to shape its own development in greater depth, especially in phases with active members and chairmen. Over time, the administrative support structure became more comprehensive. This was particularly visible when the Council set up its own research wing and library in the 1980s that allowed it freedom from dependency on other state bodies. Despite this institutionalisation, however, the Council has been used by other state structures and actors for their own purposes. And it is the aim of this study to illustrate these complex relationships and to point out the factors shaping – within and outside of the Council and often taking place in unpredictable ways – the institutional changes of the Council. With its presence and role cemented in Pakistan's constitution, the Council, however, cannot simply be seen as merely a tool of the government, without any institutional life of its own. Rather the Council can (and does) chose to support and legitimise, but also contest and contradict government decisions.

Pakistan's institutional landscape was disrupted in 1980 when a Presidential Ordinance issued by President Zia ul-Haq amended the constitution of 1973 and established the *Federal Shariat Court*. The *Federal Shariat Court* reviews whether laws are in accordance with the injunction of Islam and acts as a court of appeals concerning criminal court cases relating to Hudood punishments. The *Hudood Ordinances* were promulgated by Zia ul-Haq in 1979 and introduced punishments proscribed in the Quran for extramarital sex, false accusation of extramarital sex, theft and consumption of alcohol. Unlike recommendations by

² Pakistan's constitution provides that "All laws shall be brought in conformity with the Injunctions of Islam as laid down in the Holy Quran and Sunnah [...] and no law shall be enacted which is repugnant to such Injunctions" (Constitution of Pakistan, 1973, Art. 227 §1)

the Council, the judgments of the *Federal Shariat Court* are binding, although they can be appealed before the *Shariat Appellate Bench* at the Supreme Court. The *Federal Shariat Court*, then, not only modified the institutional environment, but it also changed expectations towards the Council. Staffed with High and Supreme Court judges and ulama judges, the *Federal Shariat Court's* legal expertise is considered to overshadow that of the Council. As Mary Douglas (1986) points out, to maintain its claim to legitimacy, an institution has to demonstrate that it fits and can adapt to new environments. Even though still active in the legal realm, since 1979 the Council has tried to assume a greater role in another sphere, namely of norm setting and social commentary.

Ilhan Niaz, studying the culture of power and governance in Pakistan, has suggested that examining the ethos, culture and history of the state apparatus and the actual structures through which power has been exercised is instrumental to understand the changes Pakistan has gone through (2011:8; 10). Applying this to my case study, official records like government reports, Bills and Acts, Gazette Notifications, case files, court judgements and their commentaries as well as the regularly published Council reports and publications, in short, documents that provide information on the formal institutionalisation of the Council, were consulted. These are complemented with observations and personal interviews with (former) Council members and staff and are used to construct a political ethnography of the constitutional bodies that participate in the governance of Islam in Pakistan. This methodology makes it possible to divert attention from the visible manifestation of Islamisation (Lau, 2006: 1), i.e. laws and ordinances, to the debates and negotiations that frame the making and implementation of these laws.

An analysis of debates, within the Council, between the Council and other state institutions, as well as vis-à-vis the public, foregrounds the areas of governance where revision and criticism is or is not possible and where silences exist (cf. Zaman, 2012). The administration and regulation of these new and old sites of contestation and criticism is what the state is interested in to expand its influence, but also to prevent non-state actors from developing counter-narratives.

The visible impact of the Council is questionable. Hardly any of its recommendations and draft laws are considered by parliament. However, the Council has become part of the state's effort at 'world-making' to create an 'authentic' Pakistani culture that is 'Islamic'.

Apart from its advisory function, the Council provides a forum for representatives from diverse educational and doctrinal backgrounds to meet and to network. Membership allows to establish close ties with government representatives, this informal contact is not only beneficial for Council members who gain access to privileged knowledge, but it also gives the government opportunities to sound out the opinions and reactions to policies of various large interest groups. This is especially useful as various Council members are also representatives of *madrasa* boards, religious political parties or *ulama* associations. To evaluate the

activism of the Council it is thus crucial to look beyond its constitutional function and examine the entanglements, debates and contestations with various state institutions in the light of their effort to regulate religion to participate in the world-making of the state.

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