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An Instance of Corruption during the Hajj and Pakistan's Far-Superior Judiciary System



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Abstract: *The Supreme Court of Pakistan received a letter from the government of Saudi Arabia claiming corruption in the Ministry of Religious Affairs' hajj arrangements. In response to the letter, the court invited the Secretaries of religious and foreign affairs to clarify their respective positions. A committee of lawmakers was formed to investigate the situation. On September 1, 2010, the committee issued a report to the prime minister of Pakistan and the chief justice of the supreme court that confirmed Hujjaj's building-rental irregularities. In response to the complaints of several Hujjaj, Justice Khalil Ul Rehman Ramday forwarded the summary with the following comments: "Many individuals came to me in Makah Mukarramah... Complaints were even submitted in writing. "Action as may be thought suitable to eliminate the sufferings of thousands of Hajjis who spend their entire lives saving pennies to perform Hajj, only to have the money they've earned through their blood and sweat lost." The article explores the Hajj corruption issue and the role of Pakistan's Supreme Court. A qualitative study employing content analysis as an analysis method has been undertaken. For primary sources, judicial decisions, the statements of prominent jurists, parliamentary actions, and biographies have been consulted.*

Key Words: Corruption, Supreme Court, Ministry of Hajj Affair

Introduction

According to BBC, the housing offered to pilgrims lacked basic amenities like running water, adequate sanitation, and power; in other instances, the houses were still under construction. During the Hajj, the government charged approximately Rs. 230, 000 per pilgrim for transportation and lodging in Saudi Arabia. It

takes the average Pakistani Muslim a long time to save up that much money" (BBC, 2010, Nov 22).

Supreme Court while hearing petitions on December 8, 2010; Federal Minister for Science and Technology stated he had discussed the continued corruption with Prime Minister Yousaf Raza Gillani. Judge Javed Iqbal was greatly troubled by the existence of corruption in the Ministry of Hajj Affairs, and he claimed that I had

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never witnessed such corruption in his entire career; as a result, several Secretaries of the aforementioned ministry were examined. The brother of a federal minister who was involved in the Hajj scam was arrested in Lahore; in the Senate, a committee report admitted that the government had charged the pilgrims over Rs.153 million to the national airline; earlier, a secretary informed the committee that PIA and Saudi airline had charged extra fees. Syed Javaid Ali, the additional director general of the federal investigation agency, testified in the Supreme Court that: People associated with Hajj operations in the kingdom have admitted that officials of the Pakistan Hajj operations asked them to overcharge pilgrims for a fee, but they were unwilling to provide a written statement because the Saudi government forbade it.

Methodology

Research is the methodical process of gathering facts to answer questions and provide explanations for problems.

Philosophical Foundations

In social science research, two distinct ideologies are employed. Positivism focuses on scientific knowledge; questionnaires and other senses are used to collect data. Before deciding on Research Questions and Goals, hypotheses are examined. The researchers have reflected post-positivist standards. The researcher has employed post-positivism as a research philosophy.

Research Approach

Many ways have been utilized to conduct research in the social sciences; the researcher has employed the inductive approach to investigate the current topic.

Research Methods

In social science, numerous research methods are used, including Qualitative, Quantitative, and mixed approaches. For this study, the researcher employed the Qualitative method.

Data Collection

The steps of data collection involve defining the scope of the study, collecting data through unstructured or semi-structured observations and

interviews, documents, and visual materials, and developing the technique for recording data. During his research on the constitutional criteria of judicial activism in India, the scholar utilized both primary and secondary sources.

Data Analysis

Data analysis is the process of making meaning of text and visual data. It entails preparing the data for analysis, executing various studies, and gaining a deeper and deeper comprehension of the data. With primary data, the scholar employs Thematic Analysis, and for secondary material, Content Analysis.

Limitations of the Study

The judicial system is a massive phenomenon. It is not possible for a researcher to consider all of the criteria and theories of the Judiciary because there are so many. Researchers have no control over the data provided by government and non-government entities.

Delimitation of the Study

The judiciary has always been a fundamental aspect of government, and it plays a crucial role in every democratic society; the scholar focused his research on Hajj corruption and Pakistan's superior judiciary.

Analysis

Mr Rao Shakeel, who had two NAB cases pending against him, was appointed Director General of Hajj affairs in Jaddah, as was speculated. Rao Shakeel was the subject of pending criminal proceedings in Reference No. 76 of 2007 before Accountability Court No. II in Lahore, where the testimony of 18 of 32 witnesses was recorded. His name was on the ECL, and he approached Mr Rahman Malik, the federal interior minister, for permission to travel overseas; his request was granted despite the NAB proceedings against him. A report was submitted to the Supreme Court of Pakistan with the following opinion: "FIA's Director Legal Azam Khan told the apex court that Federal Minister for Religious Affairs Hamid Saeed Kazmi operated one bank account with a balance of Rs: 180,000, but he also operated other bank accounts, one with over Rs: 10 million deposits and another with £60,000 [UK currency]."

During the same Hajj days, the FIA was also examining the transfer of 66 canals [one canal is equivalent to 1/8 of an acre] of land into his name. The ADG of the FIA told out that Zain Sukhera [another accused and a friend of the prime minister's son Ali Qadir Gilani] had an LLM, but he was hired as an IT specialist by former IT Secretary Najibullah on the direct orders of the sitting prime minister. During the hearings, the subject of Ali Qadir Gilani's purchase of a bulletproof armoured vehicle was also raised; the source of the vehicle was not revealed, nor was it determined whether he was eligible for a vehicle of this sort to be imported duty-free. All Pakistani travel agents testified in court that Minister Kazmi overcharged pilgrims by more than Rs: 2 billion.

Secretary of Religious Affairs Shaukat Durrani stated that just 1,142 of the 26,658 affected pilgrims had not yet been compensated 700 riyals per head [as instructed by the Supreme Court] and that 728 others would get 250 riyals from the Saudi government."

Mr Sohail Nasir, a central special judge, denied the bail request of Hamid Saeed Kazmi, the minister for religious affairs, on March 14, 2011. Ultimately, he was arrested from the courtroom, insisting that Mr Ahmad Faiz was responsible for all building-rental matters in Saudi Arabia and that he had nothing to do with them. In contrast, the minister's sources confirm his corruption, as the following transaction was recorded against his bank account: "On April 18, 2009, I conducted a transaction of Rs. 1,000,000 at Muslim Commercial Bank (MCB), Nishtar Chowk, Multan." On November 6, 2009, he traded Rs: 500,000; on January 5, 2010, he transacted Rs: 380,000. On August 5, 2010, he conducted a further transaction of Rs. 500,000; on March 21, 2009, he transacted £9,008; and on August 28, 2009, he transacted £7,000."

Chief Justice Iftikhar Mohammad Chaudhry announced the decision on April 22, 2011; he was uncertain about the investigation conducted by the Federal Investigation Agency; and he argued that Malik Riaz, Raja Javed, Rao Shakeel, and Sultan Shar were the principal perpetrators of the hajj scam. Supreme Court reiterated that Malik Mohammad Iqbal, the then-Director General of the Federal Investigation Agency, was the primary obstacle in this investigation, as stated: "Hussain Asghar appeared and submitted to the Court notification of his transfer to Gilgit-Baltistan as

Inspector General of Police (IGP); consequently, explanation from Malik M Iqbal, DG FIA was sought. The Supreme Court noted that the new DG FIA, Malik Iqbal, had impeded the inquiry and brought it to a halt shortly after assuming his position, as opposed to ensuring that the probe would advance in the appropriate direction. "The Director General of the Federal Bureau of Investigation (FIA) was requested to explain why he relieved Hussain Asghar in the midst of the inquiry without notifying this court. The DG FIA had no objections to Hussain Asghar being reassigned to conclude the inquiry, and Malik Iqbal had addressed a letter to the appropriate authority in this regard but received no answer. On 10 June 2011, the then-Secretary of the Establishment and the Director General of the Federal Investigations Agency (DG FIA) appeared in court and asked for time to approach the responsible authority. The Supreme Court issued a furious order because gimmicks were used to obstruct the probe. The top court highlighted that DG FIA Malik Iqbal gave a dishonest report on Hussain Asghar's availability despite being aware of his engagement. Secretary Establishment complied with the court ruling and issued the necessary Notification for Hussain Asghar's re-assignment to the FIA on 26 July 2011. Nevertheless, the Chief Minister of Gilgit-Baltistan refused to relieve Asghar without a successor. However, the DG FIA assured the top court that the investigation of Hajj Scam cases would be transferred to Hussain Asghar as soon as he arrived for duty at FIA, and the investigative team already working with him would be reassigned to the officer. Sohail Ahmed, the Secretary Establishment, who issued notification of Hussain Asgar's transfer in accordance with Supreme Court directives on 26 July 2011, was appointed as OSD an hour later."

The Supreme Court continued the hajj scandal consisting of Chief Justice Iftikhar Mohammad Chaudhry, Jawad S Khwaja, and Justice Khilji Arif Hussain; earlier Malik Mohammad Iqbal went for retirement and was replaced with Hussain Asghar but soon he went on promotion as Inspector General of police in Gilgit Baltistan; an explanation was sent to him as to why he couldn't report back to FIA as On 28 June 2012, the Supreme Court finally ordered the federal government to suspend IG Gilgit-Baltistan Police. Hussain Asghar for failing to return to the

FIA headquarters... had notified the highest court that the federal government had cancelled Hussain's transfer orders as IGP for Gilgit-Baltistan."

In a landmark ruling issued on July 27, 2011, the Supreme Court ordered the Secretary of Establishment to meet in person with the Prime Minister of Pakistan to implement the court's decision. Chief Justice Iftikhar Mohammad Chaudhry stated, "There is no doubt that transfers and postings fall within the domain of the executive... The court cannot abandon such officers to the discretion of the administration, who may treat them as they see fit. In accordance with Articles 5 and 190 of the Constitution, once a judicial order has been issued, it is binding on both executive and judicial employees (SCP, [2011](#)).

The court stated in Paragraph No. 38 that "the judgement stated that 'the discretionary powers vesting in authority are to be exercised judiciously and in a reasonable manner. In the case of Tariq Aziz-ud-Din: in re (2010 SCMR 1301), it was held that the authorities cannot be permitted to exercise discretion at their whims, sweet will, or arbitrarily; rather they are required to act fairly, evenly, and justly" (2010 SCMR 130).

The matter took a new turn when Justice Shaukat Aziz Siddiqui ruled against the FIA probe. it states that "two HMRC officers from the UK visited FIA in 1995" (HQ). They had travelled to Pakistan to track down high-value, stolen Mitsubishi Shogun Jeeps that had been fraudulently obtained from the United Kingdom using bogus ownership and insurance certificates and were commonly seen in the Mirpur District of Azad Kashmir.

These policemen had located some of them and informed the FIA; a team from the FIA recovered them, and the majority of the keepers confirmed their culpability. They turned over the jeeps to the FIA, which would then hand them over to the British officers following legal procedures. Their owners were charged, and their jeeps were impounded in the FIA yard. Two of the keepers were 'friends' of Justice Nawaz Abbasi [then a judge of the Rawalpindi Bench of the Lahore High Court, who was later appointed to the Supreme Court and sent home in 2009 as a PCO judge with CJP Dogar]; they approached him. The next day, Justice Nawaz Abbasi contacted FIA personnel with a record. FIRs were

presented to the court alongside forgeries. Judge Abbasi grinned for a moment and quashed the FIRs; FIA was not provided with any justification then. The British officers "gained a favourable image of Pakistan's higher court and returned to the United Kingdom on the same day."

The detailed verdict was rendered by a six-member bench of the Supreme Court; it states, "The judgement stated that Allama Kazmi and his attorney had freely appeared before the bench." Since it was a high-profile case involving huge corruption, Members of Parliament and Hujjaj began to attend before the Court throughout proceedings, and a joint application signed by 122 Hujjaj was also filed before this Court, raising painful voices and publicising the plight of the pilgrims. The DG FIA was instructed to designate a senior officer to guarantee that investigations are conducted transparently, in line with the law, and without regard for the status of the accused, in order to secure the accountability of the wrongdoers guilty of huge corruption. The bench noted that the National Accountability Bureau (NAB) had done nothing in the case for nearly two years, had remained quiet spectators throughout the entire play, and had merely watched the accused fleeing to foreign countries.

Director General Haji Affairs Mr. Rao Shakeel was deemed responsible for hiring expensive buildings for the pilgrims, according to the final report the accused had to pay 55% of the hired buildings; on the other hand, Minister for Religious Affairs was released on bail in the aforementioned case, he will have to submit 2 surety bonds of Rs. 100,000, he remunerated Rs. 200,000 as bail amount.

In the meantime, Hussain Asghar was reinstated in the FIA. In the supreme court, he testified that the government is unmoved by the involvement of numerous Saudi citizens in the scam. On the other hand, no firm action has been taken against Rao Shakeel and Zain Sukhera. Mr Asghar filed a complaint against the Establishment Division and the Ministry of Religious Affairs for not cooperating in the investigation.

Ali Qadir Gillani and Mr Zain were examined by the FIA; in this regard, Prime Minister's Secretary Nergis Sethi was also summoned; and on March 25, 2013, PM Gillani was called before a three-member bench. Justice Ejaz Afzal commented that "if an accused abuses bail, then

the Prosecutor General could move against him" in response to the FIA's repeated complaints about Mr Kazmi's influence and dissatisfaction with the court's bail judgement. The chief justice stated, "There is no need to contact the interior ministry on the cancellation of bail." It continues, "You are an attorney for the federation, not for the accused. You ought to examine your attitude. Nevertheless, you are protecting the accused when you should be opposing him. Time does not always remain the same."

Chief Justice was enraged that Mr Faiz was not arrested and ordered the FIA to investigate the matter thoroughly. When PM Gillani was summoned to appear before the court regarding this case, he refused to do so due to his immunity under the constitution, despite Mr Rao Shakee, the Director General of the FIA, insisting that he and Ali Qadir Gillani were involved in the scam.

A three-member bench of the Supreme Court ordered the Ministry of Law to explain how the prime minister can obtain immunity under Article 248 and whether the ministry has advised him to do so or he has requested it. The court also ordered the Ministry of Law to develop a clear-cut investigation policy that will impact the Saudi government.

Secretary Establishment Mr Ismail Qureshi told the court that the prime minister compelled him to appoint Mr Zain Sukhera to the aforementioned position, whereas other members of the ministry asserted in their written statements that Mr Qureshi is concealing the truth and was responsible for misleading the prime minister in the appointment of Mr Sukhera and Mr Rao Shakeel. On the issue of Mr Faiz, letters have been sent to the Saudi government, but no response has been received by the ministry; when Malik Riaz Hussain was investigated about the Scam, he recorded a statement that he had submitted a cheque for 200 pilgrims and their accommodation, and he gave a complete account of the entire incident in court; in the meantime, the court rejected the immunity power of the prime minister and ordered him to appear before the court.

On 5 February 2012, Transparency International issued a report titled According to Adil Gillani, the advisor to Transparency International, "Pakistan does not require a single dollar from the international community if it properly combats corruption and secures good

governance." During the four years of the PPP rule under Gilani, corruption broke all previous records, and Pakistan began to climb the list of the world's most corrupt nations (Transparency International, 2012). He says, "The PPP's Finance Minister revealed corruption in FBR of about Rs:500 billion annually... State-owned firms such as PSO, PIA, Pakistan Steel, Railways, SSGC, and SNGC are consuming Rs:150-300 billion annually. In 2008, the tax-to-GDP ratio was 11%. Since 2008, the incremental annual loss has amounted to Rs:1.2 trillion in four years (Transparency International Pakistan, [2012](#)).

Conclusion

In an article headed "Hajj Accommodation Fraud" published on the 7th of November 2010 in the leading English daily Dawn, a Senator urged that a "House Committee" investigate the charges included in the letter of the Saudi Prince written to the Chief Justice. The daily 'Nawa e Waqt' released an article on 'Hajj Corruption' on November 10, 2010, saying that former DG Hajj Rao Shakeel Ahmed was nominated to the position in violation of the regulations. The aforementioned DG had corruption cases pending against him before the Accountability Court in Lahore. During the Hajj, some Hujjaj lodged complaints with Justice Khalil ur Rehman Ramday, who forwarded them to the CJP with the following comments: "A large number of people came to me in Makkah Mukarramah and even in Mina complaining of grave mismanagement in the Hajj arrangements concerning the buildings rented in Makkah and Madina and the accommodations in Mina. The recounted tales were pitiful. Even complaints were submitted in writing. I appear to have misplaced those written complaints, but I have two copies with me, which I present to you for whatever action you deem necessary to alleviate the suffering of thousands of Hajjis who spend their entire lives saving pennies to perform Hajj, only to see the money they've earned through their blood and sweat wasted. The BBC called it the country's largest Hajj pilgrimage fraud on November 22, 2010. According to the BBC, the accommodations supplied to pilgrims lacked basic amenities such as running water, decent sanitation, and power; in other cases, the buildings were still under construction. The government charged each pilgrim approximately Rs:230,000 (£1,700) for

transportation and lodging in Saudi Arabia during the Hajj. The majority of regular Pakistani Muslims require a considerable amount of time to save so much money. According to the BBC, Federal Minister in Charge Hamid Saeed Kazmi was prohibited from speaking to the media. This year, over 25,000 Pakistanis utilised the government service, generating approximately Rs:5.8bn in revenue (BBC News, [2010](#), Nov 22).

Recommendations

During the four years of Prime Minister Yusuf Raza Gilani's tenure, Pakistan lost more than Rs:8,500 billion (equivalent to \$94 billion at the time) due to corruption, tax evasion, and poor governance, as reported by Transparency International Pakistan [TIP] in a report published in all media on 5th February 2012. The TIP advisor, Adil Gillani, informed the media [and felt] the following: "Pakistan does not need a single dollar from the rest of the world if it efficiently combats corruption and secures good governance." During the four years of the PPP rule under Gilani, corruption broke all previous records, and Pakistan began climbing the ranks of the world's most corrupt nations. Adil Gillani explained that the TIP revealed corruption amounts of Rs:390 billion in 2008, Rs:450 billion

in 2009, Rs:825 billion in 2010 and Rs:1,100 billion in 2011 [totalling Rs:2,765 billion] in identified cases, such as the Hajj Corruption Case and the NICL Case, which were at their highest point at the time. Adil Gillani remarked, "Pakistan's Gross Domestic Product (GDP) is valued at \$175 billion, and the decline of 1.9% in the tax GDP is an annual loss of \$3.3 billion." This demonstrates that the FBR is losing Rs. 300 million per year; since 2008, the annual incremental loss has been Rs. 1,200 billion per year. In addition to Transparency International, several foreign organisations, such as the World Bank and ADB, have expressed alarm over the developing trend of corruption in Pakistan under the leadership of PM Gilani. Even the international community hesitated to lend Pakistan aid during the 2010 and 2011 floods due to Pakistan's escalating corruption and exceptionally poor governance. During those times, corruption became so fashionable that even cabinet members and those at the highest levels, including the prime minister, began openly pointing fingers at one another. Nonetheless, corruption remained the characteristic of the PPP rule under Gilani & Zardari, who consistently defended it in the name of democracy; Hajj Scam & NICL Case are mentioned in this regard.

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