

HISBAH BILL: THE CENTRE'S UNDEMOCRATIC CONDUCT

Reference to be provided by Prof. Khurshid

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On 11 July, 2005, the MMA Government of the NWFP finally introduced the Hisbah Bill in the Provincial Assembly. The step was taken following a protracted process of dialogue and discussions and patient efforts of over two-and-a-half years, in the face of an extremely adverse attitude of the Federal Government and the non-cooperation of the opposition parties against the MMA program of Islamic reforms and social uplift in the Province. The introduction of the Bill instantaneously alarmed a section of the people both in the Government and the opposition throughout the country. It appeared as if somebody has disturbed the hornet's nest. Disparaging remarks were voiced in chorus by the Government minions at the Center and the Governor of the Province, expected in all fairness to rise above party-considerations in such matters, down to every big or small office-bearers of the ruling coalition. The Government-controlled media, the pro-Government newspapers and news channels and the entire secular and liberal forces and NGOs 'valiantly' joined hands in this 'noble cause', actively supported by the 'Islam-friendly' media of the West. Toeing the official line of the Presidency, the main thrust of their arguments can be summed up as follows:

- i. The Hisbah Bill is in violation of the recommendations of the Council of Islamic Ideology.
- ii. It strikes at the very roots of human rights.
- iii. It tends to set up a parallel system of Government, and is likely to lead to the Talibanization of the Province, and then to anarchy.

By the grace of God, the people of the Frontier Province have stood like a solid rock behind their elected representatives. They have lent it their unflinching support and expressed total solidarity with the yet another and the most far-reaching people-friendly move of their Government. They have withstood all the hostile attacks with courage, which in itself was a greatly disturbing signal to the Federal Government and its allies. The Hisbah Bill was passed by the Provincial Assembly after a four-day long debate with the thumping majority of 68 votes in favour, with 34 against. The Bill is now with the Governor for ratification, who is bound under the law to either ratify the Bill, or return it with his objections to the Assembly within 30 days. The Provincial Assembly in turn has the powers to resubmit the Bill after necessary deliberations to the Governor, who has then no option under the law but to ratify it by putting his signature. The NWFP Government has shown exemplary courage and sagacity by patiently facing all the threats of its dissolution, which the Provincial Governor and the Federal Ministers have since repeatedly hurled. It offered every opportunity to the opposition parties to freely present their points of view both within the Provincial Assembly and outside. This was in glaring contrast to the Federal Government's attitude, which so far has the record of bulldozing every Official Bill through the National Assembly and the

Senate and showing utter disregard to the national Opposition. The ball is now in the NWFP Governor's Court, while the Federal Government has hurriedly referred the Hisbah Bill to the Supreme Court of Pakistan for its legal opinion under Clause 186 of the Constitution. The Court has been requested to give its opinion on an eight-point query.

The way the attack has been launched on the Hisbah Bill by the Federal Government and some opposition parties, and the issues being raked up by them, all of this point out to the one and only conclusion: THE REAL TARGET IS NOT THE HISBAH BILL, BUT ISLAM ITSELF as also the PROPOSED INTRODUCTION of the ISLAMIC SHARIAH IN THE PROVINCE! There has in the past been a lot of lip service to Islam and repeated pronouncements for the introduction of the Islamic system in the country. But the MMA Government's Hisbah Act is the first-ever serious and sincere attempt to set up a really effective mechanism for the enforcement of the Islamic system and the *Shariah* law at least at the Provincial level. In our view, the proposed Bill is an initial step of great practical value in that direction and that is the reason why it has been taken by its detractors as an extremely dangerous initiative. They are afraid that if the MMA Government of the NWFP practically takes steps to effectively introduce the Shariah system in the Province, the entire edifice of their so-called 'enlightened moderation' would crumble to dust.

The Western media has now frankly revealed that the term 'enlightened moderation' was first whispered into the ears of Gen. Pervaiz Musharraf by the former US Secretary of State Henry Kissinger and the motive was to divide the Muslims into different groups of 'Moderates', 'Extremists', 'Liberals' and 'Fundamentalists'. It is no secret now that the war between Islam and Secularism has already begun and all the secular forces today stand united and hand in glove against Islam and the Muslims.

Debate on Hisbah Bill has exposed the hostile attitude of the Federal Government towards the NWFP Government and its reforms program. This hostility may be noted as growing with each passing day. Such interference by the Centre into the affairs of the Province is a big threat to the Provincial autonomy, and is a cause of serious strain in their bilateral relations, understanding and goodwill. The Federal Government is using extremely short-sightedly the institution of the Provincial Governor to harass and destabilize the Provincial Government. The Centre is busy in a thoughtless army action in our most sensitive tribal belt just to please the US and prove its loyalty as their henchman. According to the area's Corp Commander, the Army has so far lost its 251 soldiers, 550 of them seriously injured. Administratively, the Centre is trying to keep the NWFP under its thumb, as demonstrated by the transfer of the Province's Chief Secretary and Inspector General of Police without taking the Provincial Government into confidence, and replacing them by a new team of the Federal Government's choice. The Province is suffering from a virtual financial blockade due to the willful delay of the NFC Award. The moves to financially cripple the Provincial economy include the Centre's denial of its legitimate rights, like the payment of royalty on power generation and the release of the much-needed resources to meet the challenges of relief operation for the recent flood victims.

This hostile attitude of the Centre is a flagrant violation of the Federal Constitution and an instrument of coercion to vitiate the political climate. It also poses a great hurdle in the way of the Provincial Government's efforts to implement its program of socio-economic and moral reforms in spite of the challenges facing it from the Centre and the paucity of funds at its disposal. With the Center's opposition to the *Hisbah Bill*, the conflict has come to a point where it may lead to far-reaching consequences. The opposition parties of the Province do not appear to have understood the big game due perhaps to their own limited political vision or emotional biases. They are now unwittingly serving as pawn into the Centre's game-plan.

As against the bizarre attitude of the Centre, the Provincial Government has been handling its affairs with utmost caution, patience and care. The Province has a well- represented and broad-based *Shariah* Council, which includes the Ulama and intellectuals from all Schools of Thought, including those of the *Shia* School. The plan of action, prepared by the Council for the enforcement of *Shariah* in the Province in pursuance of the ruling MMA's election manifesto, included the *Shariah Bill*, the *Hisbah Bill* and a comprehensive program of economic, social and cultural reforms. The Council's recommendations represented the consensus of all its members. The Council had admirably completed its job within the very first year of the new Government's induction in power. The Provincial Assembly then adopted the *Shariah Bill* unanimously, followed by the approval of the *Hisbah Bill* after careful studies and deliberations and incorporating necessary amendments to further improve it. The *Hisbah Bill* is intended to provide the common man with the much-needed relief and make it easier for him to get justice and protection against the socio-economic and administrative exploitation and injustices. The MMA Government had to wait for over one and a half year with a view to get maximum meeting of the minds over the *Bill* through discussions and dialogue. But when it finally realized that all the doors of cooperation had been shut, it went ahead with confidence in the Divine Providence, as well as in its own electorate to fulfill its yet another pledge to the people.

The Draft *Bill* was sent to the Provincial Governor at the very outset with a view to initiate the process of understanding and dialogue. The Governor, on his turn, instead of inviting the Provincial Government to the conference table, forwarded it to the Council of Islamic Ideology for comments. The CII, it may be recalled, was reconstituted by the Government of Gen. Pervaiz Musharraf in line with his particular political agenda and to which all the leading religious organizations and scholars of the country had expressed their serious reservations. It is obligatory for the CII under Article 230 (2) of the Constitution to give its opinion within 15 days of the submission of any Bill by the President, the Governor, or the Federal or Provincial Assembly. The Bill was sent to the Council by the NWFP Governor on of October, 2003 and the CII took 11 months to formulate its views and returned it to the Governor on 04 September, 2004. The CII transgressed not only the deadline allocated to it for such cases, it also went beyond its terms of reference by ignoring the *Shariah* perspective and dilating upon the points having no relevance constitutionally or otherwise with the Draft Bill.

The Provincial Government then took into confidence the three prominent personalities of the ruling Muslim League. During its session of 5 July, the three key figures of PML (Q), including the Party President Chaudhry Shujaat Hussain and Secretary General Mushahid Hussain Sayyid, expressed their surprise over the extent of opposition to the *Hisbah Bill*. One of them went to the extent of declaring that: "There was nothing wrong with your *Bill* but in your failure to communicate". The Provincial Government similarly took into confidence the leaders of the opposition parties in the Province and advised them to come out with concrete recommendations, in case they had any. All its attempts at compromise and consensus, nevertheless, were disdainfully turned down. The obvious reason for this unrealistic attitude was nothing but the fact that nobody had any strong ground to reject the Bill, or any worthwhile recommendation to make for amendments, except for the over-powering fear of the US and the West, which made them raise the bogey of 'Talibanization' hitting the Province. The fact of the matter is that the proposed Hisbah Bill has nothing to do with the experience of Afghanistan under Taliban. Each and every Clause of the Bill is in conformity with the Constitution of the Islamic Republic of Pakistan. The Bill is also in consonance with the recommendations of Pakistan's Second Prime Minister, Khawaja Nazimuddin Committee's Report, the Objectives Resolution of the Constitution, as well as the recommendations of the Report submitted by the Council of Islamic Ideology in 1996. Various points of the Bill, targeted for criticism, are practically part of the country's legal system and so many rules and regulations now in force in the country have clauses similar to those proposed in the Hisbah Bill. The bias, however, knows no reason!
