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# **Constitutional Safeguards of Minorities Right in the Constitution of Pakistan 1973**

[Constitutional Safeguards -1973]

☆ Muhammad Arslan Farooq

☆☆ Dr.Muhammad Afzal Sajid

## **ABSTRACT**

Minorities are provided with hands on participation in the legislative, administrative and judicial organs of the state. The constitution of Pakistan provides shadow to the minorities rights similarly the minorities were safeguarded during the era of Holy Prophet (PBUH) in the state of Madina. Minorities enjoys equalities, freedom, justice, right to own the property and due share in employments and participation in all the walks of life.

**Key Words:** Minorities, Islam, Pakistan, Constitution, Participation

## **Introduction:**

Islam is a divine religion and state of Pakistan was created on the name of Islam. The state of Pakistan is given the name as Islamic Republic of Pakistan. <sup>(1)</sup>In this state not only Muslims are living but non-Muslims are living as well. These non-Muslims are called minorities. They are living here according to their own customs and norms. Although it is very clearly mentioned in the Article 2 of constitution of Pakistan that Islam shall be the state religion of Pakistan. <sup>(2)</sup> Being a divine religion Islam gave rights to minorities as well in all the walks of life as it is described in article 3 of the constitution of Pakistan. <sup>(3)</sup> As Islam give stress on fortification of the religious subgroups, consequently the Constitution of Pakistan 1973, like the Constitution of Pakistan 1956 and 1962, offers not only the fundamental rights as a citizen to the non-Muslims in Pakistan but also guarantees

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<sup>(1)</sup> Article 1 Pakistan shall be Federal Republic to be known as the Islamic Republic of Pakistan, hereinafter referred to as Pakistan.

<sup>(2)</sup> Article 2 Islam shall be the State religion of Pakistan.

<sup>(3)</sup> The State shall ensure the elimination of all forms of exploitation and the gradual fulfilment of the fundamental principle, from each according to his ability to each according to his work.

minorities' rights.<sup>(4)</sup> In this way, the religious minorities, in the Constitution of Pakistan have dual rights. Founder of Pakistan Muhammad Ali Jinnah laid a great stress on the rights of minorities. Mr. Jinnah himself gave the guarantee to minorities to live in the state according to their norms. He assured all of the non-Muslims to live in Pakistan liberally according to their own beliefs. He, along with all other safeguards, also assured to the Hindus to go to the place of worship without restrictions to worship as per their customs. But it is important to mention that it is the basic obligation of every citizen to follow the law of the state.<sup>(5)</sup>

## 2. Rights of Religious Minorities in Islam

2.1. The saying of Prophet Muhammad (ﷺ) him that how much minorities rights have protection in an Islamic state. This is not mere threat but was principal as a law in the Islamic state throughout the Holy Prophet's (ﷺ) life. This practice remained in progress even after His (ﷺ) death and because Pakistan was established on the basis of Islam so it has been said in the constitution of Pakistan that all the minorities have all the rights to live in a Islamic state keeping in mind the boundaries of the state in which they are living.

2.2. History of Islam is full with the examples when justice was carried out in favor of non-Muslim against a Muslim. Because in Islam everyone is equal and this spirit also depicts in the constitution of Pakistan<sup>(6)</sup>.

2.3. Being an Islamic state security of a person is guaranteed in the constitution.<sup>(7)</sup> once Holy Prophet Muhammad (ﷺ) in his address in which he (ﷺ) was telling about the rights of minorities which is narrated in a famous Hadith book that in an Islamic state, the murderer of a person belonging to religious minority will never be able to smell fragrance of the heaven, while fragrance of the heaven is smelt at a travelling distance of forty years.<sup>(8)</sup> So the Day of Judgment, a person who has killed someone who belongs to minorities that murderer will never go to paradise. Holy Prophet said that it is not only a murder but a great sin as well. Such a murderer will be kept far away from the heaven

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<sup>(4)</sup> To enjoy the protection of law and to be treated in accordance with law is the inalienable right of every citizen. Wherever he may be, and of every other person for the time being within Pakistan.

<sup>(5)</sup> Article 5 (1) Loyalty to the State is the basic duty of every citizen.

(2) Obedience to the Constitution and law is the [inviolable] obligation of every citizen wherever he may be and of every other person for the time being within Pakistan.

<sup>(6)</sup> Article 4: (1) To enjoy the protection of law and to be treated in accordance with law is the inalienable right of every citizen. Wherever he may be, and of every other person for the time being within Pakistan.

<sup>(7)</sup> Article 9 : No person shall be deprived of life or liberty save in accordance with law.

<sup>(8)</sup> Bukhari, Muhammad Bin Ismail,(1422 A.H), Al-Sahih,Dar al-Toq al-Nijat, Beirut 3:1155, #2995

and the Holy Prophet (Peace Be upon Him) will deal the case himself on the Day of Judgment before Allah Almighty.

2.4. Whenever any group of non-Muslims comes to meet Prophet Muhammad (ﷺ) he (ﷺ) himself tries to serve them. One a delegation of Christians came from Habsha, Holy Prophet (ﷺ) make an arrangement of their stay in Masjid-e-Nabvi and he (Peace Be Upon Him) took charge of their house-keeping himself. Once a delegation of 14 members of the Christians of Nijran, came to Medina. They also were quartered in Masjid-e-Nabvi and the Christians of the delegation were allowed to perform prayer according to their faith. So those Christians used to perform prayers at a side in Masjid-e-Nabvi in the direction of the East.<sup>(9)</sup>

2.5. Imam Abu Yousuf, in his famous book “*Kitab al Khiraj*” (187) writes that during period of the Prophet and Khilafat e Rashida, Penal and civil both Laws provided equal status to the Muslims and the non-Muslim minorities. Hazrat Ali said that the non-Muslims’ blood amongst his subjects is equal to the Muslims.<sup>(10)</sup> He laid stress that their property must be protected as of the Muslims’ property.<sup>(11)</sup> In an Islamic state, a non-Muslim is fully authorized to lead his private life freely. It is mentioned that nobody is allowed to enter others’ homes without permission.<sup>(12)</sup> Same right is given to a non-Muslim in the Islamic society.<sup>(13)</sup>

2.6. Minorities cannot be forced to accept Islam. In the Holy Quran, Allah Almighty strictly forbids the force conversion. The Holy Prophet (ﷺ) is directed by Allah to preach the people with wise and nice pieces of advice so that they may adopt right direction to God<sup>(14)</sup>. The dogmatic policy of Islam is to let the non-Muslims free to profess their religion. An Islamic state should not interfere in their faith and religious activities rather it is duty of the state to set their personal laws according to their faith and religion. Islamic law will not be implemented on the non-Muslims. It is also duty of the state to render respect and protection to their religious places. They are free to perform their religious activities within their boundaries. They are bound to respect the Islamic customs and supposed not to interfere in the Islamic rule.

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<sup>(9)</sup> Ibn Sa’d, Muhammad b. Sa’d, (2009). *Al-Tabqaat al-Kubra*, Maqtabah al-Khanje, al-Qahira, Egypt. 1:357.

<sup>(10)</sup> Bayhaqi, Abu Bakr, Ahmad b. Husayn b. Ali, (2013). *Al-Sunnan Al Kubra*, Dar 'Aalim al-Kutub, Riyadh, Sa'udi, Arabia. 8:34.

<sup>(11)</sup> Ibn-e-Qadama, Abd Allah b. Ahmad, (1405), *Almughani*, Dar al-fikr, Beirut, Lebanon. 9:289.

<sup>(12)</sup> *Al-Quran*, Al-Noor, 24:27-28

<sup>(13)</sup> Article 9: No person shall be deprived of life or liberty save in accordance with law.

<sup>(14)</sup> Surah Al-Baqara, 2:256, Surah Al-Nahl, 16:125.

2.7. In respect of the occupation, the non-Muslims in an Islamic state are free to adopt any type of occupation like that of the Muslims.<sup>(15)</sup> The Muslims are neither forbidden to employ them on wages nor to be employee to them. Not even a single indication is found in Islam to keep away the non-Muslims on the basis of the profession. In business they are bound to pay taxes as the Muslims pay. But they will not pay any special Tax.<sup>(16)</sup>

2.8. As the Islamic Bait tul Maal is responsible to pledge a distressed, disabled, old aged poor citizen, similarly it is also responsible to pledge a non-Muslim distressed, disabled, old aged poor citizen. Such deeds of kindness by the Muslims water the plants of love in the hearts of the Non-Muslims; these conducts make a man great in front of Allah because all of His creatures are dear to Him. The deeds of virtue never go unrewarded.

2.9. The Holy Quran, the Holy Prophet (ﷺ) and the four Caliphs, all threw light on rights of the religious minorities. They left teachings and set examples to provide respect and protection to the minorities' rights. This is the reason that after passing hundreds of years, the non-Muslims in an Islamic state are loved and cared. They are considered part and parcel of the state. Their rights are safeguarded by including in the constitutions as well.

2.10. Since the birth of Pakistan, its religious minorities are being rendered rights. Whenever the Constitution of Pakistan is framed, religious minorities are not ignored. Being a citizen, they are made part and parcel of every policy.

### **3. The Quaid and Minorities' Rights**

3.1. Beneficent of the nation, Muhammad Ali Jinnah is guardian of the minorities in Pakistan. He always laid stress on rights of the minorities. He was a lot conscious for their protection. He focused on this aspect that religious minorities are equal native and Pakistani.

#### **Lahore Resolution:**

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<sup>(15)</sup> Article 18: Subject to such qualifications, if any, as may be prescribed by law, every citizen shall have the right to enter upon any lawful profession or occupation, and to conduct any lawful trade or business: Provided that nothing in this Article shall prevent: (a) the regulation of any trade or profession by a licensing system; or (b) the regulation of trade, commerce or industry in the interest of free competition therein.

<sup>(16)</sup> Article 21: No person shall be compelled to pay any special tax the proceeds of which are to be spent on the propagation or maintenance of any religion other than his own.

“That adequate, effective and mandatory safeguard should be specifically provided in the constitution for minorities in these units and in regions for the protection of their religious, cultural, economic, political, administrative and other rights and interests in constitution with them and in other parts of India where the Musalman are in a minority adequate-effective and mandatory safeguard shall be specifically provided in the constitution for them and other minorities for the protection of their religious, cultural, economic, political, administrative and other rights and interests in consultation with them”<sup>(17)</sup>

3.2. He further assured that they are equal citizens of Pakistan without any discrimination on the basis of religion or caste. On February, 1948 through broadcast talk to the masses of the America on Pakistan, Mr. Jinnah addressed:

“In any case Pakistan is not going to be a theocratic State to be ruled by priests with a divine mission. We have many non-Muslims, Hindus, Christians, and Parsis but they are all Pakistanis. They will enjoy the same rights and privileges as any other citizens and will play their rightful part in the affairs of Pakistan.”

3.3. The Quaid, Muhammad Ali Jinnah rendered freedom of worship to the Hindus and all other religious minorities in Pakistan. They may attend their worship places freely according to their respective religions. On August 11, 1947 during his Presidential address to the Constituent Assembly of Pakistan, Mr. Jinnah said,

“You are free; you are free to go to your temples. You are free to go to your mosques or to any other places of worship in this State of Pakistan. You may belong to any religion, caste or creed --that has nothing to do with the business of the State”<sup>(18)</sup>

#### **4. The Constitution of Pakistan, 1973**

4.1. The Constitution of Pakistan, 1973 was passed by the National Assembly on April 10, 1973. This Constitution was authenticated for publication by the President of Assembly on April 12, 1973. It reserves fundamental rights of the religious minorities. Hindus are the largest religious minority in Pakistan. Their rights are safeguarded by the Constitution. In Preamble, it is added:

“Wherein adequate provisions shall be made for the minorities freely to profess and practice their religions and develop their culture,... Wherein

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<sup>(17)</sup> Sarwar, Kh. Mansoor, (2009). *Terk To Pakistan*. Institute of Pakistan Historical Research, Izharsons Printers, 9- Rattigan Road Lahore, pp 271-272.

<sup>(18)</sup> Jinnah, M.Ali. (n.d). *speech as Governor General of Pakistan 1947-1948*, Karachi, Karachi Pakistan Publication. pp. 09.

adequate provision shall be made to safeguard the legitimate interests of minorities and backward and depressed classes;”

#### **4.1.1. Analysis**

The Preamble of 1973 Constitution is actually an Objectives Resolution passed by the first Constitutional Assembly of Pakistan in 1949 which was inserted as preamble of the Constitution 1956 and 1962. It provides safeguards regarding religion and the law to the Hindus in Pakistan. Their legal interests are fully protected Under the Objective Resolution This is done to render an honorable position to the Hindus and all other religious minorities in Pakistan. This enables them to promote national integrity. Thus they can attain prosperous and independent lives in their homeland. Such type of elements props up minorities’ spirit to lend their hands in the progress and development of their own Pakistan. It up holds their fortitude to be a Pakistani and part and parcel of Pakistan.

#### **4.2. Articles of Constitution, 1973, related to the Rights of the Hindu Community in Pakistan:**

Following are the Articles of Constitution, 1973 which provide constitutional fundamental safeguards to the Hindu Community in Pakistan:

##### **4.2.1. The Objectives Resolution and Minority Rights**

Article 2-A of the Constitution of Pakistan 1973 deals with minorities’ rights and religious freedom.<sup>(19)</sup>

4.2.1.1. First Constituent Assembly of Pakistan passed a Resolution in March 1949 called Objectives Resolution. The same was made preamble of 1956 Constitution. This was also adopted by the Constitution of Pakistan 1962. It was again added in the interim Constitution 1972 and the present Constitution 1973. On several occasions in the superior Courts of Pakistan, the Objectives Resolution has been discussed.

4.2.1.2. According to Article 2-A, the Hindu citizens of Pakistan are free to live in as per their religion. They can worship in the temples freely and celebrate their festivals in Pakistan. This is why Government of Pakistan provides them fool proof security at their special religious occasions. They celebrate their festivals openly. The police personnel are deputed for their security during the functions and celebrations. Even official high ups of the administration also participate in their celebrations to share their pleasures. They also wish and encourage them on occasion of their happiness.

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<sup>(19)</sup> Article 2-A “The Objectives Resolution to form part of substantive provisions: The principles and provisions set out in the Objectives Resolution reproduces in the Annex are hereby made substantive part of the Constitution and shall have effect accordingly”.

Media of Pakistan also broadcast the coverage of the festivals. Whole of the nation enjoy Hindu festivals by watching on Television or in the newspapers. The Muslims, Christians and all other Pakistani communities also wish the events to their Hindu friends and colleagues when they watch or read news of the event. This is a good sign of the national integrity.

### **4.2.2. Religious Freedom**

4.2.2.1. Article 20 of the Constitution of Pakistan 1973 deals with religious freedom of the non-Muslims in Pakistan.<sup>(20)</sup>

#### **Analysis:**

4.2.2.2. According to this Article, every citizen belonging to the Hindu community in Pakistan has his constitutional right to declare himself a Hindu anywhere. He is free to confess his religion. There is no any restriction for any Hindu to worship in the temples or at their homes. They are free to perform their religious activities according to their rituals. They are also free to preach and educate their community, religiously. No one is authorized to prevent them to propagate their religion. But they are bound to observe three important restrictions namely Laws, 'Public Order' and Morality. Although, no religion in the world preaches immorality yet any activity in the name of religion is found immoral, as, for instance, where it allows indecent exposures of human body or its practice leads to public disorder, the Legislature may step to regulate its profession, practice and propagation. They have right to establish their religious institutions like temples, Gurukuls, Path-Shalaas, Aashrams etc. Mostly, temples are constructed in a specific style having hexagonal or octagonal domes.

4.2.2.3. In Lahore, the Hindu community celebrates its religious festival freely. The government of the Punjab provides them security. Official high ups also participate in their functions on their invitation. The community is also facilitated by Evacuee Trust Property Board at Krishna Mandir on the occasion of the festivals. On bank of the Ravi River, even till 1980s, the Hindus have been celebrating their festivals like Basant Punchamai, Besakhi mela etc. They also had a Shamshan Ghaat there at Gao-Shala. They had been cremating the dead bodies there independently.

### **4.2.3. Safeguards against taxation**

4.2.3.1. Article 21 of the Constitution of Pakistan 1973 deals with safeguards against taxation for purposes of any particular religion and says:

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<sup>(20)</sup> Article 20 "Freedom to profess religion and to manage religious institutions: subject to law, public order and be no compulsion in morality every citizen shall have the right to profess, practice and propagate his religion; and every religious denomination and every sect thereof shall have the right to establish, maintain and manage its religious institutions."

“No person shall be compelled to pay any special tax the proceeds of which are to be spent on the propagation or maintenance of any religion other than his own”.

#### 4.2.4. Safeguards as to religious educational institutions

4.2.4.1. Article 22 of the Constitution of Pakistan 1973 deals with safeguards as to religious educational institutions.<sup>(21)</sup>

#### Analysis:

4.2.4.2. Pakistani Hindu Community has a Constitutional right to establish its educational institutions and provide for its members religious instructions in these institutions, provided:

- the Institution is wholly maintained by the Community; and
- No pupil belonging to different Community and attending such an Institution is required to receive religious instructions or take part in religious ceremony or attend any religious worship (*Puja-Paath*).

4.2.4.3. If, for instance, an Institute is wholly upheld by the Hindu Civic, it may provide religious education in Hinduism for its own education. The Institution may, however, make provision for education of Muslim pupils in their own religion i.e. Islam. If an educational Institution receives aid from public revenues, it cannot refuse admission to a student merely on the ground of his religion. It may, however, regulate the admission on the ground of other factors, for instance, merits or residence.

4.2.4.4. In some areas of Pakistan, the Hindus have to face problem in admissions especially in remote and backward areas. For example, in the year 2012, in District Layyah (Punjab), Bakhtu Ram and family faced problem for their children’s education in context to socio-religion aspects. The teachers’ behavior with the Hindu students at school was peculiar. At Government School Chak No. 162/TDA, District Layyah the teacher forced them to change names of their children from Hindi to Islamic

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<sup>(21)</sup> “No person attending any instruction, or take part in any religious ceremony, or attend religious worship, if such instruction, ceremony or worship relates to a religion other than his own.

- In respect of any religious institution, there shall be no discrimination against any community in the granting of exemption or concession in relation to taxation.
- Subject to law:
  - no religious community or denomination shall be prevented from providing religious instruction for pupils of that community or denomination in any educational institution maintained wholly by that community or denomination; and
  - no citizen shall be denied admission to any educational institution receiving aid from public revenues on the ground only of race, religion, caste or place of birth.
  - Nothing in this Article shall prevent any public authority from making provision for the advancement of any socially or educationally backward class of citizens”.

names. When the Hindu leaders approached EDO (Education), he took steps and said to the school teacher to stop such malpractice. Members of the said Hindu family were so depressed and scared by the behavior that they discontinued education of their children.

#### **4.2.5. Safeguard against discrimination in services**

4.2.5.1. Article 27 of the Constitution of Pakistan 1973 deals with Safeguard against discrimination in services.<sup>(22)</sup>

#### **Analysis:**

4.2.5.2. This Article of Constitution of Pakistan 1973 provides protection in services to a Pakistani citizen belonging to Hindu Community. If a citizen is otherwise qualified for appointment in the service of Pakistan, he / she cannot be refused appointment merely on the ground of his race, religion, caste, sex, residence, or place of birth. But it is necessary for the appointing authority to specify qualifications and all other criteria prescribed by the service rules for recruitment to the Government service and formulate conditions for recruitment. It is generally observed that the Hindus in Pakistan compete the other candidates either on open merit or minority quota i.e. 5%. They are selected for services. There are many examples in Pakistan which show that the Hindu candidates are working in Government services as officials or officers. They have not only been selected in minority quota but also on open merit. For example, in the year 2016, during recruitment of the Pharmacists (BS-17) in health department, Government of the Punjab, a resident of Rahim Yar Khan Mr. Punu Ram s/o Moda Ram has been selected through Punjab Public Service Commission on open merit and Mr. Imran Akhtar s/o Pervez Akhtar from Bahawalpur on minority quota. Both of the officers have been selected in the same list. They are Pakistani Hindus and performing their assignments respectfully at their places of posting. Mr. Ameet Kumar, a local Hindu of Lahore was selected as Junior Executive in September, 2015 in National Database & Registration Authority (NDRA). The official was selected against the minority quota.

#### **4.2.6. Preservation of language, script and culture**

4.2.6.1. Article 28 of the Constitution of Pakistan 1973 deals with preservation of language, script and culture.<sup>(23)</sup>

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<sup>(22)</sup> Article 27: "No citizen otherwise qualified for appointment in the service of Pakistan shall be discriminated against in respect of any such appointment on the ground only of race, religion, caste, sex, residence or place of birth."

<sup>(23)</sup> Article 28 of the constitution says that "Subject to Article 251 any section of citizens has a distinct language, script or culture shall have the right to preserve and promote the same and subject to law, establish institutions for that purpose."

**Analysis:**

4.2.6.2. As per article 251 (1), although the national language is Urdu yet every citizen in the country is free to use any language. No one makes others bound only to Urdu or some other language. The constitution of Pakistan 1973 also provides protection to the Hindus to adopt Hindi, Sindhi, Punjabi, Gujrati or any other language. They can speak in any language according to their culture. Even they have right to promote their culture too. They are fully authorized to establish their own institutions to promote their language, script or culture.

4.2.6.3. Presently, in Pakistan the Hindus residing in different areas have different mother tongues and cultures. In Lahore, the local Hindus speak in Punjabi, people migrated from Sind speak in Sindhi and people settled herein from South Punjab use Urdu or Siraiki. Similarly, citizens migrated from Balochistan and other parts of the country use their own languages and live in according to their cultures. In spite of this diversity, they all render importance, respect and regard to their national language Urdu and national culture. They always perform all of their activities while keeping the Islamic values in mind. For example, when Azaan rings, they stop their musical instruments even being played during the *Puja* (prayer). They consider it their moral duty to do so.

**4.2.7. Protection of minorities**

4.2.7.1. Article 36 of the Constitution of Pakistan 1973 deals with protection of minorities.<sup>(24)</sup>

**Analysis:**

4.2.7.2. This article of the constitution provides protection to the legitimate rights and interests of the minorities regarding their representation and participation in different aspects of life in their homeland Pakistan. Those are mainly:

- Administration of Social, Economic and Political Justice
- Local Council Elections---Protection to minorities
- General Elections--- Protection to minorities

4.2.7.3. The main focus of the objectives of Fundamental Rights given in the Constitution is on administration of Social, Economic and Political Justice. Article 36 has made duty of the state to protect legitimate rights of the Hindus by ensuring their representation in the Federal and Provincial Services. Their representation in the said services is necessary for the national integration.

4.2.7.4. Qualification prescribed for candidates for the Local Council Elections are not restricted to the Muslims alone and those are general and while requiring adequate

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<sup>(24)</sup> Article 36 “The State shall safeguard the legitimate rights and interests of minorities, including their due representation in the Federal and Provincial services.”

knowledge of Islam from the Muslim candidates the same has created exception for non-Muslim as in S. 14(d) of Punjab Local Government elections Ordinance, 2000, which is to the effect that provided that these qualifications shall not apply to a person who is a non-Muslim, but such a person shall have a good reputation. Provision primarily is aimed at safeguarding the interests of minorities in a Muslim majority country, because otherwise they might not get a chance to be selected. Such provision of law did not mean that a non-Muslim could not contest for other seats which had not been specified in law as Muslim seats. Such being measure cannot be interpreted the disadvantage of the non-Muslims.

4.2.7.5. As there is only one Hindu MPA in the Punjab Assembly, so it is difficult for the Hindus of the whole Punjab to have coordination with him. Therefore they may approach member of their locality easily. It is also generally observed that they are refused by the Muslim members and asked to approach their minority members. In observation of such circumstances, it is necessary to provide dual right of the vote to the minorities.

#### **4.2.8. Promotion of social justice and eradication of social evils**

4.2.8.1. Article 37 of the Constitution of Pakistan 1973 deals with Promotion of social justice and eradication of social evils and says:

“The State shall prevent the consumption of alcoholic liquor otherwise than for medicinal and, in the case of non-Muslims, religious purposes.”

#### **Analysis:**

4.2.8.2. The constitution of Pakistan permits the non-Muslims to use alcoholic liquors if they are advised by a physician in case of the life threat. All kinds of narcotics and alcoholic liquors are strictly prohibited in Hinduism. It is considered a great sin which drags the humans towards hell. In Bhagwatam Puran (Canto-1, Chapter 17, text 38 & 41), it is commanded to avoid from the use of alcoholic liquor.

“Suut Goswami said: Maharaja Prikshit, thus being petitioned by the personality of Kal Yug (Age of sinful activities), gave him permission to reside in places where gambling, drinking, prostitution and animal slaughter were performed.”<sup>(25)</sup>

4.2.8.3. Abhay Charan Bhaktivedant Swami Prabhupada, a great scholar and spiritual master writes in purport of the above said text “it is duty of the all executive heads of states to see that the principles of religion, namely austerity, cleanliness, mercy

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<sup>(25)</sup> Shrimad Bhagvatam, (n.d), Canto-1, Chapter 17, text 38

(2) Obedience to the Constitution and law is the [inviolable] obligation of every citizen wherever he may be and of every other person for the time being within Pakistan.

and truthfulness, are established in the state, and that the principles of irreligion, namely pride, illicit female association or prostitution, intoxication and falsity, are checked by all means.” “Intoxication of all description even smoking cigarettes, chewing tobacco or the drinking of tea - must be prohibited.”

“Therefore, whoever desires progressive well-being, especially kings, religionists, public leaders, Brahmans and sanyasis, should never come in contact with the four above-mentioned irreligious principles.”<sup>(26)</sup>

4.2.8.4. In his book “Maa Paap Se Bacho”, Swami Ram Sukh Das writes that wine is the filthiest thing. In “Mano Dharm Shastr”.<sup>(27)</sup> and Chapter 7 text 50, Manu Ji says that use of Alcoholic liquor is a great sin and dangerous evil which leads to the hell.

The above said Vedic literature shows that use of alcohol liquor is prohibited in Hinduism. That must not be allowed at any cost.

#### **4.2.9. Promotion of social justice and eradication of social evils**

4.2.9.1. Article 227 of the Constitution of Pakistan 1973 deals with provisions relating to the Holy Quran and Sunnah and says,

(3)“Nothing in this part shall affect the personal laws of non-Muslim citizens or their status as citizens.”<sup>(28)</sup>

#### **Analysis:**

4.2.9.2. According to Article 227, “All existing laws shall be brought in conformity with the Injunctions of Islam as laid down in the Holy Quran and Sunnah, in this part referred to as the Injunctions of Islam, and no law shall be enacted which is repugnant to such injunctions”.

4.2.9.3. As all of the human beings are creature of Allah therefore, the Constitution of Pakistan never lets its non-Muslim communities ignored. This article 227 (1) is basically for implementation to the Muslims only and the article 227 (3) provides sustainability and security to the personal laws of the non-Muslim citizens. Although laws made in the light of the Holy Quran and Sunnah are universal yet the non-Muslim citizens in Pakistan have no need to be worried regarding their personal laws. There is no

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<sup>(26)</sup> Shrimad Bhagvatam Bhaktivedant, Canto-1, Chapter 17, Text: 41

(2) Obedience to the Constitution and law is the [inviolable] obligation of every citizen wherever he may be and of every other person for the time being within Pakistan.

<sup>(27)</sup> Bhaktivedant, Chapter 4 text 84, Chapter 5, Text: 123

(2) Obedience to the Constitution and law is the [inviolable] obligation of every citizen wherever he may be and of every other person for the time being within Pakistan.

<sup>(28)</sup> Article 227(3) of the constitution of Pakistan.

compulsion in the religion.<sup>(29)</sup> Their personal laws are guaranteed by the Constitution of Pakistan 1973. Thus Hindu community in Pakistan have right to live in as per their religion. They can survive and settle their disputes in the light of Bhagvad Gita, Ramayan, Sumartis and all other Vedic literature. They are not bound to the Islamic laws. But it is their moral duty to respect the Islamic values.

4.2.9.4. Hindu marriages in Pakistan are not being registered because there is no Family / Personal law existing in Pakistan for the Hindus. There is no any Hindu Marriage Act or family law in Pakistan. Article 25 of the Constitution of Pakistan 1973 says that '*all citizens are equal before law and are entitled to equal protection of law*'. Muslims and Christians have their Family Laws but Hindus are still suffering due to missing of the laws. The Hindus in Pakistan raise the questions: Are the Hindus not citizens of Pakistan? Why their Family / Personal Law were not made when laws for the Muslims and Christians were being made? How may they be entitled to equal protection of law when the law has not been formulated for them since the birth of Pakistan?

4.2.9.5. Due to this legitimate gap in Pakistan, the Hindu community is facing great problems in registration of their marriages, issuance of national identity card, passport, and matters related to courts, property, divorce, other official affairs etc. The concerned laws must have been formulated in the beginning. It is their fundamental right that being citizens of a free state, such type of their problems should be solved at once.

## 5. Dimensions of Hindu Marriage Act

5.1. *Hindu Sudhar Sabha* an organization working for welfare of Hindu Community at Lahore, on Sunday, February 07, 2016, arranged a seminar on "Proposed Principles of Family / Personal Law for the Hindu Community". This seminar was conducted with collaboration of *Catholic Commission for Justice and Peace (CCJP)* and *Pakistan Hindu Council*. Representatives of the Community from all over the Punjab and other provinces of the homeland gathered at Hotel Ambassador, 7-Davis Road Lahore to participate in the seminar. The number of participants was 51, including 09 Muslims and 04 Christians.

5.2. The event started with Prarthna (prayer) by Guru Sukhdev Ji. Arifa Shakeel, Coordinator CCJP spoke why Personal Laws are necessary for religious minorities. She told that Hindu Marriage Act Bill 2014 is still tabled. Amar Nath Randhawa, President Hindu Sudhar Sabha laid stress to pass the bill at its earliest to redress the effective persons of the Hindu Community. Ramesh Kumar Gupta, Advocate Sindh High Court and Chairman Pakistan Hindu Council said that Hindu Marriage Act might have been made part of the Law in 1947. In force conversion of religion, no Hindu can produce

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<sup>(29)</sup> Al-Baqarah, 2/256

(2) Obedience to the Constitution and law is the [inviolable] obligation of every citizen wherever he may be and of every other person for the time being within Pakistan.

document to prove spouse of anybody. Arth Shaster and Manu Sumrati are the books that provide legal guidance. He further added that Hindu women have right of divorce. He quoted different bases of divorce.

He told that Widow Act is also present in Act of India. A widow has legal right of remarriage. He proposed that if any Hindu converts to some other religion then he/she must be preached for at least 10 to 15 days by the religious scholars of the both religions to give a chance to get full awareness of both of the religions. Then that person may be left free to convert or otherwise. Force conversion must be condemned, as it is prohibited by Islam too. Arun Kumar, Focal Person Pakistan Hindu Council told the participant that laws of the state represent ambitions or will of the nation. These laws are made according to ambitions of the individuals of the state. He said that Hindus are migrated due to legal insecurity and kidnapping of the girls. Only Constitutional protection is not sufficient rather practical legal protection is also needed. He requested Mr. Kanji Ram, Member Provincial Assembly of Punjab to resolve the matter as early as possible. It is not only a problem related to the Hindu Community but also a national issue which relates to each and every family of the nation. The MPA informed that the matter is under consideration and delayed due to some religious adversatives.

Professor Ashok Kumar Khatri, Punjab University Lahore said that the Hindu Community in Pakistan is lacking their religious education. The promulgated syllabus of education in the country set the minds that the Hindu is enemy of the Muslims. This concept affects the Pakistani Hindus. They should be educated that all people belonging to different religious minorities living in Pakistan are one nation. The main objectives for approval of the Bill for Marriage and Family laws of the Hindus in Pakistan are:

- Formulation of the Marriage Laws / Family Laws
- Formulation of laws for of divorce
- Registration of the Hindu marriages
- Issuance of the Marriage Certificate
- Age of the bride and groom be at least 18 years
- Free consent of the bride and groom
- Protection of women and their children after divorce
- Formulation of laws of Inheritance

5.3. Mr. Kanji Ram, the only Hindu MPA in the Punjab Assembly, promised the Hindu community for approval of the bill at the earliest. He also said that the Punjab Assembly will be the first Provincial Assembly in Pakistan to approve the Hindu Marriage Bill. But practically it did not happen as the Sindh Assembly has approved the said bill while in the Punjab it is still under process.

5.4. In Pakistan's history, it happened first time on 15th February, 2016, that the Sindh Assembly approved the Hindu Marriage Bill, 2016., Senior PPP leader and Sindh Minister for Law and Parliamentary Affairs Nisar Ahmad Khuhro moved the bill in the

provincial assembly which was later passed after a debate between the opposition and treasury benches. The bride and groom cannot be less than 18 years, according to the text of the approved draft. Married couples will be required to obtain a marriage registration certificate, while a couple can also face fines in case their marriage is not registered. The patron-in-chief of Pakistan Hindu Council, PML-N MNA Dr. Ramesh Kumar Vankwani, said the matter related to the basic human rights of the Hindus in Pakistan: "There are fears the clause would be misused for forced conversions of married women the same way young girls are being subjected to forced conversions. PPP parliamentarian Senator Taj Haider opposed the idea in the law, and said the clause could also discourage cross-marriages.

### Conclusion:

Islam protects the minorities in an Islamic state. In Pakistan, minorities are given equal rights as a citizen. They can enjoy their life in all the walks of life. In Pakistan we have seen chief of army staff, chief justice and law minister from minority communities. The constitution of Pakistan 1973 give full respect to the minorities.



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## Preaching role of Syed Muhammad Fazil-ud-Din Batalavi (1739-1684) in the Sub-Continent

☆ Israr-ul-Hussnain Qadri

☆☆ Dr.Mufti Karim Khan

### ABSTRACT

Hazrat Abul Farah Syed Muhammad Fazil-ud-Din Batalvi is one of the eminent scholars, thinkers, and saints of Islam. He has written more than a hundred books on various aspects. A countless number of people in the sub-continent accepted Islam due to his sacred thoughts, effective preaching, spiritual force, and divine light. He was a scholar of Arabic and Persian. By spreading the divine light in the whole sub-continent through his followers and devotees Hazrat Fazil-ud-din gained tremendous fame. He was also a great poet. More than Three hundred years ago he established a Madrasah, named Jamia Fazlia at Batala, District Gurdaspur India. He also constructed a beautiful big mosque and free guest house for pupils and poor people. He preached Islam as per true spirit and divine light. Therefore, more than a million people became his followers and devotees amongst common men and high officials. He highlighted the moral values of Islam and served the people. He illuminated deep and great love with Allah, Holy Prophet (P.B.U.H) and Sheikh Abdul Qadir Jilani (R.A)

**Key Words:** Batala, preacher, spiritual knowledge, Arabic, Persian Almighty Allah revealed in the Holy Quran as under:

﴿وَاذْكُرْ فِي الْكِتَابِ مَرْيَمَ﴾

“And mention in the Book Mary”<sup>(1)</sup>

Holy Prophet (P.B.U.H) says

ذِكْرُ الصَّالِحِينَ كَفَّارَةٌ الذُّنُوبِ.

“Remembrance of God blessed people removes the sins.”<sup>(2)</sup>

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<sup>(1)</sup> Sura Maryam, 19:16

<sup>(2)</sup> Mutaqi Alow-ud-Din Bin Ali, Kanz-ul-Ammal, Karachi Urdu Bazar, MA Jinnah Road, 2009 Vol.15 Haddith No 43584

It has also been revealed in the Holy Quran as under:

﴿وَيُزَكِّيهِمْ وَيُعَلِّمُهُمُ الْكِتَابَ﴾

“Who recites His revelations to them and purifies them and teaches them the Book and Wisdom”<sup>(3)</sup>

Our Holy Prophet (P.B.U.H) says that “The scholars and preachers of Islam are heirs of Holy Prophets (ﷺ).”<sup>(4)</sup>

Hazrat Abu Huraira further narrated that the Holy Prophet says there are two kinds of education and vision. One of its kind is for the common Muslims and if may tell the second kind of education (vision/wisdom), you may cut my neck.<sup>(5)</sup>

It means scholars are imparting only these thoughts and teaching, which relate and apply to the common and general life of Muslims in the light of Quran + Hadith. The second scholars are imparting that kind of education/ training which comes of the divine, spiritual and mystic, hidden and are narrated from heart to heart. This is called God-given knowledge and wisdom, not advisable to common Muslims. These are always a small number of people who are pure, away from sins and blessed by the Allah Almighty. Holy Quran has introduced a man having divine knowledge and wisdom (not Prophet but the slave of Prophet Soloman) who told his Prophet to bring the throne of Queen Balqees before twinkling of eyes. This long story is available in the Quran. In the last, he told his Prophet that it has been done with the secret knowledge of a Holy Book, God-given wisdom and spiritual force.<sup>(6)</sup>

Taking another example from Quran that Almighty Allah sent his Prophet Moses to learn that wisdom and light from Asif Bin Barkhia who was not a prophet but a slave who presented three incidents before Hazrat Moses. Instead of giving this spiritual force directly to his Prophet, he ordered him to learn it from a slave. God can give this force directly to anyone but he appreciated to get the same from a man of wisdom and Divine light.<sup>(7)</sup>

Therefore, it is mandatory to learn this education from a man of the same kind this is called Tariqat.

<sup>(3)</sup>Surah Jumma verse No 62 : 2

<sup>(4)</sup>Bukhari Muhammad Bin Ismail Bukhari Sharif, Vol-1 Lahore Fareed Bookstall, 40-Urdu Bazar, 1982, P-52

<sup>(5)</sup>Bukhari Muhammad Bin Ismail Bukhari Sharif, Vol-1 Lahore Fareed Bookstall, 40-Urdu Bazar, 1982, P-145

<sup>(6)</sup>Surah Namal 27 : 40

<sup>(7)</sup>Surah Al Kahaf 18 : 65

Taking a third incident from Quran that Hazrat Mariam is not Prophet but slave. She knew unseen incidents/ news and ate unseasoned fruits.<sup>(8)</sup>

God has attributed such men at certain times in the Holy Quran. Due to fearing a lengthy article I have concluded it in brief / short. Our Holy Prophet ordered that every Muslim who is praying 5 times he should feel that he is witnessing God while praying, ultimately, he knows to God well i.e. Tariqat. If it is not practicable then he should feel that:

قَالَ أَنْ تَعْبُدَ اللَّهَ كَأَنَّكَ تَرَاهُ فَإِنْ لَمْ تَكُنْ تَرَاهُ فَإِنَّهُ يَرَاكَ.<sup>(9)</sup>

God is visualizing him. He knows only how to pray i.e. Shariat. Keeping in view such Hadith collection, it seems compulsory for every Muslim to witness/visualize God while praying. For which he should learn from God blessed men.

Hassan Says.

الْعِلْمُ فِي الصُّدُورِ وَلَا فِي السُّطُورِ.

“Wisdom is not the lines of Books but in the hearts”<sup>(10)</sup>

This vision and education can meet the present challenges to be faced by the Muslims. Otherwise, we believe only in Physics but not in the Meta-Physics. How much and how long we shall follow Jews and Christians to science education and technology. We can guide, lead and save the world from destruction only by this vision and divine light as Muslim scholars have done in the past.

Hazrat Abul Farah Syed Muhammad Fazil-ud-Din Gilani is one of the divine light and spiritual force holders by birth. He was born in 1070 AH at Chak Qazian (Akbarpur) near Sialkot. His ancestor, forefather Syed Badee-ud-Din Jilani came from Iraq (Baghdad) to Sub-continent for preaching of Islam in the regime of King Humayun in 902 AH and sacrificed their lives near Sialkot. His Grave is in Moza Ghoona Tehsil Shakargarh. King Humayun had appointed him as Minister for Religious Affairs, Auqaf, and Justice. Subsequently, he was martyred in the battlefield by the atheist i.e. Hindus and Sikhs, etc. near Sialkot.<sup>(11)</sup>

Family as such they are being called Sadaat. Denzil batsman (KESI), European, Historian says that Gillani Sadaat came in the Subcontinent and settled in the center of Punjab.<sup>(12)</sup>

<sup>(8)</sup>Surah Al Imran 3 : 44

<sup>(9)</sup>Bukhari Muhammad Bin Ismail Bukhari Sharif, Vol-1 Lahore Fareed Bookstall, 40-Urdu Bazar, P-116 (Hadith no 48)

<sup>(10)</sup>Tafheem ul Bukhari Explanation of Bukhari Sharif, Vol-1, Page 340

<sup>(11)</sup>Syed Iftekhhar Hussain, Mufti, Miratul Rehman, Zahoor Qazmi, Kashmiri Bazar Lahore (Page 131 # 142)

<sup>(12)</sup>Denzil Ibbatsan, CSI, The Races Cast and Tribes of the people V.1 1883(page 223)

The center of Punjab is Sialkot. Another European historian Mr. W, Crooke B.A says that Humayun, Mughal King after conquering Hindustan (India) appointed Sadaat on key posts.<sup>(13)</sup>

It has been written in the book named “Anwar-e-Sadaat” that the forefather of Syed Muhammad Fazil-ud-Din remained Justice (Qazi-ul-Qazat) at different places of south-western territories in different periods. His father Syed Anayat Shah was also Justice (Qazi-ul-Qazat) in the regime of Aurangzeb Alamgir and had a close working relationship with the said King. They both have signed (stamped) over a manuscript of Mishkat Sharif (A famous book of Hadith) available in the Jamiya Millia Library, Delhi (India).<sup>(14)</sup>

Syed Muhammad Fazil-ud-Din started the journey after the compilation of his religious education at Batala Sharif. He was in search of mystic, God-given vision and wisdom. Subsequently, he was guided spiritually to become the follower of Shiekh Muhammad Afzal Kalanori. He distributed all his wealth inherited after the death of his father amongst the poor people.

He proved to be very suitable to serve and spread divine light. His teacher was very proud of his Wisdom, vision and divine light. He used to come often from Kalanor to Batala Sharif just to see him and to listen to his lofty sermons. He was the founder of Qadria Fazlia's order/ Discipline. In million numbers of people became his devotee/ followers not only in the subcontinent but also in Kabul, Iran, and Bukhara. In thousand unbelievers became Muslims and took the right path. Out of his followers, in a thousand numbers, became preachers and they spread the divine light among the people. He constructed a big and beautiful mosque, a large religious educational institute at the university level named Jamia Qadria Fazlia & a free guest house and a big library at Batala Sharif. He used to pay the laborers and other heavy expenditures out of his pocket with blessings of God.<sup>(15)</sup>

He wrote many books in Arabic and Persian. One of his books named Khairat-ul-Qadir is in Arabic wherein he tribute to Holy Prophet (PBUH) and Sheikh Abdul Qadir Jilani with heart touching verses in the shape of Darud-o-Salam. Consequently, Sheikh Abdul Qadir Jilani granted him well-famed appellation as “Abul Farah”.<sup>(16)</sup>

He also wrote a unique explanation in Arabic of Qasida Ghousia's very famous poem of Hazrat Sheikh Abdul Qadir Jilani which is available in the Punjab University Library in Lahore. However, its translation in Urdu is also available with his 12th

<sup>(13)</sup>W. Crooke, B.A, The Triples Cast of the North Western India V.4 1915 (page 301 # 305)

<sup>(14)</sup>Muhammad Maroof, Syed, Anwar-e-Sadaat, Syed Publisher Service Chowk near AG office, Lahore 1983 (page 85 # 86)

<sup>(15)</sup>Urdu Darya Moaraf-e-Islamia, Danish Gah Punjab University of Punjab Lahore. V.15 1975(F #Al Qayum)

<sup>(16)</sup>Abul Farah Syed Muhammad Fazil-ud-Din Gilani (D.1151H), Kahirat-ul-Qadir, Fazlia Colony Ferozepur, Lahore 1982 (page 11)

Viceroy Dr. Syed Mofazil Mohy-ud-Din Qadri Fazli, Fazlia Colony, Lahore. His handwritten books in Arabic and Persian are available in Professor Akhtar Shirani and Professor Aazar's collections in Central Library, University of Punjab, New Campus, Lahore and needs to be translated for the present followers of Qadria Fazlia orders. Professor Akhtar Mehmood Shirani says that the said book is God elevation. Professor M. Aslam Punjab University says that Abul Farah wrote about 100 books. Unfortunately, almost books due to three times immigration of Abul Farah from Batala Sharif to Sultanpur and immigration of Syed Ghulam Ghous due to the tranny of the Sikh community. Sikhs also burnt the library about a thousand numbers of books rare manuscripts were also burned along.

Subsequently in the life of his fore-son, Syed Ghulam Ghous, the Sikhs burnt said library, Jamia Fazlia, free guest house, and mosque. However, Prof. M. Aslam and Prof. Sherani have held responsible for Jae Singh of Batala as mentioned in the Tazkirat-ul-Abrar book of Ghulam Mohy-ud-Din Peshawri and monthly Burhan, Dehli, India. <sup>(17)</sup>

Professor Hafiz Mehmood Shirani and Prof. M Aslam stated that Hazrat Abul Farah wrote more than 100 books Arabic and Persian. He had in a thousand number of costly manuscripts (handwritten) books in his library but he had to migrate 3 times from Batala to Sultanpur due to Jealousy, enmity, and tyranny of Sikh community.

However, the name of available books written by Hazrat Abul Farah is given below.

### **PUBLISHED BOOKS:**

- Bayan ul Israr (in Arabic)
- Khairatul Qadir (in Arabic)
- Kanooz-ul-Qadir (in Persian)

### **NON-PUBLISHED BOOKS:**

- Lumaat-ul-Qadria (in Persian)
- Futooh-ul-Qadria (in Persian)
- Ramooz-ul-Qadir (in Persian)
- Shamoos-ul-Qadria (in Persian)
- Mowaaz-ur-Rehman

The introduction of the above said books and their research and critical studies is a separate subject.

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<sup>(17)</sup>Shirani, Hafiz Mehmood Prof., Punjab me Urdu V.1 Muqtadara Qoumi Zuban, Islamabad, 1988 (page 249)

Moreover, he wrote many poems that are available in the book “Jawahir-e-Tasawwuf” duly published. Dr. Jamali Jalbi wrote that Hazrat Abul Farah is one of the founders of Urdu poetry.

It would be out of mentioning that he fought against the spread of secularism which was imposed by the then government Mughal King Akbar which was absolutely against Islam. Hazrat Mujaddid Alif Sani fought wholeheartedly against this secularism but it could not be eradicated due to his early demise. After him, Hazrat Abul Farah worked to finish and erase the secularism and atheism with full aplomb. Hazrat Abul Farah developed a close relation between Shariat and Tareeqat through his teachings and training. He also insisted on constant acting upon shariat and zikr-e-Ilahi to his devotees/followers and created ways and means of adaab-e-tareeqat for bringing them to near and closer to Allah. He also fought against ignorant, professional and so-called Sufis and mashaikh.

He also started an annual gathering of his thousands followers/devotees each year but nothing was hunted against shariat, no qawwali, no music, no smoking. Only Hamads, Naats and Manqabats were allowed to sing.

He left this temporal world in 1150 A.H, his shrine is in Batala.<sup>(18)</sup>

In Lahore name of a housing colony i.e. Fazlia colony, Ferozpur road had been established in his memory.

On the partition of Hindustan his heirs migrated to Pakistan and resulted in further loss of books. However, the writer of this article got microfilming of some of his books and got translated into Urdu by Professor Dr. Abdul Hameed Yazdani retired from G.C.U Lahore.

Hazrat Abul Farah and his followers also defended the Urdu language in the subcontinent and promoted it through numerous Islamic poems. Prof. Hafiz Muhammad Sherani says that Abul Farah and his followers played a leading role in Urdu in Batala Literature Movement. Dr. Jameel Jalbi says that it was the result of his teaching and guidance that a new center of Urdu come into existence at Batala Sharif.<sup>(19)</sup>

He also guided Hazrat Baba Bul-e-Shah with God-given knowledge, who claimed to be Allah against Shariat un-intentionally. People took him to Hazrat Abul Farah at Batala. He stated that Bulle Shah says in Punjabi which means he is unripe and needs to be filled spiritually. He ordered him to go to see and follow Baba Inayat Shah Qadri at Lahore. First of all his 5th successor, Syed Hafiz Zahoor-ul-Hussain Batalvi declared “Marzai Ahmadi” as non-Muslim and his son Syed Nazar Mohyuddin contested against Marzayiat by sending his son Syed Babar Mohyuddin to Gurdaspur for contention but

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<sup>(18)</sup>Muhammad Aslam Prof., Ahmad Shah Batalvi te Ohdi Tareekh e Hindustan, Chhemahi Khoj, Shumara 6 V.3 Punjab University Lahore 1981 (page 49 #50)

<sup>(19)</sup>Dr. Jameel Jalbi, Tareekh-e-Adab Urdu, Majlis-e-Taraki Adab Lahore 1987 (page 245)

Mirza Ghulam Ahmad run away and did not face. For detail please read Qirtas-ul-Taaraf.<sup>(20)</sup>

The writer of this article also did M.Phil from the University of Lahore elaborating educational and spiritual services of Qadria Fazlia order in the subcontinent. These sacred people worked hard and wholeheartedly for the promulgation of Shariyat, right path and fought against Atheism and ignorance prevailing after Syed Muhammad Ghous Gawalyari, Hazrat Mian Meer and Hazrat Sultan Bahu to remove the gross routed influence of Deen-e-Akbari. Qadria Fazlia Order is very popular in the subcontinent having millions of followers. Subsequently, the followers of Hazrat Abul Farah took the immense role for the creation of Pakistan in 1947 and participated orally, practically and through literature and pamphlets to awaken at Batala Sharif and were buried there. Every year Annual ceremony takes place on 10th Rabi ul Sani at Fazlia Colony Ferozpur Road, Lahore.

Dr. Gohar Noshahi wrote that the ancestors of this family, commonly known as the Mian family of Batala, Khan Bahadar Inayat-Ullah Shah were Qazi-ul-Qazat or Chief Judge of the north-western territories in the reign of Shahjahan. His son Syed Muhammad Fazil-ud-Din founded the Dargah at Batala and became an influential spiritual leader at the time. He also established a langar khana and Madrasa-i-Fazilia in the town in the time of Aurangzeb; and when the influence of the family subsequently increased, King Farrukh Sayer of Delhi donated the durgah a jagir to Syed Ghulam Qadir (Son of Hazrat Abul Farah) as its custodian.

Mufti Ghulam Sarwar Lahori and Faqeer Muhammad Jehlmi have included Hazrat Abul Faah in the Naqshbandia order whereas the followers/ devotees of Qadria Fazlia order do not believe in it as Hazrat Abul Farah has a spiritual attachment with Sheikh Muhammad Afzal Kalanouri, Shah Kamal Kethli, Sheikh Abdul Qadri Jilani, Hazrat Ali and Holy Prophet (P.B.U.H). He wrote more than one hundred books including the book "Mowaaz-ur-Rehman" which is an Arabic and Persian explanation of "Qaseeda Fakhria" (not available anywhere). However, Hazrat Abul Farah and his followers while expressing their teachings and vision adopted/ served the Urdu language whose names are given below:

- Sheikh Naseer-ul-Haq
- Mian Imam Bakhsh Imami
- Sheikh Muhammad Haji
- Nazmee
- Jalalah
- Ali
- Kaami
- Hazrat Ghulam Qadir Shah s/o Hazrat Abul Farah.

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<sup>(20)</sup>Sabir, Muhammad Shrif, bulley Shah di Qafian, Feroz Sons Limited. Lahore 1991 (page 6 #7)

After the death of Hazrat Abul Farah his sole son Hazrat Ghulam Qadir Shah made durgah Fazilia as a center and source of spiritualization and divine light. The said Madrasa Fazilia remained a fountain of education, vision, knowledge, divine light, till the independence of Pakistan and free guest house for poor people was also there. He had no parallel in education, knowledge, vision, God-fearing, sanctity, purification, divine light, spiritual force. He was also the author of several books in Persian.<sup>(21)</sup>

Mr. Ihsanullah Khan Danish Peshawari has written in the brief introduction to *Manaqib-i-Ghous-ul-Azam* (R.A.A) of Musazai near Peshawar, in 1173 AH/1759-60 AD completed life history of Sheikh Abdul Qadir Jilani the greatest Muslim Saint. It is a manuscript in verses dating back to over 230 years and was brought to limelight by the then Government of NWFP in 1993. Maulana Rukn-ud-Din (R.A.A) was Mystic and scholar of repute during his life-time and belonged to the Qadria Fazlia Order and was the disciple of the Hazrat Syed Ghulam Qadir Shah, the eldest son, and successor of the founder of this Order, Hazrat Syed Muhammad Fazil-ud-Din. This order of Qadria is still in existence under its 10th (but now 12th successor Dr. Syed Mofazzil Mohy-ud-Din Jilani Fazli, Fazilia Colony, Ferozepur Road Lahore.) He further wrote that the Afghan Ruler Ahmad Shah Abdali whenever he came to Punjab, (to put an end to the Sikh-Jaat atrocities upon the Muslims of northern India), would always go to the Darbars of Lahore and Batala Sharif (to pay his homage, in the latter case, to Hazrat Syed Ghulam Qadri Shah). The author of this 230 years old manuscript, Syed Rukn-ud-Din disciple of Syed Ghulam Qadri Shah Fazli Batalvi has two credits in Pashto Language and Literature: one compilation of *Manaqib-i-Ghous-ul-Azam* and other a complete translation of and brief commentary on the holy Quran in Pashto titled “*Tafseer-i-Afzalia*” has already been published. *Manaqib-i-Ghous-ul-Azam* also pertains praising verses about Hazrat Syed Muhammad Fazil-ud-Din and his son Syed Ghulam Qadri Shah. It is worth mentioning that Hazrat Ahmad Shah Baba (R.A.A) and Mian Muhammad Umer of Chamkani Shareef near Peshawar were also followers, devotees, and disciple of Fazilia order, Batala Shareef. Syed Rukn-ud-Din also praised Afghan Ruler Ahmad Shah and invited him to invade Hindustan to save the Muslims of Punjab from the tyranny of Sikhs and mentioned the prayers of Hazrat Syed Ghulam Qadir to conquer and win these areas. These prayers came into practical and Ahmad Shah conquered and Muslims became happy.<sup>(22)</sup>

Prof. Khurshid Hussain Bokhari writes that a pious personality was attached to Sheikh Muhammad Afzal Kalanori whose name is Syed Muhammad Fazil-ud-Din Batalvi. He was prepared specially by Hazrat Shah Sikandar Kethly for Qadria order. He

<sup>(21)</sup>Dr. Gohar Noshahi, *Muqadma Ramz-ul-Ishq*, Majlis-e-Taraki Adab Club Road Lahore 1972 (page 72)

<sup>(22)</sup>Syed, Rukn-ud-Din, Fazli, *Manaqib-i-Ghaus-ul-Azam*, Peshawar, Deptt of Culture, Govt, of NWFP, 1993, (P-1-2)

was also proud of the slavery of Sheikh Abdul Qadir Jilani. At an early age, he started his spiritual journey. In a very short period, he became scholar and thinker and he was included in the top-class of spiritual leaders. He started a free guest house at Batala as per the advice of Sheikh Kalanori. He started a grand school Madrasa Fazlia at Batala from where in thousand scholars, educationists and preachers came out and spread the religious education and divine light throughout Sub-continent. He died on 7 Zil Hajja 1151 A.H at Batala Shareef and was buried there in his Khanqah. Prof. Khurshid further wrote that he was very expert in Shariat, religious scholar, thinker, full with divine light and spiritual force. He was a great scholar and poet of Arabic, Persian, Urdu and Punjabi languages.<sup>(23)</sup>

Moulvi Allah Ditta wrote that Hazrat Abul Farah is the 6th successor of Agha Badee-ud-Din Shaheed (RAA) and Agha Badee-ud-Din is 11th successor of Hazrat Syedna Sheikh Abdul Qadir Jilani. Sheikh Abdul Haq Mohadis Dehlvi also wrote about this Sadaat family. There is history in Khulasa Hind Umraa Shahahjahani about Fazlia. After completion of his education from Lahore and Sialkot, Hazrat Abul Farah was married when he was of the age of 20. During the recitation of the Holy Quran, he was revealed by God to go to Batala and educate the people. Introspection created intuition and he faced this situation/ feeling for 8 days constantly. Meanwhile, Sheikh Muhammad Afzal Kalanori follower/ devotee of Hazrat Abu Muhammad Lahori reached Batala. Hazrat Abu Muhammad also met Hazrat Abul Farah in the dream and said Baba Shariat! Baba Shariat! Baba Shariat!. These words took deep effect and he could not forget throughout his life. Sheikh Muhammad Afzal Kalanori was revealed that a plant (Hazrat Abul Farah) has been cultivated in Batala and he is responsible for its growth. Therefore Sheikh Kalanori said that he felt proud of Hazrat Abul Farah. Subsequently, Hazrat Abul Farah started to deliver Sermons. Consequently, Hazrat Abul Farah purchased a piece of land near Batala for Jamia Fazlia and Mosque where a man of intuition used to say well before that divine light descends here. Hazrat Abul Farah constructed Jamia Fazlia, a Mosque, free guest house, library and residence with high cost.<sup>(24)</sup>

Hazrat Abul Farah had a special focus to distribute free food from his own hands. Due to love with mankind and human, in thousands of non-Muslims became Muslims. More than a million people became his followers/ devotees. He wrote more than one hundred books and the best revelation book is Bian-ul-Israr in Arabic. Peer Syed Mehr Ali Shah intended to write an explanation of Qasida Ghousia and borrowed Bian-ul-Israr from the 8th successor Syed Nazar Mohy-ud-Din of Hazrat Abul Farah but after its study, he returned the same with his observation that no one can write better than this book.

<sup>(23)</sup>Prof., Khurshid Hussain, Bukhari, Tazkarah Hazrat Shah Sikandar Kethly, Multan Cantt, Karwan Adab, 2002 P.396-397

<sup>(24)</sup>Moulvi Allah Dittah, Al-Fazil, Gurdaspur, Rama Arts Press, Babu Ram Nath Printer, Batala, 1363 AH P.4 – 45

Hazrat Abul Farah assigned his descendants to serve Islam and appointed the eldest son of his every Successor for the purpose.<sup>(25)</sup>

### MODE OF PREACHING:

Hazrat Abul Farha used mode of direction very samphly and simply while directing his followers as under:

- i) Sometimes he used the words in the start by addressing his followers "you should know". He wrote in his books that the secrets which revlead into his heart, these were descended while reciting Quran during the prayers times. However these are revlead intuitionlly. He pro-claimed to be a preacher with the blessing of God and by the help of Shaikh Abdul Qadir Jilani. God had blessed him abundantly. Often times he used to thank to God for enlightening him.
- ii) Sometimes he used to pray to God for more blessing and sometime he thanked to God for the blessings and prizes. Somethime he used to pray to God for augment of knowledge and education. Sometime he used to pray to God to save him from mistake and sin.
- iii) Somethimes he used to address his followers as Oh" student listen to me attentionly" that i am coneving you spirtual benifites as granted by the God.
- iv) Sometimes he had drawn the attention of his followers by saying "Oh! lovers" of Holy Prophet (P.B.U.H), first of all understand the meanings and secrets of the name of Holy Prophet (S.A.W).
- v) He claimed to explain so many secrets of name Muhammad (P.B.U.H), it would entail load more than many camels.
- vi) He wrote that there are seven thousand places of love with God but he summarised them in one hundred, then in forty one, then in twenty one, then in eleven and then in five only.
- vii) He stated that there is no limit of God and it will be expalined minutely to the followers as revealed into my heart by the God as per God given knowledge and eductaion.
- viii) He directed that a scholars must be knowing Arabic grammer, Tafseer, Hadis and Fiqh. and deep knowledge of misterious and spirtual education.
- ix) Sometimes he had sworn while preaching and addressing to his followers. He also stated that he had been taught and trained by Shaikh Abdul Qadir Jilani.
- x) He brought attention of his followers towards his explanation and thoughts regarding mysterious education.

<sup>(25)</sup>Syed, Badar Mohyuddin, Gilani ,qirtas-ul-Tarraf, Fazlia Colony ,Ferozpur Lahore1997

xi) He wrote that Almighty Allah had guided him through Shaikh Abdul Qadir (R.A) about paths going towards Allah. Subsequently he wrote a book named " kitab-e-Marqoom" He also wrote terms & conditions, regulations, directions and guidelines for the followers.

xii) He had also written that he had to much God given knowledge, therefore, he can prepare a very lengthy book regarding prayers and God gifted education. He had also given the lessons to the scholars in his books.

xiii) Sometimes he had not liked to disclose the mysteries of Islam so that the common and ignorant persons may not be misled.

xiv) He had forbidden his followers to follow the so-called sufis.

xv) Apart from his followers he had addressed to the others in general directing them not to disclose and expose his secrets and mysteries appearing while prays.

xvi) Sometimes he wrote brief guideline to his followers and sometimes he addressed his followers as "Oh brothers" and sometime he had addressed as "Oh ignorante and quick people".

xvii) Sometimes he used to crave to God with his good names for inner guidance. Sometimes he addressed to his followers to have compulsory and nessccery education and knowledge about spirtulaisation

xviii) Sometimes he had addressed as " Oh well knowing and criticising person".

xvii) It revlead from the above that Hazrat Abul Farah had addressed to all kind of persons desiring for spirtualsation. <sup>(26)</sup>

## CONCLUSION:

The nation who forgets there ancients, they lose their past, present, and future. The life pattern of any nation reflects throughout the past. The recognition of any nation is attached to their heroes, scholars, and preachers. Our affiliation with our scholars and saints will result in our life a perpetual bright future in every walk of life. Therefore, we must have a deep attachment with our saints as the Quran guides us through stories of the past Nobel people for choosing the right path.

Hazrat Abul Farah promoted Sunnah to be followed strictly. Any activity against Shariat is discouraged and condemned. He diminished the difference and discrimination in wahdatul wujood and wahdatul Shahood School of thoughts which have been prevailing in Mysticism nowadays. Thus, Hazrat Abul Farah is declared the lover of God, Holy Prophet (Peace Be Upon Him), Sheikh Abdul Qadir Jilani and humanity. He was the best preacher, spiritual scholar and holder of divine light. God may bless him.

<sup>(26)</sup>Abul Farah Syed Muhammad Fazil-ud-Din Gilani (D.1151.H), Bian-ul-Asrar, Fazlia Colony Ferozepur, Lahore. (pages 2, 3, 5, 8, 9, 37, 118, 260, 320, 338, 339, 340, 347, 359, 365, 431, 537, 544, 545,629,)



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## **Role of religion in buffering the psychosocial stress among parents of mentally retarded children**

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### **ABSTRACT**

Parents of the mentally retarded children confront multiple level of stress while dealing with their children. This situation requires them to address the issue by providing them multiple support mechanism to buffer the stress. The objective of the current study is to find out the role of religion in buffering the psychosocial stress among parents of mentally retarded children as the study applied Sheldon Cohen and Garth McKay in 1984 buffering hypothesis. The study applied qualitative research design to unpack different religious themes and factors that help in buffering the stress. A sample of 20 parents of mentally retarded children were identified by applying purposive sampling technique.

**Key Words:** Psychosocial Stress, Buffering hypothesis, mentally retarded children

### **INTRODUCTION/ BACKGROUND:**

Mental retardation is an important area of social research. It affects the social life of those suffering from mental retardation and of their family members also. A healthy body or individual is thought to be more productive for the society. Modern societies are more concerned regarding the rehabilitation of the persons with disability. This trend is evident in the development of educational and rehabilitation of the disabled children. Over the

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retardation is literally a slowing down of a person's cognition, these individual learn and think like everyone else, only more slowly. "Mental retardation as sub average intellectual function combined with subnormal adaptation to a person's surrounding. Mental retardation is a condition which makes a child less adaptive to the condition and environment", however mental retardation is also defined as "Mental retardation as a condition characterized by cognitive limitation due to organic brain dysfunction",<sup>(2)</sup>.

The concept of mental retardation is prevailing in both the developing and developed countries. However, mental retardation is quite massive in developing countries. The prevalence of mental retardation is higher in the developing countries than in the developed countries. It was projected that by year 2000, 80% of the world disable population will be in the developing countries<sup>(3)</sup>.

The existence of mental retardation is also on rise but the statistical evidence are rare due to the lack of data on the topic. Facilities for the disabled persons in Pakistan are on increase, there are fewer institutes for mentally retarded children in Pakistan. The situation of mental hospital in Pakistan is also very low and at the time of partition, only 2 out of forty hospitals were handed to Pakistan, which shows the low growth and level of rehabilitation of mentally retard children in Pakistan. According to Directorate General of Special Education survey conducted in 2006 there are total 17 institutes for mentally retarded children in Lahore, this indicates that community based rehabilitation in Pakistan is becoming important and people are acknowledging its importance<sup>(4)</sup>.

## IMPACT OF MENTAL RETARDATION ON THE FAMILY

Stress is also defined as the nonspecific reactions of the body because of the demands upon the person. "Stress is the result of the disturbed relationship between the person and the environment due to the external and/or internal demands exceeding the individual's resources for managing them. Depending on the imbalance between the person and the environment, we experience more or less stress"<sup>(5)</sup>.

Researches have shown that parents of mentally retarded children are more vulnerable to stress and they experience high level of psychological and social stress. Many studied have demonstrated that the parents of mentally retarded children

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(2) Sinclair & Seeta (1981). Rehabilitation of the Mentally Handicapped in India. *Indian Journal of Pediatrics*, Vol. 48, Number 6

(3) Johnson, K.A. & Jennison, K.M. (2001). Stressful Loss and the Buffering Effect of Social Support on Drinking Behavior among African Americans: *Results of a National Survey. 1-54*

(4) Shahida, S. Farooq, M. Joubish & Khurram, M. A. (2011). Pre-Vocational and Vocational Training Programs for the Persons with Disabilities in Karachi, *Pakistan; Middle-East Journal of Scientific Research* 5 (6): 535-540, 2010 ISSN 1990-9233

(5) Serag S. M. M. Effects of Inclusion in a Recreational Sports Program on Improving Some Basic Motor Skills and Health Behavior for Mentally Retarded (Able to Learn) and Normal Children; *World Journal of Sport Sciences* 3 (S): 605-616, 2010 ISSN 2078-4724

experience higher-level stress. Children with a disability may disrupt family routines, may require extra care, and create new stress in family relationships.

The impact of children with mental retardation is not restricted to individual but it also encompasses entire family and most of the family members are affected by it<sup>(6)</sup>. The empirical literature has suggested that parents of children with mental retardation are often confronted with negative psychological stress and they are at higher risk of psychosocial stress. Caring a child with mental illness require higher degree of efforts and requires additional efforts not only mental but also physical and economic. It has been reported that parents caring for children with autism are confronting higher level of stress<sup>(7)</sup>.

## **BUFFERING HYPOTHESIS**

This study is based on Social Support, Stress and the buffering hypothesis theory presented by Sheldon Cohen and Garth McKay in 1984.

“The buffering hypothesis states, “Psychosocial stress will have deleterious effects on the health and well-being of those with little or no social support, while these effects will be lessened or eliminated for those with stronger support system.”

Buffering is the idea that having a particular resource or positive personality quality, can serve to protect a person against the adverse impact of a stressful event. An example is the hypothesis that a high level of social support acts as a buffer against negative effects of stress. This hypothesis has two parts, which are both important: First, the hypothesis predicts that people who have little social support will have negative reactions (psychological distress, susceptibility to illness, etc.) when they experience high levels of difficult life events, compared to what they experience in the absence of the events. Second, the hypothesis predicts that people who have high levels of social support will not have as much negative reaction to the difficult life events (their reaction will not differ so much from what they experience in the absence of the events). The buffering hypothesis is one example of the broader principle of statistical interaction. As a result; evidence used to support the hypothesis must also take the form of an interaction. In the absence of an interaction, one cannot be sure that buffering is actually taking place. In the buffering hypothesis, social support protects (or "buffers") people from the bad effects of stressful life events

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(6) Rice S. (2003). How Special is Too Special for Inclusion in the Regular Classroom. *Philosophy of Education*

(7) Olsson, M. B. & Hwang, C.P (2001) Depression in Mothers and Fathers of Children with Intellectual Disability; *Journal of Intellectual Disability Research*

Tangible Support as a buffer of stress is less important to the social scientist as it only comes into action when some problems or the issue has already arrived. In other words, we can say that tangible social support comes into play when some problems have occurred and the tangible social support is used to control that. The tangible social support is of many types i.e. giving the information to the parents or the family members; it is also helping them in the medication or the transporting the child from one place to the other. A reduction in stress would be accomplished to the degree that information is provided that leads one to believe that either an adequate response to the situation is available. In the current study, the above-mentioned variables are used with great attention to precisely measure the tangible social support or the family social support present for the parents of children with mental retardation <sup>(8)</sup>.

## **FAMILY SOCIAL SUPPORT AND PARENTING STRESS**

It has been observed that the parents having family support tend to have lower level stress while caring a mentally retarded child. If the parents have sufficient support with you and have other family members ready to help, you can manage the demands of mentally retarded child and to maintain a life without any disturbance and disruption. It is assumed that the family social support is inversely related to the psychosocial stress among parent of mentally retarded children. The current research tries to examine the relationship between family social support and its impact on the psychosocial stress among parents of mentally retarded children <sup>(9)</sup>.

Social support “has been found in a number of studies to be an important buffer against family crisis factors: to be a factor in family resiliency promoting family recovery and as a mediator of family distress”. Researches indicate that support systems play significant roles in maintaining physical and psychological health, buffering stressful events, extremely traumatic events such as natural disasters, wars, and rape. Support networks also have been found to be useful in preventing emotional and behavioral problems. It is thought that the more available social support for parents of mentally retarded children, less likely to be the stress among the parents of mentally retarded children <sup>(10)</sup>.

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(8)Cohen, S. and Wills, T.A. (1985). Stress, Social Support, and the Buffering Hypothesis; *Psychological Bulletin*, 98, 310-357

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## **OBJECTIVE OF THE STUDY**

The current study designed to address the following objective.

To find out the role of religious factors that help the parents of mentally retarded children in controlling the stress.

## **NATURE OF THE STUDY**

The current study is based on qualitative research design, as the objective of the study is to find out the in-depth understanding of the topic. Such areas of investigation require the researcher to apply the qualitative research technique. In addition to that, the researcher applied exploratory research design as the goal of the study to find out the buffering factors of psychosocial stress among parents of mentally retarded children.

## **SAMPLE SIZE**

The study is based on a sample of 20 parents of mentally retarded children. For the selection of the institutes for the mentally retarded children, a list of all the institutes for the mentally retarded children was obtained through Directorate General of Special Education (DGRE) study conducted in 2006. There were total 18 institutions in Lahore. One (1) institute was under the control of Social Welfare Women Development and Bait ul Maal Lahore, one (1) institute was under the supervision of Special Education Department and all other sixteen (16) institutions were from private sector. Fountain House was an appropriate setting for the collection of the data based on following reasons.

- Parents of mentally retarded children having different socio-economic status were available in Fountain House.
- Administrative head of the institute permitted to collect data for study purpose and allowed the researcher to avail/ utilize the premises of the institute.
- Fountain House is placed in the center of the city so it is easily accessible to the majority of the respondents.
- There was no authenticated sampling framework available to the researcher as the list of DGRE is 6 years old. Some new institutes were established that were left uncounted.

## **SAMPLING TECHNIQUE**

The current study applied purposive sampling technique of non-probability sampling method. This type of sampling technique is best suited owing the objectives of the study and non-availability of the sampling frame.

## DATA ANALYSIS

The current study used thematic analysis to identify different factors related to religious that contribute in buffering the stress among parents of mentally retarded children. In the first place, data was transcribed into the English and later on, it was categorized into major themes related to the topic.

## FINDINGS OF THE STUDY

**Islamic ideology.** Islamic ideology helped the parents more in understanding the children with mental retardation and maintaining their needs and requirements. As Islam provides the patience to deal with the different situations that a person encounters, similarly, the presence of a mentally retarded child in the family also enhances the pressure but Islamic ideology enables a person to handle such situation in a better way. Their child no embarrasses them and they care for their child happily. Specific thoughts like committing the suicide or killing the child does not occur in the minds of the parents<sup>(11)</sup>.

Islam has taught us the fundamental ethics. We cannot hate our child even when our children are suffering from such diseases like mental retardation. We are answerable to ALLAH Almighty for our deeds.

Feeling of belongingness to the child is a common approach of all the parents. Parents of children with mental retardation are of the view that apart from mental retardation, the children are their property and they are bound to care for them. Parents of the children with mental retardation accept their children and also the aggression and problems that they face while caring for their children.

This is my child, I am his father so I am not ashamed or embarrassed, and I will take care of him.

**Age of the mentally retarded child.** With the passage of the time and age of the child is inversely related with the stress of the parents of children with mental retardation. In the early childhood parents felt difficulty in managing the children with mental retardation, and feel more stress. Nevertheless, with the passage of the time parents can understand the condition and the demand of the children and are able to adjust with it accordingly. With the passage of the time and the use of medication, the level of mental retardation also decreases which ultimately helps the parents in managing their child.

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(11) Naz, S, Akhtar, S, Nawaz, Y. and Yasin G. (2010), Modes of Social Adjustment of Physically Handicapped Children: An Investigation of Parents Point of View, *Pak. J. Agri. Sci.*, Vol. 47(3), 411-415; 2010 ISSN (Print) 0552-9034, ISSN (Online) 2076-0906

The age of my child is 10 years now I can understand when he is having an aggressive behavior and I along with my spouse handle the situation very well. In the early years of my child, it was difficult for me to know what is happening to my child, as I was unaware of the condition of my child.

**Aid from Government.** Most the parents of the mentally retarded child requested for assistance from government for their children. They are of the view that some rehabilitation mechanism which could help the parents in handling the children. Governmental help is a key for the parents of the mentally retarded children in coping the stress experienced by the parents and family members<sup>(12)</sup>. One of the parents requested the government in these words.

Government should come into act for the help of the parents of the children with mental retardation. Government should develop some mechanism for the educational assistance and training the parents how to care for the mentally retarded children.

Another parent explained some other aspects related to the caring for the mentally retarded child.

Medical hospitals should develop some free treatment and checkup for the mentally retarded children. Some institutions should be developed to fulfill the educational needs of the mentally retarded children and it should be free of cost to share the burden of the parents.

## **FAMILY SOCIAL AND FINANCIAL SUPPORT**

Family social support remained an important factor in buffering the stress among parents of mentally retarded children. This factor is again associated with religious values, as people tend to help the vulnerable segment of the society such as mentally retarded children. This helps the parents of mentally retarded children financially and sooth their social position. One of the respondent stated in the following words

We often receive financial support in the form of (Sadqa) which helps us in maintaining the medication for our children. Medication cost is one of the major reason for our stress and when we receive financial aid, it helps us a lot.

Similarly, another respondent stated in the following words

Family members support us a lot considering a religious duty. This support helps us in managing our tasks related to our mentally retarded child.

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(12) Atkinson, S. & Haj, M. A. E (1996), Health Policy & Planning; 11 (4): 438-442 *Oxford University Press*

## DISCUSSION

The qualitative portion of this study throws light on the Islamic ideology and positive attitude of the parents of the mentally retarded children. Parents are of the view that the Islamic ideology has put their attitude towards positive and normalization of the children. The similar findings are consistent with many other findings in which the positive attitude of the parents is considered important. The attitude of parents and other siblings of the mentally retardation and found that the positive attitude has positive implication on the rehabilitation of the mentally retarded children<sup>(13)</sup>. People can manage the rehabilitation process of mentally retarded children by adopting a positive and by developing a positive attitude in the society<sup>(14)</sup>. Religious affiliation and background is a key factor in understanding the condition of the mentally retarded children and how it is to be managed by the parents. The level of the adjustment of the parents of the mentally retarded children is significantly related to religious background.

The parents of mentally retarded children requested a lot that government should come in to play its role for the rehabilitation of the mentally retarded children. They are of the view that some rehabilitation mechanism which could help the parents in handling the children. This finding is very much consistent with other findings. Government help is essential for the parents of the mentally retarded children and this help should be relating to the monetary terms.

## CONCLUSION

The study concludes based on findings that religious values and tendencies proved to be an important factor that buffers the psychosocial stress among parents of mentally retarded children. Religious belief is core at handing the children with mental retardation as the tasks of dealing with such frustrate people often hence family social support and religious values help in controlling the stress.



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(14) Darbyshire L. V. & Kroese, B. S. (2012) Psychological Well-Being and Social Support for Parents with Intellectual Disabilities: Risk Factors and Interventions; *Journal of Policy and Practice in Intellectual Disabilities Volume 9*

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# The Legal Status of Ju'alah Contract in Islamic Commercial Law & Its Applications in Modern Islamic Finance Industry

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## ABSTRACT

Ju'alah is one of the contracts which is not researched widely in Islamic Finance. Therefore, the main objective of this paper is to explore the legal status of this contract and its applications in the modern era with authentic references. This study includes five fields, first field deals with the concept of Ju'alah and the rest fields deal with the modern applications of Ju'alah. This study also shows the opinions of scholars such as the legal status of Ju'alah in different cases and the modern applications of Ju'alah contracts in the market. The Ju'alah contract is one of the Islamic financial contracts which is more common and wide than other contracts, due to the lack of strict conditions for its execution. It is anticipated that the findings of this research will clarify the real concept of the Ju'alah contract in different schools of thought as well as provide an idea about its application in the modern era.

**Key Words:** Ju'alah contract, Modern era, Ju'alah application, Islamic Finance.

## 1. Introduction

Ju'alah is an agreement on the benefits of something that allegedly will be obtained. For example, someone who contracts Ju'alah for a job in rediscovering the lost, like lost livestock, or constructing wells to find water, or building a wall, or teaching the Qur'an to his son, or healing the sick to recover, or to win a certain competition, et cetera. In modern terms, it is akin to finder's fees. With regards to the above issues, we must first understand the definition of Ju'alah itself, its legal basis based on the sources of the Shari'ah, the type of contract, its terms as well as conditions that nullify the Ju'alah itself. Only then can we proceed to its applications to the business and financial spheres of Islamic Finance.

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## 2. Concept of Ju'alah Contract

Ju'alah is an agreement in which a person declares that anyone who does or achieves a specific task will be given a specific reward, such as losing a person's car, mobile phone, or certificate. And he should announce that whoever brings back his lost thing will be given a reward of Rs. 500\$.

## 3. AAOIFI Definition

AAOIFI defined Ju'alah as;

“An agreement in which one of the parties offers specified reward or compensation to other party or to anyone who will achieve a specified requirement during a known or unknown period”<sup>1</sup>

The above definition of AAOIFI indicates that Ju'alah is a contract between two parties that provides a specified compensation to the worker as a reward for the specific given task. According to this definition, the same conditions should be applied in the Ju'alah contract, first one is that there is a task to be performed, and then the reward will be given as agreed. Although, in terms of its modern applications.

## 4. Legal Basis of Ju'alah

Legal basis of Ju'alah according to different schools of thought are mentioned below;

### 4.1. Hanafi Arguments on Ju'alah

The forerunners of the Hanafis did not praise Ju'alah because they did not consider Ju'alah to be permissible. In the later Hanafis, Ali Haider, a commentator for Al-Ahkam Al-Adliya Magazine, defined the contract as follows:

"الجعالة هي عبارة عن التزام التصرف المطلق في عمل معلوما كان أو مجهولا لشخص معين كان أو كان غير معين"

*“Ju'alah means the disposal of a certain or indefinite person in a known or unknown work”<sup>2</sup>*

Hanafi did not justify Ju'alah, because there are elements of gharar in Ju'alah, as already mentioned above. Ibn Hazm also was among the scholars who forbade Ju'alah, as reported in the al-muhalla, "[it is] not allowed to make Ju'alah against someone". According to him, Ju'alah is like whoever said to others, "if you can restore my child who fled from me, then I'm obligated to pay you the agreed dinars", or like saying, "if

<sup>1</sup> AAOIFI, (2015), Shariah Standards, SS:15, Bahrain, p:422

<sup>2</sup> Majallah (2001), The Majelle: Being an English Translation of Majallah el-Ahkami-Adliya and a Complete Code of Islamic Civil Law, The Other Press, Kuala Lumpur vol:1, p:503.

you do this and this, then you will give so many dirhams, or such promised, if the task has been completed". However, most scholars have agreed on the concept that this contract is valid.

## 4.2. Maliki Arguments on Ju'alah

According to Maliki, Ju'alah is a permissible contract. Imam Khurshi Maliki has defined it as follows;

"وهو أن يجعل الرجل للرجل أجرا معلوما ولا ينتقده إياه على أن يعمل له في زمن معلوم أو مجهول مما فيه منفعة للجاعل على خلاف في هذا على أنه إن كمله كان له الجعل وإن لم يتمه فلا شيء له مما لا منفعة فيه للجاعل إلا بعد تمامه"

Ju'alah means "A man sets a fixed compensation for someone, and does not pay him in cash that he will do such and such work in a specified or unspecified period, in which the compensation earner benefits, and stipulates that if he completes the work, he will get a reward, and if he does not complete the work, he will not get anything, because the one who sets the compensation, will get the benefit only after the work is completed".<sup>3</sup>

The four Imams agree on the permissibility of a Ju'alah contract to bring back a runaway slave.

## 4.3. In The Opinion of Ibn Qudamah In His Book Called Al-Mughni

"The need for community requires the availability of the Ju'alah, because the task (to achieve a goal) sometimes is not clear (the form and time of the performance), such as restoring the lost boy, lost animals, and so on. For a task like this, it is not legally possible in ijarah contracts (leasing/hiring) when (people/owners) need to ensure all the missing items are back. Also, it will be difficult to find anyone who would help return voluntarily (without consideration). Therefore, the community needs to push for contracts like Ju'alah and such, although its requirements (like form and execution time) may not be clear."

## 4.4. In the Opinion of Imam Al-Nawawi in Al-Majmu 'Sharh Al-Muhadzdab, Xv/449

"Ju'alah contract is permitted provided that the commitment (a person) to give particular recompense for certain tasks or uncertain tasks that may be difficult is known between the parties."

<sup>3</sup> Al Kharshi, Muhammad Bin Abdullah, (1989), Mukhtasar u Khalil Lil Kharshi, Dar al-Kutub al-Ilmiyyah, Beirut, vol:7, p:59.

#### 4.5. The Opinion of The Scholars in The Book of Al-Bajuri Hasyiyah Ii/24

"Ju'alah can be done by both parties, the ja'il (first-party expressed its willingness to consider a task) and the maj'ul is (the latter are willing to do the work necessary in the first person) ..., (Ju'alah) is the commitment of people who promise to give particular consideration for certain tasks or an unspecified task or to a specific person or not"

Dr. Wahba Zaheeli Writes;

"لا تجوز الجعالة عند الحنفية لما فيها من الغرر أي جهالة العمل والمدة قياساً على سائر الإجازات التي يشترط لها معلومية العمل والمأجور والأجرة والمدة. وإنما أجازوا فقط استحساناً دفع الجعل لمن يرد العبد الأبق"

"Ju'alah is not permissible according to the Hanafi's school, because the work and duration are hidden. In this sense, Hanafi prefers Ju'alah over the other kinds of Ijarah, in which work, compensation, and duration are mentioned. However, they have permitted to bring back the runaway slave, even if it is unconditionally".<sup>4</sup>

According to Maliki, the contract of Ju'alah is permissible and allowed, can be used in other matters besides the runaway slave.

#### 4.6. Hanafi Arguments on Ju'alah

4. According to the Hanafi's, it is permissible to bring back the contract of Ju'alah only to a runaway slave. Imam Ibn Abi Shaybah narrates;

"عن أبي عمرو الشيباني، أن رجلاً أصاب عبداً أبقاً بعين التمر، فجاء به، فجعل ابن مسعود فيه أربعين درهماً"

"On the authority of Abu Amr al-Shaibani, that a man struck a runaway slave from the garden of dates, and Ibn Masoud gave him forty dirhams as a reward".<sup>5</sup>

<sup>4</sup> A I-Zuhayli, Wahbah Mustafa, (2015), Financial Transactions in Islamic Jurisprudence, Dar al-Fikr Damascus, Syria, Vol:2, p:365.

<sup>5</sup> Al Shaibani, Abdullah bin Muhammad, (2001), Al- Musannaf, Dar al-Ma'rifa, Beirut, vol:4, p:442, # 21939.

Similarly, the Holy Prophet (SAW) set a reward for bringing back Abd al-Abq, Imam Ibn Abi Shaybah narrates;

"عن ابن أبي مليكة، وعمرو بن دينار، قالاً: جعل النبي صلى الله عليه وسلم في العبد الآبق إذا جيء به خارج الحرم ديناراً"

"Abu Malikiyah and Umar ibn Dinar narrate that when 'Abd al-Abiq (a runaway slave) was caught outside the Haram, the Prophet (SAW) set a reward of one dinar for him, (the one who brought him back)".<sup>6</sup>

The Hanafis have proved this with these arguments that the contract of Ju'alah should be used only to bring back the runaway slave. Otherwise, this contract is not valid according to Qiyas'. Therefore, after quoting the above narration from Umar ibn Shaybani, Imam Surakhsi Hanafi writes:

"هذا الحديث بيان أن الراد مثاب؛ لأن عبد الله بن مسعود رضى الله عنه لم ينكر عليهم إطلاق القول بأنه أصاب أجراً، وفيه دليل على أنه يستحق الجعل على مولاه، وهو استحسان أخذ به علماءنا رحمهم الله . وفي القياس لا جعل له"

"It is stated in this hadith that the one who captures a slave deserves a reward Because Hazrat Abdullah bin Masood (may Allah be pleased with him) did not deny the people that he would be rewarded. Moreover, in this Hadith, there is a reference that payments of Ju'alabs contract will be by the owner. Also, this is liked by our Islamic Scholar, otherwise reward is not allowed on the base of Qiyas".<sup>7</sup>

According to Hanafi's school of thought, Ju'alah is not allowed because there is no offer and acceptance, while these are the main elements of any contract. There is just an offer in this contract.

#### 4.7. Maliki Arguments on Ju'alah

According to Malikiyyah, the contract of Ja'ala is permissible, whether it is performed in 'Abd al-Abq or in other matters. Quran says;

"وَلَمَّا جَاءَ بِهِ حَمْلٌ بَعِيرٌ وَأَنَا بِهِ زَعِيمٌ"

<sup>6</sup> Ibid, p:443, # 21940.

<sup>7</sup> Al- Sarkhasi, Shams u Din Hanafi, (1990), Al-Mabsoot, Dar al-kutub al-ilmiyyah, Beirut, vol:11, p:17.

They said, “we have lost the king’s drinking cup and he who shall bring it shall have a camel-load (of provision) and I guarantee this”.<sup>8</sup>

Imam Ibn Kaseer writes:

This part of above ayah that “they said that king’s glass is lost, a person who will bring this will be rewarded by camel-load”. This is from the root word Ju’alah and. “and I am guarantor”, this part is from the root word Kafala’. And the pre-Sharia rules are preferred. Unless repealed in our Islamic law.<sup>9</sup>

## 5. An Overview of Arguments

According to the Hanafis, the contract of Ju’alah is permissible only for the coming back of a runaway slave 'Abd al-Abiq. It is not permissible to use the contract in other financial agreements. While according to Maliki, Ju’alah is permissible also in other financial agreements. According to Hanafi, this is not permissible because there is uncertainty and an absence of acceptance. While according to Maliki’s this cause is not able to do it impermissible, rather this cause can be ignored depending on the situation scenario. Hanafi’s preferred Ju’alah on Ijara. In Ijara’ work, time and compensation are specified, while in Ju’alah compensation is not known, that’s why this is not allowed according to them. Ju’alah contract can be used in financial agreements in this era. Receipt of loans, brokerage, provision of financing to banks, etc. are also provided under this contract. But in some of the IFIs, this is known as “Master Agreement”.<sup>10</sup>

## 6. Ju’alah as Primary and Secondary Contract

In some products of Islamic Banks, the Ju’alah contract is positioned as a master contract. Which is also being known as a supporting contract in some areas. Moreover, this contract is being used as a primary contract.

The Ju’alah is also being used as a secondary supporting agreement in some products of Islamic Banks. This contract is also defined as a supporting agreement in the classifications of Islamic Financial Contracts. Islamic Scholars refer to the possible use of this contract, which provides certain services to the banks as a secondary contract on the operating sides of IFIs, Moreover, this contract also can be used as a supporting contract for takaful agreement.

## 7. Basic Elements of Ju’alah Contract

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<sup>8</sup> Yusuf, 12/72.

<sup>9</sup> Ibn e Kathir, Hafiz Imad u Din, (1997), Tafseer ul Quran il Azeem, Dar al-Fikr, Beirut, vol:2, p:486.

<sup>10</sup> Ismail, E. and Ismail, M. (2012), Towards Integrating Trust in Takaful Model, Kuala Lumpur: Labuan IBFC Incorporated Sdn Bhd, Malaysia

Basic elements of the Ju'alah contract under AAOIFI and ACM definitions are mentioned below;

AAOIFI	ICM
Both parties (Task-giver and task-taker)	The contracting parties
Form of the agreement	Sighah (offer and acceptance)
Subject-matter (Reward/Ju`l)	Compensation (Ju`l)
The subject matter (work)	Employment

Sources: AAOIFI (2015, p:427); Securities Commission, (2012, p:10)

## 8. Basic Conditions

Combining two Shariah Stenders about Ju'alah contract, here are the main critical conditions which are mentioned below;

1. There must be the existence of the legal capacity for both parties
2. Ja'il should not be a slave
3. There must be an offer and acceptance, that should indicate permission
4. Acceptance is not the main condition
5. The offer can be verbal or an announcement
6. Revocation of this contract and reward should be specified
7. The given task can be for a specified period
8. If there is no loss due to the negligence of the worker, then he should be entitled to full compensation.

## 9. Terms and Requirements of Ju'alah

Terms and conditions of Ju'alah contract are mentioned below.

### 9.1. Parties To Ju'alah

The parties in the Ju'alah contract can be the general public or specified persons. Specification of the task is compulsory for the contract for the compensation to the worker. In other words, if the task tsk-taker is unable to meet the requirements of the task giver then he will not be entitled to any reward for his effort of time spent. In Ju'alah, seeking help from others is valid, Ju'alah is not a binding contract. In this contract, parties are entitled to terminate the contract unilaterally. However, when the worker commences the task, it becomes binding and if the promiser revokes in between, he will have to provide reasonable compensation to the worker.

## 9.2. Subject Matter of Ju'alah and Reward

The subject is a basic condition for any contract, therefore the required task for the worker is the subject matter of this contract. As Ju'alah is a contract of compensation, that's why compensation on any work is allowed. Ju'alah can be used in different matters i.e., governments may require certain firms to extract minerals from certain firms, only if they are paid a certain amount. Compensating to people looking for common minerals. Ju'alah can also be used for other activities such as searching for lost assets or property, extracting minerals, obtaining information in favor of the promoter, or returning debts.

This contract can be used for brands such as innovation, research, and design, the right to receive the award depends on the scope of the research or the end of the project. If Ju'alah is used in the seller's business, the right to payment or the agreement necessary for business service will be compensated. The contractor may set a deadline for completion of the work, but the worker or employee is not entitled to receive compensation or replacement thereafter.

## 10. Modern Applications of Ju'alah Contract

The practical application of the Ju'alah contract is analyzed by studying the Islamic Financial Market, to observe the use of this contract for Islamic Banks in Pakistan. Ju'alah is a contract in which there are no strict restrictions like other contracts, Partnership, Ijarah and, Istisna'. This is the reason this contract is so wider than the others. In the contemporary era, by implementing the contract of Ju'alah, many agreements can be according to Islamic principles. The following are the applications on financial matters of the contract.

For the application of Ju'alah to be legitimate, it must satisfy the following conditions:

1. People who promise to reward or gift should satisfy the following criteria, namely: come of age (puberty), understanding, and intelligence. Thus children, lunatics, and persons who are in legal guardianship cannot execute Ju'alah contracts.
2. Commissions or guaranteed prizes should consist of something valuable or the total value and clear also. The illegal property was not considered valuable property (madhabs Maliki, Shafi'i, and Hanbali). There shall be no consideration given conditions in advance (before implementation Ju'alah).
3. Consent should be communicated clearly by the promise of even without speech, and the acceptance of the work to be carried out. Between work and set a time limit to finish can be combined as, "Whoever can make a shirt in one day then they will get a commission of such amount". If there are people who can make a shirt in one day then they are entitled to the declared commission.
4. The expected result of the task should contain clear benefits according to the Shari'ah laws.

5. The Shafi'i and Maliki Schools of Thought add that the task, in particular, should not be limited to a specific time, such as in the return (found) missing persons. But the Hanbali madhab allows limitations of time.
6. In addition, Imam Hanbali adds that the task should not be too heavy, although it can be done repeatedly, such as the return of cattle in large numbers.

### **11. Nullification / Cancellation / Invalidity**

Imam Hanbali Shafi'i and Maliki considered that the Ju'alah contract is voluntary, so the promise can be cancelled by both parties. However, there is a difference in opinions about the time of cancellation. Maliki School says that Ju'alah can only be cancelled by the promiser before the task is started by the task-taker. While according to the Hanbali and Shafi'i schools, the cancellation can be done by either party at any time, as long as the task has not been completed. But if the promiser cancels while the task-taker has spent effort in achieving the goal, then the task-taker should get quick compensation following the level of completion of the task.

### **12. Application of Ju'alah in Islamic Finance**

Ju'alah is relevant and useful in situations that cannot be accomplished through Ijarah, such as retrieving lost property from an uncertain location because the Ijarah Agreement requires action. As a result, Islamic banks can use Ju'alah to collect outstanding debts and it is not possible to identify certain services responsible for labor needs.<sup>11</sup>

### **13. Parallel Ju'alah Contract**

A bank, after taking work, can get it done by others based on a Parallel Ju'alah. The bank may play the role of the task-taker by signing a Ju'alah contract. It can be done on its own or through another agreement with a third party, given that the first Ju'alah agreement does not require it to be done on its own. It can also make the bank a stable force for operation, whether it needs to work for its benefit or fulfill its role in approving flames.lights, following both agreements.<sup>12</sup>

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<sup>11</sup> Ali, Muhammad Hasan, (2003), Various Transactions in Islam. King Brafindo Persada, Jakarta. p:55.

<sup>12</sup> Ayub, Muhammad, (2007), Understanding Islamic finance, John Wiley & Sons, United Kingdom, p:353.

#### 14. Practical Process in Ju'alah by IBs

Ju'alah can be used by Islamic Banks through a parallel Ju'alah under the following processes:

1. The customer negotiates with the bank for the performance of uncertain work in a specified time for an agreed reward.
2. The bank agrees to perform the work after conducting a cost versus benefit analysis, and a Ju'alah contract is entered into between the bank and the customer.
3. The bank finds a task-taker with the expertise to perform such uncertain work on his behalf and a Parallel Ju'alah contract is made with him.
4. The work is completed by the task-taker and an agreed wage or reward is paid to him by the bank.
5. The bank collects its reward from the customer with whom the initial Ju'alah contract had been entered into.

#### 15. Application of Ju'alah in Takaful

Indeed, the *Ju'alah* concept is quite widely used in the Takaful-Industry as a reward for the company. Some companies give their name to this concept as 'performance fees'. In *wakalah* products, the operators do not receive a share of the surplus from the returns of the fund. But in Malaysia, it is allowed based on the concept of sharing the surplus regarded as Ju'alah. Some of the scholars who permit the surplus sharing between takaful operators and policyholders considering the Ju'alah as a reward for the better quality in the performance of the management. This is permissible but should not be at an unreasonably high rate. The scholars of jurisprudence are still in disagreement about this from the point of how much is unreasonable, etc., and there is also no specific guideline from the Central Bank. Although it is permissible in Malaysia, its application depends on the industry players in other jurisdictions.

#### 16. Main Differences Between Ju'alah, Ijarah, and Istisna

	<i>Ju'alah</i>	<i>Ijarah</i>	<i>Istisna</i>
Due Payment	Full payment upon complete achievement of the task	Payment according to tasks completed	Full payment upon complete achievement of the task
Payment	Upon completion	Partial advance	Partial advance
Uncertainty	Much gharar	Clear terms	Clear terms
Action	Voluntary	Binding	Binding
Object of	All tasks (service)	Not all tasks	All tasks

Transaction			(commodity)
Nature of contract	The nature of the contract is permitted not binding, which can be withdrawn by one of the contracting parties	The contract is binding and cannot be canceled without the permission of the second party.	The contract is binding and cannot be canceled without the permission of the second party.

## 17. Other Islamic Financial Products Based on Ju'alah

### (a) Collection of Debts

The Ju'alah contract can be utilized for the collection of the debts where the right to reward is interrelated to the recognition of all or part of the debt.

For instance, the Ju'alah contract for the retrieval of the debt is entered between two parties e.g., bank and company. The agreement provides for the reward as a ratio of the amount received based on Ju'alah. Though, in a such case, the worker will not eligible to reward until the requirement are not confirmed and then he will be paid as agreed.

### (b) Brokerage

The Ju'alah contract can be utilized for brokerage activities, in which the right to compensation is committed to the signing of an agreement, is intermediated by the brokers.

### (c) Ju'alah-Based Sukuk

The Ju'alah Sukuk is a type of security that is modified upon a Ju'alah Contract. The issuer of Sukuk offers the securities to the customers, pools the funds as well as provides the originator along with the services stated on such securities in the form of parallel Ju'alah.

## 18. JUDAH in Designs, Inventions, and Discoveries

In this era, new inventions are taking place and a variety of modern design devices are being developed. And every individual, whether collectively or individually, strives to present something new to the people. In the Ju'alah contract, there is a method by which this goal can be easily achieved by using a broker, so the work is done based on reward in a contract.

In this regard, there are various ways of the Ju'alah contract. For example, if there is a scientific institution that wants to bring new things in scientific inventions, then for this purpose they offer good science which will bring new inventions by discovering it. This amount of money will be given as a reward or this award will be given to him as a result

of which the reputation of the institution or company increases and scientists get a significant amount of money as a reward.

Almost in every company, certain people are dedicated only to the task of presenting the company's products in a more modern way so that people are more attracted to them. Encourage them to buy their products as much as possible. For this purpose, they are offered a special prize or allowance and they give them new attractive designs.

## **19. Rewards for Quizzes in Magazines/Newspapers and social media**

Nowadays some questions are published in magazines, newspapers, and social media, and everyone is invited to answer these questions. The one who answers correctly is rewarded. There is a lottery in the middle and whoever gets the name is given a prize.

It will now be seen whether it is permissible to take this reward from this institution or company if any money is taken or not. And it will be under the Ju'alah contract.<sup>13</sup>

## **20. Concept of Lottery**

The lottery is a scheme in which different people get a chance to win prizes through the lottery. It usually happens that some tickets are made and numbers are given to them. Then the tickets are sold, and those who buy them put their money at stake in the lure of the prize. Then there is a lottery, as a result of which the numbers of some people are included in the list of the winners and thus, they are given a prize. On the other hand, those whose names are not mentioned are not only deprived of the reward but also do not get their money back. There are other different forms of lottery such as scratch card lottery, state lottery, etc. But since all these types and forms are involved in gambling, that's why it is not permissible in Islamic law.

## **21. Ju'alah for State Agency Business**

One of the applications of the Ju'alah contract to financial matters is that the various groups and companies that run their business with the state agency (lands, plots, houses) use the rewards and commissions that these companies and agencies will use to further expand their business.

For example, an agency says its agent, that the person who brings the buyer or tenant to us will be rewarded with a share of the house or plot sold, or a percentage of the rented house or sometimes it happens that the percentage of the thing sold or rented is not fixed but it is a general announcement that he will get that amount, etc.<sup>14</sup>

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<sup>13</sup> Muhammad Shafi, Mufti, (1976), *Jawahir ul Fiqh*, Maktaba Dar-ul-Uloom, Karachi, vol:14, p:262.

<sup>14</sup> Taqi Usmani, Mufti, (2001), *Islam and Modern Economic Issues*, Institute of Islam, Karachi, vol:2, p:201.

These businesses of State Agencies are booming nowadays, with agents often being attracted to the rewards, which certainly results in them working harder and bringing in more and more customers for the firms. And so, on they get their rewards and the company or agency gets their benefit.

## **22. Ju'alah for Missing Items**

Using the Ju'alah contract to find lost things, is most common in this era. And if we focus, will find that Ju'alah was firstly mentioned in connection with the search for the lost object. Just like the incident of the lost cup of Hazrat Yusuf, when they specified a reward for the person. Who will bring that cup will be rewarded so, this reward is known as Ju'al.<sup>15</sup>

There are many ways to find lost items that are still in vogue today. Some of them are mentioned below;

## **23. Ju'alah for Equipment**

The usual way of finding something by offering a reward is not limited to the animal but is also related to various equipment. Sometimes, it happens that due to the carelessness of the owner, something like a valuable watch, mobile, wallet, etc. is lost and is not found despite searching, he announces that whoever brings my lost item, I will give him such a reward. And sometimes it happens that a thief does something like If he steals a car, a motorbike, a mobile phone, etc., then the owner announces that whoever returns my lost car, etc., will be rewarded with the same amount.<sup>16</sup>

## **24. Ju'alah for Reserves**

It is difficult to know the amount of depth of minerals (coal, oil, gas, and precious stones) in the mountains and plains as if modern equipment could predict the depth of oil or coal. The extent to which a mountain exists and yet to what extent it can still be recognized with certainty by the contractors. It is difficult to estimate. In this regard, the contract reference can usually be trusted.

In the case of mineral and oil extraction, this is unknown that how much of the process will be followed by the extraction of minerals or oil, and how long it will take for these minerals or oil to be extracted? Therefore, in extracting minerals or oil, the need can be met by using only the Ju'alah contract instead of other Islamic contracts.

Its practical case is that if the firm says to the agent to find the specific thing and then you'll be rewarded. But if he failed to do that, will not be rewarded.<sup>17</sup>

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<sup>15</sup> Yusuf, 12/72.

<sup>16</sup> AAOIFI, (2015), Shariah Standards, Bahrain, p:425

<sup>17</sup> Mufti, (2001) Islam and Modern Economic issues, Vol:4, p:121.

## 25. Conclusion and Recommendations

The conclusion of this study indicates that the Ju'alah contract can play a main role in the development of IFIs to promote Islamic Financial System in the market. Therefore, IFIs are advised to use the Ju'alah as a primary contract which they can use for development. Moreover, investment banking could be much profitable, where IBs can offer to produce specific housing projects or other forms of assets that can be sold to a potential customer in the market. This will be the source of funding Islamic Banks funding, investing in financial institutions can be profitable, but Islamic banks may offer to develop private housing systems or other real estates for sale. It is suggested that Ju'alah can be used to promote other Islamic products in the market.

Given the ever-growing community scenarios and where the needs of a person or group cannot be achieved on its own, there should be a variety of services to be hired such as wages, offer and acceptance of tenders, and the incentives to develop industrial fields. Despite containing volatile elements related to time, task-takers (workers) and different forms of Ju'alah-based contracts and financial products may develop further into an option to be widely used because of its flexible non-binding nature, unlike an Ijarah contract where both parties are rigidly committed and are bounded by terms and specifications stipulated in the contract.

These results show that although the Ju'alah is not often used actively in others, it still having the potential to be a valid agreement. In the era of the Holy Prophet (SAW), the Commonwealth was widely used as a simple contract, unlike most contracts used in the Islamic financial economy in this modern era. Therefore, this study shows the importance of Ju'alah as it is a valid contract used in Islamic banks for Takaful businesses and Salam capital markets. In the past, Ju'alah can be applied to achieve the objectives such as compensating to those who can make return the lost things. Today, the Ju'alah contract is still relevant and can be considered as a support contract for funding. In doing so, it is essential to ensure that all rules and conditions are met to avoid any dispute or injustice between the contracting parties.



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## Government Revenue, Zakat Receipts and Economic Growth in Pakistan Economy

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### ABSTRACT

Zakat plays a vital role in achieving the growth and well-being of the economy. Government revenue and zakat collection make a positive contribution to economic growth of the economy. The study analyzes how government revenues and zakat receipts affect GDP in the economy. For this purpose, ADF and ARDL test is used to check the relationship among the variables. Findings highlight that Government revenues and zakat receipts increase GDP Per Capita. Result also shows that industrialization and trade openness enhances GDP per capita in the economy. The study results suggest a transparent zakat collection, distribution and revenue collection Pakistan economy. The role of administration and management is noteworthy in Zakat collection and distribution.

**Key Words:** Zakat Receipts, Government Revenue, Economic Growth

### 1. Introduction:

Zakat is most important pillar of Islam and significantly motivates the economy and attains equality of income. Zakat receipts leads to increase the overall demand for goods that eventually increase the economic activities on the whole and provide more job chances. In Pakistan, Zakat system was familiarized with the help of an Ordinance called Zakat and USHR Ordinance 1980. Zakat funds helpfully provide assistance the deserving people directly by respective local Zakat Committee or indirectly through educational, vocational, social institutions and hospitals etc.

Zakat has a broad meaning at micro and macro level in the economy. It works as a fiscal policy instrument in a country in macro economy while that in micro-economy its role is significant allocation or distribution of zakat to the recipient.

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The problem of zakat lies in collection and its distribution. Zakat is even serious today. Al-Qur'an provide some better guidelines on its distribution than its collection. However, implication of the distribution of zakat to the asnaf is more critical. Economists normally do not accept as true that zakat affects macroeconomic variables, especially economic growth as they focus on its impact on poverty.

Few researchers say that the collection and distribution of zakat will contribute to micro and macroeconomy, like consumption, income distribution, and economic growth etc.<sup>(1)</sup>

Zakat payers increase the revenue of the economy and this ultimately increases the consumption and saving of the people of the economy. In this way it increases economic growth and living standard of the needy people.

The global economic meltdown and inflation prices sternly affected the welfare of people of Pakistan economy. The country's macro-economic crises required for social protection as important for the deprived segment of the public. During five years, there has been marvelous increase in transferring socially in Pakistan to get rid of poverty and endorse welfare. The government of Pakistan has propelled numerous public allocation agendas such as Benazir Income Support Program (BISP) to allocate enormous income to make enable the needy particularly women and improve their welfare. In this way, Zakat, as a transfer payment, is taken an imperative instrument to attain social welfare in the social order in Islamic thought.

Zakat receipts improve Human Resources (HR) quality by providing facilities and infrastructure to the general public. Zakat managed clearly managed improves welfare of the people, upsurge the work, and become a means of distribution of the economy of society.

The study aims to analyze the impact of zakat receipts and Federal Government revenue on GDP per capita in the Pakistan economy. The role of industrial sector and trade openness in economic growth is also checked in this analysis.

The study is organized as follows: Section 1 shows introduction, literature review is explained in section 2, and section 3 shows data and methodology. Results and discussion are explained in section 4 and section 5 reveals conclusion and suggestions.

## **2. LITERATURE REVIEW**

In this section we review the most important studies regarding monetary policy and inflation conducted in different developed and developing countries.

Numerous studies demonstrate that zakat reduces poverty gap, income gap, and poverty level. Patmawati analyses that zakat reduces poverty in Malaysia.<sup>(2)</sup>

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<sup>(1)</sup> Imtiaz, Mannan, Niaz, & Deria, 2000; Mannan, 2000; Iqbal, 1985; Hasan, 2017)

Zakat collection and distribution increases the consumption of the people. The interest rate can influence the current consumption level by its relationship with savings.<sup>(3)</sup>

Zakat increases saving of the deserving people and the taxation system of zakat is a friendly tax system to the business sphere, it affects positively the aggregate production. Zakat has a low tariff and fixed and never varying because it is set in Shariah.<sup>(4)</sup>

Sprayitro finds that zakat has a significant and positive link with economic growth. The long-run elasticity of zakat variable is positive and significant.

Azam et al, have done a micro and macro analysis and find that zakat affects positively the economic growth and economic development in Pakistan. Zakat receipts affects positively the economic growth.<sup>(5)</sup>

Amjad et al, explain the zakat distribution fund to poor people as a better way to help the general public to get rid of stagflation phenomena for getting sustained economic growth. The human capital Influences positively the economic growth.<sup>(6)</sup>

Aliyu analyses the effects of oil price shock and real exchange rate volatility on real economic growth in Nigeria by using data from 1986Q1 to 2007Q4. Results show that oil price shock and gratitude in exchange rate level positively affect the real economic growth.

Rosoii show GDP increases in both cases: positive government expensive shock and positive government revenues shock. Ortiz et al, show that the manufacturing sector behaves as a leading sector. Ha analyzes that how urbanization affects income inequality in Vietnam. The study results show that urbanization decreases income inequality in long run.

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<sup>(2)</sup>Patmawati, 2007; Suprayitno et al., 2013; Suprayitno, Aslam, & Harun, (2017).

<sup>(3)</sup>Suprayitno et al., 2013; Hasan, 2017; Mohammed Yusoff, 2014; Shaikh & Ismail, 2017; Suprayitno et al., 2013; Suprayitno et al., 2017; M. Yusoff, 2014; M. B. Yusoff, 2011; Abdelbaki, 2015).

<sup>(4)</sup> Abdelbaki, 2015; Abu Bakar & Rashid, 2010; Suprayitno et al., 2013; Haq, 2013; Hasan, 2017; Imtiaz et al., 2000; Iqbal, 1985; Mannan, 2000; Yusoff, 2014; Samad et al., 2016; Shaikh & Ismail, 2017; Siddiqi, 1981; E ko Suprayitno & Hasan, 2016; Suprayitno et al., 2017; Yusoff, 2014; Yusoff, 2011).

<sup>(5)</sup>Abdul et al., 1995; Al-Qardawi., 1999 and Shirazi, 1996.

<sup>(6)</sup>Suri et al, (2010) and influences negatively the economic growth (Afzal et al, 2013).

### 3. DATA AND METHODOLOGY

This study critically evaluates the role of zakat receipts and Government revenue in Pakistan. The ADFT, ARDL and cointegration methods are used to analyze the data. The 34 years data was drawn from WDI, stat bank of Pakistan. The study has used ARDL model to check the relationship between variables. The zakat receipts, Government revenue, trade openness, industrialization and log urban population ratio are taken as independent variables in the models however GDP per capita is considered as dependent variable.

#### 3.1 MODEL SPECIFICATION

We show two models to see effect of tools of monetary policy tools however the dependent variable is inflation rate; so that:

##### MODEL 1

$$LGDP = \beta_0 + \beta_1 ZAKATR + \beta_2 GREVN_2 + \beta_3 INDSER + \beta_4 TRAOPN + \beta_5 LUPOP + \mu_i$$

Where LGDP= Gross domestic product \$ US per capita

LZAKATR= Log of Zakat Receipts (Millions)

LGREVN = Government Revenue (Millions)

INDSER = Manufacturing Growth Rate (% of GDP)

TRAOPN =Trade openness (Exports +Imports as percentage of GDP)

LUPOP= Log urban Population (Total)

$\beta_0, \beta_1, \beta_2,$  and  $\beta_3, \beta_4, \beta_5$  are parameters.  $\mu_i$  - Error term

### 4. EMPIRICAL RESULTS

#### 4.1 DESCRIPTIVE STATISTICS

In this section, we describe summary statistics of the variables used in the study.

Table 1

Variables	Mean	Standard deviation	Minimum	Maximum
LGDP	2.9020	0.0790	2.7424	3.0229
LZAKATR	3.4964	0.2483	2.9263	3.8137
LREVEN	5.4514	0.4952	4.5765	6.3022
INDESR	6.2316	4.3057	-4.1760	16.3794
TRAOPN	33.2174	3.0573	25.3634	38.4993
LUPOP	7.6225	0.1463	7.3598	7.8448

The descriptive statistics of the variables is revealed in table 1. Mean value and standard deviation value of LGDP are 2.9020 and 0.0790. Likewise, the mean value of

LZAKAT is 3.4964. On average, LREVEN is 5.45 percent in selected Asian countries. In other words, INDESR has its minimum value is -4.1760 and maximum value is 6.3022. On average, trade openness is 33.2174 percent.

## 4.2 EMPIRICAL ANALYSIS

The empirical results are explained in this section. The Unit root is initially used. The study has also used the ARDL approach. Here it is empirically explained how zakat receipts and Government revenue affect the GDP per capita in Pakistan economy. Unit root tests are conducted in this study. We check it on level and first difference.

In this study, we show the relationship between these variables in a mathematical form. Available data on zakat receipts, Federal Government revenue, industrialization, trade openness, urban population is gathered and used for this analysis.

Here, effects of zakat receipts and Federal Government revenues are found.

**TABLE 2: ADF TEST**

Variables	ADF T-statistics	Critical value at 1%	Critical value at 5%	Critical value at 10%	Order
LGDPPC	-4.0042	-3.6537	-2.9571	-2.6174	1(1)
LZAKATR	-2.8924	-3.6537	-2.9571	-2.6171	1(0)
LGREVEN	-4.7417	-3.6702	-2.9640	-2.6210	1(1)
INDESR	-3.3893	-3.6463	-2.9540	-2.6151	1(0)
TRADOPN	-7.1027	-3.6537	-2.9571	-2.6174	1(1)
LURBNPOP	-3.9178	-3.6617	-2.9604	-2.6192	1(0)

Table 2 highlights the results of ADF test. The Log Zakat, industrialization and log of population are stationary at level. However, GDP, trade openness and Government revenue are not stationary at level because their ADF statistics value is greater than the critical values. We take first order form of these variables to make them stationary. So, ARDL is used in this analysis.

**TABLE 3: ARDL TEST ESTIMATES**

Variables	Coefficients	S.E	t-statistics
LGDP(-1)	0.3844 **	0.1627	2.3618
LZAKATR	-0.0140	0.01719	-0.8194
LZAKAT(-1)	0.0078	0.0138	0.5638
LZAKAT(-2)	0.0388**	0.0164	2.3572
LREVEN	0.0843**	0.0371	2.2711
LREVEN(-1)	0.03425	0.0377	0.9073
LREVEN(-2)	0.0496	0.0406	1.2224
INDESR	0.0008**	0.0003	2.4480
INDESR(-1)	0.0012***	0.0002	4.3306
TRADOPN	0.0013**	0.0006	2.0847
TRADOPN(1)	0.0013***	0.0007	1.9017
LPOPTOT	-0.2879	0.1751	-1.6437
C	2.8647	1.1348	2.5245
R2	0.99		
DWT	2.1933		
F-Statistics	452.3020		
Probability	0.000000		

The result shows that one unit increase zakat receipts in inflation rate lagged for two year will lead to increase GDP per capita by 0.0388 percent.

The study results also show that one unit increase in manufacturing growth increases GDP per capita by 0.0008 percent. One unit increase in manufacturing growth lagged for one and two years increases GDP Per Capita by 0.0012 percent and 0.0496 percent respectively.

The study result also shows that one unit increase in trade openness increases the GDP per capita by 0.0013 percent. The study result also shows that one unit increase in trade openness lagged for one year increases the GDP per capita by 0.0013 percent. The value of R-square is very good.

### **ESTIMATED ARDL BOUND TESTING APPROACH**

To estimate the cointegration among the variables, we have used bound test. The results are revealed in Table 5.

**TABLE4: ARDL BOUND TESTING APPROACH**

Critical Value	F-Statistics 7.9509	
	Lower Bound	Upper Bound
90%	2.26	3.35
95%	2.62	3.79
97.5%	2.96	4.18
99%	3.41	4.68

In the above table, F-statistics shows a long-run relationship of variables. For this purpose we apply cointegration in long-run form.

**TABLE 4: ARDL LONG-RUN ESTIMATES**

Variables	Coefficients	S.E	t-statistics
LZAKATR	0.0528**	0.0240	2.2018
LGREVEN	0.2734 *	0.0781	3.4963
INDESR	0.0032 *	0.0010	3.1787
TRADOPN	0.0042 *	0.0070	6.0669
LURBNPOP	-0.4676	0.2911	-1.6062
C	4.6535**	1.7427	2.6702

The above table shows that one percent increase in zakat receipts will cause for an increase of GDP per capita by 0.0528 percent in the long-run. The possible reason may be that zakat receipts increase purchasing power, consumption and investment of the general public. And all this increases economic growth. The study result is favored. <sup>(7)</sup>

Federal Government revenue are a great source of increasing growth of the economy. The study result also shows a positive relationship of federal government revenue and GDP Per Capita in the long-run. One percent increase in federal Government revenue will increase GDP per capita by 0.2734 percent in the economy in long-run. Result is consistent with Rosoiu.

Industrial sector also improves the growth of the economy. This sector is contributing too much to the GDP of the economy. Industrialization also enhances GDP per capita in the long-run. The study result shows that one unit increase in manufacturing growth enhances GDP per capita by 0.0032 percent in the short-run. Ortiz et al, (2009) who show that the manufacturing sector behaves as a leading sector

The study result also shows that one unit increase in trade openness increases GDP per capita by 0.0042 percent in long-run in Pakistan economy. The reason may be that

<sup>(7)</sup> Abdul et al., 1995; Al-Qardawi, 1999 and Shirazi. 1996), Azam et al., (2014) and Sprayitro (2020).

high exports are the results of high production and earnings. In this way, economic growth increases.

**TABLE 5: ARDL COINTEGRATION ESTIMATES: SHORT-RUN FORM**

Variables	Coefficients	S.E	t-statistics
D(LZAKAT)	-0.0141	0.0172	-0.8194
D(LZAKAT(-1))	-0.0388**	0.0165	-2.3572
D(LREVENUE)	0.0843**	0.0371	2.2711
D(LREVENUE(-1))	-0.0496	0.0406	-1.2224
D(INDESR)	0.0008**	0.0003	2.4480
D(TRADOPN)	0.0013**	0.0006	2.0847
D(LURBNPOP)	-0.2879	0.1751	-1.6437
CointEq(-1)	-0.6156	0.1628	-3.7823

The above table shows that one percent increase in zakat receipts lagged for one year will cause for a reduction of 0.0388 percent in GDP per capita. The possible reason may be that zakat receipts increase purchasing power, consumption and investment. And all this increases economic growth.

Federal Government revenue are a great source of increasing growth of the economy. The study result also shows a positive relationship of federal government revenue and GDP Per Capita in the short-run. One percent increase in federal Government revenue will increase GDP per capita by 0.0843 percent in the economy.

Industrial sector has much importance in the economy. This sector is contributing much to the GDP of the economy. Industrialization also enhances growth. The study result shows that one unit increase in manufacturing growth enhances GDP per capita by 0.0008 percent in the short-run. Result is supported by.

Finally, one unit increase in trade openness increases GDP per capita by 0.0013 percent in short-run in Pakistan economy. The reason may be that high exports are the results of high production and earnings. In this way, economic growth increases.

In this model, we have showed the effect of zakat collections and other variables on economic growth. The result of F-Statistics indicates that zakat helps in increasing growth of the economy. The value of ECM is negative and significant.

## DIAGNOSTIC TESTS

The results of diagnostic tests are indicated in the following.

### Normality Tests

Skewness and kurtosis explains the normally distributed time series data.

### BREUSCH-GODFREY SERIAL CORRELATION LM TEST

**Table: 6**

F-Statistic	0.2917	Prob.F (2,17)	0.7506
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The Lagrange multiplier test of residual serial correlation highlights no serial correlation among the variables.

### HETEROSKEDASTICITY TEST: BREUSCH-PAGAN-GODFREY

**Table: 7**

F-Statistic	0.7966	Prob. F(12,19)	0.6500
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The result also show no heteroskedasticity problem.

## STABILITY TESTS

The results of Cumulative Sum and the Cumulative Sum of Squares test show that both lie between the two critical lines which reveals the stability of models.

## 5. CONCLUSIONS AND RECOMMENDATIONS

Muslims should give importance to zakat and must pay zakat to improve the living standard of the general public and growth of the economy. The administration of zakat is under the authority of every state and it must perform its role very well. The role of Zakat with other variables is analyzed in this research. This study applies ARDL approach to see the Zakat collection influence on economic growth in Pakistan economy. The result reveals a positive link of zakat collection and economic growth in the long run in Pakistan. It can be concluded that zakat and Federal Government revenue can play a significant role to enhance economic growth in the economy. However, government industrialization and trade openness also increases economic growth in the economy. Overall, role of Zakat and revenue is very significant to boost up the growth and well-being of the people of the economy.

The study results suggest financial institutions must play a role to increase the economic growth to the targeted level. On the basis of these findings, it is unblemished that the growth of Pakistan economy depends on increased investment, zakat receipts, industrialization and Federal Government revenues that are helpful in enhancing economic growth and development.

The study results also suggests for the increased growth. The financial institutions must be improved for the possibility to have zakat receipts. The administration and management of zakat should be the role model and example for the nation as well as for other nations. The distribution of zakat should be transparent to help to the needy people by providing the finance. Moreover, there is need to increase expenditures by the Government. There is a serious need for the high share of industrial sectors towards growth of the economy.

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