

## ***Qazi Bashir Ahmad and his contributions towards establishment of Qazi courts.***

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### **Abstract**

*This article serves to introduce the life and work of a great scholar, Qazi Muhammad Bashir, who did work tirelessly throughout his life for promoting the concept of bringing teachings of Islam to the lives of people both at the individual level and at the level of enforcement by the government of the day. In order to put his work in a proper context, brief biographical information about him and his family is given at the start. Effort is made to point towards his education, exposure and above all towards the process through which he got professional excellence.*

*Afterwards the entire effort for the establishment of Qazi courts in Azad Jammu and Kashmir is given in chronological order. Here one can find for himself/herself the details especially the question, How and why Qazi Bashir Ahmed was instrumental in bringing this concept to reality?, is answered at some length. Here we also tried to highlight various difficulties faced by him and his team and emphasis is being given to the fact that although the government of the day was in support of the entire scheme but this achievement was not possible without him showing character and competence.*

*In the last section of this article a brief account of his professional brilliance is given with a cursory reference to a great philanthropic project and activities he undertook through his life. It is always impossible to cover each and every aspect of a legend's life in one article but here we tried to incorporate all relevant facets of his life.*

**Keywords:** *Qazi Bashir Ahmad, Qazi Courts*

### **Introduction and concise biography.**

First of all the introduction of Qazi Bashir Ahmad and his family life is hereby briefly described.

His father Abdullah Kafal Garhi was a great scholar endowed with an excellent political acumen. He was born in Kafalgarh (Bagh Azad Kashmir) in 1896, when the Dogra Raj was completely dominating Kashmir in general and the natives of Poonch in particular. After graduating from Dar al-Uloom



Deoband, Maulana Abdullah Kafal Garhi established various seminaries where he organized religious and contemporary teachings and appointed Aa'ema in various mosques to fight against the corrupt practices and anti-Islam customs that found their way in the lives of Muslims due to their close proximity with Hindu society at large. An example of this was the prevalence of caste system amongst Muslims.<sup>1</sup>

At the same time, freedom from the dogra regime was his dream. He raised the voice for the right of freedom and did not care about any opposition from the dogra rule.

For the first time a mechanism of pure Islamic justice system was established in order to provide swift and affordable justice to the Muslims of the region. In this jirga system of justice, he was acting like the chief justice. The court was used to issue regular summons and arrange hearings of the parties. His established court room is still present (which has now been converted into government girl's middle school MakhdoomKot.<sup>2</sup> The court that he established did overturn several decisions which were already been decided by the Dogra courts. Although it faced opposition from the Dogra government and they tried to stop it by force while declaring it a parallel justice regime. Once a judge challenged his system of justice by issuing a summon to him, but he answered as under.

*"Mr. Justice you are abiding Hindu law of India which is bound geographically to a region only and I own the Islamic law for the whole Muslim world, so I can cancel your decisions but you cannot do the same."*<sup>3</sup>

Similarly he sent his reply to another judge.

*"I am Ameer e Shariah, you cannot summon me, if you have any issue just come over to me."*<sup>4</sup>

After the formation of the independent government of Azad Jammu and Kashmir, the Dogra era did not remain nor did such a judicial system was needed. After the situation got peaceful, the government of Azad Kashmir, when it focused on court matters, had the most capable person in the entire state, Maulana Abdullah KafalGarhi, to carry on the work as Ameer e Shariah.<sup>5</sup>

### **Qaḍi Bashir Ahmed's Life**

Qaḍi Bashir Ahmed was born in Kafalgarh (Bagh) on August 17, 1942. His father Muhammad Abdullah Kafalgarhi was a well-known figure in the garhi region. In his childhood his mother died and he received his initial education from Kafalgarh. He passed his matriculation from Government High School Bagh.<sup>6</sup> After the metric, some of his relatives thought that he should get a job. But on the recommendations of his brother in law Maulana Ameer az-Zaman he was attracted to religious education. He got the opportunity to learn directly from Maulana Mufti Muhammad Shafi (Mufti e A'zam Pakistan) at DAR AL-ULOOM Karachi. After that, he specialized in FIQH and al-IFTA' from the same institution with distinction.

When the Azad Kashmir government began to take steps towards Islamic legislation, a letter was written to the officials at DAR AL-ULOOM Karachi especially to Mufti Muhammad Shafi, to seek guidance and knowledge from religious circles and to provide services to the Azad government of the State of Jammu and Kashmir.<sup>7</sup> In response, Maulana Mufti Muhammad Shafi sent a reply to the government and the services of Qađi Bashir Ahmed were given to the Azad government by the organization.<sup>8</sup> The government of Azad Kashmir was given the services of eight scholars as Tehsil Muftis on adhoc basis (SayedHabiburRahman Shah, Muhammad Ashraf Kazmi, Abdul Aziz Abbasi, Muhammad Abdul QayumFarooqi, MaqboolurRahmanQasmi, Bashir Ahmad, Muhammad Ghulam Mustafa, Abdullah).<sup>9</sup> They were made permanent on the recommendations of P.S.C afterwards.<sup>10</sup> Thus, Qađi Bashir Ahmed started the Civil Service in this manner. After the establishment of Islamic law and criminal courts in Azad Kashmir, muftis were given the status of Tehsil Qađi.<sup>11</sup>

### **Efforts to establish Islamic laws in Azad Kashmir in 1970**

In 1970, Sardar Muhammad Abdul Qayyum Khan and his party All Jammu and Kashmir Muslim Conference won the elections in Azad Kashmir. After the establishment of the government, as the President of the State, he took many steps that could lead to the formation of Islamic society.<sup>12</sup> To make this work, the first time the laws were enacted. Sheikh al-Hadith Muhammad Yousuf Khan and Qađi Bashir Ahmed did top the list of those who were hired for this job. In addition to this he also met with various scholars including Dr. TanzeelurRahman, Justice HamoodurRahman, HafeezPirzada, Syed MuzaffarHussain Shah Nadvi, Maulana Abdul Qudoos, Muhammad Yunus Al-Asri, and many others and took their mind. These meetings examined various aspects of establishing and implementation of Islamic laws. Dr. HamoodurRahman praised the draft law.<sup>13</sup>

Many wanted to implement the Islamic system immediately in the state, but there were some complications, so a gradual implementation was decided upon. Regular Quranic lessons(دروس قرآن) at all institutions and offices of the state, Ramadan honor ordinance, Friday holiday, shalwarkameez as national dress, religious education and Arabic language promotion, steps to get rid of the Riba, and adoption of Urdu in offices are hallmark of this strategy. These measures got popularity in public. Along with this, the Iqamat al-Salat, Zakat and Usher ordinance, the appointments of Aema of Mosques and their regular education and training so that they can set up a band of people at different village level.<sup>14</sup> Before the formal approval and implementation of the Islamic penal Laws from the Assembly, it was necessary to examine the impact of these experimental measures so many review reports were examined and found heartening especially a reduced crime rate was reported. When the draft of Islamic law was completed and all aspects of it were reviewed, it was put before the Islamic Ideological Council

of Pakistan before the government's approval to get support from the government of Pakistan. These measures were particularly appreciated by religious circles, while secular classes were opposing it in silent words.<sup>15</sup> Despite all this, when the draft law was sent to the assembly, the assembly approved it with majority, and after getting government approval, it was formally implemented on September 5, 1974. Here, it is mentioned that the formation of Islamic society in Azad Kashmir and the implementation of Islamic laws were two separate steps which were carried out by the government in a very good way. Thus, the reform of different social practices and the promotion of the Shayar e Islami, on one hand, the implementation of Islamic blasphemy laws, and the Islamic system of justice were practically established in the society on the other hand.<sup>16</sup>

### **Qaḍi Bashir Ahmed's joining draft committee and his role in the formation and development of the system of Qaḍi Courts**

Drafting Committee to set up Islamic laws and inclusion of Qaḍi Bashir Ahmed With the establishment of the Azad state of Jammu and Kashmir, it was desired that it is governed by Islamic laws. For this purpose, only a short time after independence, the Department of The Ifta was established with the idea that the institution would play its part in the implementation of Islamic laws and the system of law-enforcement at the individual and collective level. Although the organization was not able to achieve its goals in totality, its services cannot be denied. On July 23, 1972, the Department of Umooor e Deenia was established, with the goal of promoting Islamic teachings in Azad Kashmir. The Department of the Ifta was incorporated into the same.<sup>17</sup> In 1974, until the implementation of Islamic law, the Department of Umooor e Deenia /Ifta continued to play their role in some or the other way, but the Muftis had no choice but only to interpret Islamic laws at the court level. The Department of the Ifta was doing its work but it did not have the importance as it should had to have in Islamic system of justice. Against this backdrop Qaḍi Courts were established in Azad Jammu and Kashmir.

The scholars who were hired by the Azad Kashmir government to set Islamic laws included Sheikh al-Hadith Maulana Muhammad Yousuf, MolanaMuzaffarHussain Shah Nadvi, Qaḍi Bashir Ahmed, Mufti HabiburRahman and Mufti Maqbool-ur-RahmanQasmi. Their meeting was held in the City of Muzaffarabad on March 10,11,12 1974.<sup>18</sup> After the meeting, Qaḍi Bashir Ahmed and MaqboolurRahmanQasmi were asked to stay for the reformation of the Draft of Islamic Laws and the final draft was released on March 20, 1974.<sup>19</sup> The government gave this responsibility to the law and parliamentary affairs advisor Khawaja Muhammad Iqbal Butt. Before the formation of Islamic laws in Azad Kashmir, the Pakistani government decided to give a thorough review of the Islamic laws at the level of Islamic ideology council and the system of the Islamic system of Pakistan and after its

confirmation it was to be presented in the Azad Kashmir Assembly. It was to become a regular law after the legislature approves it. So for this purpose, the Islamic Ideological Council was kept in the capital, Muzaffarabad, and the government of Azad Kashmir was told to present a blueprint in a session of the Assembly. The meeting was held in Muzaffarabad Committee Room on August 17, 18 1974 to review the drafts of Hudood o Qisas and Ushr o Zakat.<sup>20</sup> Among the members of the Islamic Ideological Council were Maulana Abdul Hakim, Maulana Ata Ullah Hanif, Maulana Zia al-Qasmi and Maulana Muhammad Bakhsh Muslim, while its chairman was Chief Justice of Pakistan Justice Hamoodur Rahman. The government directed Qaḍi Bashir Ahmed via letter no. Umooor e Deenia/1356-57/74 dated August, 11 1974 to reach Muzaffarabad by August 15 to attend the meeting and defend the draft law. The committee that drafted the law from Azad Kashmir represented the government and defended the draft law, headed by the Azad Kashmir Affairs advisor, Khawaja Muhammad Iqbal Butt, while members included Sheikh al-Hadith Maulana Muhammad Yousuf, Molana Syed Muzaffar Hussain Shah Nadvi and Qaḍi Bashir Ahmed.<sup>21</sup>

### **Qaḍi Bashir Ahmed's role in the establishment of the Qaḍi Courts**

Qaḍi Bashir Ahmad was appointed Mufti at the department of Umooor e Deenia at the behest of Azad Kashmir government. Among the drafts that the scholars had set up was the first draft of Islamic laws that were to be presented for approval. The drafting of this draft law was a difficult task in the right sense, since there was no such tradition or example before at the level of Azad-Kashmir or Pakistan. The government of Pakistan had concerns about it, while secular circles were also opposing it.<sup>22</sup> In these circumstances, it was not easy to assemble a viable Islamic legal framework, but with the help of these scholars, it was easy to do this and a viable draft was prepared. The formation of Islamic law was certainly a difficult task, but the hard work that was put in by these people to get it through is commendable. A meeting was held on the instructions of law minister to draft a law on law of evidence (قانون شہادت) on JULY 6, 1974 and Qaḍi Bashir Ahmad, Mufti Maqbool ur Rahman Qasmi, Mufti Habib ur Rahman, Mufti Abdul Aziz and Molvi Muhammad Suleman were given the task. This draft was completed on The 18th July, 1974. The drafting of Islamic law of evidence was undoubtedly a full expression of the capabilities of these scholars.<sup>23</sup>

After the formation of Islamic laws, it was first to be presented to the Islamic Ideological Council of Pakistan and later passed by the Azad Kashmir Legislative Assembly and implemented. Drafting Committee and Islamic Ideology Council for regular approval from the Council the committee consisting of the council members was held in the committee room of the Assembly at Muzaffarabad. The meeting lasted for two days. The meeting highlighted every aspect of the draft law. The council's draft laws, particularly

the Islamic penal laws, were met with a series of objections from the council and these objections were fairly mated out by members nominated by the Kashmir Committee. The objections made by the council were mostly unrealistic and irrational.<sup>24</sup> In short, the committee, with a series of answers, persuaded the members of the Islamic Ideological Council that with the enforcement of Islamic laws there would not be a state within the state but that the residents of the state would have the golden principles of living in the light of Islamic Shariah. Qaḍi Bashir Ahmed was once again asked for developing details for Islamic laws of Hudood and Qisas and Diat. This draft law was drafted between August 17 and August 29, 1974.<sup>25</sup> After the timely completion of various stages and drafts, a comprehensive and viable draft law was finally drafted, this was introduced for formal approval in the Azad Jammu and Kashmir Legislative Assembly, which was then adopted by the entire House and implemented on September 4, 1974.<sup>26</sup> Thus, after the approval of the Assembly, the following Islamic Penal Act was enacted in Azad Kashmir:

This time round MaqboolurRahmanQasmi and Mufti HabiburRahman assisted Qaḍi Bashir Ahmad in this entire effort.

### **Role in the evolution of the system of Qaḍi Courts**

Qaḍi Bashir Ahmed is counted among top Qaḍis of the Azad Kashmir. He did not only gain popularity through his decisions but also contributed to the evolution of the system of Qaḍi courts, and which are now the true base of Islamic Shariah system working in Azad Kashmir. Qaḍi Bashir Ahmed was one of the experts who were hired to do this. One of the steps taken to establish Islamic laws was the establishment and evolution of the Qaḍi system. Although the Islamic system of Qaza had a large amount of Content in Arabic and other languages and there are many examples from the life of the Holy Prophet and from the lives of his rightful Caliphs but there was a need to compile all this in Urdu in a systematic way and here Qaḍi Bashir Ahmad played a leading role.

The work of Qaḍi Bashir Ahmed in the establishment and evolution of the Qaḍi system can be divided into the following:

The draft committee set up to establish Islamic laws in Azad Kashmir had one of the scholars who were elected from Azad Kashmir, Qaḍi Bashir Ahmad.<sup>27</sup>

The drafting of the draft was done by the members of the committee in its capacity to make the draft law work, and the members committee's efforts eventually reached the completion of a draft law that is part of the Islamic Penal Act today.<sup>28</sup>

After the drafting of Islamic law, the formation of the Islamic law of evidence was a separate task, which was once again served by Qaḍi Bashir Ahmed and in a short time the work of the Islamic Law was completed.<sup>29</sup>

When the need for detailed orders and schedules of the Deit was felt

before the Islamic laws were fulfilled, Qaḍi Bashir Ahmed was once again given the task which he completed in a short period of time from August, 17 to 29, 1974.<sup>30</sup>

The committee's work was not only limited to the drafting of the draft law, but also to support and defend the government committee for practical approval. So when the Islamic Ideological Council of Pakistan came to the meeting and the joint meeting began, Qaḍi Bashir Ahmad and his colleagues, the advisory law, came to the fore.<sup>31</sup>

Qaḍi Bashir Ahmed did not limit himself to this, but by writing a comprehensive book called "Islamic Laws", the new system of Azad Kashmir provided the oxygen that is considered to be the main book of Islamic criminal law today.<sup>32</sup>

In the name of Islamic law, he later wrote two more books that could not be published in his life for some reasons.<sup>33</sup>

As a district judge, the system of Qaḍi was established on a strong basis with their services and decisions.<sup>34</sup>

Qaḍi Bashir Ahmed did not limit himself to this, but his ability to do so was often attributed to the people and scholars belonging to different areas including Karachi.<sup>35</sup>

As the chairman of Darul-Ul-UoomImdadullIslam Haree-GahlBagh continued to represent and guide a religious institution from which hundreds of students have been able to live their lives after being protected and customized, one of whom is their own son.<sup>36</sup>

### **Qaḍi Bashir Ahmed's Services**

#### **As a Qaḍi**

Qaḍi Bashir Ahmed started his job as mufti in the Department of Umoor e Deenia/Ifta in Azad Kashmir on November 5, 1972.<sup>37</sup> He assumed the office of Tehsil Qaḍi on March 25, 1975.<sup>38</sup> Later, after the implementation of Islamic laws in Azad Kashmir and the establishment of the Qaḍi system, the district Muftis were promoted as the District Qaḍis. It is not possible to completely describe the enormous work done by him in the capacity of Tehsil and District Qaḍi. He retired from his post on July 22, 2002 after completing a 30-year term.<sup>39</sup> Throughout this period, he not only served as a Qaḍi but also fulfilled the need for disseminating knowledge while in job. With this, the series of writing books continued throughout. While making decisions in the cities where the job was assigned to, the principles of Islamic system were kept in high and above everything. This is why the sentences normally announced from his court found no retakes from the higher appellant courts. His decisions never kept any political or social influence insight. Due to his towering personality he was frequently made judge of village level disputes.<sup>40</sup>

#### **Qaḍi Bashir Ahmed in the eyes of the scholars and lawyers**

A brief account of his services is given below.

In the words of Chaudhry Rahim Dad Khan, is a trusted name of the

highest judiciary of Azad Kashmir, as chief justice of the Supreme Court, Azad Kashmir, who served for a long time.

*"I have the position of Qaḍi Bashir Ahmed in the list of judges of Azad Kashmir. I have seen their court decisions and dissenting notices which are extremely logical and educated".<sup>41</sup>*

According to Maulana Aziz-ur-Rahman Ustaz Hadith Darul-Uloom Karachi:

*"Qaḍi Bashir Ahmed was one of the students of Darul-Uloom Karachi, who in the event of the religious requirements of Azad Kashmir, went to Bagh Azad Kashmir with the permission and guidance of the founder of Darul-Uloom Karachi Pakistan and joined the Qaḍi system. Throughout his job, he spent time with the ideal duty of identity, purity and presence. Their superior services are acknowledged by everyone concerned with their jurisdiction and his name is respected in the courts".<sup>42</sup>*

Raja Muhammad Akarm Khan Judge high court of Azad Kashmir says:

*"Learned Qaḍi Bashir Ahmad is very expert in Fiqh, his work is very satisfying. He deserves to be promoted. If he is placed in Shariah Court then his true potential can be realized. As we judges sometimes have to deal with a lot of problems regarding the interpretation of Shariah issues and Qaḍi Bashir Ahmad can better explain these types of issues".<sup>43</sup>*

### **Teaching Services**

One of the institutions that Qaḍi Bashir Ahmed chose for religious education was Darul-Uloom Karachi. His abilities came shining there. Here he had the opportunity to enjoy learning from stalwarts of his time and this experience remains with him throughout his life. He got the opportunity to learn the same directly from Mufti Muhammad Shafi (Mufti Azam of Pakistan). After getting the certificate of specialization in Fiqh and Ifta, he was offered a teaching position in the same institution. When the Azad government of Jammu and Kashmir wrote to Darul-Uloom and asked for the services of the Muftis from Mufti Muhammad Shafi, he was selected for this task and sent to the Azad Kashmir (i). After joining the Azad Kashmir Judicial system, he did not go to this institution, yet his spiritual relationship with this institution remained lasting.<sup>44</sup>

In Azad Kashmir, as mufti and later tehsil and district Qaḍi, along with his professional duties, he kept delivering the Dars e Quran on regular basis and taught at different religious institutions without charging anything from them throughout his life. He was a teacher with a mission at Madrassa Imdadul Islam in Hari-Ghael.<sup>45</sup>

In 1982, Darul-Uloom Karachi started a training course for teaching of Islamic judicial system for the scholars which gathered a large number of scholars from Pakistan. Among the great minds who were selected from all



over the country the person who got his name selected from Azad Kashmir to teach this course was Qadi Bashir Ahmad. He spent four months in Karachi, and there he trained and enlightened the participants on all court cases including criminal cases, court decisions, hearing, and all the work that he did. Based on his services, he was honored with an allocation of Ta hayat Masnad e Tadrees in Darul-Ul-Uoom Karachi. Mufti Muhammad Taqi Usmani expressed these words in this regard.

*"The course was long demanded in Karachi but when the course was arranged, the teachers were able to solve teaching problems Qadi Saadullah and Qadi Muhammad Haroon Mengal from Mastong Balochistan and Qadi Bashir Ahmad from Azad Kashmir were able to bring the course to life."<sup>46</sup>*

### **General Services**

Qadi Bashir Ahmed was associated with a religious family whose services are not limited to themselves, but also to their own people. His father was given the title of Ameer e Shariah because of his religious services and after the establishment of Azad Kashmir, Maulana Abdullah Kafal-Ghari served as a religious advisor and a Ameer e Shariah in the Supreme Council.<sup>47</sup> His family influence was maintained in his daily life. After the completion of his studies, the University of Karachi was able to benefit from his capabilities while he was in Karachi. Under the circumstances when he left Karachi, he joined the government and served as Mufti and later as a District Qadi, yet he did not limit himself to the job but lived as a normal man's life and loved all the people. During this period, there were very few scholars on the specifics of Fiqh and Ifta in Azad Kashmir and very few teachers were available in the religious institutions, especially in this subject. When he was asked about the need of students, Qadi Bashir Ahmed spent some time in government employment and being a Qadi, and as long as he was in Bagh, the students regularly kept on drinking from his knowledge fountain. In Azad Kashmir, when the Islamic laws came into effect, one of the different steps taken under it was the conduct of Dars e Quran in the government level institutions. Qadi Bashir Ahmed took this as a mission of his life and while working wherever he was, he regularly arranged these lessons whether in court, mosque or any other place that was appropriate. His style of work was very effective and engaging, which the audience would appreciate and be very interested in.<sup>48</sup>

As the patron of the Imdadul Islam Hari Gahel, Maulana Ameer Alam died on August 28, 1984; the institution became a responsibility on his shoulders.<sup>49</sup> He accepted this work without any burden and continued to serve as a great mentor there until his death. He was always eager to be a believer in religion and used every forum to convey his point to others. So his writings and speeches are evidence.<sup>50</sup>

On top of this he did participate in welfare and charity activities and

his work during the earthquake of 2005 is a great example of that.



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