

## POLITICS OF CONSTITUTIONAL RIGHTISM IN PAKISTAN: JAM'IIYYAT ULEMA-I-PAKISTAN (JUP)—A JUDICIOUS DISCOURSE (1948-1970)

### Abstract

*Barelvi School of Islamic Scholars who actively and unconditionally supported All-India Muslim League (1906-1947) for its demand of Pakistan decided to come on the forefront in order to transform the nascent country into a moderate Islamic republic in the light of aspirations and instructions of M.A. Jinnah, the founder of Pakistan. Hence, they formed a religio-political party entitled Jam'iiyyat Ulema-i-Pakistan (JUP) [A Party of Religious Scholars of Pakistan] in 1948. From the times of freedom movement of Indian Subcontinent, they felt Communism as well as Socialism a threat to the Islamic Social Order and they responded through their literary pursuits. After Independence they faced it as a challenge on the political front and dealt it accordingly. The 1970s country politics were divided into leftist and rightist camps and the JUP, being a Religious-Constitutional Right worked effectively against the political Left. In the current article JUP's first three evolutionary phases of religio-political and constitutional Rightism have categorically been discussed.*

### JUP's Constitutional Rightism—Formative Phase:

Barelvi faction of the Ulema who actively participated in the Pakistan Movement (1940-1947) and gave their unconditional support to M.A. Jinnah, the founder of Pakistan, very soon reached to the point that their objectives associated with the struggle for Pakistan could only be achieved through a constitutional and political struggle; and as per the need of the parliamentary system prevailed in the country, they must converge and consolidate their energies on a political platform.<sup>1</sup> Hence, on 28<sup>th</sup> March, 1948 in a 3-day meeting of Barelvi ulema at *Madrasah-i-Islamiah Arabiah Anwaral ulum*, Multan, the *Markazi* (Central) Jam'iiyyatal-Ulema-i-Pakistan (MJUP- hereafter JUP) was formally established.<sup>2</sup>

Being an effective and active part of the Religious Right of the country they concentrated their efforts to transform Pakistan into a true Islamic state established through the promulgation of the Islamic constitution in the country.<sup>3</sup> They stressed upon the emulation of all the social and moral evils as the founder of the country had aspired in the inaugural session of the Constituent Assembly of Pakistan (CAP).<sup>4</sup> Moreover, it was also hoped to propagate Islamic teachings among the Muslims by initiating the spirit of religious cum political awakening and the spirit of *Jihad* among them and direct their attention from western culture and civilization towards Islamic culture and civilization.<sup>5</sup> For propagation of rightism and to safeguard the rights of religious right JUP demanded allocation of

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seats for the ulema of all factions in the national and provincial assemblies in order to guide the government.<sup>6</sup>

Hence, the establishment of an Islamic state in the country was the destiny of the rightist JUP.<sup>7</sup> In order to remind the higher authorities and other stakeholders responsible for the formation of the constitution, JUP held meetings and processions throughout the country. It pressed demands for the enforcement of Islamic jurisprudence through Islamic constitution. One of such events worthy to mention over here is the observance of *Yaum-i-Shari'ah* on 7 May 1948.<sup>8</sup> In their Friday sermons, the ulema and khatibs adopted resolutions, demanding an Islamic constitution to be formulated and promulgated immediately and the copies of these resolutions were sent to the Governor General M. A. Jinnah and the Premier Khan Liaquat Ali Khan.<sup>9</sup>

Among the early serious rightist efforts of JUP made regarding the drafting of the constitutional roadmap of an Islamic state, the two are very important. In the first attempt, the Sunni ulema and JUP leaders drafted the outlines of an Islamic constitution, according to their view-point.<sup>157</sup> However, they could not draft a fully-fledged constitution due to sad demise of Maulana Na'imuddin Muradabadi in October 1948.<sup>10</sup>

The second serious successive effort was made with a broader Sunni consensus in mid-1948. On the visits of Maulana Abdul Aleem Siddiqui<sup>11</sup> to Pakistan, a meeting of Sunni elite was held in Pakistan with the represents of ulema of both wings of the country.<sup>12</sup> At this meeting a committee headed by Maulana Siddiqui prepared a draft of an Islamic constitution.<sup>13</sup> Maulana Ahmad Saeed Kazimi (1913-1986)<sup>161</sup> represented JUP on this committee. Later a delegation led by Maulana Siddiqui waited on the Quaid-i-Azam M.A. Jinnah, the then governor General of Pakistan, and presented this draft to him.<sup>14</sup> After a three hour long discussion, the latter assured the delegation that after the adoption of this draft by the CAP, this constitution would be enacted. However, this provide remained unfulfilled due to sad demise of Quaid-i-Azam in September 1948.<sup>15</sup>

It is interesting to note that the JUP, like many other religious parties had no representation in the CAP, but it influenced indirectly the process of constitution through such efforts as mentioned above. The first practical step in framing the country's constitution was taken by CAP on 12 March 1949, when it adopted the Objectives Resolution, moved by the then premier of the country, Khan Liaquat Ali Khan.<sup>16</sup> This step was equally lauded by the JUP leaders, although not representing on CAP yet supported the objective resolution. An influential JUP leader Qari Hakim Ahmad Pilibhiti (1911-76), who was present in the CAP as an observer of his party, supported the said resolution. Not only had this JUP demanded its representation on the Basic Principles committee (BPC), which remained unnoticed by the government.<sup>17</sup>

What happened to various supports of the BPC and how severely they were criticized is not the subject of present discussion. Briefly speaking, contradictory interests of both wings of the country hampered BPC and its subsequent sub- committees to reach any consensus. Besides this, the controversy in constitution making continued to converge around the Islamic character of the future constitution and the nature of its federal structure.<sup>18</sup>

The delaying diplomacy of the responsible authorities regarding constitution formulation eventually brought different Islamic religious parties and groups closer and as a result, thirty one ulema belonging to religious parties and organizations met in Karachi in January 1951.<sup>19</sup> Maulana Ehtisham-ul-Haq Thanvi (1915-80) of JUI convened the meeting while famous scholar of the subcontinent and the President of JUI Allama Syed Suleman Nadavi (1884-1953), a renowned scholar of the country, presided over this meeting. Maulana Abdul Hamid Badayuni and Mufti Muhammad Sahibdad Khan (1898-1965) represented the JUP.<sup>20</sup> The meeting formulated twenty two principles for the establishment of an Islamic state and it was for the first time that the government gave due consideration to the demand of rightist ulema and the final report of the BPC, presented on 22 December, 1952 was based among other things on the twenty two points suggested by the Ulema.<sup>21</sup> In turn, ulema in a convention held at Lahore on 11-18 January 1953 discussed the said report and gave a number of suggestions including the addition of five ulema to the Supreme Court, in order to resolve the repugnancy matters arising time and again. However, a note of dissent was attached by Maulana Abul Hasanat Qadiri and Maulana Abdul Hamid Badayuni, preferring an ulema board from a list of ulema from religious organizations working on central and provincial levels in a regular manner since the establishment of Pakistan.<sup>22</sup> The major disagreement, which was noted at the convention, was between the ulema of Deobandi and Barelvi factions. Barelvi group desired to make the status of ulema official by forcing the recognitions of their organization in the constitution.<sup>23</sup>

In April 1953, the Nazimuddin ministry was dismissed by the Governor General Malik Ghulam Muhammad (1895-1956)<sup>24</sup> and Mr. Muhammad Ali Bogra (1900-1963)<sup>25</sup>—the new premier took the task of constitution making. The JUP once again pressed the government for the adoption of the BPC report as amended by the ulema in 1953.<sup>26</sup> By June 1953; there was a rumor that Bogra Government was going to introduce an interim constitution into CAP at its next session, without publishing its contents before the public. However, the idea was later dropped due to the opposition of the religious parties as well as the East Pakistan Muslim League Parliamentary Party.<sup>27</sup> It also overwhelmingly rejected the interim constitution. After the rejection of the idea of interim constitution furnished by the Bogra Government, a constitution formula termed as “Bogra Formula”<sup>28</sup> after the name of its creator was flourished insuring parity to the both wings of the country.

Muhammad Ali Bogra, while taking charge as Prime Minister, declared that formulation of the Constitution was his first and foremost priority. He worked hard on this assignment and within six months of assuming power, came out with a viable constitutional formula, known as the Bogra Formula. It was presented before the CAP on 7 October 1953.<sup>29</sup> Technically termed as ‘Parity Formula’, the plan proposed for a Bicameral Legislature with equal representation for all the five provinces of the country in the Upper House. A total of 50 seats were reserved for the Upper House. The 300 seats for the Lower House were to be allocated to the provinces on the basis of proportionate representation. 165 seats were reserved for East Pakistan, 75 for Punjab, 19 for Sindh and Khairpur, 24 for NWFP, tribal areas and the states located in NWFP, and 17 for Baluchistan, Baluchistan States Union, Bahawalpur and Karachi.<sup>30</sup> East Pakistan, by this approach, was allocated with

more seats in the Lower House than the combined number of seats reserved for the federal capital, the four provinces and the princely states of the West Pakistan. So in all, both the wings were to have 175 seats each in the two houses of the Legislative Assembly. Both the houses were given equal power, and in case of a conflict between the two houses, the issue was to be presented before a joint session.<sup>31</sup> A provision was made, in order to prevent permanent domination by any wing, that if the head of the state was from West Pakistan, the Prime Minister was to be nominated from East Pakistan, and vice versa. The two houses of the Legislative Assembly formed the Electoral College for the presidential elections and the President was to be elected for a term of 5 years. In place of the Board of Ulema, the Supreme Court was given the power to decide if a law was in accordance with the basic teachings of the Holy Quran and Sunnah or not.<sup>32</sup>

Unlike the two reports of the BPC, the Bogra Formula could be appreciated as a serious effort made by an East Pakistan based premier. In a sense, it would act as a source of unity by bridging the gulf between the two wings of the country. This formula, along with the report of the BPC was brought to CAP on 7 October, 1953.<sup>33</sup> However; this report was too criticized by quarters, especially by Pakistan National Congress (est. 1947) due to the inclusion of Islamic provisions into it. Later, the above-mentioned report was adopted by the CAP on 21 September 1954.<sup>34</sup>

The JUP expressed its satisfaction over the progress in framing the constitution and hoped that it would help in bringing into practice the principles of Quran and Sunnah in the country. On October 9, 1954, Shah Murid Hussain Hashimi of JUP at a convention applauded the efforts of the government in this connection, by highlighting the need for the opening of a department of religious affairs to help implement the Islamic principles in matters of divorce, inheritance, religious education and maintenance of mosques. The convention pressed for the passing of the draft constitution bill. However, the constitution process was discontinued due to the personal vetted interest of the then governor General Malik Ghulam Muhammad who dissolved the CAP on 24 October 1954.<sup>35</sup> The ulema of different religious parties, however, resumed their pressure for an Islamic constitution as the new constitution assembly was elected in June 1955.<sup>36</sup>

Under the auspices of JUP, an All Pakistan Sunni Conference (APSC) was held on 10-12 December 1955 at Mochi Gate Lahore as a part of the awareness campaign on the formulation of an Islamic Constitution.<sup>37</sup> Maulana Abdul Hasanat Qadiri appealed in his presidential address, to the government to enact an Islamic constitution in which Pakistan must be declared an Islamic Republic and the head of the State must be a Muslim. At the same APSC, Maulana Ahmad Saeed Kazimi, founding father of JUP, presented a resolution which was adopted after slight amendments. Through this resolution, the JUP demanded that the constitution should have an Islamic character, based on the principles of the Quran and Sunnah, keeping in view the objectives resolution; and that the head of the state be a Muslim; and *Fiqh Hanafi* must be declared as the state law on account of the majority of the people of Pakistan observed *Fiqh Hanafi*.<sup>38</sup>

In continuum, the government presented a constitution bill to the CAP in January 1956 and was equally welcomed by JUP and other religious parties. The

rightist JUP, the very next day, constituted and appointed a subcommittee to review and improve the draft in the light of its settled view point.<sup>39</sup> This proposed subcommittee suggested some amendments in the draft to make the centre strong and provide legal guarantees for the basic human rights and the Islamic character of the constitution. Furthermore to concentrate the efforts on a right platform and in order to press the government to enact an Islamic constitution, JUP became an active part of the constitution committee constituted by other religious parties.<sup>40</sup> A convention of rightist ulema and Masha'ikh was held on 8<sup>th</sup> February, 1956 under the auspices of All Parties Islamic Constitution Committee (APICC) at Dhaka.<sup>41</sup> The APICC endorsed the amendments that had earlier been devised by the Jam'iyyat Ulema-i-Islam (JUI), the Nizam-i-Islam party (NIP), the Jamaat-i-Islami of Pakistan (JIP)<sup>42</sup>, the JUP and the Jamiyyat-i-Ahl-i-Hadith (JAH;est.1948) and put forward further demands; and when finally the first constitution was promulgated on 23<sup>rd</sup> March 1956, the religio-political rightists welcomed the constitution.<sup>43</sup>

Another test case which the religious right of the country confronted was anti-Qadiani Movement which dominated the political scene during 1953-54 and in the following years in irregular intervals until its final logical end in 1974.<sup>44</sup> The immediate cause which instigated this gave rise to a rightist religio-political movement was the speech made by the then foreign minister, Choudhry Zafrullah Khan (1893-1985) on 18<sup>th</sup> May, 1952.<sup>45</sup> While addressing to *Anjuman-i-Ahmadiyah* at Jahangir Park Karachi on '*Islam Zinda Madh'hab hai* (Islam is a live religion), he highlighted the significance of Ahmadiyya community for its services rendered to Islam and termed Ahmadiyyat a plant implanted by God himself which had taken roots to provide a guarantee for the preservation of Islam in fulfillment of promise constrained in the Quran.<sup>46</sup> Zafrullah Khan presented no historical references to validate his view-point and his speech created an intense resentment among the Muslims especially in Karachi and Punjab following widespread disturbances broken out in major cities of Punjab. These disturbances in some places took so disastrous turn that military had to be called in, and in Lahore, Martial Law had to be proclaimed which remained in force till the middle of May 1953.<sup>47</sup> These disturbances also resulted into a number of casualties in different parts of the country.<sup>48</sup> Zafrullah speech forced religious right to come to the forefront and resultantly a meeting of All Pakistan Muslim Parties was held in Karachi, at which Maulana Abdul Hamid Badayuni represented the JUP.<sup>49</sup> The meeting demanded the declaration of *Ahmadis* a non-Muslim minority; removal of Zafrullah Khan from the office of the Foreign Minister; and removed of *Ahmadis* from all key posts.<sup>50</sup>

Maulana Badayuni also attended All Muslim Parties Convention held on 13 July, 1952 at Barkat Ali Muhammadan Hall (1905), Lahore.<sup>51</sup> After repeating the same piece of demands made in Karachi; it was decided to constitute a *Markazi Majlis-i-Amal* (Central Action Committee) to decide upon the future course of action. Maulana Abul Hasnat Qadiri was nominated as President of *Markazi Majlis-i-Amal*.<sup>52</sup> He was reluctant to participate in the anti Qadiani movement due to its violent nature and resorting to breaches of law. However, Maulana Muhammad Ali Jallandhari, an envoy of Maulana Ghulam Ghous Hazarvi (1885-1981) and Syed Ataullah Shah Bukhari (1891-1961) met Maulana

Qadiri and remained successful in getting active support of the latter and the JUP.<sup>53</sup> The other nominees of the JUP in the Majlis-i-Amal were Maulana Muhammad Bakhsh Muslim (1887-1987), Maulana Ghulam Muhammad Tarannum (1900-1959) president of Punjab JUP, Maulana Abdul Ghafoor Hazarvi (1910-1970)<sup>54</sup> and Maulana Murtaza Ahmad Khan Maikash (1899-1959), the legal advisor of the JUP.<sup>55</sup>

However, the JUP, though with its purely rightist stance, presented an unprecedented example of being the “constitutional right”<sup>56</sup> of the country by condemning all extra-constitutional measures resulting into deteriorated law and order situation in the country. In July 1952, Maulana Abul Hasnat Qadiri showed great satisfaction over the position taken by the Punjab Government over the demands of the Majlis-i-Amal.<sup>57</sup>

A delegation led by Maulana Qadiri met Prime Minister Khawaja Nazimuddin in Karachi on 13 and 16 August 1952 and apprised him of the demand concerning Ahmadis.<sup>58</sup> However, the meeting remained fruitless due to PM’s declination to the demands. This was one of the reasons that the JUP later supported Malik Ghulam Muhammad’s action to sack Nazimuddin ministry in 1954.<sup>59</sup> Maulana Qadiri, along with a delegation, also met the Chief Minister (CM) of the Punjab, Mian Mumtaz Muhammad Khan Daultana (1916-1995) on 29 September 1952 and placed before him their grievances against the Ahmadis including the grant of land for an exclusively Ahamdiyah colony at Rabwah (now Chanabnagar). The CM promised to look into the matter but later the promise remained mere a promise due to hasty changes in the provincial politics and the vested interest of Daultana.<sup>60</sup>

Following the publication of the BPC report, an AMPC was held on 16-18 January 1953 and Maulana Abdul Hasnat Qadiri and Maulana Abdul Hamid Badayuni represented the JUP there. Ahmadiyya issue was discussed in detail and the AMPC lamented the attitude of the government regarding this issue. The convention concluded that in the circumstances *rast iqdam* (direct action) had become inevitable to secure acceptance of the demands.<sup>61</sup> The convention elected an eight member Action Committee and authorized it to devise a course of action in order to get demands accepted. Maulana Qadiri and Maulana Badayuni were on this committee. In the same meeting; a delegation was constituted to see the Prime Minister Nazimuddin in order to press him for the acceptance of demands. The delegation under the headship of Maulana Badayuni met Khawaja Nazimuddin on 22 January 1953.<sup>62</sup> The latter expressed his sympathies with the demands but showed his inability to accept them on account of his meager political position in Muslim League parliamentary party. On Nazimuddin’s arrival to Lahore, another delegation led by Maulana Qadiri met him on 16 January 1953 and inquired from him his policy regarding the demands. Khawaja Nazimuddin, once again, showed his reluctance to the demands and asked the deputation to visit Karachi for further discussion.<sup>63</sup>

So, on February 21, a deputation of leading ulema again met him in Karachi and expressed its repercussions on the delaying tactics of the government and again Nazimuddin showed his helplessness and as a result the constitutional right like JUP had to resort to place full direct action on 26 February 1953.<sup>64</sup> In the

meeting of the *Majlis-i-Amal*, presided by Maulana Qadiri, a resolution was passed in the favor of the said measure. In order to crush direct action, even though it was declared a peaceful one, the government decided to reject the ultimatum and arrest supporters of the direct action. As a result, Maulana Qadiri and Maulana Badayuni were arrested in Karachi, while Maulana Abdul Ghafoor Hazarvi, along with other leaders of the JUP, was arrested in Punjab. These Government measures led to a series of disturbance and riots.<sup>65</sup>

Anti Qadiani Movement of 1953, a test case for the constitutional right of the country, could not survive longer and the main reason behind its collapse was the violence it generated. However, the non violent, abiding by the constitution policy of rightist JUP won the moral victory over the parties with extra constitutional mind set.

### **Second Phase of JUP Rightism (1955-1962):**

This era is marked by pre- and post-Martial Law efforts of JUP for restoration of the Constitution. During this period JUP also convened All Pakistan Sunni Conferences in order to reorganize its party-organics and present its official policies on both national and international issues. At fifth such annual all Pakistan Sunni conference held on 10-12 December 1955 in Lahore under the auspices of the JUP, deep concern was expressed about the everyday moral declination and deteriorating moral values of the society and enforcement of the Islamic moral system was declared need of the day.<sup>66</sup> Moreover, martyrs of the anti Qadiani movement were commemorated and prayers were offered for them. The JUP, being the rightist party, did not ignore the anti Islamic policies of USSR against the Muslims in its different states captured under its notorious policy of self-aggrandizement. It was although not the first time that JUP leaders condemned Russian Left yet it was for the first time that JUP condemned anti Islamic Russian attitude through a resolution. Through the same resolution the JUP condemned Pro-Zionist policies of the USA and UK, and repressive policies of France in Morocco and Algeria.<sup>67</sup>

The resolution stressed upon the government to reconsider its foreign policy by respecting the sentiments of the people of the country. In another resolution, the conference condemned the un-Islamic policies of the pro Moscow Afghan government and its support of terrorist activities on Pakistan's borders.<sup>68</sup> At the same APSC, the JUP spoke on the nature of the electorate and called joint electorate an un-Islamic way of having the opinion or consensus of the people and termed it against the ideology of Pakistan.<sup>69</sup>

In one of the sessions of the APSC, Maulana Murtaza Ahmad Khan Maikash, through a resolution, demanded for the establishment of an institute for academic research '*Idara-i-Tehqiqat-i-Ilmiya*' under the auspices of JUP in order to study the progress of old and new sects of Islam and give suitable proposals to tackle them.<sup>70</sup> On the last day of the APSC, new office bearers were elected on the move of leading JUP leaders Sahibzada Fazal Hussain Shah (1911-1984).<sup>71</sup> In the same session, some resolutions were passed to consolidate JUP's rightism. One of the demands was to revise the prevailing curriculum according to the Islamic principles and thereby to ensure an official weekly organ of the JUP. During the

session the ban on some Sunni journals was severely criticized.<sup>72</sup> In the sixth APSC of the series, among other things the JUP demanded the appointment of an Ulama Board under article 198-B of the 1956 constitution<sup>73</sup> in order to supervise the legislation in accordance with the Holy Quran and Sunnah, and to participate in the process effectively. The MJUP also demanded its representation on the proposed Board.<sup>74</sup>

Being one of the leading rightist political parties of the country, the JUP aspired to participate in the forthcoming general elections to be held under the 1956 constitution as an independent political party in order to consolidate its rightist efforts on a regular forum i.e. the parliament. However, the democratic process in the country soon saw disruption at the hands of military administration on 7 October 1958.<sup>75</sup> All the political parties as well as political activities were banned in the country. Interestingly, during the thirteen years seminal phase of the JUP (1948-1961), only one president held the office and led the party effectively.

### **Third phase of JUP's Constitutional Rightism (1961-1970):**

Maulana Abdul Hasnat was the JUP leader who remained in office uncontested and uncontrovertibly. His presence was considered a binding force which successfully led the party and his constitutional rightism moved the party from early crises and bans. However with his death the party not only lost a capable position but also saw riots in forthcoming years. On the promulgation of Martial Law, the constitution 1956 was abrogated and the country remained constitution less for next five years or so until general Muhammad Ayub Khan (1907-1974) gave new constitution which was constituted to fulfill his own vested interests.<sup>76</sup> In February 1960, General Ayub appointed a constitution commission which in turn circulated a questionnaire in order to get public opinion about the new constitution. Answering this questionnaire, the *Nazim-i-A'la* of the west Pakistan JUP (WPJUP), Maulana Ahmad Saeed Kazimi aspired to comply with the forthcoming constitution with the teachings to the Quran and Sunnah.<sup>77</sup> He also stressed upon the allocation of maximum period for this conformity and to give legal protection to basic rights of the citizens. Maulana Kazimi was of the view that in case of presidential form of government as was advocated in the questionnaire the head of the state must be male Muslim.<sup>78</sup> The newly enforced constitution, however, completely ignored the recommendations of the Constitution Commission for the incorporation of the Islamic provisions of the 1956 Constitution.<sup>79</sup> Moreover, all the references to Quran and Sunnah in 'the principles of policy'<sup>80</sup> were categorically removed and a substitution was made with the more general term 'Islam'.<sup>81</sup> The WPJUP, albeit there technical flaws welcomed the new constitution; by setting another example of being a constitutional rightist party of the country. Maulana Kazimi, by rationalizing this unconditional support to the constitution, stated that the real concept of Islam depended mostly upon the Quran and Sunnah.<sup>82</sup>

Right after the enforcement of the new constitution, Martial Law was withdrawn and soon the political activities were allowed and resultantly on 16 July, 1962, the Political Parties Act (PPA) <sup>83</sup> was adopted and the political parties were revived. The JUP which was in dormancy after the proclamation of Martial Law was too ready to revive itself and as a result on 5 August 1962, a meeting of

prominent Sunni Ulema was held at Lahore and the JUP was officially revived. At this meeting Sahibzada Faiz al Hassan was elected its interim president.<sup>84</sup> The JUP leadership also demanded, among other things, the declaration of Qadianis as a non Muslim minority.<sup>85</sup>

However, the most dominant issue which created a fuss among the JUP party ranks was the establishment of *Auqaf* department by the Ayub Government. The Sunni ulema and Masha'ikh termed this measure of the government as the enunciation of Socialism or nationalization of Islam leading to serious repression. The *gaddis*<sup>86</sup> were in fact a main source of income as well as socio-political matters of the Sunni ulema and Masha'ikh.<sup>87</sup>

This issue was in no way the last one to bother the JUP ranks. In fact, the dealing with autocracy of General Ayub was in itself a heinous problem for the rightist JUP on account of the support some leading JUP leaders like Sahibzada Faiz al Hassan and Maulana Badayuni who were rendering to Martial Law and condemning openly Miss Fatima Jinnah (1893-1967)<sup>88</sup> as presidential candidate. This issue created so much fuss in the JUP ranks that a clear rift was to dominate the intra party politics of the JUP which lasted up till the announcement of the first general elections of 1970, right after the acquittal of president Ayub from the power corridors.

### **Conclusion:**

The above discussion is an epigraph of a two-decade struggle of a religio-political party—JUP which promoted its self-image as a constitutional right of the country. During this important phase of the country's history not only the foundations of the constitution were laid but also a right-left political stratum came into existence. In addition, the country politics went through a number of ups and downs; faced two martial laws and subsequent response to them. JUP, during this period, played its dual role of both religio-political and constitutional right. The significance of this role is marked by the fact that it launched its political efforts under the limits specified by the country's constitution. It also supported all the efforts made by different quarters of the country regarding framing of the constitution and responded to them positively. However, as a Constitutional Rightist, it never compromised on principles and national interests.

## Notes and References

1. Muhammad Usman (1990), *Pakistan ki Siyasi Jama'atein*, Lahore: Sang-i-Meel, p.17
2. Mujeeb Ahmad (1993), *Jam'iyyat Ulama-i-Pakistan 1948-1979*, Islamabad: National Institute of Historical and Cultural Research), p.2
3. Ibid.pp.2-3
4. Ibid.p.4
5. *Pakistan ki Siyasi Jama'atein*, pp.657-703
6. *Jam'iyyat Ulama-i-Pakistan 1948-1979*, p.5
7. Ibid.
8. JUP's membership right from the start was restricted to only Sunni Ulema, khatibs and religious minded persons.
9. *Yaum-i-Shari'ah* was observed in cooperation with the Jamiyyat Al Masha'ikh, founded by Pir Sayyid Muhammad Fazal Shah of Jalalpur Sharif in January 1948. The day was successfully celebrated in the major cities of West Pakistan e.g. Rawalpindi, Sialkot, Gujranwala, Jhang, Dera Ismail Khan, Jhelum, Gujarat, Multan, Peshawar, Quetta, Karachi, Sukker, and Hyderabad. (*Jam'iyyat Ulama-i-Pakistan 1948-1979*), pp.4-5
10. Ibid., p.5
11. Ibid., p.209
12. Professor Muhammad Aslam (1990), *Wafyat-i-Mashaheer-i-Pakistan*, Islamabad: Muqtadra Qaumi Zuban, p.158
13. Ibid., p.203
14. Ibid., p.126
15. Maulana Ahmad Saeed Kazimi was the founding member and the first *Nazim-i-A'la* of the JUP.
16. *Jam'iyyat Ulama-i-Pakistan 1948-1979*, p.5
17. Ibid.
18. Ibid., p.6
19. Maulana Abdul Hamid Badayuni, an ardent critic of the Communism and Bolshevism, demanded representation of the MJUP on the constitution making committee but the government turned a deaf ear to this demand. (Ibid., pp.7-8)
20. Muhammad Sadiq Qasuri (1989), *Akabar-i-Tahrik-i-Pakistan*, Vol. II, n.p: Lahore, pp.266-270
21. Leonard Binder (1963), *Religion and Politics in Pakistan*. (Berkeley: University of California Press, 1963), pp.31-33
22. M. Rafique Afzal (1986), *Political Parties in Pakistan 1947-1958*, Islamabad: National Institute of Historical and Cultural Research, pp.83-112
23. Ibid., p.115
24. Ibid., p.116
25. Ibid.
26. Malik Ghulam Muhammad was born at Lahore and educated at Aligarh. He served in Accounts Department but after partition opted for Pakistan and became the first Finance Minister of the country. He was elevated to the position of Governor General of Pakistan in 1951.
27. *Nawa-i-Waqt*, Lahore, 30 April 1953
28. *Political Parties in Pakistan 1947-1958*, p.116
29. Ibid., p.117
30. Bogra Formula was an attempt to create parity between the two wings of the country. For this purpose later, One-Unit was established after merging all the provinces of the West Pakistan on 15 October 1955. Unlike the two reports of the BPC, the Bogra Formula was appreciated by different sections of the society.

31. *Dawn*, Karachi, 8 October 1953
32. Herbert Feldman, *A Constitution for Pakistan*, Oxford University Press, Karachi, 1955, pp.33-42
33. *Ibid.*
34. For details of the formula see Lawrence Ziring,(1997) *Pakistan in the Twentieth Century: A political History*, Karachi: Oxford University Press; see also Zulfiqar Ali Maluka (1995), *The Myth of Constitutionalism in Pakistan*, Karachi: Oxford University Press, pp.123-145
35. Kamal Azfar (1991), “*Constitutional Dilemmas in Pakistan*” in Shahid Javed Burki and Craig Baxter, ed. *Pakistan Leadership Challenges*, Boulder: Westview Press, pp.51-62
36. *Ibid.*
37. *Jam'iyat Ulama-i-Pakistan 1948-1979*, pp.36-45
38. *Ibid.*p.45
39. *Ibid.*p.46
40. *Ibid.*pp.47-48
41. See Mumtaz Ali Asi (1964), Maulana Maududi aur Jamat-e-Islami: Ek Jaeza [Maulana Maududi and the Jamat-e-Islami: A Survey], in Urdu, Lahore: Maktaba-e-Jadeed, pp. 103-104
42. *Ibid.* pp.114-116
43. *Ibid.* pp.134-135
44. *Ibid.*p.142
45. *Ibid.*p.154
46. Anti-*Ahmediyya* Movement was crushed, especially in Punjab by imposition a partial Martial Law in major cities of the province. For fulsome details on the issue see *Report of the Court of Inquiry Constituted under Punjab Act 11 of 1954 to enquire into the Punjab Disturbances of 1953*. Lahore: Government of Punjab
47. *Dawn*, Karachi, 19 May 1952
48. *Aḥmadiyyah*, founded in *Qādiān*, the Punjab, India, in 1889 by Mirza Ghulam Aḥmad (c. 1839–1908), who claimed to be the *mahdī* (a figure expected by some Muslims at the end of the world), the Christian Messiah, an incarnation of the Hindu god Krishna, and a reappearance (*burūz*) of Muḥammad. In 1947, with the establishment of Pakistan, they officially relocated from *Qādiān* to Rabwah, Pakistan. In 1974, they were declared non-Muslims through the Second Amendment in the Constitution 1973.
49. K. K. Aziz (1969), *Party Politics in Pakistan 1947-1958*, reprint (2007), Lahore: Sang-i-Meel, pp.129-133
50. *Ibid.*, p.133
51. *Ibid.*, p.136
52. *Ibid.*, pp.148-149
53. *Ibid.*, p.150
54. *Ibid.*, p.151
55. *Ibid.*, pp.153-154
56. Maulana Abdul Ghafoor Hazarvi, an *alim* (religious scholar); he was one of the disciples of Pir Mehar Ali Shah of Golra Sharif; and he was President of JUP between 1968 and 1970.
57. Maulana Murtaza Ahmad Khan Maikash (1899-1959), philosopher, poet, journalist, and writer and above all, was a leader of the Pakistan Movement. He was one of the Muslim celebrities of the subcontinent who gave the idea of a separate homeland in the times of Allama Muhammad Iqbal (1876-1938). He was Editor of Daily *Shahbaz* Lahore. He wrote a number of books including *Tarikh-i-Islam* [the History of Islam], *Ilhami Afsanay* [Divine Short Stories], *Islām aur Ma'ashī Islāhat* [Islam and Economic Reforms], etc. (*Nawa-i-Waqt*, Lahore, 28 July 1959).
58. The government clarified that the demand relating to the declaration of Qadianis as a minority had nothing to do with the Punjab government and that the demand should be pressed in a

- constitutional manner without resorting to any breach of law. (*Jam'iyat Ulama-i-Pakistan 1948-1979*, pp.46-47)
59. Maulana Abul Hasnat Qadiri was a calm and cool minded religious leader. He did not favor any 'direct action' against the regime to compel it to accede to the demands. This divided the Majlis-i-Amal in two groups' one favoring direct action and the other denouncing it. (Ibid.p.48)
60. *Party Politics in Pakistan 1947-1958*, pp.139-156
61. Ibid., p.156
62. Ibid., pp.157-179
63. M. Rafique Afzal (2001), *Pakistan: History and Politics 1947-1971* Karachi: Oxford University Press, pp.284-291, Also see Kalim Siddiqui (1972), *Conflict, Crisis and War in Pakistan*, London: Macmillan, pp.211-212
64. Ibid.p.292
65. Ibid.p.293
66. Ibid.pp.297-298
67. G.W. Choudhury (1969), *Constitutional Development in Pakistan*, Second Edition, London: Longman, pp.69-70
68. Ibid.p.76
69. Ibid.p.77
70. Tahir Amin, *Ethno-National Movements of Pakistan: Domestic and International Factors*, Islamabad: IPS, p.13
71. Ibid.p.17
72. Altaf Gauhar (1993), *Ayub Khan: Pakistan's First Military Ruler*, Lahore: Sang-e-Meel Publishers, p.274
73. These office bearers included Maulana Abul Hasanat Qadiri (President-I), Maulana Abdul Ghafoor Hazarvi (President-II), Maulana Ahmad Saeed Kazimi (President-III), Maulana Ghulam Muhammad Tarannum (Vice-President-I), Maulana Muhammad Umar Na'imi (1883-1966) (Vice-President-II), Maulana Abdul Hamid Badayuni (Nazim-i-A'la-I), Allama Mahmud Ahmad Rizvi (Nazim-i-A'la-II), Maulana Ghulam Mu'inuddin Na'imi ( Naib Nazim-i-A'la-I), Muhammad Mohsin Fiqhi (Naib Nazim-i-A'la-II), Haji Muhammad Ibrahim (Treasurer), Maulana Khalil Ahmad Qadiri (Vice-Treasurer), Maulana Muhammad Bakhsh Muslim (Information Secretary), Maulana Khadim Hussain ( Vice-Information Secretary), Maulana Murtaza Ahmad Khan Maikash ( Legal Adviser), and Syed Munawar Ali [ Muh'tasib (Ombudsman)] (*Jam'iyat Ulama-i-Pakistan 1948-1979*, pp.17-18)
74. Article 197 states that:(1) The President shall set up an organization for Islamic research and instruction in advanced studies to assist in the reconstruction of Muslim society on a truly Islamic basis.(2) Parliament may by Act provide for a special tax to be imposed upon Muslims for defraying expenses of the organization set up under clause (1), and the proceeds of such tax shall not, notwithstanding anything in the Constitution, from part of the Federal Consolidated Fund. [G. W. Choudhury (1967), *Documents and Speeches on the Constitution of Pakistan*, Dacca (East Pakistan): Green Book House]
75. Article 198 states that: (1) No law shall be enacted which is repugnant to the Injunctions of Islam as laid down in the Holy Quran and Sunnah, hereinafter referred to as Injunctions of Islam, and existing law shall be brought into conformity with such Injunctions.(2) Effect shall be given to the provisions of clause (1) only in the manner provided in clause (3). (3) Within one year of the Constitution Day, the President shall appoint a Commission:(a) to make recommendations-(i) as to the measures for bringing existing law into conformity with the Injunctions of Islam, and-(ii) as to the stages by which such measures should be brought into effect; and (b) to compile in a suitable form, for the guidance of the National and Provincial Assemblies, such Injunctions of Islam as can be given legislative effect. The Commission shall submit its final report within five years of its appointment, and may submit any interim report earlier. The report, whether interim or final, shall be laid before the National Assembly within six months of its receipt, and the Assembly after considering the report shall enact laws in respect thereof.(4) Nothing in this Article shall affect the personal laws of non-Muslim citizens, or their status as citizens, or any provision of the

Constitution. Explanation: In the application of this Article to the personal law of any Muslim sect, the expression "Quran and Sunnah" shall mean the Quran and Sunnah as interpreted by that sect. (Ibid.)

76. *Dawn*, Karachi, 8 October 1958.
77. *Ayub Khan: Pakistan's First Military Ruler*, p.287
78. *Jam'iyat Ulama-i-Pakistan 1948-1979*, p.35
79. Ibid.
80. *Constitutional Development in Pakistan*, pp.70-71
81. Muhammad Ahmad Qadiri (1958), *Khutba-i-Sadarat*, Lahore, pp.7-10
82. *Political Parties in Pakistan 1958-1969*, pp.80-86
83. Ibid
84. *Monthly Als'aid* (1960), Multan, July Issue, pp.35-39
85. Ibid.p.41
86. Ibid.p.43
87. Ibid.p.44

Miss Fatima Jinnah was younger sister and companion of Quaid-i-Azam Muhammad Ali Jinnah. After Jinnah's death she lived a secluded life but in 1964-65 elections broke her silence and jumped into elections on the request of COP leaders and made the contest difficult for Ayub. She lost election but exposed the weakness of Ayubian system before the masses.[Agha Hussain Hamdani (1978), *Fatima Jinnah: Hayat-o-Khidmaat*, Islamabad: National Commission on Historical and Cultural Research, p. 90]