

**DYNAMICS OF THE ROLE OF OPPOSITION IN  
CONSTITUTION-MAKING OF PAKISTAN  
(1972-1977): A HISTORICAL ANALYSIS**

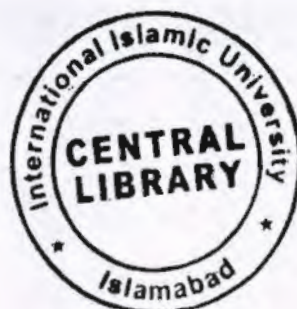


Submitted by

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**PH.D-HISTORY**  
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**DEPARTMENT OF HISTORY & PAKISTAN STUDIES**  
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**INTERNATIONAL ISLAMIC UNIVERSITY**  
**ISLAMABAD**

**2017**



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PHD  
342.5491029  
MLD

Pakistan - Constitutional Law - History  
Constitutional history - Pakistan

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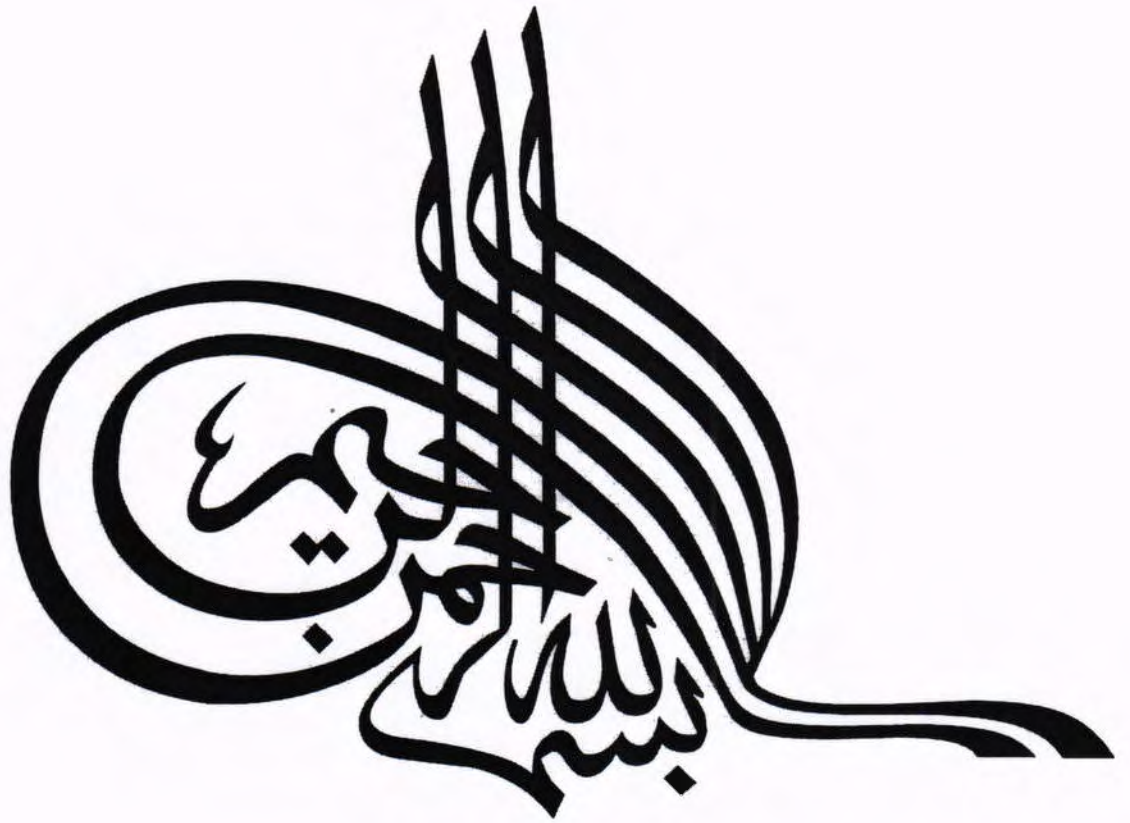
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*In the name of Allah,  
the Most Beneficent,  
the Most Merciful*

**DEDICATED**

*To*

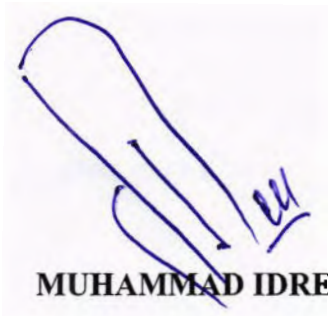
*My Praiseworthy Parents*

*And*

*Family*

# DECLARATION

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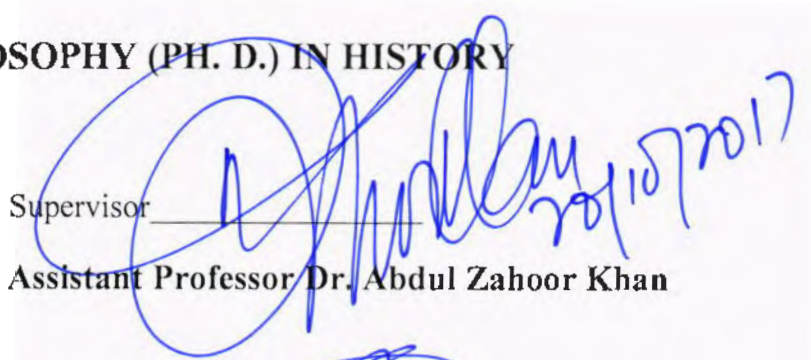
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Dated: October 20, 2017

  
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## Certification

Certified that contents and form of thesis entitled, “**Dynamics of The Role of Opposition in Constitution-Making of Pakistan (1972-1977): A Historical Analysis**” submitted by **Muhammad Idrees**, Regd. No. **06-FSS/PHDHIS/SI2** have been found satisfactory for, in the partial fulfillment of the requirements for the award of the Degree of **Doctor of Philosophy (Ph. D.)** in History.

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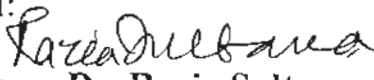
  
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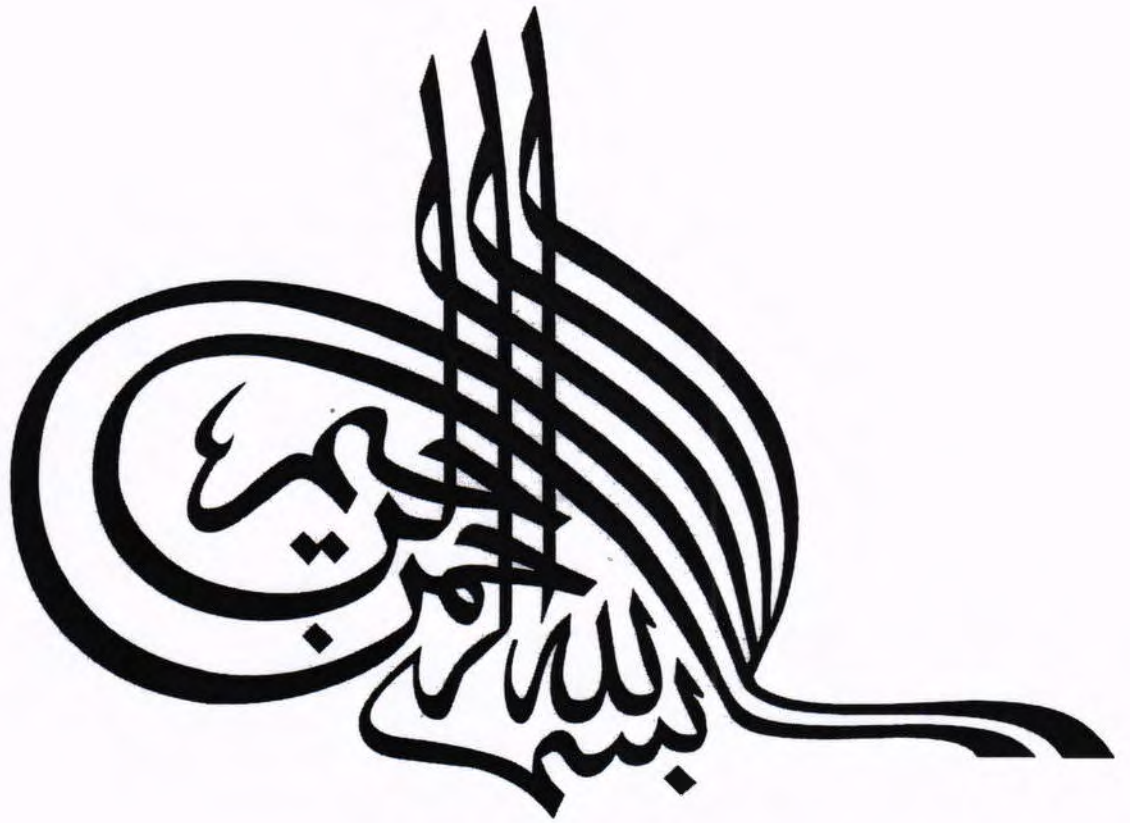
**DEDICATED**

*To*

*My Praiseworthy Parents*

*And*

*Family*



*In the name of Allah,  
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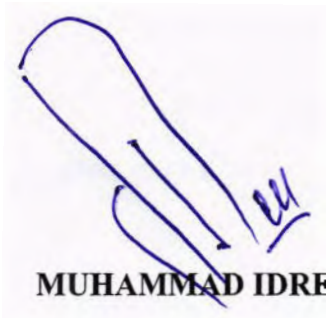
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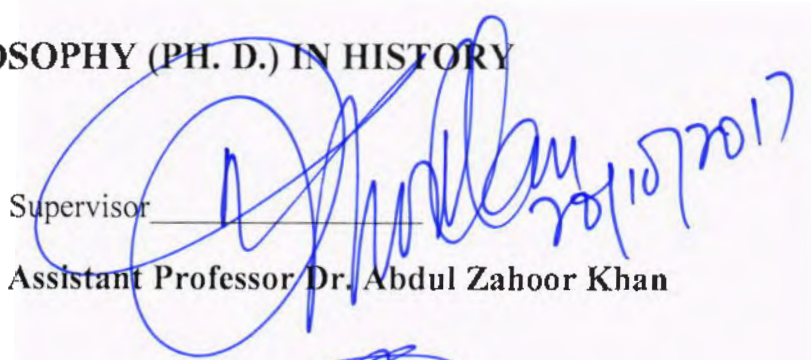
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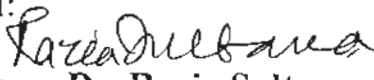
  
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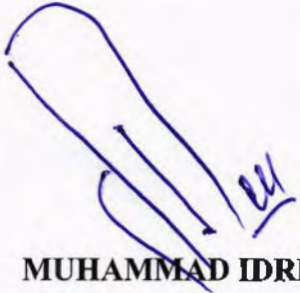
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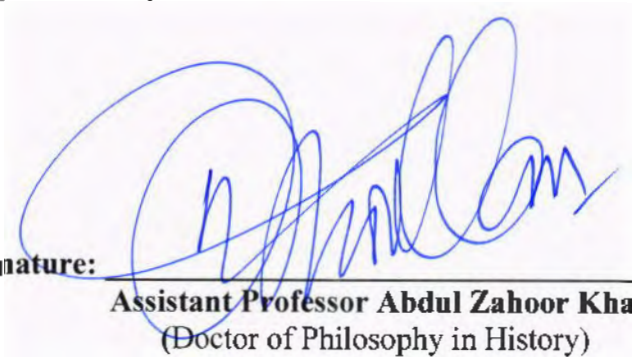
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**Research Supervisor**

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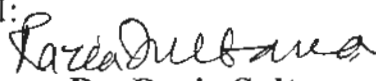
  
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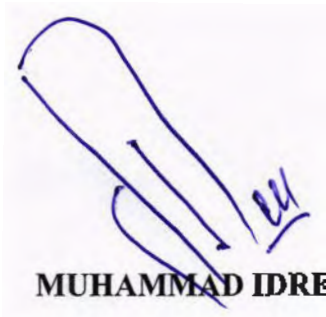
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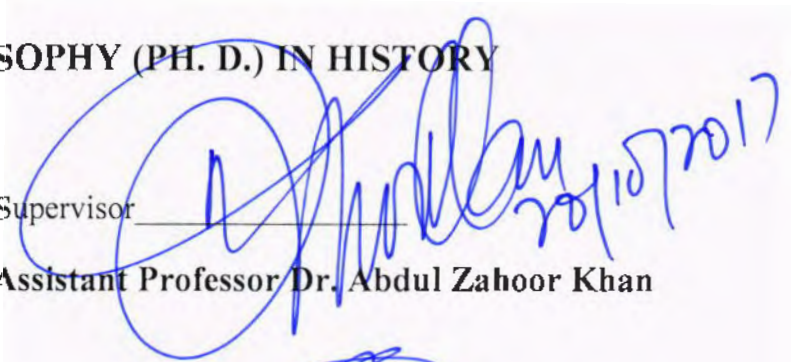
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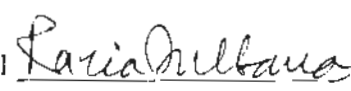
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## ACKNOWLEDGEMENTS

Immeasurable & too wonderful for words thanks to ALLAH ALMIGHTY-The Absolute Creator of this entire universe and the world hereafter, Who until the end of time guides in gloominess as well as in light & illumination, does help in difficulties and odds, when all supplementary channels' upper limits end.

Prime respects and honors to The Last Holy Prophet- MUHAMMAD (S. A. W. W.)- Mercy for all the worlds, who enabled the human-being to recognize his Creator.

It is really difficult to include the names of all those persons who did involve directly or indirectly in the accomplishment of this research.

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collection from Peshawar to Karachi for the study. Arshad Bashir, Muhammad Javed, Sabir Hussain and Muhammad Arshad also deserve my appreciations for their prayers and encouragement. In the process of completion of this study, I have benefited from the advices and insights of many scholars. I would like to thank in particular to Dr. Altaf Qadir of the Department of History, University of Peshawar-KP.

I shall be failing in my duty if I do not acknowledge, most sincerely, the help and contributions of staff members of many institutions in Peshawar, Islamabad, Lahore and Karachi. In particular, I would like to mention Central library, University of Peshawar, National Archives of Pakistan, Islamabad; National Documentation Wing, Islamabad; National Institute of Historical and Cultural Research, Islamabad; Central Library Quaid-i-Azam University, Islamabad; Seminar Library of the Department of History, Quaid-i-Azam University, Islamabad; Deputy Controller, Printing Corporation of Pakistan, Stationery and Forms, Karachi; The National Assembly of Pakistan Library, Islamabad; The Senate of Pakistan Library, Islamabad; Dr. Muhammad Hamidullah Library, Islamabad; Central Library International Islamic University, Islamabad; National Library of Pakistan, Islamabad; and Press Information Department, Islamabad.

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MUHAMMAD IDREES

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## **ABBREVIATIONS**

|                |  |
|----------------|--|
| <b>AIML</b>    | <b>All-India Muslim League</b>                             |
| <b>AJKMC</b>   | <b>All-Jammu and Kashmir Muslim Conference</b>             |
| <b>AL</b>      | <b>Awami League</b>  |
| <b>APC</b>     | <b>All Parties Conference</b>                              |
| <b>APKNAC</b>  | <b>All Parties <i>Khatm-i-Nubuwa</i>t Action Committee</b> |
| <b>APP</b>     | <b>Azad Pakistan Party</b>                                 |
| <b>BBA</b>     | <b>Bail Before Arrest</b>                                  |
| <b>BBC</b>     | <b>British Broadcasting Corporation</b>                    |
| <b>BPC</b>     | <b>Basic Principles Committee</b>                          |
| <b>CAP</b>     | <b>Constituent Assembly of Pakistan</b>                    |
| <b>CID</b>     | <b>Criminal Investigation Department</b>                   |
| <b>CMLA</b>    | <b>Chief Martial Law Administrator</b>                     |
| <b>COC</b>     | <b>Contempt of Court</b>                                   |
| <b>Con. ML</b> | <b>Convention Muslim League</b>                            |
| <b>COP</b>     | <b>Combined Opposition Parties</b>                         |
| <b>CPP</b>     | <b>Communist Party of Pakistan</b>                         |
| <b>Cou. ML</b> | <b>Council Muslim League</b>                               |
| <b>CSP</b>     | <b>Central Services of Pakistan</b>                        |
| <b>DAC</b>     | <b>Democratic Action Committee</b>                         |
| <b>DC</b>      | <b>Deputy Commissioner</b>                                 |

|             |   |
|-------------|---|
| <b>DPRs</b> | <b>Defense of Pakistan Rules</b>                  |
| <b>EBDO</b> | <b>Elective Bodies Disqualification Ordinance</b> |
| <b>FATA</b> | <b>Federally Administered Tribal Areas</b>        |
| <b>FBI</b>  | <b>Federal Bureau of Investigation</b>            |
| <b>FSF</b>  | <b>Federal Security Force</b>                     |
| <b>GD</b>   | <b>Ganatantri Dal</b>                             |
| <b>INC</b>  | <b>Indian National Congress</b>                   |
| <b>JAH</b>  | <b>Jam‘iyyat Ahl-i-Hadith</b>                     |
| <b>JI</b>   | <b>Jama‘at-i-Islami</b>                           |
| <b>JP</b>   | <b>Justice Party</b>                              |
| <b>JUI</b>  | <b>Jam‘iyyat-i-Ulama-i-Islam</b>                  |
| <b>JUP</b>  | <b>Jam‘iyyat ‘Ulama-i-Pakistan</b>                |
| <b>KRP</b>  | <b>Khilafat-i-Rabbani Party</b>                   |
| <b>KSP</b>  | <b>Krishak Saramik Party</b>                      |
| <b>KT</b>   | <b>Khaksar Tehrik</b>                             |
| <b>LFO</b>  | <b>Legal Framework Order</b>                      |
| <b>ML</b>   | <b>Muslim League</b>                              |
| <b>MLA</b>  | <b>Martial Law Administrator</b>                  |
| <b>MLRs</b> | <b>Martial Law Regulations</b>                    |
| <b>MLOs</b> | <b>Martial Law Orders</b>                         |
| <b>MNAs</b> | <b>Members of National Assembly</b>               |
| <b>MPAs</b> | <b>Members of Provincial Assembly</b>             |

|              |   |
|--------------|---|
| <b>MRD</b>   | <b>Movement for Restoration of Democracy</b>                  |
| <b>NA</b>    | <b>National Assembly</b>                                      |
| <b>NAP</b>   | <b>National Awami Party</b>                                   |
| <b>NIP</b>   | <b>Nizam-i-Islam Party</b>                                    |
| <b>NWFP</b>  | <b>North-West Frontier Province</b>                           |
| <b>OPEC</b>  | <b>Organization of Petroleum Exporting Countries</b>          |
| <b>PBUH</b>  | <b>Peace Be Upon Him</b>                                      |
| <b>PCO</b>   | <b>Provisional Constitutional Order</b>                       |
| <b>PDM</b>   | <b>Pakistan Democratic Movement</b>                           |
| <b>PDP</b>   | <b>Pakistan Democratic Party</b>                              |
| <b>PICIC</b> | <b>Pakistan Industrial Credit and Investment Corporation</b>  |
| <b>PIDC</b>  | <b>Pakistan Industrial Development Corporation</b>            |
| <b>QML</b>   | <b>Qayyum Muslim League</b>                                   |
| <b>PML</b>   | <b>Pakistan Muslim League</b>                                 |
| <b>PNA</b>   | <b>Pakistan National Alliance</b>                             |
| <b>PNC</b>   | <b>Pakistan National Congress</b>                             |
| <b>PODO</b>  | <b>Public Offices Disqualification Order</b>                  |
| <b>POWs</b>  | <b>Prisoners of War</b>                                       |
| <b>PPC</b>   | <b>Pakistan Penal Code</b>                                    |
| <b>PPP</b>   | <b>Pakistan Peoples Party</b>                                 |
| <b>PRODA</b> | <b>Public and Representative Offices Disqualification Act</b> |
| <b>RP</b>    | <b>Republican Party</b>                                       |

|              |  |
|--------------|--|
| <b>SP</b>    | <b>Senate of Pakistan</b>                    |
| <b>TI</b>    | <b>Tehrik-i-Istiqlal</b>                     |
| <b>UDF</b>   | <b>United Democratic Front</b>               |
| <b>UF</b>    | <b>United Front</b>                          |
| <b>UIF</b>   | <b>United Islamic Front</b>                  |
| <b>USA</b>   | <b>United States of America</b>              |
| <b>WAPDA</b> | <b>Water and Power Development Authority</b> |

## GLOSSARY

|                       |   |
|-----------------------|---|
| <i>ahadith</i>        | Sayings of the Last Holy Prophet-Muhammad (PBUH).<br>Its singular is <i>hadith</i> .                                  |
| <i>'alim</i>          | Religious scholar educated in religious educational institution. Singular of <i>ulama</i> .                           |
| <i>auqaf</i>          | Charitable endowments.  |
| <i>bukhari Sharif</i> | A book of <i>ahadith</i> .  |
| <i>dar-ul-Ulum</i>    | The house of learning, religious school.  |
| <i>eid</i>            | A festival celebrated by all Muslims twice in a year once at the 1st of Shawwal and the other at the 10th of Zilhajj. |
| <i>faraiz</i>         | Obligations.  |
| <i>fatwa</i>          | Authoritative opinion based on the <i>Shariat</i> , given by a <i>mufti</i> .   |
| <i>hajj</i>           | Pilgrimage to Makkah.   |
| <i>haram</i>          | Prohibited, unlawful.   |
| <i>huffaz</i>         | One that knows the Quran by heart is called Hafiz. Its plural is <i>Huffaz</i>  |
| <i>iddat</i>          | Probationary period (for a divorced woman OR for a widow four months and ten days).                                   |
| <i>jamia masjid</i>   | Grand Mosque of locality.   |
| <i>jihad</i>          | The war against non-Muslims, generally in defense.  |

|                                 |  |
|---------------------------------|--|
| <i>ka'abah</i>                  | The House of Allah at Makkah.                                |
| <i>kanal</i>                    | Land measure equivalent to 20 <i>marlas</i> .                |
| <i>katchi abadi</i>             | Houses made of mud.  |
| <i>khulafa-i-Rashideen</i>      | Pious Caliphs.   |
| <i>madar-i- millat</i>          | Mother of Nation.  |
| <i>madaris</i>                  | Religious schools. Its singular is <i>madrasah</i> .         |
| <i>madaris-i-arabia Islamia</i> | Religious schools.   |
| <i>marlas</i>                   | Land measure equivalent to 5.5 square yards.                 |
| <i>masajid</i>                  | Mosques. Its singular is <i>masjid</i> .                     |
| <i>masawat-i-Muhammadi</i>      | Equality as followed by the Prophet Muhammad (PBUH).         |
| <i>masjid-i-nabavi</i>          | Mosque of the Prophet Muhammad (PBUH).                       |
| <i>mawlana</i>                  | Reverential word used for ' <i>alim</i> .                    |
| <i>mufti</i>                    | A person qualified and authorized to issue a <i>fatwa</i> .  |
| <i>munkirat</i>                 | Prohibited actions or deeds.                                 |
| <i>muslim</i>                   | Name of a famous collection of <i>ahadith</i> .              |
| <i>nafal</i>                    | Supererogatory prayers.                                      |
| <i>nawabs</i>                   | lords, governors, princes.                                   |
| <i>nikah</i>                    | Marriage contract in Islam.                                  |
| <i>nisa</i>                     | Women  |
| <i>qari</i>                     | Man who recites the Quran methodically and with sweet voice. |
| <i>qazi</i>                     | Judge.   |

|                          |   |
|--------------------------|---|
| <i>quaid-i-Awam</i>      | Leader of the people.   |
| <i>riba</i>              | Usury.  |
| <i>sahabah</i>           | Companions of the Prophet Muhammad (PBUH).  |
| <i>salami</i>            | The bride and bridegroom salute the elders and receive their blessings by receiving presents or money from them. The presents and money are known as salami               |
| <i>sayyid-ul-ayyam</i>   | The king of days.   |
| <i>sirat</i>             | The life of the Prophet Muhammad (PBUH).  |
| <i>shariah</i>           | The religious law of Islam as explained in the Quran and <i>Hadith</i> .  |
| <i>shia</i>              | Sect regarding Hazrat Ali as direct lawful successor to the Prophet (PBUH) rejecting the other three pious caliphs.   |
| <i>shurah</i>            | Consultative body.  |
| <i>sunnah</i>            | The 'way' or 'path' of the Prophet Muhammad (PBUH) and his companions, as known to the Muslims through the <i>ahadith</i> .   |
| <i>sunni</i>             | The Muslims of the branch of Islam that adheres to the orthodox tradition and acknowledges the first four Caliphs as rightful successors of Last Prophet Muhammad (PBUH). |
| <i>surah</i>             | A surah is the term for a chapter of the Quran. There are 114 surahs in the Quran, each divided into verses.  |
| <i>tanzeemul madaris</i> | Organization of the religious institutions.   |
| <i>tirmazi</i>           | a book of <i>ahadith</i> .  |



|               |  |
|---------------|--|
| <i>ulama</i>  | Religious scholars educated in religious educational institutions. Plural of ' <i>alim</i> .   |
| <i>urs</i>    | Death anniversary of a <i>pir</i> or sheikh.   |
| <i>walima</i> | Wedding party by groom's family.   |
| <i>waqf</i>   | Endowment of property.   |
| <i>zakat</i>  | Annual religious fixed amount paid by the Muslims on fixed amount of wealth which is 2.5 per cent (this part of the amount is distributed among the poor Muslims). |

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## **Introduction**

An opposition is a political grouping, party or loose association of individuals who wish to change the government and its policies. In some democratic states the opposition has a formal position and is expected to present itself as an alternative government both by challenging the government's measures between elections and by offering itself as a potential governing party at an election. However, as opposition members it also put forth effective measures for resolution of a range of issues. These include constitutional, political, social, religious and cultural issues in the legislature of a country.<sup>1</sup>

Furthermore, opposition keeps an eye over the functions of the government. It brings the matters of public interest into the notice of the government and also checks the executives through questioning, various motions, resolutions and bills. It also presents alternative and reliable policies to the government. When a government introduces a bill in the legislature, the opposition tries its level best to add its ideas for its betterment. In this regard the opposition educates the people through print and electronic media and so can persuade the government to accept its stance over the aforementioned issues. In order to make the government accountable, the opposition seriously checks its corruption, favoritism and nepotism. It also protects the social rights of the citizens provided in the constitution of the state.<sup>2</sup>

The opposition needs to be strong enough to defend the people from the autocratic behaviour of the government. For this purpose its members should be active, educated,

vigilant, united, committed and devoted. If an opposition possesses such qualities, it is highly valued and respected by the government. Likewise, the opposition must be tolerant and appreciate the excellent policies of the government. It respects the constitution of the country. The opposition avoids the aggressive and violent attitude for the recognition of its demands.<sup>3</sup> In the same perspectives, the opposition members of Pakistan has played a commendable role in constitution-making since 1972 to 1977.

The opposition played a pivotal role in making the 1973 Constitution of the Islamic Republic of Pakistan. The opposition forwarded amendments to the original Constitution of 1973 for the individual's fundamental rights; citizens' employment; free education; smooth democratic system; Islamic culture and civilization; Islamisation of the constitution and formation of the Council of Islamic Ideology.<sup>4</sup> This proved that opposition played a role in constitution-making of Pakistan during 1972-77.

### **Statement of the Problem**

There have been many issues in debates during 1972-1977 within the Parliament of Pakistan. These were constitutional, social, religious, economic and political issues. The opposition raised their voice regarding these issues while presenting their amendments and proposals for the settlement of these issues. Some of their amendments were accepted while the rest of those were rejected by the Parliament of Pakistan. So it has been searched out that to what extent the opposition members in Pakistan, during 1972-1977, played their role to address the issues in constitution-making. This study is very useful for the researchers and opposition members as all the collected data is analyzed

systematically and is integrated into a concise form which is now easily accessible and comprehensible.

### **Scope & Significance of the Study/Research**

There are many books written about the various governments and political parties in Pakistan. These books also contain the performance of the opposition but not in-depth and detail. Similarly, no research work has been undertaken so far on the role of opposition in constitution-making of Pakistan during 1972-77. In view of the fact that the opposition posed a tough resistance within the Parliament to the government and played a significant role during 1972-77, therefore, there was an intense need to study and explore the opposition's role in Pakistan during this era to find out as to what extent it succeeded in fulfilling its responsibilities, in constitution-making. This study presents a historical examination, chronological analysis of the role of opposition in constitution-making of Pakistan (1972-77). This study is very useful for the researchers and opposition members.

### **Research Questions**

This study is an effort to answer the following research questions concerning the said era.

1. What was the role of opposition in constitution-making in the National Assembly of Pakistan as well as the Senate of Pakistan?
2. How opposition contributed towards legislation regarding constitutional, social, political, economic and religious issues of Pakistan?



## **Review of the Literature**

Amongst the available literature much of primary source material concerning the role of opposition in the National Assembly of Pakistan in particular the debates i.e., *the National Assembly of Pakistan (Constitution-making) Debates, the National Assembly of Pakistan (Legislature) Debates, the National Assembly of Pakistan Debates, the Senate of Pakistan Debates* since 1972-77 was very useful as it provided some very important information on socio-political issues and constitution-making of the era. These primary sources contain the constitutional, political, social, religious and cultural issues, addressed by the opposition leaders, of the era under research. The secondary sources that were consulted for this study include the press clippings in the Press Information Department, Islamabad, research articles, a host of the then newspapers and books.

Amongst the books that touches the research era and area in passing, the Lawrence Ziring's *Pakistan: The Enigma of Political Development* <sup>5</sup> reviews the politics of ethnicity and tribalism. This work covers the struggle of opposition outside the parliament and mentions about the government's atrocities against it. The political clash between the government and opposition at the provincial level is also highlighted.

Shahid Javed Burki in his *Pakistan under Bhutto, 1971-77* <sup>6</sup> has emphasized the life of Zulfikar Ali Bhutto and the details about the government and politics in Pakistan during 1971 to 1977 are highlighted. The role of opposition is not discussed in detail.

Mujeeb Ahmad in his *Jam'iyyat 'Ulama-i-Pakistan 1948-1979* <sup>7</sup> has given a detail about the role of opposition outside the assembly but with special emphasis on the role of the JUP.

Surendra Nath Kaushik in his *Politics in Pakistan* <sup>8</sup> throws light on the interactive dilemmas of the PPP and the opposition parties. He has discussed the relations between Zulfikar Ali Bhutto and the opposition but the focus is on his harsh attitude and tactics outside the assembly.

Inayatuulah in his *State and Democracy in Pakistan* highlights mainly the role of political parties for democracy and the political legacy of the pre-partition All India Muslim League and post partition Muslim League.

Anwar H. Syed in his *The Discourse and Politics of Zulfikar Ali Bhutto* brings to light the political repressions of Zulfikar Ali Bhutto against the opposition and the opposition tactics in response to those repressions. He has also highlighted the NAP-JUI coalition governments in Khyber Pakhtunkhwa and Baluchistan and the attitude of Zulfikar Ali Bhutto towards this coalition.

Feroz Ahmad in his *Ethnicity and Politics in Pakistan* throws light on the Sindhi and Pashtun grievances during the Zulfikar Ali Bhutto era. The ruling parties' aggressions against the oppositions in these provinces have been pin pointed in detail. *Constitution-making of Pakistan* by the National Assembly of Pakistan provides has given the details about the constitutional history of Pakistan. Pakistan politics and government during 1972-75 are also highlighted.

Muhammad Munir in his book *From Jinnah to Zia* has given reflections of the Pakistani politics during the Bhutto era and the role of opposition outside the Assembly has been discussed a little bit. Mushtaq Ahmad in his *Government and Politics in Pakistan* has focused on the politics of Pakistan during the era but that is also in passing.

Surendra Nath Kaushik's *Politics in Pakistan: with special reference to rise and fall of Bhutto* has covered the areas of political history of Pakistan since 1971 till 1988. This is also an authentic source to collect some useful information regarding the government and politics in Pakistan during the era under the study.

Syed Mujawar Hussain Shah in his *Religion and Politics in Pakistan (1972-88)*<sup>9</sup> has pointed the history of Pakistan in general and Pakistan's politics and government are highlighted in particular during the era. The politics of the opposition has been brought to light outside the parliament. The role of the religious parties is discussed.

Kalim Bahadur in his work *South Asia in Transition: Conflicts and Tensions*<sup>10</sup> has compared the politics of three South Asian states. These three states are Pakistan, India and Bangladesh. While reviewing the political conditions of Pakistan, he has touched the politics of the era under study.

*State, Society and Democratic Change in Pakistan* of Rasul Bakhsh Rais<sup>11</sup> has mentioned the history of Pakistan along with the politics and government in Pakistan. Then Sibte Hassan in his book titled *The Battle of Ideas in Pakistan*<sup>12</sup> has summarized the political conditions of Pakistan during 1947-1986. The era under study has been covered a little bit but the details in the national Assembly of Pakistan are lacking.

Louis D. Hayes in *The Struggle for Legitimacy in Pakistan*<sup>13</sup> has analytically stated the politics of Pakistan stretching from 1947-1985.

Parvez Hassan in *Perspectives on Pakistan Politics, Constitution and Martial Law*<sup>14</sup> has brought to light the politics of Pakistan in historical perspective and subscribed the constitution-making process in Pakistan. The martial law has been discussed as a

constraint to the development of democracy in the country. The historical perspective of politics in the country has given a touch to the era under research.

Emma Duncan's *Breaking the Curfew: a Political Journey through Pakistan*<sup>15</sup> has brought forth three aspects of Pakistan to light. The first one is the history of Pakistan. The second one is the governments and politics while the third one mentions the economic conditions of Pakistan. The second part of the book is somehow concerned to the topic under research.

Mumtaz Ahmad in his *Bureaucracy and Political Development in Pakistan*<sup>16</sup> has some description regarding the study but mainly focusing on the general political conditions of the country.

Hamid Khan in *Constitutional and Political History of Pakistan*<sup>17</sup> has highlighted political history of Pakistan during the 20<sup>th</sup> century and also the problems in constitutions making process in the country. The background and all aspects of the 1973 Constitution of the Islamic Republic of Pakistan has been given in detail. This aspect of the book covers the study a little bit outside as well as inside the NA.

Veena Kukreja's *Contemporary Pakistan: Politics Processes, Conflicts and Crises*<sup>18</sup> have briefly emphasized the Pakistan politics and government, civil-military relations in Pakistan and political stability and instability in Pakistan.

Zubaid Ahmad Firdousi in *Eagle Over Pakistan*<sup>19</sup> has brought to light the foreign relation of Pakistan of the era under study, history of Pakistan and government and politics of the era.

Syed Nawab Haider Naqvi in his *External Shocks and Domestic Adjustment: Pakistan's Case (1970-1990)* <sup>20</sup> has given details about the political and economic turmoil in Pakistan during 1970 to 1990.

### **Research Methodology and Theoretical Framework**

The methodology followed for the specific study comprises collecting information available through primary and secondary sources. The primary data sources include debates of the opposition members in the National Assembly of Pakistan as well as the Senate of Pakistan stretching from 1972-77. Similarly secondary data comprises on books, newspapers, journals and official records. The data collected through these sources is critically analyzed through the theory of Parliamentary Democracy and thus the conclusions are drawn.

The principal institutions of parliamentary democracies are elections, government formation, and legislatures. Since the government serves with the confidence of the parliament, government formation and legislation are necessarily intertwined and a bargaining perspective is a natural approach to studying coalition formation and policy choice. Both government formation and legislation depend on representation in parliament, and the modal electoral institution is proportional representation. Political incentives arise from all three institutions, and both political parties and voters respond to those incentives.<sup>21</sup>

Parliamentary democracy is a particular form of government; essentially, a democratic system in which government is drawn from and is regularly answerable to the elected legislature. Commonly the executive is subjected to dismissal on political grounds (as

distinct from removal by impeachment) by that assembly. The theory itself has its origin in the nineteenth century, when the notion of democracy became allied with a parliamentary form of government.<sup>22</sup>

To keep the study much more sheltered the Objectives Resolution adopted in March 1949 is very useful for the dissertation. The Objectives Resolution is one of the most important and illuminating documents in the history of Pakistan. It laid down the objectives on which the future constitution of the country was to be based and it proved to be the foundational stone of the constitutional development in Pakistan. The most significant thing was that it contained the basic principles of both Islamic Political System and Western Democracy. Its importance can be ascertained from the fact that it served as preamble for the constitutions of 1956, 1962 and 1973 and ultimately became the part of the Constitution of 1973 when the Eighth Amendment in the same Constitution was passed in 1985.<sup>23</sup>

The opposition influenced the process of constitution-making, especially the Islamic character of the future constitution. 31 notable *ulama*, representing different schools of thought presented twenty-two points which were endorsed by all the religious sects and which could provide a basis for the further constitution of Pakistan. The twenty-two points which were unanimously approved by these *ulama* proposed a parliamentary form of democratic government based on Islamic principles rather than a theocracy, i.e., a religious Government in a restricted sense.<sup>24</sup> Those 22 points of thirty one prominent *ulama* in 1950 also stand a roadmap of the study.

## **Organization of the Study/Research Outlines**

Excluding the Introduction and conclusion, the present study is divided into five chapters.

Organization of various chapters is divided as follows.

**Chapter-1** presents an introduction regarding an insight into the study. This chapter reflects the details of role of the opposition since 1947-1971 but in a nutshell. Role of the opposition in the legislature of Pakistan regarding constitutional, social, cultural, religious and political issues are discussed in a series.

**Chapter-2** focuses on the Interim Constitution of the Islamic Republic of Pakistan during 1972 and the role that the opposition played in this regard. The elections of 1970 and its results are focused which gave the results and entry of the opposition in the National Assembly of Pakistan. Enactment of the Interim Constitution by the then government and the response of the opposition are highlighted.

**Chapter-3** discusses the Constitutional Accord of 1972 with special reference to the opposition's role and comments. Stance of the opposition over the draft constitution is brought to light. The formation of the United Democratic Front by the opposition for the constitution is a part of the chapter. The attitude of the Bhutto government towards the opposition in this regard is an addition to the efforts. The amendments in the interim as well as the original constitution suggested by the opposition are highlighted. Likewise, its advices and original debates critically analyzed, highlights the role of opposition in the Senate of Pakistan regarding different issues. This chapter focuses on the amendments forwarded by the opposition members in response to those bills which were introduced



by the Treasury Benches. Different debates participated by the opposition members over there are analyzed and historical examination is made through chronological orders.

**Chapter-4** emphasizes the role of opposition specifically responding to the six basic and fundamental amendments included by the then government into the original constitution of the Islamic Republic of Pakistan 1973. The role of the opposition in that regard is analyzed and critically narrated.

**Chapter-5** contains four sections and each section elaborates the role of the opposition in legislation regarding various issues within the text of the 1973 Constitution up till 1977 each.

**Section-I** of the chapter highlights the role of the opposition in legislation regarding the religious issues in the Constitution. Religion is mostly an element influencing the constitution-making in any state of the world. As Pakistan had come into being on the basis of the Islamic Ideology, therefore, the 1973 constitution was a great challenge for the opposition in this regard. The amendments for the Islamisation of the constitution by the opposition are the main part of the section. The main role of the opposition regarding the law of Apostasy, teachings of the Quran and Sunnah, eradication of usury, definition of Muslim and resolution for declaring Qadianis as non-Muslims, formation of the Council of Islamic Ideology and voice for the Muslims all over the world are focused. Their struggle for strengthening the Islamic culture and civilization in the society is elaborated. Resolutions and bills forwarded by the opposition for the betterment of the *ulama* in the society are heeded specifically.

**Section-II** of the chapter explains role of the opposition members in the social issues of Pakistan. All the practical steps taken by the opposition for safeguarding the social values of the country are analyzed. All those bills forwarded by the government benches regarding the social issues and the response by the opposition thereof are critically analyzed and the loopholes pinpointed by the opposition are discussed in detail. Their amendments to the government's bills concerning the social issues are highlighted. It has been searched out whether the opposition moved motions and tabled suggestions in this connection according to the principles of policy mentioned in the Constitution of the Islamic Republic of Pakistan. The response given by the opposition to all those bills presented by the government dealing the social values are focused. Their role for its betterment is highlighted.

**Section-III** of the chapter describes the role of opposition members in the political issues of Pakistan. The political deadlock after the 1970 general elections is discussed and the formation of the democratic government is highlighted. Then role of the opposition for the smooth democratic system, their voice against the mismanagement of the contemporary government, their political alliance against undemocratic behavior of the government is emphasized. The legislation highlighting the political issues and the role played by the opposition in this regard is analyzed. The tough time given by the Government of Zulfikar Ali Bhutto to the opposition inside as well as outside the assembly is elaborated.

**Section-IV** of the chapter analyzes role of the opposition in the legislation regarding the economic issues in the Constitution of Pakistan and thereby the role played by the

opposition benches within the Parliament of Pakistan. Useful suggestions forwarded by the opposition to different bills moved by the government benches in that concern are pin pointed. Suggestions moved for the betterment of the economy of the country by the opposition members and responses of the government are analyzed.

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## **CHAPTER-1**

### **AN OVERVIEW OF THE ROLE OF OPPOSITION IN CONSTITUTION-MAKING OF PAKISTAN SINCE 1947**

This chapter presents an overview of the role of opposition in constitution-making of Pakistan since 1947-71. The amendments made in this era are described in the following lines. However, before partition of Indo-Pak Sub-continent, British had introduced the representative type of government during various constitutional reforms. The acuity of opposition also merged with the start of democracy in the sub-continent of India. Even at that time opposition was considered a very essential element for the democratic type of government, hence, a well-known British retired officer, Allan Octavian Hume (1829-1912) formed Indian National Congress (INC) in the year 1885. This step of Allan led to the formation of various political parties based on the race, religion, culture, community, secularism, and region in India. In response to the Indian National Congress, the Muslims of India formed the All-India Muslim League (AIML) in the year 1906. The INC was faithful to the usurpers and also stated itself to be the true representative of all Indians. The AIML claimed itself to be the true representative of the Muslim population in the Indo-Pak sub-continent and stood fast against the usurpers for their freedom' cause. The political parties increased and resultantly many parties were formed included, United Party in Sindh, Krishak Proja Party in Bengal, Punjab Unionist Party in Punjab and Khudai Khidmatgar in NWFP (now called Khyber Pakhtunkhwa). These political parties

possessed diverse manifestoes which developed on regional basis. Sometimes, those political parties joined alliances for election purpose in order to make coalition governments. All the hard work of coalition and alliances was not successful for social and religious differences amongst the Indians. As a result of elections held in 1937, the Ministries of Congress were formed under the Government of India Act 1935 frustrated the leaders of AIML for coalition and alliance with the INC leadership in future. At that very time the AIML leadership focused their endeavours for getting Pakistan as an independent state.<sup>1</sup>

During the early years other political parties in Pakistan had small chances of success against Pakistan Muslim League (PML)<sup>2</sup>. The elections were quite in hand when the opposition decided to make electoral alliances in order to overcome the PML in the provincial elections. The smaller political parties also merged to constitute big parties to boost up their strength by increasing their base of support. Consequently, two forms were apparent in the improvement of politics of opposition in the early decades of the country. The first form illustrated that coalition of the opposition in their respective groups was to contest provincial elections either in West or in East Pakistan. Those electoral alliances were mostly made on regional basis. The second form showed development of the opposition as smaller parties merged to become bigger parties. The opposition tried to arrange parties of cross wings in order to expand their programs by integrating the demands of specific constituency, which boosted up their mass support.<sup>3</sup>

In the early years, the opposition was in the form of small groups with a limited support base. Those groups could not create challenge for the ruling party. Though those small

groups got into alliances to overpower the dominant ruling party in the country, however this strategy proved unsuccessful in West Pakistan as Muslim League maintained its dominant position after the provincial election, whereas, in East Pakistan the opposition alliance of the United Front (UF) played well in throwing out the League from the National assembly in the East Pakistan.

The victory of opposition in the elections of 1954 in East Pakistan appeared as a threat to the intentions of Governor-General, Malik Ghulam Muhammad (1895-1956) and Prime Minister, Muhammad Ali Bogra (1909-63) which led to the dissolution of the first Constituent Assembly. Malik Ghulam Muhammad and Muhammad Ali Bogra had a mission to bring Pakistan in the Western camp. However, they were afraid of the ever increasing popularity of the opposition in the country, especially in East Pakistan, who were anti-United States and anti-establishment. This paved the way for the Second Constituent Assembly. Resultantly, every political party had to join coalition with other parties in order to form a successful government. After in depth discussion political parties spoiled their status. Consequently, less difference left between the government and the opposition parties. As the time passed a multi-party system emerged in the state and a range of parties with their special attempt to overcome the ruling party preferred to make alliances to win the elections. Although after winning the elections, they could not retain their synchronization and started to disintegrate like the alliance of the United Front.

The conduct of the ruling party i.e. PML also played an important role by overpowering the opposition through following various approaches. PML made tremendous efforts to

keep opposition away from ruling by using government funds to put down the opposition, making laws against the opposition and using delaying tactics in the elections. The ruling party did not want to go for general elections even after executing the Constitution of 1956. Consequently, elections were postponed for about two years for some reasons and then were planned in February but once again the government frustrated the opposition by not respecting its schedule.<sup>4</sup> In the month of October during 1958 the Constitution of 1956 was abrogated and general elections were postponed. PML being a ruling party faced no confrontation because there was no handy opposition in the assemblies till the end of 1954. The Congress political party possessed only ten members in the first Constituent Assembly whereas Azad Pakistan Party (APP) possessed only three members. Members of both the Congress and APP accompanied each other on the benches of opposition in order to support democratic and secular sense of the Pakistan polity. However, the Congress party was neither kind to basic ideas nor ready to the far-reaching socio-economic reforms. Therefore, members of the congress were coined as reactionaries by the APP because they had agreed with people sitting in the government benches on policy matters.<sup>5</sup>

The incompetence of the opposition and the disrespect of the government towards their apprehensions were already felt during the course of debates on the Objectives Resolution in which the PML frankly ignored the demands of the opposition members. The first massive rapidity in structuring a new constitution was taken through the approval of the Objectives Resolution which stressed the aims and objectives of the future constitution of Pakistan. In the meanwhile the Pakistan National Congress (PNC)



expected that the Resolution may be circulated for obtaining public opinion because it embodied fundamental values that were essential for future constitution but the ruling didn't accept the proposal.<sup>6</sup>

A symbol of discontent was shown by the Hindu minority who thought that the Islamic requirements as translated by the religious masses might go against the interests of minorities in the country. The members of the Congress, though, immediately consummated that the resolution neither represent the views of the Quaid nor of the Prime Minister but that was the desire of the *ulama* of the country. The members of the Congress proposed some amendments to the Resolution but it could not modify the nature of the draft.<sup>7</sup> Conversely the most important demand of the group was advocating an Islamic state and that the Pakistani Muslims may be compelled to live in agreement with the teachings of Quran and Sunnah. The most significant provision of the Objectives Resolution stated that the Muslims of Pakistan may be individually as well as collectively enabled to lead their lives in harmony with the teachings of Islam as defined in the Quran and Sunnah. It has long-established that the whole approach of the Objectives Resolution was to embrace Islamic beliefs and principles in the framework of the constitution, if it is aimed to make Pakistan as a modern state.<sup>8</sup> It was therefore suggested that all the amendments which were proposed by the non-Muslim opposition members may be put to the vote of the assembly. Despite the fact that all members of the PNC had voted for the amendments but the Assembly didn't accept these amendments rather rejected these by twenty one to ten votes.<sup>9</sup>

After solving the question of Objectives Resolution, both the government and the opposition focused on the subject of draft constitution made by the Basic Principles Committee (BPC) periodically. Consequently, the first draft constitution was successfully forwarded on September 28, 1950, by Liaqat Ali Khan (1895-1951), the Prime Minister of Pakistan at that time. It presented that the Objectives Resolution may be incorporated in the constitution as a directive principle of the state policy.<sup>10</sup> It represented a federal system of government along with a bicameral legislature i.e. both the house of the units and the house of the people. It also included that all the provinces of Pakistan i.e. East Pakistan, Punjab, Khyber Pakhtunkhwa, Sindh and Baluchistan, without considering their sizes, will be given equal representation in the Upper House. The composition and size of the Lower House, though, was not shown in the provisional statement because the responsible sub-committee had not yet put forwarded its report. Both the Houses were delegated equal powers and in case of difference on any issue, both will solve the matter in a joint session of the two Houses. Furthermore, convening of the joint session will be compulsory for some other important matters.<sup>11</sup> However, first report of BPC was strongly criticized by the opposition that was led by S.C. Chattopadhyaya. Surely opponents from the West Pakistan were also there, but the ones from the East Pakistanis were more vocal in their opposition to the report presented. They mostly opposed the proposal and demanded for a strong centre that would enjoy huge powers in finance related matters. It was a say in the East Pakistan that if principles given in the report were adopted it would have decreased majority in the East Pakistan into a minority. The print media led by the *Pakistan Times* (Lahore) also opposed the centralization in their report and well thought-out the bicameral principles as inflexible.<sup>12</sup> The Islamic provisions were

thought to be as insufficient by the opposition. Moreover, the opposition made objection that provisions for an Islamic group of the state, or qualification for any religious head of the state were missing. The fastest and adverse criticism came from the opposition political parties of the East Pakistan. They particularly criticized the federal part of the report, which was formed by a committee of action, during a mass convention of opposition political workers held in Dhaka. That very committee was entrusted for drafting a substitute proposal for the purpose of constitution. Eventually a Grand National Convention adopted various substitute constitutional proposals on November 5, 1950 and put forwarded to the House.<sup>13</sup>

Guiding principles of the committee report expressed 'a republican form of the government with two purely autonomous regional administrations, one was for East Pakistan and the other was for the combined provinces of West Pakistan. Whereas, the Bengali edition of central parliament called for a body that would reflect the country through distribution of the population but its purposes were consigned multifarious tasks including managing the foreign affairs, the printing of money and the defence at national level.<sup>14</sup> The proposals of the Convention mainly dealt with the autonomy of the East Pakistan and remained the core of all succeeding demands for autonomy in the East Pakistan. It allotted only defence and foreign affairs to the central government in the country and even this authority was subject to the limitations that two regional foreign offices and two regional defence forces will be employed and man power for these forces will be supplied by the people of those very regions. The federal government will have the authority to impose taxes with the consent of the region. Those proposals also called

for the organization of a sovereign socialist republic and also for recognizing Bengali as a language of the state for which the common people of the East Pakistan raised voices since their independence.<sup>15</sup>

A study of the facts shows that criticism made against the BPC Report can be mainly classified into three sections. First, was based on the objections that possessed inadequate information. Second, was based on the criticism that was deliberately included in the report to mislead the public and create puzzlement. Third, was based on some of the suggestions that were made with an actual desire to get the better proposals. Keeping in view the disagreeable criticism, Liaqat Ali Khan delayed the deliberations of the report in the House and invited proposal from different personalities possessing experience in jury, constitution making as well as from common people. Unfortunately, he was murdered on October 16, 1951 at Rawalpindi where he was expected to address a public gathering and hence the process of constitution-making remained sprouting.<sup>16</sup> However, the Anti-Basic Principles' Committee (ABPC) report provided a movement for the opposition to begin a political program in the country. The PNC was not involved in the said Anti-BPC movement in the East Bengal and the Hindus remained away from conflict. Similarly, the growing Muslim opposition was also vigilant not to be called enemy agents for supporting with the Hindus.<sup>17</sup> Keeping the hard criticism in view, against the first report of the BPC, Muslim League of the Government of Pakistan decided to withdraw the report.

The politics of opposition took a new shape when second report of the BPC was presented to the Constituent Assembly on December 22, 1952 by the Prime Minister,

Khawaja Nazimuddin (1894-1964). The second report carried the principle of parity between the East and the West Pakistan as it was mostly based on solving the deadlock of representation. Moreover, it claimed two achievements i.e. creating a constitutional balance of power and a balance of responsibility between the two wings of Pakistan.<sup>18</sup>

The Units' House consisted of 120 elected members while the strength of the House of People's was 400 as per plan brought about by the second BPC report. The second draft stated that the house of people will enjoy all the real powers, the House of Units would only suggest reconsideration in quick legislation, and the council of ministers will be collectively responsible only to the house of people. All financial bills will start off in the House of people. In case of any difference between the two houses, a joint meeting of both the houses will be arranged in which a simple majority will decide the issue.<sup>19</sup> To prevent any legislation base to *Shariah* the head of the state will form a Board of *Ulama* who will be well versed in Islamic Law. It was also decided that head of the state will give his view on the Bill within a seven days period after the receipt of such suggestion. Similar to the first BPC report, the second report also suggested a program for the distribution of power under three lists including Federal, Provincial and Concurrent. The left over powers were given to the central government. Even though the first report had proposed Urdu as the state language of Pakistan however the second report stayed silent on this matter maybe the maker of the report sought to stay away from the repetition of a disagreement in this respect whereas, the opposition from the East Pakistan stood up against the parity formula. Likewise, Hussain Shaheed Suhrawardy (1892-1963) criticized the parity formula for it offered a death drive to the democratic principle that

needed representation on the basis of population. He said that East Pakistan had a 54% majority in the total population of Pakistan, it was without significance, and yet the ruling leaders had used it to incite provincial discrimination and abhorrence.

However, various political parties including the Khilafat-i-Rabbani Party (KRP)<sup>20</sup> and the United Islamic Front (UIF) supported the leading figures of Awami League. Those political parties projected a unicameral legislature that was elected on the basis of population and both the parties suggested that only ministries of defence, currency and foreign affairs may stay under the control of the centre.<sup>21</sup>

Leaders of the West Pakistan had a different view regarding the BPC report and they criticized it in an assorted way. However, the leaders belonged to Punjab criticized the second report and took it as an endeavour to make supremacy of Bengal over the rest of the country. Views of the leaders from Punjab were based on the fear that by winning support of the smaller provinces of West Pakistan i.e. Sindh and Khyber Pakhtunkhwa, the Bengalis would get a position to cut off the Punjab and rule over the whole country.<sup>22</sup>

Known political leaders and various political organizations took their stand on different issues personified in the report. When Mian Mumtaz Daultana (1916-95) stated in favour of the principle of parity, his statement was resented by other opposition parties which were Punjab based. The thought of the report was resultantly deferred in the House.<sup>23</sup>

Hindu opposition members in the Assembly objected the Islamic provisions given in the report. Hindu opposition members strongly opposed the provision and demanded that no law would be enacted, which was in accordance to the teachings of the Quran and

Sunnah. Those members also demanded to keep the Hindus' personal laws free from the purview of such a provision and disliked the provision for making a government institution to transfer Islamic teachings. Hindu opposition members also raised their voices against the title of the state and religious qualifications required for the head of the state. Those walked out from the Assembly when their demands were rejected and they remained absent from the Assembly during more proceedings on the Constitution.<sup>24</sup>

In the meantime, the Prime Minister of Pakistan Khwaja Nazimuddin was dismissed from the post and another person named Muhammad Ali Bogra was appointed as Prime Minister of Pakistan. Assuming the charge, Muhammad Ali Bogra took it as one of the major tasks to overcome the constitutional impasse among the ruling party and opposition groups in the country. Muhammad Ali Bogra presented his formula that was known as Bogra Formula on October 7, 1953 within a period of less than six months of his appointment.

**Table 1: Muhammad Ali Bogra Formula**

| Units   | Upper House | Lower House | Total      |
|---|-------------|-------------|------------|
| East Pakistan   | 10          | 165         | 175        |
| Punjab  | 10          | 75          | 85         |
| NWFP Frontier states & Tribal Areas                             | 10          | 24          | 34         |
| Sindh & Khairpur  | 10          | 19          | 29         |
| Baluchistan , Baluchistan States Union,<br>Bahawalpur & Karachi | 10          | 17          | 27         |
| <b>Total</b>  | <b>50</b>   | <b>300</b>  | <b>350</b> |

Source: Hamid Yousaf, *Pakistan: A Study of Political Development 1947-1997*.

As per Bogra Formula the Upper House consisted of an equal number i.e. 10 representatives from all the five units of the country whereas, the Lower House consisted of varied number of seats depending on the basis of population of all the five units. Both the Houses enjoy equal powers. It is worth to mention that a vote of confidence or no-confidence or election for the head of the state will be passed by majority of the two houses when sitting jointly and voted for it, with the condition that the members voting for it include at least 30% of the members from each zone. Muhammad Ali Bogra formula mostly rotated around two basic matters. Firstly, it structured the principle of parity with a new shape and secondly, it provided rules of election for the head of the state from the constituency other than the Prime Minister. Muhammad Ali Bogra announced that his plan will not only guarantee parity between the two areas but will also



make them inter-dependent on one another. Bogra stressed that it will damage tendency towards provincialism and consequently will merge the diverse units.<sup>25</sup>

There was immense enthusiasm shown by general public when the formula was firstly printed and it appeared to solve the problems of opposition and government as and when compared with the first and second reports of BPC. However, the fervour soon cooled down and an uncertain environment of doubt, fear and distrust emerged among varied political parties both inside and outside the Assembly. Some well known political leaders and groups of opposition leaders from both wings (East and West) of the country severely criticized the third draft.<sup>26</sup> Mian Iftikhar-ud-Din (1907-62), a member APP was one of those politicians who rejected the formula and explicitly criticized it in the Assembly on October 22, 1953. During his second speech in October 1953, Mian Iftikhar-ud-Din stated that "Instead of bringing the provinces closer to one another, the formula would be likely to emphasize the existing disparities and open the door for new inter-provincial conspiracy. The 30% clause in the report will bring an autocratic government in power in the Assembly, as if Bengal has got seventy one per cent (71%) votes, so, no other government can be made."<sup>27</sup> President of the Krishak Saramik Party (KSP), Fazlul Haq sternly criticized it as a gigantic trick on a guiltless community.<sup>28</sup>

A combined meeting of the All Pakistan Jinnah Muslim League (APJML), the Communist Party of Pakistan (CPP), the Ganatantri Dal (GD) and the KSP was held at Dhaka on October 9, 1953. The most important objective of the meeting was to discuss protest of the East Bengal against the new formula of Bogra. Fazlul Haq presided over the gigantic meeting and strongly criticized composition of the Assembly in which East

Bengal with a population of forty five millions had been put on an equal footing with Baluchistan, Karachi and other very small units of the country, the population of those small units would exceed even four millions at that very time. The gap between the governing party PML and the opposition broke open in the month of October, 1953. The participants of the meeting criticized the constitutional formula of Muhammad Ali Bogra and anonymously passed a resolution against it.<sup>29</sup> The elected members of PNC in the House also opposed the formula principally for the delegation of equal powers to the both Houses. PNC announced that formula of Muhammad Ali Bogra embodied lack of vision, forethought and democratic spirit in leadership of the Muslim League.<sup>30</sup>

The relationship of the government and the Opposition was tested again when One Unit Bill was presented in provincial assemblies of the West Pakistan. The legislative Assembly of Khyber Pakhtunkhwa was the first governing body to commend the One Unit scheme. Some weeks prior to the passage of this resolution Sardar Abdur Rashid (1906-95) on October 20, 1954 claimed that One Unit scheme may be fine principally but not workable; for that reason, we could not approve it. He said that the desires of the people and their representatives may be kept in view before making any decision. Personally he had favoured the plan of zonal federation, which the Muslim League Parliamentary Party of Khyber Pakhtunkhwa had also agreed on October 23, 1954.<sup>31</sup>

However, the legislature of Khyber Pakhtunkhwa had agreed on November 25, 1954 for uniting Khyber Pakhtunkhwa with other provinces. This sudden change in favour of One Unit uncovered to him when Chief Minister Sardar Abdur Rashid before his removal from office on July 1955, blamed the central government for non-fulfillment of its

promises like representation of its officers in Khyber Pakhtunkhwa and that Dr. Khan Sahib (1882-1958) will not be posted as Chief Minister of the One Unit Government.<sup>32</sup> Though, the branch of Awami League of Khyber Pakhtunkhwa led by Amin-ul-Hasanat better known as the Pir Sahib of Manki Sharif (1922-60), criticized the Bill for One Unit in Khyber Pakhtunkhwa Assembly and boycotted along with his fellows from the session of the assembly.

Similarly, the situation in Sindh concerning One Unit scheme was also not favourable as this issue had created an unforgiving difference when the bill was agreed upon by majority of the provincial assembly on December 12, 1954. At the same time, the Chief Minister of Sindh, Abd-us-Sattar Pirzada openly criticized the scheme and also got the signature of seventy four out of one hundred and Ten assembly members in favour of his stand. Pirzada was also supported by some well-known political leaders, who belonged to Sindh, on his stand against the One Unit scheme.<sup>33</sup> When he exposed his dissent to the Governor to provide the required assistance in favour of One Unit, he was thrown away from the office of Chief Minister and another member Muhammad Ayub Kaoru (1901-80) was appointed as the new Chief Minister of Sindh.<sup>34</sup> A renowned political leader of Sindh province, G.M Syed (1904-95) congratulated Pirzada on his bold view point and his inclination to be dismissed rather than to put forward against the wishes of the whole community of the province.<sup>35</sup> The relation of government with opposition in the province of Sindh had got into a weak stage on the issue of One Unit. Chief Minister Muhammad Ayub Kaoru arrested a number of political leaders including Abd-us-Sattar Pirzada, G.M. Syed, Pir Ilahi Bakhsh (1890-1975) and Qazi Fazlullah on an accuse of making

conspiracy to assassinate the members of the cabinet in order to restrain the opposition against the One Unit scheme and to get it smoothly passed from the Assembly of Sindh province.<sup>36</sup> Though, approving situation was made to pass the One Unit Bill in the assembly on December 11, 1954. During voting process only four members of the assembly used their votes against the One Unit Bill, five members remained absent whereas, 100 out of 109 members used their votes in favour of the One Unit Bill.<sup>37</sup> While speaking on the issue Sheikh Abdul Majeed (1889-1978), an opposition member at Sindh criticized the ways by which the bill was got passed, said that the whole of Hyderabad was changed into a military campground to decide an entirely constitutional issue. The alliance offer has been approved with the help of the province through putting pressure, making compulsion, coercion as well as inhibition of public opinion.<sup>38</sup>

The relationship of government and the opposition in Punjab was normal and there was no severe threat or pressure that could hinder the passage of One Unit Bill in the House. The bill for One Unit was got passed from the Assembly on November 30, 1954 and the Chief Minister, Feroz Khan Noon (1893-1970) appreciated the plan and advised the authorities for its early execution. Both the government and the opposition benches in the assembly supported the action. However, the leader of the opposition Mian Abdul Bari remained absent from the house on the day the bill was got passed yet through a message he assured his party's full support to the movement.<sup>39</sup> The legislative assemblies of newly states of Bahawalpur and Khairpur jointly supported their blend in the One Unit scheme. Similarly, the rulers of the States Union of Baluchistan including Makran, Kalat, Kharan and Lasbela had already consented in October 1954 for the merger of their states with

Baluchistan which was centrally administered province. Their consent to be a part of One Unit was got signed by Khan-i-Azam (1902-79) of Kalat on January 1, 1954 for which the States Union of Baluchistan had already authorized him.<sup>40</sup>

Afterward, well-known leaders Mushtaq Ahmad Gurmani (1905-81) and Dr. Khan Sahib (1882-1958) were appointed as Governor and Chief Minister of the newly born province of West Pakistan respectively. Meanwhile the Federal Court gave the ruling in the case of Mawlvi Tamizuddin (1889-1963) vs. Government that it was outside the powers of the Governor General to merge different Units of West Pakistan into a single province. Consequently, the One Unit Bill was presented in the second Constituent Assembly on August 23, 1955. While illuminating the important features of the Bill Sardar Amir Azam Khan (1912-76) said that the Governor General will be given power to change the name of the East Bengal as the East Pakistan and the present administrative units of the West Pakistan into a single province of the West Pakistan.<sup>41</sup>

The members of the Krishak Saramik Party<sup>42</sup> being partner in the government favoured the government stance in the debate on the One Unit scheme, but the One Unit Bill was strongly criticized by the Awami League (AL). Similarly, Fazlur Rehman from East Pakistan also opposed the Bill. He said that the Bill was damaging the interests of the entire country and was probably to create the idea of two Pakistans and may lead to divide the country into two parts i.e. on the basis of Bengalis and non-Bengalis.<sup>43</sup> Likewise, Mian Iftikhar-ud-Din the President of Azad Pakistan Party made the strongest voice against the One Unit scheme. He strongly criticized the people who believed that centralization will lead to unity. Hussain Shaheed Suhrawardy put up four principles for

which Awami League supported the One Unit scheme. He warned that if any of those principles was damaged the sub-structure of the one Unit Scheme will be finished. The first principle included the integration of West Pakistan that could be accomplished in different forms; it might be unification, sub-federation of varied zones or lessening the number of provinces by merging some of them. Those would be constituted as three or four provinces, keeping in mind the views of the public who must be consulted, which suited to administrative ease. Second principle was regarding parity between the East and the West Pakistan. Third principle was concerning division of the offices that came under the Governor-General and Prime Minister between the East and the West Pakistan, whereas, the fourth and final principle was regarding regional sovereignty.<sup>44</sup> In the same way one more famous leader of Awami League Sheikh Mujibur Rehman (1920-75) strongly criticized the One Unit Bill for three reasons. First reason expressed that East Bengal may not be called as East Pakistan because the word Bengal has a unique and grand history. However, if it was due it should be done only with the assent of the Bengali people. Second reason illustrated that the issue of One Unit scheme may not be taken alone from other important factors including the issue of Bengali language, provincial autonomy and joint electorates. The people from East Bengal will be ready to accept One Unit with all these requirements. Third reason described that the people of various regions of West Pakistan opposed the One Unit scheme; for that reason their opinion should be given value through a referendum.<sup>45</sup> Unfortunately the views of the common people in the East Pakistan were totally ignored by the leaders of West Pakistan and the Bill was got passed on September 30, 1955 with full prop up of the government by enjoying a majority of 43 votes in its favour and 13 against the Bill.<sup>46</sup>

However, the political development and the constitution making process in Pakistan have always been hindered by the slow process of parliamentary democracy. In the early days of 1956 the relationship of the government and the opposition faced another test by accelerating the process of constitution making. Ibrahim Ismail Chundrigar (1897-1960), Minister for law, in cabinet of Choudhry Muhammad Ali (1905-80) presented the draft constitution in the Second Constituent Assembly of the country. Islamic provisions in the draft constitution were opposed by varied circles especially from the East Pakistan. Elected members of the AL and GD opposed the Islamic provisions in the draft constitution. However, Abul Mansur Ahmad (1898-1979) of the AL stated that the constitution made was neither Islamic nor federal and nor republican in nature. Therefore, the AL members adopted the pretense that they were not against Islamic constitution but criticized the discriminatory provisions in the constitution which were adopted to gratify the religious personalities of the country.<sup>47</sup> Likewise, leader of the opposition in the Assembly, Suhrawardy stated that Pakistan should be called an Islamic State only if every person in this country was provided with basic necessities including food, fiber, shelter, employment, medical aid and education facilities.<sup>48</sup> Suhrawardy made an objection that the Islamic provision given in the draft constitution would harm the feelings of minority in the country. Leader of the PNC, B.K Das said that Pakistan was also the homeland of Christians, Hindus and others therefore it should not be named as the Islamic Republic as it would hurt people of other religions residing here. The leaders of AL, GD<sup>49</sup> and PNC spoke against the clause concerning to the office of the president of the state for the Muslims only, that it was pretty superfluous to make such a condition when 86% of the total population of Pakistan were Muslims.<sup>50</sup> The alliance government

however, did accommodate demands of the Hindu minorities of the country. During the second Constituent Assembly, two significant amendments were put forwarded by the Hindu members and were well accepted by the house without offering any opposition. The first amendment was brought by K.K Dutta which stated that every religious group should have the right to make and run educational institutions of their own choice and the state may not disprove any appreciation to any such organization on the ground that the administration of such organization vests in that community. The second amendment moved by Raj Ras Mandal stated that the state should save the legitimate rights and interests of minorities i.e. their due representation at national level in the federal and provincial services.<sup>51</sup> On the other hand, parity gone by non-attendance and joint electorates were not presented in the final draft constitution. The constitutional provisions played a great deal against East Bengal. Elected members of the Awami League in the House walked out as a protest on the last day and denied to place their signatures to the Constitution. In the same way leader of the opposition Hussain Shaheed Suhrawardy played the role of a great statesman and finally signed the Draft Constitution in the best interest of the nation and for the sake of parliamentary democracy, which was ultimately adopted on March 23, 1956.

Consequently, the Second Constituent Assembly that formed the National Assembly of Pakistan under article 22 of the 1956 Constitution was given power to elect a President of the State. Therefore, Iskander Mirza (1899-1969) was jointly elected as the first President of the Islamic Republic of Pakistan. After completion of the Constitution of the alliance government of the PML and UF under the Prime Minister-ship of Choudhry Muhammad



Ali (1905-80) was allowed to perform its obligations. But after some time, the Prime Minister faced a number of problems for his uncaring attitude for the League.<sup>52</sup> For the meantime, he made a great blunder by selecting Dr. Khan Sahib (1882-1958) as Chief Minister of the UP of West Pakistan which produced an insubstantial situation in the country.<sup>53</sup> This situation brought political crisis in the West Pakistan especially with the decision of Muslim League to throw out Dr. Khan Sahib the nominated Chief Minister. On April 3, 1956 the Muslim League Parliamentary Party (MLPP) decided that only a MLPP member can be the Chief Minister of the province. But the demand was rejected by Mian Mushtaq Ahmad Gurmani (1905-81) the Governor of West Pakistan at that time. Muslim League took this action of the Governor seriously and stated that the leader of the majority party may not be allowed to form the cabinet, as the absolute contravention of the Constitution of the country.<sup>54</sup> The opposition of the League was legal as Dr. Khan Sahib had never been a worker of the Muslim League, never supported the Pakistan Movement, but always thought himself as to be above the politics and had clear-cut authoritarian character in his life. Iskander Mirza, however, had the same mind as was having by Khan Sahib and with the help from Gurmani they made the Republican Party (RP). The RP neither had beliefs nor credibility on its part nor had been imagined just to serve the interest of those who possess big lands or feudal class of the country.<sup>55</sup> It had no links with people but through exercises and taken over sponsorship of varied politicians it won over many legislators who had been elected on tickets of the League.

Although the Prime Minister of Pakistan, Choudhry Muhammad Ali faced some difficult situation because on the one hand he was leader of an alliance at the national level of

which the RP formed a part whereas, on the other hand, parliamentary committee of his own Party in the West Pakistan was demanding that Dr. Khan Sahib should be removed from the office of Chief Ministry.<sup>56</sup> However, he gave resign both from the post of the Prime Minister and also from the Muslim League on September 8, 1956. His resignation from the post of Prime Minister came at a time when he enjoyed the confidence of the Central legislature and possessed a clear majority in the Parliament. He had thought himself as the leader of the alliance as a whole rather than leader of the Muslim League alone.<sup>57</sup>

The political condition in the East Pakistan was almost the same as was in the West Pakistan. The Ministry of the United Front chaired by Abu Hussain Sarkar (1894-1969) stayed in power even after the implementation of the Constitution. The Ministry in power constituted no regard for parliamentary conventions and rules, working during the entire fifteen months period without the assistance of the legislature.

Without getting any no confidence of the legislature, the Ministry resigned on August 30 and thus a humiliating government ended that made unforgettable for completely ignoring the parliamentary democracy.<sup>58</sup> Getting advantage from the turn down of Muslim League at central level, the AL and the RP made a coalition that was lead by the prominent leader of the opposition Hussain Shaheed Suhrawardy (1892-1963) in the National Assembly. The AL therefore got power both at central and at the provincial levels of the East Pakistan. The AL after getting initial success both at central and provincial levels faced new dilemma mostly due to backbiting and deviation amongst the different groups within the party itself.<sup>59</sup> The relations between Iskander Mirza and

Hussain Shaheed Suhrawardy soon got worsen and Suhrawardy was consequently compelled to resign on October 11, 1957.

However, the leader of Muslim League Parliamentary Party (MLPP) Ibrahim Ismail Chundrigar (1898-1960), was elected as the Prime Minister of Pakistan on October 18, 1957. The alliance government of Muslim League (ML) and RP was based on three conditions. The first condition expressed that the Muslim League would need a coalition. The second condition stated that RP will not support any amendment to the constitution with regards to One Unit scheme. The third condition expressed that joint electorate will be replaced by separate electorate at the end of year 1957.<sup>60</sup> After some time of only two months, I. I. Chundrigar gave resignation from the office of the Prime Minister of Pakistan on December 15, 1957. At that very time the Republicans went back on their vows and promises on the electoral issue. Feroz Khan Noon (1893-1970) was the last Prime Minister called upon to stay the track of parliamentary politics in Pakistan'. The leader of Republican grouping enjoyed twenty-one members in the National Assembly. Noon proved his majority by making an alliance with as many as five different political parties.<sup>61</sup> In this alliance, only two political parties, i.e. the RP and KSP accepted their offices. The leftover four political parties rejected offices in the coalition ministry. The leader of the alliance, who was also leader of the RP and now the Prime minster, compelled the political parties of the East Pakistan to distribute power, but all political parties straight away rejected the proposal. Perhaps political parties were thinking of some benefits by remaining away from the central government.<sup>62</sup> Anyhow Malik Feroz Khan Noon remained as the Prime minster up to the death of the first Republic when

President Iskander Mirza abrogated the Constitution, both the central and provincial assemblies were broken up, similarly, central and provincial cabinets were sent away, political parties were disallowed and consequently, Muhammad Ayub Khan (1907-74) was appointed as Supreme Commander of the armed forces and thus Martial law was declared in the whole country.<sup>63</sup>

Soon after the imposition of Martial Law by Muhammad Ayub Khan, the government disallowed all the political activities and declared an Elective Bodies Disqualification Ordinance (EBDO). Ayub Khan presented a Basic Democracies system, in which the common people would elect an electoral college that will consist of 80,000 members. These elected members by the masses will have the power to elect Assemblies as well as the President and thus they decided to make a new Constitution in the country. The parliamentary form of government was not liked by high officials of the military, so, Ayub Khan ended the Martial' Law and a new Constitution was brought into existence on June 8, 1962. The said Constitution declared a Presidential type of government in the whole country.<sup>64</sup> The Constitution of 1962 was just a show of competence and accomplishment of Ayub Khan's promises that he made with the nation. At first it was a one man show that delegated all the executive powers to the office of the President. In addition, there were a number of protective laws which would usually used to hold back the leaders of political opposition from unreasonable means. The opposition was not at all agreeable to the Constitution. They did not recognize it for there was no opportunity for political activities like making new political parties as well as revival of the already restricted ones. However, the Political Parties Act was passed on July 16, 1962 by the

newly elected National Assembly. Though the Act allowed forming political parties and their participation in the elections, but it also imposed certain restrictions on political parties and disqualified four types of persons from becoming members or office bearers of the political parties.<sup>65</sup> The Ministers who had supported Ayub Khan's Constitutional strategy established their own political party in September 1962 called the Convention Muslim League (Con. ML). On the contrary, the opposition leaders thought their own strategy to be reinstated and build up parliamentary democracy in the whole country by making a broad based political coalition known as National Democratic Front (NDF) under the supervision of Hussain Shaheed Suhrawardy on October 5, 1962.<sup>66</sup> The immediate demand of this opposition coalition was that Pakistan may be governed by a democratic constitution. For achieving this purpose some other political parties opposed the then strategy of Muhammad Ayub Khan who was backed to Con ML and extended its full support to the NDF.<sup>67</sup> After getting the essential support of the common people in the whole country, the NDF went towards press media to draw attention to their political agenda at national level. Unluckily, after early achievements the coalition had to face a setback when its founding leader Suhrawardy died on December 5, 1963. For the moment the coalition left static but soon it got motivation in the start of 1964 when three main political parties including Awami League, National Awami Party and Cou. ML (Noor-ul-Amin Group) properly joined the NDF. Once again they started their collective struggle for the establishment of complete democracy in the country. The NDF rejected one man's extensive upright powers as delegated by the Constitution of 1962 to the President. But the struggle made by the Front was slowed down by the differences in the ranks of associated parties mostly on the issue of the resurgence of political parties. The coalition

worked till June 1969 when it was divided into a three groups' Democratic Party comprising of Awami League lead by Nawabzada Nasrullah Khan, Nizam-i-Islam Party (NIP) and Justice Party (JP).

When Muhammad Ayub Khan assumed the charge of the state, he announced that presidential elections will be held in January 1965. Before elections, Khwaja Nazimuddin assumed the responsibility to bring together the leaders of different political parties to face the situation because Muhammad Ayub Khan had conspired in advance to get success in the forth coming elections. Khwaja Nazimuddin convinced various political leaders predominantly the leaders of the opposition parties in the Assembly to start a joint struggle for getting rid of the military dictatorship, who was continuously busy in some furtive system to affect his rule at any cost. Thus on July 21, 1964, the opposition in the National Assembly managed met at Dhaka and made a coalition called Combined Opposition Parties (COP).<sup>68</sup> Move of the opposition was joined by five major political groups who had some political influence in the common masses of the country. It was very clear from the composition of the opposition coalition that the policies of Muhammad Ayub Khan were more detrimental than the discrepancies in the political parties which constituted the coalition. They also had to propose common candidate for the Presidential elections and for the National as well as for the Provincial Assemblies. The COP issued its nine point agenda on July 24, 1964, for the coming elections at national level. Muhammad Ayub Khan joined the Cou. ML and was elected its leader. The party chose him as their Presidential candidate in the impending Presidential elections.<sup>69</sup> While conversely the COP after careful consideration arrived at the

conclusion to nominate *Madar-i-Millat*, Miss Fatima Jinnah as the strongest candidate against Ayub Khan. Miss Fatima Jinnah was considered as the best candidate and could compete with Ayub Khan for the office of the presidency. Miss Jinnah all the time raised her voice against autocratic actions and activities taken up by varied governments. The most dominant positive feature of her candidature was that till that very time Miss Jinnah had not accepted any political office and was especially free from the blames which could be pointed out against other politicians.<sup>70</sup>

Miss Fatima Jinnah principally did not agree to contest the presidential elections in such fragile environment but she was compelled by majority leaders of the COP to come ahead and serve the country with parliamentary democracy in its true spirit. The opposition jointly announced on September 18, 1964 that Miss Jinnah would be their presidential candidate in the forthcoming presidential elections.<sup>71</sup> Miss Jinnah being a great lady was sincerely respected across the country and her joining to the active politics was welcomed by the whole nation. Miss Jinnah's decision to actively contest the elections had disappointed all aspirations of the Ayub Khan and twisted the presidential elections into an occasion of top importance. Although Miss Jinnah had got no experience of government, no knowledge of administration and enjoyed no contact with prominent leaders of international level yet she was the ideal personality for all the populace and wherever she went in the country, thousands of peoples welcomed her and extended their best wishes to her. The common masses in general and the opposition in particular thought her as the only personality who could bring down Ayub's dictatorial government and bring back democratic norms and values in the country.<sup>72</sup>

The Cou. ML and COP started their election campaign across the country. Eventually the polling was held in January 1965. Members elected for the Electoral College lovingly took part in the electoral process and used their right of casting votes. Heavy polling was reported by all media groups in the start of the day and results started coming in after 1 PM. Although the formal result of the election was announced by the Chief Election Commissioner that was broadcasted through the Radio Pakistan.

Totally in the East and West Pakistan, Ayub Khan got 49,951 votes, making 63.31 % of the total votes casted and Fatima Jinnah obtained 28,691 votes making 36.36 % of the total votes casted in the polls.

Miss Fatima Jinnah congratulated the thirty thousand members elected for the Electoral College who had the courage to stand by their confidence and used their right of vote in the favour of Miss Jinnah. Miss Fatima Jinnah explicitly blamed the government for heavy rigging in these very elections. The whole electoral process was stained by purposeful official intervention and established unforgettable examples police handedness, use of force, executing corruption by the officials involved in the electoral process and bribery.<sup>73</sup> The defeat of Miss Fatima Jinnah in the presidential elections did not mean that it was a useless practice. The state of affairs and conditions at that very time were much insubstantial and COP was bound to lose by the government, yet participation of COP in the election established a political discourse in the country to put back the dictatorial monopoly of the previous years.

The coalition in the elections to the National and Provincial Assemblies also failed to achieve significant victory predominantly by high caliber of defeat in the presidential



elections. However, COP after that, lost its power and harmony as Cou. ML started making struggles to dictate it through various legitimate ways and means.

The government and opposition joined hands on the occasion of the war of 1965 that was fought with India. The political parties and their leadership made appeal to the nation to stay united and come to blows the enemy together. The nation accepted the appeal of the political parties and their leadership and stayed as one and the strongest nation during the war, but as the war ended and Ayub Khan mutually signed the Tashkent Declaration with India in 1966, the politics of opposition again became active as the opposition leaders strongly opposed this action of Ayub Khan.<sup>74</sup> While it seemed that the COP could not fully succeed in their effort for restoration of parliamentary democracy however, it started a serious and very positive discussion in place of making negative criticism in the country. At the accomplishment of Tashkent Declaration, the opposition rejuvenated their struggles to get out Ayub Khan from power. On April 30, 1967 political parties, decided to establish a more effective opposition coalition to combat the dictatorial programs and policies of Ayub's regime.<sup>75</sup>

Moreover, the constituent parties of NDF, other four main political parties<sup>76</sup> designed the PDM as new opposition coalition and the well-known politician, Nwabzada Nasrullah Khan (1918-2003) was elected as its president. Similar to the previous opposition coalition, the PDM publicized its eight points' program on May 1, 1967.<sup>77</sup> The coalition held public gatherings across the country as well as stressed the government to reinstate parliamentary democracy, eradicate the state of emergency and finish the laws and regulations made during this period of emergency. They said that the government was

responsible for the rising of inter-wing differences and accumulating of wealth in a few hands. Correspondingly, Ayub Khan brought out the general people against the opposition by saying that "God forbid, if they were successful in their plan, it would lead the country to disaster."<sup>78</sup> Leaders of the coalition met in Dhaka on January 1, 1969 to plan a common line of action for the presidential elections of 1970. It was very hard for the opposition to develop unanimously a detailed political program and agree upon it. Though, their best hope was to get the same opinion over a line of action for the defeat of the regime and nothing else.<sup>79</sup> When the coalition got thrust, the government tried to check it by forbidding orders, confining some of the most powerful political leaders from giving speeches and arresting others without showing any reason for making such arrests.<sup>80</sup> In the fourth quarter of 1968 a breach however, came that led to the conversion of the alliance into one more eight party opposition called as Democratic Action Committee (DAC).<sup>81</sup> In the meantime, the political leader who appeared with a rigorous attack on the policies and personality of Ayub Khan was Zulfikar Ali Bhutto (1928-79). Zulfikar Ali Bhutto showed that Ayub Khan was surrendered in Russia at Tashkent and threatened to disclose the secret clauses of the pact both the countries had signed.<sup>82</sup> A prevalent protest particularly in student life started against Ayub Khan dictatorial government and on October 7, 1968 the police action carried out at the Polytechnic Institute situated in Rawalpindi led to the death of one of the students which worsen the situation in the whole country. As this incident took place, the people including students, drivers, journalists, labourers, businessmen, employees of semi-government organizations, lawyers, and teachers came out as a protest and raised their voice against Ayub's regime. Keeping in view those weak conditions in mind Ayub Khan understood

that the continuous use of force will not solve the question in hand and he also thought to open a dialogue with the leaders of the opposition. Ayub Khan asked the opposition to a Round Table Conference that was held on February 17, 1969. The leaders of the opposition showed their willingness to accept the offer for participation in the talks.<sup>83</sup> Consequently, the state of emergency was removed; a great number of political leaders including Abdul Wali Khan (1917-2006), Zulfikar Ali Bhutto and others were released from jails. Meanwhile a new impasse hindered the proposed talks when Bhutto and Mawlana Bashani (1880-1976) decided to demonstrate boycott from the Round Table negotiations with the government. At that time Ayub Khan had assumed a softer attitude towards the opposition and declared that he will not pray for re-election and that he was ready to discuss amendment in the Constitution to satisfy the demands of the opposition.

On February 22, the ruling dictator withdrew the Agartala Conspiracy Case. Furthermore, Sheikh Mujib-ur-Rehman was released from jail along with thirty-four other political prisoners. So, the final hurdle existed in the way of holding talks between the government and the opposition was also resolved. The DAC members jointly put-forth two demands to the government. Those demands comprised the federal parliamentary system of government with regional sovereignty and elections on the basis of direct adult franchise. Political leaders of various opposition groups individually raised some interesting issues. With regard to Muslim Family Laws Ordinance, Mufti Mahmud emphasized the government to apply the twenty-two points developed by the *ulama* in 1951 to structure Pakistan as a true Islamic state. The abrupt dissolution of One Unit scheme was the

demand of Abdul Wali Khan and six point's agenda was the slogan of Sheikh Mujib-ur-Rehman.<sup>84</sup>

The efforts made to throw Ayub Khan out of his office were proved fruitful by the opposition leaders in the House. The political environ in the country got once again worsen and the military takeover by Commander-in-Chief, General Agha Muhammad Yahya Khan, on March 25, 1969, was destiny of the state together with the abrogation of Constitution of the 1962, imposing ban on all political activities, dissolution of the National and Provincial Houses, termination of the central and provincial cabinets. He ruled the country from March 1969 till December 1971. In that very era the events of dismemberment of East Pakistan and emergence of Bangladesh occurred, whereas Yahya Khan successfully conducted the first general elections in the year 1970 under the Legal Framework Order (LFO).<sup>85</sup>

Keeping in view the above study, it can be concluded that in the early days of Pakistan, single party's (PML) claim to rule, gave birth to smaller opposition parties with diverse manifestoes on regional and lingual basis. No bigger parties developed which could follow a national cause. All the smaller parties united to defeat others for the sake of its lust of power and not for the sake of the nation. The opposition for the sake of opposition intentionally delayed the process of constitution-making for nine years in Pakistan. No single formula was accepted by the political leadership to frame a democratic and parliamentary constitution for Pakistan. The illegitimate claim of PML to rule the country unilaterally gave birth to the United Front in the East wing which led to the rivalries amongst the leadership of East and West wings of Pakistan. The making of the 1956

Constitution of Pakistan had paved a way of rivalry between the opposition and the government benches. On the last day of framing the 1956 Constitution, the elected members of the opposition in the House walked out as a protest and denied to place their signatures to the Constitution. In the same way the 1962 Constitution of Pakistan was the one man show which had kept the political opposition away from the affairs of the state. The opposition, as a whole, was not agreed to the said Constitution as it had totally banned the political activities of the opposition. The opposition, in the form of the National Democratic Front, had tried its best to restore the parliamentary democracy in its true form in order to have a democratic constitution for Pakistan. The opposition parties, in shape of the Combined Opposition Parties and Democratic Action Committee, made alliances to oust the dictator from the office, but were successful only in 1969 when the Commander-in-Chief, Agha Muhammad Yahya Khan, on March 25, 1969, imposed the Martial Law in Pakistan, abrogated the 1962 dictatorial Constitution and successfully conducted the first general elections in Pakistan in the year 1970.

## REFERENCES

<sup>1</sup>Kausar Parveen, *The Politics of Pakistan: Role of the Opposition (1947-58)* (Karachi: Oxford University Press, 2013), 39-40.

<sup>2</sup>The Pakistan Muslim League came into being when the All-India Muslim League council, in its last session at Karachi in December 1947, decided to divide the party into two parties: one for Pakistan and the other for the Indian Union. Choudhry Khaleeq-uz-Zaman was elected as the president of the PML. After Khaleeq-uz-Zaman's exit, Liaqat Ali Khan succeeded him as the president of the PML in October 1950. Liaqat Ali Khan encouraged factional intrigues in the provinces by supporting his friends against their rivals who were known for their devotion and loyalty to the organization. For instance, he patronized Mian Mumtaz Daulatana in Punjab and Khan Abdul Qayyum Khan in the now Khyber Pakhtunkhwa, which resulted in the exit of sincere workers like Iftikhar Hussain Khan of Mamdot, Pir Aminul Hsanat of Manki Sharif from the party. They formed their own parties. After the assassination of Liaqat Ali Khan, Khwaja Niazim-ud-Din succeeded him the president of the PML. Muhammad Ali Bogra succeeded Khwaja Nazim-ud-Din in 1953 as the president of the party. In January 1956, Sardar Abdur Rab Nishtar was elected the president of PML. At the death of Nishtar in 1956, Khan Abdul Qayyum Khan was made the president of the party. In 1962, the PML was split up into two parties namely Convention Muslim League led by pro-Ayub leaders and the Council Muslim League led by anti-Ayub leaders. For details see Safdar Mahmood's *Pakistan: Political Roots and Development 1947-1999* (Karachi: Oxford University Press, 2007), 118-21.

<sup>3</sup>Ibid., 252-53.

<sup>4</sup>Hassan Askari Rizvi, *Military, state and Society in Pakistan* (Lahore: Sang-e-Meel Publications, 2003), 71.

<sup>5</sup>Shamsul Huda Haroon, *Parliamentary Behaviour in Multinational States, 1947-58; Bangladesh Experience* (Dhaka: Asiatic Society of Bangladesh, 1984), 102.

<sup>6</sup>*Debates of the Constituent Assembly of Pakistan, Official Report*. 5<sup>th</sup> Vol. (March 7-12, 1949), 8.

<sup>7</sup>Ibid., 94.

<sup>8</sup>S. M Ikram, *Modern Muslim India and the Birth of Pakistan* (Lahore: Institute of Islamic Culture, 1990), 488-89.

<sup>9</sup>Prem Hari Burma, Raj Kumar Chakraverty, Chandra Chattopadhyaya, Akshay Kumar Daas, Bhupendra Kumar Datta, Janendra Chandra Majumdar, Birat Chandra Mandal, Bhabesh Chandra Nanday, Dhananjay Roy and Harrendra Kumar Sur were the members from the Pakistan National Congress who voted in favour of amending the Objectives Resolution. (*Debates of the Constituent Assembly of Pakistan, Official Report*. 5<sup>th</sup> Vol. (March 7-12, 1949), 97.

<sup>10</sup>Government of Pakistan, *Interim Report of the Basic Principles Committee*, 1950, 5.

<sup>11</sup>Ibid., 8.

<sup>12</sup>Riaz Ahmad, *Constitutional and Political Development in Pakistan 1951-54* (Rawalpindi: Pak-American Commercial Ltd, 1981), 9-10.

<sup>13</sup>Kamr-ud-Din Ahmad and Ataur Rehman Khan, from Awami League and conveners of the Committee of Action, designed a comprehensive programme to visit East Bengal and organized mass opposition to the Basic Principles Committee Report. Badruddin Umar, *The Emergence of Bangladesh: Class Struggle in East Pakistan 1947-58* (Karachi: Oxford University Press, 2004), 165.

<sup>14</sup>Lawrence Ziring, *Pakistan in the Twentieth Century: A Political History* (Karachi: Oxford University Press, 1997), 133.

<sup>15</sup>Badruddin, 164-65.

<sup>16</sup>Ghulam Qasim Marwat, "Politics of the Opposition in Pakistan (1988-1999)", PhD Dissertation (Islamabad: National Institute of Pakistan Studies, Quaid-i-Azam University, Islamabad, 2013), 64-5.

<sup>17</sup>Muhammad Ghulam Kabir, *Minority Politics in Bangladesh* (Delhi: Vikas Publishing House, 1980), 31.

<sup>18</sup>G. W Choudhury, *Democracy in Pakistan* (Dacca: Green Book House, 1963), 72.

<sup>19</sup>\_\_\_\_\_, *Constitutional Development in Pakistan* (London: Longman Group Ltd, 1969), 75.

<sup>20</sup> The KRP was founded by Abul Hashim, a previous General Secretary of the undivided Bengal Muslim League. He became its first President as it came into being on April 21, 1952. The KRP's objective was to implement economic, social, political and cultural principles of Islam; assure the minorities of equal rights of citizenship in Pakistan and adoption of Bengali as one of the national languages. Its manifesto demonstrated complete provincial autonomy with three subjects in the centre.

<sup>21</sup> Rizwan Malik, *The Politics of One Unit 1955-58* (Lahore: Pakistan Study Centre, University of the Punjab, 1988), 8.

<sup>22</sup> Khalid Bin Sayeed, *The Political System of Pakistan* (Boston: Houghton Mifflin Co., 1967), 67-8.

<sup>23</sup> M. Rafique Afzal, *Political Parties in Pakistan, 1947-58*, Vol. I (Islamabad: National Commission on Historical and Cultural Research, 1976), 147.

<sup>24</sup> The Hindu community outside the Assembly in general and their leadership in particular adversely criticized the report. Chattopadhyaya before walk out from the House quoted, "we the Hindu formed about fourteen per cent of the population. We are the citizens of the state of Pakistan and always anxious to make Pakistan a prosperous, democratic and modern state. We in our humble way have been working in the Assembly and its Committees to make a suitable constitution, but the recent trend and proceedings of this House have been a disappointment to all of us... From the trends of the proceedings hitherto, we feel that any further participation by us, the representatives of the Hindu minority, in the constitution-making, will be of no efficacy. So the members of my party have resolved not to take part in the discussion of the Report of the Basic Principles Committee in the present state of affairs". *Constituent Assembly of Pakistan Debates, Official Report*, Vol. XV, No. 20 (October 8-November 2, 1953), 109.

<sup>25</sup> Ahmad, *Constitutional and Political Development in Pakistan*, 27-8.

<sup>26</sup> Mian Iftikhar-ud-Din, President of Azad Pakistan Party, was critical of the entire formula especially the thirty per cent clause in the report. Expressing his views in the Assembly on October 7, 1953, he described it as a worthless formula as it would create greater difficulties in the democratic working of the constitution. *Constituent Assembly of Pakistan Debates, Official Report*, Vol. XV, No. 2 (October 7, 1953), 21.

<sup>27</sup> *Constituent Assembly of Pakistan Debates, Official Report*, Vol. XV, No. 11 (October 22, 1953), 295-96.

<sup>28</sup> *Constituent Assembly of Pakistan Debates, Official Report*, Vol. XV, No. 7 (October 14, 1953), 296.

<sup>29</sup> *Dawn* (Karachi), October 9, 1953.

<sup>30</sup> Malik, *The Politics of One Unit*, 20.

<sup>31</sup> *The Pakistan Times* (Islamabad), October 21, 1954.

<sup>32</sup> *Ibid.*, July 16, 1955.

<sup>33</sup> G. M. Sayyid, Mir Ghulam Ali Talpur, Ghulam Mustafa Bhurgari and Sheikh Abdul Majid Sindhi met in Karachi on November 8, 1954 and approved the stance of Pirzada against One Unit. Malik, *1955-58*, 51-52.

<sup>34</sup> *Ibid.*, 54.

<sup>35</sup> G. M. Sayyid also affirmed that the new Chief Minister of the Province, Muhammad Ayyub Kauro was living in a fool's paradise if he thought that he could carry the mass or the Assembly with him on the issue of One Unit. *Dawn* (Karachi), November 9, 1954.

<sup>36</sup> Malik, *The Politics of One Unit*, 55.

<sup>37</sup> Ghulam Mustafa Bhurgari, Abdul Hamid Jatoi, Sheikh Khurshid Ahmad and Pir Elahi Bakhsh opposed and voted against the Bill in the Assembly. *The Pakistan Times* (Islamabad), December 12, 1954.

<sup>38</sup> *Dawn* (Karachi), December 14, 1954.

<sup>39</sup> *Punjab Legislative Assembly Debates, Official Report*, Vol. IX (November 30, 1954), 362.

<sup>40</sup> Wayne Ayres Wilcox, *Pakistan: The Consolidation of a Nation* (New York: Macmillan Publishers, 1963), 241-44.

<sup>41</sup> *Constituent Assembly of Pakistan Debates, Official Report*, Vol. 1, No. 10, Part-I (August 24, 1955), 264-66.

<sup>42</sup> The Krishak Sramik Party was founded on July 27, 1953 by Abul Kasim Fazlul Haq, a very prominent leader in the pre-partition Bengal. In August 1937 A. K. Fazlul Haq along with his followers joined Muslim

League which made the League a popular party in Bengal. Later on due to some differences with the Quaid-i-Azam he was expelled from the League.

<sup>43</sup> *Constituent Assembly of Pakistan Debates, Official Report*, Vol. 1, No. 10, Part-I (August 24, 1955), 274.

<sup>44</sup> Umar, *The Emergence of Bangladesh: Class Struggle in East Pakistan*, 295-96.

<sup>45</sup> *Constituent Assembly of Pakistan Debates, Official Report*, Vol. 11, No. 23, Part-I (1955), 296-97.

<sup>46</sup> The members in the Second Constituent Assembly of Pakistan who voted against the One Unit Bill were mostly from the Awami League of East Pakistan whereas only one member was from the West Pakistan and he was Mian Ifikhar-ud-Din of Azad Pakistan Party. Independent members, Sardar Rasheed and Mian Jaffar Shah from Khyber Pakhtunkhwa and Malik Feroz Khan Noon from Punjab abstained from voting. *Dawn* (Karachi), October 1, 1955.

<sup>47</sup> M. Mahfuzul Haq, *Electoral Problems in Pakistan* (Dhaka: Asiatic Society of Pakistan, 1966), 90-91.

<sup>48</sup> *Constituent Assembly of Pakistan Debates, Official Report*, Vol. 1, No. 60 (January 31, 1956), 2249.

<sup>49</sup> The Ganatantri Dal was founded by Mahmud Ali, a former general secretary of the Assam Muslim League Student Federation, on January 19, 1953. The formation of this organization was assisted by Haji Muhammad Danish, a legendary *Kisan* (peasant) leader. It was based on non-communal radical line of action comprising of a small group of leftists and its influence was limited to East Pakistan.

<sup>50</sup> Members of the AL, GD and PNC opposed the clause of nomenclature of the state in the draft constitution. They cast their votes against the adoption of the name, Islamic Republic of Pakistan. *Constituent Assembly of Pakistan Debates, Official Report*, Vol. 1, No. 76 (February 21, 1956), 3411.

<sup>51</sup> *Constituent Assembly of Pakistan Debates, Official Report*, Vol. 1, No. 65 (February 6, 1956), 2544.

<sup>52</sup> G. W Choudhury, *Democracy in Pakistan*, 110.

<sup>53</sup> Hamid Khan, *Constitutional and political History of Pakistan* (Karachi: Oxford University Press, 2001), 198.

<sup>54</sup> G. W Choudhury, *Democracy in Pakistan*, 121.

<sup>55</sup> Samina Tanvir, "The Role of Pakistan Muslim League (1947-1958)", M.Phil. Thesis (Islamabad: National Institute of Pakistan Studies, Quaid-i-Azam University, 1998), 32.

<sup>56</sup> Hamid Khan, *Constitutional and political History of Pakistan*, 198.

<sup>57</sup> K.K. Aziz, *Party Politics in Pakistan 1947-1958* (Islamabad: National Commission on Historical and Cultural Research, 1976), 35-36.

<sup>58</sup> G. W Choudhury, *Democracy in Pakistan*, 116-117.

<sup>59</sup> *Ibid.*, 118.

<sup>60</sup> Samina Tanvir, "The Role of Pakistan Muslim League (1947-1958)", 33-35.

<sup>61</sup> The Awami League, the National Awami Party (of Mawlana Bashani), the Krishak Sramik Party, the National Congress and the Scheduled Caste Federation were included in this coalition. *Ibid.*, 36.

<sup>62</sup> *Ibid.*, 37.

<sup>63</sup> Hasan Askari Rizvi, *The Military and Politics in Pakistan* (Lahore: Progressive Publishers, 1974), 93.

<sup>64</sup> Mubarak Ali Khan, *Understanding Pakistan* (Lahore: Progressive Publishers, 1992), 142.

<sup>65</sup> The formation of any political party aiming at propagating any opinion or acting prejudicially to the integrity or security of the state was banned. The Act forbade political parties to be established under foreign aid and banned association with any foreign aided party. The following kinds of persons were restricted from the membership of political parties and were debarred from becoming office bearers as well: (i) dismissed government servants, (ii) persons imprisoned for a year or more on charges of moral turpitude, (iii) ministers or governors disqualified for gross misconduct, and (iv) persons disqualified from membership of elective bodies under the Elective Bodies Disqualification Ordinance (EBDO) 1954.

<sup>66</sup> Rizvi, *The Military and Politics in Pakistan*, 119.

<sup>67</sup> The political parties which extended their cooperation to the National Democratic Front were: Nizam-i-Islam Party, National Awami Party (Muzaffar Group), National Awami Party (Taha Group), Jama'at-i-Islami and Krishak Sramik Party. *Dawn* (Karachi), October 5, 1962.

<sup>68</sup> Fakhru'l Islam, *Political Alliances in Pakistan* (Peshawar: Pakistan Studies Centre, University of Peshawar, 1987), 86.



<sup>69</sup> The nine point agenda was (i) guarantee of all fundamental rights of the people, (ii) direct elections based on adult franchise, (iii) federal and parliamentary structure of the government, (iv) full provincial autonomy, (v) curtailment of the powers of the President, (vi) independence of judiciary based on separation of judiciary from the executive, (vii) withdrawal of ban on the functioning of political parties and release of all political prisoners, (viii) repeal of all repressive laws, and (ix) removal of economic disparity between East and West Pakistan. *Dawn* (Karachi), October 31, 1964.

<sup>70</sup> Sharif al Mujahid, "Pakistan's First Presidential Elections" in *Asian Survey*, June 1965, 280-94.

<sup>71</sup> Altaf Gauhar, *Ayub Khan: Pakistan's First Military Ruler* (Lahore: Sang-e-Meel Publications, 1993), 274-75.

<sup>72</sup> Saima Rana, "Miss Fatima Jinnah: Life and Services" M.A Thesis, Department of Pakistan Studies, Government Post Graduate College, Mansehra, 2003, 93.

<sup>73</sup> *Ibid.*, 100.

<sup>74</sup> Jamshed Ahmad, "Z.A. Bhutto As a Foreign Minister of Pakistan" M.A Thesis, Department of Pakistan studies, Government Postgraduate College, Mansehra, 1995-1997, 78.

<sup>75</sup> Muneer Ahmad, *Pakistan May Siyasi Ittehad*, (Urdu) (Lahore: Frontier Post Publication, 1993), 57.

<sup>76</sup> The Awami League, Cou. ML, Jama'at-i-Islami and Nizam-i-Islam Party along with the component parties of NDF agreed to enter into an opposition alliance on April 30, 1967. *Ibid.*, 58.

<sup>77</sup> The eight points included (i) federal parliamentary form of government, (ii) direct election on the basis of adult franchise, (iii) fundamental rights, (iv) free press and independent judiciary, (v) federal constitutional list to be consisted of only defence, foreign affairs, currency, federal finances, inter-wing communication and trade, (vi) regional autonomy, (vii) residuary powers to be vested in the governments of two wings, and (viii) economic disparity between the two wings should be eradicated in a period of ten years. *Dawn* (Karachi), May 5, 1967.

<sup>78</sup> *Ibid.*, December 13, 1967.

<sup>79</sup> Gauhar, 438.

<sup>80</sup> *Pakistan Observer* (Islamabad), July 2, 1969.

<sup>81</sup> On January 9, 1969 eight opposition parties formed a united front, known as Democratic Action Committee consisting of Awami league of Sheikh Mujib, National Awami Party (Wali Khan Group), Jam'iyat-i-Ulama-i-Islam, National Democratic Front, Awami League (Nasrullah Group), Cou. ML, Jama'at-i-Islami and Nizam-i-Islam Party. *Ibid.*, January 12, 1969.

<sup>82</sup> Hamid Yousaf, *Pakistan in Search of Democracy, 1947-1977* (Lahore: Afroasia Publications, 1983), 105-06.

<sup>83</sup> Rizvi, *The Military and Politics in Pakistan*, 158.

<sup>84</sup> Akhtar Hussain, "Politics of Alliances in Pakistan 1954-1999" PhD Thesis, National Institute of Pakistan Studies, Quaid-i-Azam University, Islamabad, 2008, 67.

<sup>85</sup> Husain Haqqani, "History Repeats Itself in Pakistan" *Journal of Democracy*, Volume 17, Number 4, The John Hopkins University Press, October 2006, 118.

## **CHAPTER- 2**

### **ROLE OF OPPOSITION IN THE INTERIM CONSTITUTION OF THE ISLAMIC REPUBLIC OF PAKISTAN, 1972**

The first ever general elections in Pakistan were held on December 7, 1970, under the cover of the Legal Framework Order (LFO), issued by the then President and Chief Martial Law Administrator, General Agha Muhammad Yahya Khan (1917-80). This was the first elected Assembly of Pakistan which was based on the adult franchise. As a result of these elections three hundred and thirteen Members were elected to the NA (169 from East Pakistan and 144 from West Pakistan). According to the daily Pakistan Times of April 15, 1972, the Pakistan People's Party (PPP) won 85 seats in the NA from West Pakistan. The remaining seats of West Pakistan were shared by the seven political parties and there were fifteen independent candidates. Qayyum Muslim League<sup>1</sup> (QML) secured nine seats, Con. ML<sup>2</sup> two seats; JI<sup>3</sup> four seats while the JUI<sup>4</sup>, JUP<sup>5</sup>, NAP<sup>6</sup> and Cou. ML<sup>7</sup> got seven seats each in the NA. The PPP emerged as the single largest party in West Pakistan with majorities in Sindh and the Punjab. The NAP together with their political ally, JUI got clear majorities in Baluchistan and the Khyber Pakhtunkhwa. The religious question of the religious parties played a little role in the elections.<sup>8</sup>

On the other hand the data issued by the Election Commission of Pakistan in the shape of the report on general elections Pakistan 1970, is diverse to the above facts. The results of

general elections held in 1970 as shown in the following tables show the seats won by the PPP and other parties.

**Table 2: National Assembly Elections Results, 1970**

| Provinces             | Total Seats | PPP | QML | Con. ML | Cou. ML | Jl | JUI | JUP | NAP | Independents |
|-----------------------|-------------|-----|-----|---------|---------|----|-----|-----|-----|--------------|
| Punjab                | 82          | 62  | 01  | 02      | 07      | 01 | -   | 04  | -   | 05           |
| Sindh                 | 27          | 18  | 01  | -       | -       | 02 | -   | 03  | -   | 03           |
| Khyber<br>Pakhtunkhwa | 18          | 01  | 07  | -       | -       | 01 | 06  | -   | 03  | -            |
| FATA                  | 07          | -   | -   | -       | -       | -  | -   | -   | -   | 07           |
| Baluchistan           | 04          | -   | -   | -       | -       | -  | 01  | -   | 03  | -            |
| Total                 | 138         | 81  | 09  | 02      | 07      | 04 | 07  | 07  | 06  | 15           |

**Source:** Election Commission, *Report on General Elections Pakistan 1970-71*, Islamabad: Government of Pakistan, Vol. I, 204-5

As far as National Assembly elections were concerned, the Pakistan People's Party (PPP) had won 82 seats out of 138 in West Pakistan in the 1970 elections but it enjoyed majority only in Punjab and Sindh. In Khyber Pakhtunkhwa and Baluchistan, NAP and JUI had won majority seats as shown in the above table 2. The PPP had lost the election in Khyber Pakhtunkhwa and Baluchistan, the two provinces where the movement for provincial autonomy had been strong.

**Table 3: Provincial Assembly Elections Results, 1970**

| Provinces             | Total Seats | PPP | QML | Con. ML | Con. ML | Jl | JUI | JUP | NAP | Independents |
|-----------------------|-------------|-----|-----|---------|---------|----|-----|-----|-----|--------------|
| Punjab                | 180         | 113 | 06  | 05      | 16      | 01 | 02  | 04  | -   | 27           |
| Sindh                 | 60          | 28  | 05  | -       | 04      | 01 | -   | 07  | -   | 14           |
| Khyber<br>Pakhtunkhwa | 40          | 03  | 10  | 02      | 01      | 01 | 04  | -   | 13  | 06           |
| Baluchistan           | 20          | -   | 02  | -       | -       | -  | 03  | -   | 08  | 06           |

**Source:** Election Commission, *Report on General Elections Pakistan 1970-1971*, Islamabad: Government of Pakistan, Vol. I, 219

In the Provincial Assembly elections (1970), the PPP had won 113 seats out of 180 from Punjab and 28 out of 60 from Sindh, thus forming its majority in Punjab and emerged single largest party in Sindh Provincial Assembly. In Khyber Pakhtunkhwa it got only 3 seats and in Baluchistan it could not get even a single seat. The NAP had not won any seat from Punjab and Sindh but it secured 13 seats out of 40 from Khyber Pakhtunkhwa and 8 out of 20 from Baluchistan and formed coalition governments with JUI in the two provinces which secured four seats in Khyber Pakhtunkhwa and three in Baluchistan Provincial Assembly.<sup>9</sup>

Due to some political differences between the leadership of East and West Pakistan, the province of East Pakistan seceded from the West Pakistan and became a newly state with the name of Bangladesh. The QML and some Independent Members entered into

coalition with the PPP and formed the government at centre. The remaining parties like Con. ML, Cou. ML, JUI, JUP, JI and the NAP decided to occupy the opposition<sup>10</sup> benches in the National Assembly of Pakistan. The opposition parties demanded to lift Martial Law, trial of General Yahya Khan, prompt return of the Prisoners of War from India, introduce an Interim Constitution and finally convene the session of the National and Provincial Assemblies.<sup>11</sup>

In former East Pakistan (now Bangladesh), fresh elections were held soon after December 1971 and a Constituent Assembly was elected under the new political situations. While it was very strange on the Part of West Pakistan (now Islamic Republic of Pakistan) not to call for new elections after December 1971 and a truncated Assembly was invigorated into the role of a Constituent Assembly. Bhutto, perhaps, intentionally avoided fresh elections for a new Assembly as he afraid of facing poor results for the role played by him in the East Pakistan debacle. The opposition parties, as a whole, were equally responsible for not demanding fresh elections for a new Assembly. They satisfied themselves with the seats they had won in the 1970 elections. They were not sure of their victory after the hammering they had faced in the general elections of 1970.

## **2.1 Twelve-Point Accord of the Government and Opposition for the Interim Constitution**

Zulfikar Ali Bhutto (1928-79) took over the charge as the President and first civil Chief Martial Law Administrator of Pakistan on December 20, 1971. For approving an Interim Constitution, a 12-point agreement was signed on March 6, 1972 by the PPP leadership with the opposition parties. The main points of the agreement were:

1. Summons would be issued to the members on March 23, 1972 to meet on April 14, 1972 for the period not exceeding 3 days to discuss only those matters specified in Para 2, 3 and 4.
2. The Interim Constitution would be framed on the basis of the 1935 Act read with the 1947 Act with consequential amendments. During the three days of the session only party leaders or their nominees shall speak. The parties for this purpose were: PPP, QML, JUI, NAP, JUP, Cou. ML, JI, Con. ML, one representative of the Independent MNAs from the Tribal Areas and one representative of all other Independent members.
3. The Assembly shall pass a vote of confidence in the government and approve and confirm continuation of the Martial Law till August 14, 1972.
4. The Committee report will be prepared on August 1, 1972, and the Assembly would meet on August 14, 1972.
5. The National Assembly should act as a constitution-making as well as a legislative body but the emergency powers of the President are to continue till the end of the state of emergency.
6. The Provincial Assemblies shall meet on April 21, 1972.
7. Both at the centre and the provinces, governments shall be formed by the parties in majority.
8. It was accepted that till the new Constitution was framed, a person elected as a Member of more than one Assembly would be permitted to retain his seat in both the Houses till the Constitution was finally passed. Similarly the President, the Vice-

President, Governors, Ministers and Advisors both at Centre and the Provinces will retain their seats in their respective Assemblies.

9. Till a permanent Constitution was framed, the Centre shall have the right to appoint the Governors in the Provinces. However, as a compromise it was agreed that the Governors shall be appointed in Baluchistan and Khyber Pakhtunkhwa in consultation with the Provinces.

10. It was agreed that the NAP-JUI were the majority parties in the Khyber Pakhtunkhwa and Baluchistan.

11. The PPP proposed that local bodies' elections be held as early as possible after the Provincial Assemblies meeting and also that those be held in all the four provinces on the same date.

12. The President would announce today that the Martial Law would be lifted on August 14, 1972.<sup>12</sup>

Mawlana Shah Ahmad Noorani, on the behalf of opposition parties, described the agreement for the Interim Constitution as a step towards restoration of democracy. He said it was also a victory of the masses and completion of a long awaited demand of the people.<sup>13</sup>

As a first step to constitution-making the Bhutto government, presented a draft Interim Constitution on April 11, 1972. The first session of the NA was held on April 14, 1972. One hundred and forty four Members, elected to the general seats in the 1970 general elections including six reserved seats for women, took the oath collectively and signed the Roll of Members in the National Assembly of Pakistan. Six more seats were reserved

for the minorities of Pakistan. Apart from that Nurul Amin (1893-1974) and Major Raja Tridiv Roy, elected from East Pakistan, chose to join the National Assembly of West Pakistan. The National Assembly had been summoned under the Article 6 (2) of the NA (Short Session) Order, 1972 (P.O. No. 11 of 1972)<sup>14</sup>. Nurul Amin was nominated as Chairman of the Assembly under the same Order. He took the oath from all the Members present at the floor of the Assembly. Zulfikar Ali Bhutto, being a majority party leader at the floor of the Assembly was nominated as the President and Chief Martial Law Administrator. Nurul Amin was nominated as the Vice-President of Pakistan. Presidential Council of Ministers consisted of eleven Members. This number increased to sixteen when the Martial Law was lifted.

Prior to the first session of the National Assembly of Pakistan on April 14, the opposition parties' leaders were reluctant to express their confidence in Zulfikar Ali Bhutto unless he lifted Martial Law from the country. Mawlana Shah Ahmad Noorani (1926-2003) from JUP, in a press conference, announced that the opposition parties had decided to vote against the constitution of Martial Law and the Interim Constitution. They also decided to work for the introduction of an Islamic constitution and the supremacy of democracy. As soon as the President of Pakistan, Zulfikar Ali Bhutto announced to lift Martial Law from the Country, Mawlana Noorani of JUP on April 14, 1972, addressing the inaugural session of the National Assembly welcomed his decision. He urged the President to prepare a permanent constitution for Pakistan, based on the teachings of the Quran and *Sunnah* and on the twenty-two points of the *ulama*. At this very happy



occasion the opposition members congratulated and announced to stand by the President in each and every legal and democratic matter faced by him.<sup>15</sup>

Zulfikar Ali Bhutto was elected as the President of the National Assembly of Pakistan getting 104 votes against Sardar Sher Baz Khan Mazari (b.1930), an Independent Candidate and head of the independent group in the National Assembly, who got 38 votes from the Members of the National Assembly present<sup>16</sup>. The opposition Members from various parties like Abdul Wali Khan (1917-2006) from National Awami Party (NAP), Mufti Mahmud (1919-80) from JUI, Mawlana Shah Ahmad Noorani from JUP and Sardar Sher Baz Khan Mazari (Independent), felicitated Zulfikar Ali Bhutto as the President of the National Assembly.<sup>17</sup>

## **2.2 Enactment of the Interim Constitution 1972 and the Role of Opposition**

The opposition leader, Abdul Wali Khan, demanded that President Bhutto should immediately formulate an interim constitution with the representatives of other political parties to enable the National and Provincial Assemblies to function without the cover of Martial Law.<sup>18</sup>

Mufti Mahmud, General Secretary, JUI, said that under the tripartite PPP-NAP-JUI agreement the new constitution would be passed with approval of all three parties. He told that it had been decided that the Constitution, the Interim as well as the permanent one, would not only be democratic but also Islamic.<sup>19</sup> Other opposition members also assured Bhutto of their cooperation to him and expressed the hope that the opposition benches would receive just treatment and fair rulings from him. They also hoped that the

House, under the leadership of Bhutto would be able to perform its main responsibility to frame a constitution in accordance with the wishes of the people and would maintain the best traditions of democracy.<sup>20</sup>

After taking unanimous vote of confidence from the National Assembly and good hopes from the opposition members, Bhutto presented the Interim Constitution on April 14, which the National Assembly approved on April 17. A twenty-five-member committee<sup>21</sup> was entrusted with the task of preparing the draft of the permanent constitution.

## **2.3 Prominent Features of the Interim Constitution 1972**

### **2.3.1 The President of Pakistan**

The Interim Constitution stood for a presidential form of government. The President was the head of the State and government at the same time. The President would be a Muslim, having 40 years of age, and otherwise eligible to be elected as a member of the National Assembly. The tenure of the office of the President was fixed at five years. There was no feature about the method of election to the office of the President. At the vacation of the office of the President, the next President was to be elected by the National Assembly in the manner provided under the third schedule of the Interim Constitution. The President was the Supreme Commander of the Defence Services of Pakistan and had the authority to appoint Chiefs of the Staff of the Armed Forces. The President had also the power to issue ordinances when the National Assembly was not in session.<sup>22</sup>

### **2.3.2 The Vice-President of Pakistan**

Under the Interim Constitution, the qualification for the office of the Vice-President was the same as for the office of the President. The Vice-President was to be elected by the

National Assembly according to the procedure provided under the third schedule. The term of the Vice-President's office was five years. In the absence of the President, he was to act as President and, at the death of the President; he was to take over his responsibilities until a new President was elected. The Vice-President was a member of the Council of Ministers of the President.

### **2.3.3 The Legislature**

The Interim Constitution provided for a unicameral legislature. That legislature was named as the National Assembly having power to legislate on all subjects provided in the Federal and Concurrent Legislative lists mentioned under the fourth schedule. The National Assembly could also legislate for a province on the subjects enumerated in the Provincial Legislative List during the proclamation of Emergency by the President. The President could withhold assent from any bill passed by the National Assembly and could return it for review with his recommendations for amendments. The National Assembly, after review, could pass the bill once again without any amendment and the President was bound to give his assent, provided the number of members voting for such a bill, on review was not less than seventy-five. The President, as the head of the government, had to work with the help and advice of the Council of Ministers. A minister had to be a member of the National Assembly.<sup>23</sup>

### **2.3.4 The Form of Government**

The parliamentary form of government was introduced by the Interim Constitution at the provincial level. Governors were appointed by the President and were responsible to him. Governor was the executive authority at a province. For the administration of provincial

affairs, there was to be a council of ministers, headed by the Chief Minister, to help and advise the Governor in the exercise of his functions. The Governor was to appoint a person as Chief Minister who had the confidence of the majority of the total members of the Provincial Assembly. The Council of Ministers was collectively responsible to the provincial Assembly and the ministers could be appointed and removed from office by the Governor on the advice of the Chief Minister. The chief Minister held the office during the pleasure of the Governor who could not remove him until he was satisfied that the Chief Minister did not have the majority of the total number of the members of the Provincial Assembly, to ascertain which, the Governor could ask the Chief Minister to get a vote of confidence from the Provincial Assembly.<sup>24</sup> The Provincial Assemblies elected in 1970 elections became the Provincial Assemblies under the Interim Constitution 1972 and that was a key to the compromise between the government and the opposition. The opposition had the majority in two Provincial Assemblies of Baluchistan and Khyber Pakhtunkhwa. In exchange, the opposition was not to demand fresh elections for the Constituent Assembly.

### **2.3.5 Relations between the Centre and the Provinces**

Administrative relations between the centre and the provinces were regulated by provisions similar to those of the 1962 Constitution. A National Economic Council was to be constituted to review the overall economic position of Pakistan and formulate economic policies for its economic development. The President could appoint a Commission to resolve a dispute over the distribution of water supplies between the provinces. He could also establish a council for inter-provincial coordination for

resolving disputes between the centre and a province or between the provinces, to discuss subjects of common interest, and to make recommendations for the better coordination and uniformity of policy.

### **2.3.6 The Judiciary**

The Interim Constitution was having the similarity with the 1962 Constitution regarding the judicature, except that all provisions regarding the Supreme Court and the High Courts were given together under one part of the Constitution. New provisions relating to the judicature in the Interim Constitution, as different from the 1962 Constitution, were:

- (a) the permanent seat of the Supreme Court was to be in Islamabad;
- (b) a common High Court for Sindh and Baluchistan was to be established under the Constitution;
- (c) the minimum age for a judge of a High Court was fixed at 40 years for the first time; and
- (d) the age of retirement for a judge of a High Court was raised from 60 to 62 years.

### **2.3.7 The Martial Law Regulations and Orders**

All existing laws were continued in force with necessary adaptations. All Martial Law Regulations and Martial Law Orders, except those specified in the seventh schedule<sup>25</sup>, stood repealed with effect from the commencing day of the Interim Constitution. The specified Martial Law Regulations and Martial Law Orders were deemed to have become Acts of the appropriate legislature and with the necessary adaptations, had effect as such. All proclamations, President's orders, Martial Law Regulations (MLRs), Martial Law Orders (MLOs) and all other laws made as from the March 25, 1969, were declared valid

not withstanding any judgment of any court and were not called in question in any court. All orders made, proceedings taken, and acts done by any authority or person under any of the above mentioned laws were deemed to have been validly made, taken or done and no suit or other legal proceedings would lie in any court against any such authority or person.<sup>26</sup>

On April 15, 1972, Mawlana Noorani from JUP alleged that all the provisions of the Martial Law Regulations<sup>27</sup> were present in the interim constitution. Referring to its Islamic provisions, he observed that no time limit had been laid down for the elimination of un-Islamic provisions. He criticized the government for not banning liquor, music, dancing, nightclubs and gambling. Mawlana Noorani observed that the Interim Constitution would be acceptable to the opposition only if its un-Islamic provisions were omitted.<sup>28</sup>

The government formed seventeen Standing Committees within the National Assembly of Pakistan in pursuance of the Rules of Procedure and Conduct of Business in the National Assembly of Pakistan (Legislature) 1972. Members of the opposition parties were also representing these Standing Committees.<sup>29</sup>

The opposition parties' members actively participated in the discussions of the Constitution-making committee. They presented many amendments (those are given in the text of the entire chapters) in the Interim Constitution 1972 as well as in the draft constitution of 1973.<sup>30</sup>

## **2.4 Socio-Political Legislation in the Interim Constitution of 1972 and the Opposition**

It is the duty of opposition members in a democratic set up to present Bills and amendments to the Bills presented by the Treasury benches. They will present their proposals for the betterment of the laws and constitution. Their arguments should be constructive and responsible so that the government may get a positive guideline for its rules of business in the best interest of the public. Keeping in view the above principles, the opposition during the Bhutto's government, presented their views regarding the Bills and amendments moved by the government in chair.

## **2.5 The Code of Civil Procedure (Amendment) Bill, 1972**

Mahmud Ali Qasuri (1910-89), Minister for law and Parliamentary Affairs, moved an amendment Bill to the Interim Constitution of 1972. The amendment was, "That the Bill further to amend the Code of Civil Procedure, 1908 [The Code of Civil Procedure (Amendment) Bill, 1972] be taken into consideration at once".<sup>31</sup>

While explaining the Bill, Mahmud Ali Qasuri said that there were certain privileges which were attached to the Rulers of merged States<sup>32</sup> which at first acceded and then were merged and then even the Privy Purses were abolished. The object of the Bill was to equate a class of citizens of Pakistan with the rest of the citizens of Pakistan and it was intended to repeal section 87-A of the Civil Procedure Code which placed difficulties in the way of citizens to get redress for grievances which they might had against that limited class of people.<sup>33</sup>

Mahmud Azam Farooqi from JI, demanded that the Article [263], clause (72) of the Interim Constitution of Pakistan must be amended which, said, "Neither the President nor the Vice-President nor a Governor of a Province shall be answerable to any Court for the exercise of powers in performance of duties of their offices". The President, the Vice-President and a Governor of a Province could never be above the Law of the country. We are the nation who claims to follow the *Sunnah* of our beloved Prophet Muhammad (PBUH). *Khulafa-i-Rashideen* were answerable even to a layman. So he demanded the government benches to set the examples of our prophet (PBUH). Governor-General Malik Ghulam Muhammad, Major-General Iskander Mirza, General Ayub Khan, Agha Muhammad Yahya Khan and even Zulfikar Ali Bhutto raised the slogan to introduce Islamic Laws and equality based on the principles of Islam in the country, but it was not the case in reality. The same Princes and *Nawabs* were seated as Governors in the Provinces. So how could they dispense with justice and equality when the same Princes were seated who were, in the past, not answerable for their any action before the Law of the country? Mahmud Azam Farooqi demanded to avoid any such persons to be provided with illegal statutory protection.<sup>34</sup>

Mawlana Abdul Mustafa Al-Azhari from JUP, giving his opinion over the same Amendment Bill, told the honourable House that it is the Quranic commandment for all the humans to present themselves equally before the Court. So there was no question for the President or Governors of the Provinces to follow a discriminatory policy in the country. They should be made answerable before the law.<sup>35</sup>

The Bill was passed by majority of the Assembly Members.<sup>36</sup>



## **2.6 The Labour Laws (Amendment) Bill, 1972**

Choudhry Muhammad Hanif Khan (Minister for Labour, Works, and Local Bodies) moved that “The Bill further to amend certain laws, relating to industrial relations and welfare of workers [The Labour Laws (Amendment) Bill, 1972] be taken into consideration at once”.<sup>37</sup>

Explaining the Amendment Bill under consideration, Choudhry Muhammad Hanif Khan said that the existing Bill had some anomalies, some clerical mistakes and some printing mistakes. Therefore, in order to correct all these mistakes, the same amendment to the Bill was moved before the House. The Bill had exempted the workers under contractors of some benefits under the Workmen’s Compensation Act, 1923. But, in the Labour Policy announced by the President, the workers under the contractors were also to be included in the class of workers who were going to be benefitted as a result of the amendment before the Members of the House.

Whenever the employer wanted to terminate the services of a permanent worker, then he had to serve the worker with either one month’s notice or in lieu thereof he had to pay one month wages. The Bill did not mention the temporary workers to be benefitted of the same privileges. So the amendment was put further to facilitate the temporary workers too.

Further it was pointed out that the security of services to the workers will be provided through the amendment to the Bill. Workers’ representative would be elected by workers employed in a factory. Then under the existing provision of the Bill, the Provincial

government could establish only one Appellate Tribunal and the provision has been amended so as to enable them to set up more than one such Tribunal, if necessary.<sup>38</sup>

Commenting over the Amendment Bill presented by the government, Ghafoor Ahmad from JI, an opposition Member criticized the government for the delay of the amendments in the labour laws as the government was claiming to be the protector of the workers' rights. The Labour Policy was announced by the President on April 10 and it was published in the Gazette on April 17, while the Minister has brought the amendment to the House after two months have lapsed. This delay in the basic rights of the workers proved the government to be irresponsible in the interests of the workers. Ghafoor Ahmad presented an amendment to the Bill in the Legislature. The amendment carried that "the worker labouring in an industry, if resigns his service, must be enabled to get the gratuity as well as the Provident Fund out of the factory where he was employed." This should be kept in mind that there was no mention of the provision for the Provident Fund in the amendment Bill moved by the government. He also proposed the government not to amend the Ordinance regarding the workers' rights. The new Labour Policy, as promised by the government, should be brought before the House and no further Ordinances be put forth in this concern. He assured the government on the behalf of the opposition to fully cooperate them in the House over the new Labour Policy, if put up in shape of a Bill before the legislature.<sup>39</sup> The amendment of Ghafoor Ahmad was rejected by the government.<sup>40</sup>

Mawlana Ghulam Ghous Hazarvi from JUI appreciated the Bill presented by the government and acknowledged the efforts done by the government for the welfare of the

workers in a short span of time. He suggested that a provision should be made in the Bill to avoid the termination of a worker from his service, otherwise, he should be granted the right of appeal in a court of law. He further brought into notice of the government that there was no Labour Union within the Wah Factory for nearly thirty thousand workers working there. All the industries in the country should be bound to permit the workers to form a Labour Union for their rights. Legislation must be done in order to enforce the factory owners to provide such an amount to the workers so that they could meet their ends with those wages.<sup>41</sup>

Mawlavi Niamatullah from JUI, discussing the Bill, reminded the promise and its manifesto to the government that a worker would get a salary not less than Rs. 200 per month during the PPP government, but, the workers were even then waiting for the good news. There should be no discrimination between the high and lower class workers or servants. He demanded the government to fulfill its promise in that regard.<sup>42</sup>

The Bill moved by the government was passed by the Assembly.<sup>43</sup>

## **2.7 The Diplomatic and Consular Privileges Bill, 1972**

Minister for Education and Provincial Coordination, Abdul Hafeez Pirzada, presented the Bill before the Assembly: "That the Bill to give effect in Pakistan to the Vienna Convention on Diplomatic Relations, 1961, and the Vienna Convention on Consular Relations, 1963 (The Diplomatic and Consular Privileges Bill, 1972), be taken into consideration at once."<sup>44</sup>

Explaining the Bill Abdul Hafeez Pirzada said the diplomatic relations adopted by the United Nations Conference on Diplomatic Relations and Immunities came under

consideration at Vienna from March 2 –April 14, 1961. It came into force on April 24, 1962, and since then Pakistan has been bound by the Convention. The Convention sought to codify and develop international law on diplomatic relations. The subjects that were dealt with under the Convention were: the functions of the Diplomatic Missions, Procedures for accreditation of person as heads of Diplomatic Missions and Diplomatic Privileges and Immunities. The Vienna Convention on Consular Relations was adopted by the United Nations on April 24, 1962 and it came into force on March 19, 1969. Pakistan ratified it on April 14, 1969 and since that date Pakistan was bound by that Convention. Similarly the Bill that was introduced sought to provide the Convention on Consular Relations the codification and development of international law and practice on Consular Relations. So in the case of Diplomatic Relations, need had been felt that there must be an enabling legislation which should be accepted by the NA of Pakistan to enable Pakistan to fulfill its international obligation under that Convention too. An Ordinance was promulgated by the President in 1972 for the purpose, but now it was needed to be made an Act of the Federal Legislature and therefore the Bill was moved before the House. He further assured the Members that if the Bill was passed by the Legislature, only those privileges and immunities would be extended to diplomatic and consular personnel that were available to our Missions and Consular posted abroad.<sup>45</sup>

Malik Muhammad Akhtar supporting the Law Minister further explained the purpose of the Bill moved and said that diplomatic agents as well as the consular officials would not personally liable to any tax. They would be exempted from appearances in the courts.<sup>46</sup>

Mawlana Ghulam Ghous Hazarvi from JUI appreciated the Bill and declared that the diplomatic and consular officials must be guaranteed with security of their lives and rights as it was the code of Islam. But he criticized the point that their buildings, furniture etc., would be exempted from searching. He was worried if they tried to hatch a plan in order to overthrow the government, how could then the government be in a position to save the country? He warned the government that some revolutionary struggle could also be underwent if such exemptions were granted to the diplomatic and consular officials through the Bill. The Mission could also use their sources of transportation for the destruction of the government as well as the country. So he suggested that there must be some restrictions for the diplomats and consular to avoid any such deterioration within the country.<sup>47</sup>

Ghafoor Ahmad from JI, an active opposition member, drew the attention of the House towards the consular's freedom of communication in the Bill which, carried that the consular bag should neither be opened nor detained. Nevertheless, if the competent authorities of the receiving State had serious reason to believe that the bag contained something other than the correspondence, documents of articles referred to in the Article of Law; they might request that the bag be opened in their presence by an authorized representative of the sending State. If that request was refused by the authorities of the sending State, the bag should be returned to its place of origin.<sup>48</sup>

The suggestions forwarded by the opposition members were adjusted into the main body of the Bill and it was as such amended that if other sovereign state would not be willing to extend the said privileges according to the Convention arrived at in Vienna in 1962

and 1969, then Pakistan would be fully in its right to withdraw those privileges and immunities to the extent that they were not being offered to the mission or consular posted outside the country. The Bill, as amended, was passed by the House.<sup>49</sup>

## **2.8 Resolution: Friday Be Observed as Weekly Closed Holiday**

Sahibzada Safiullah from JI, on the behalf of opposition, moved a Resolution which demanded for the observance of Friday as weekly closed holiday. The Resolution moved was: "That this Assembly is of the opinion that Friday be observed as the weekly closed holiday throughout West Pakistan instead of Sundays."<sup>50</sup>

Sahibzada Safiullah further explained that Friday has preference over the entire days. Different *Ahadith* have discussed the supremacy of Friday. All the other Muslim countries observe Friday as weekly closed holiday. It was the tradition of the British government to observe Sunday as weekly holiday. They were no more there to rule so their traditions should be omitted and that of Islam must be followed.<sup>51</sup>

Addressing the NA of Pakistan, Mawlana Noorani from JUP declared that the Muslims of the Indo-Pak Subcontinent gave sacrifices in order to lead their lives in accordance with the Islamic culture, traditions and civilization. The Resolution that had been moved to observe Friday as weekly closed holiday had really been the demand of the Muslims in Pakistan. Friday has a great importance in our life. The Prophet Muhammad (PBUH) has termed the Friday, as '*Sayyid-ul-Ayyam*' i.e. "Friday is the king of other days". The Prophet Muhammad (PBUH) also named it as *Eid* Day. All over the world the Christians and the Jews celebrate Sunday and Saturday respectively as their sacred days.<sup>52</sup>

Pakistan had come into being on the basis of the Islamic Ideology. Mawlana Noorani said that the Muslims were bound to declare Friday as a sacred day and there should be a holiday on Friday instead of Sunday. "The Islamic world is a brotherhood and all of them stood by us both in peace and war". Friday was observed as a holiday in the entire Muslim world and if we did the same we would be stronger than ever. If there was deficit in the banks and companies, it should be noted that those firms and insurance companies were also making transactions all over the world. Even Friday was observed as weekly holiday in the Muslim world but they did not suffer economically. Therefore, he appealed the House to favour and pass the Resolution moved by Sahibzada Safiullah in order to celebrate Friday as holiday instead of Sunday.<sup>53</sup>

Mawlana Abdul Hakeem from JUI welcomed the Resolution moved by the opposition member and declared that if we were to observe a weekly closed holiday then why it should not be the Friday as it was and would be our sacred day. Sunday was a sacred day for the Christians therefore they observed it as a weekly closed holiday. He assured the House that for the sake of religious fervour and zeal every citizen of the country was ready to work for twelve hours out of twenty four during the other days if Friday was declared by the government as weekly closed holiday.<sup>54</sup>

Mawlana Abdul Haq from JUI, answering the objections of the government benches, cited the Quranic commandments which emphasizes business community as well as the shopkeepers to close their businesses and offer the Friday Prayer. After that they could start their dealings again. Mawlana Abdul Haq pointed out that what would be the fate and destiny of the workers and government servants who were not allowed by the factory

owners or government to offer prayer? Rest of the prayers five times a day could be offered individually but it was the command of Allah to say the Friday Prayer in congregation. So, it was necessary for a factory worker as well as for every Muslim to offer the Friday Prayer in *Jamia Masjid*. Apart from that he would take a bath and wear clean clothes as it was a pre-requisite for offering the Friday Prayer. He demanded the government benches to declare the Friday as weekly closed holiday so that the factory workers and government servants could enthusiastically devote themselves to the prayers especially offering the Friday prayer. He categorically rejected the objections that observing Friday as holiday instead of Sundays would affect our foreign economic affairs and that banking system would be disturbed. He gave the examples of Saudi Arabia, Iran, Libya, Jordan and Afghanistan who never suffered by observing Friday as a weekly holiday. He asked the House why to follow Europe in each and every system as we already have our own ways and system that had been presented by our Prophet Muhammad (PBUH).<sup>55</sup>

Mawlana Ghulam Ghous Hazarvi from JUI also expressed his views concerning the Resolution in favour of observing Friday as a weekly closed holiday. He said that Quran instructed to follow the Prophet for your religion. It must be clear to all the members of the House that Muhammad (PBUH) gave reverence to the Friday over other days. All the *Sahabah* used to assemble with the sunrise on the Fridays and not the Sundays unless Friday Prayer had offered in the *Masjid*. Therefore, the government of Pakistan must follow the example of *Sahabah* and must declare the Friday as a weekly closed holiday



so that the Muslims in Pakistan may be able to devote themselves for full-fledged worship in the *Masajid*.<sup>56</sup>

Mufti Mahmud from JUI also appreciated the Resolution forwarded by an opposition member for observing Friday as a weekly holiday. It was according to him, a need to fulfill the prerequisites of the *Shariah*. He submitted that there was no regular order during the Prophet's period or that of *Khulafa-i-Rashideen*'s Caliphate for observing Friday as a weekly closed holiday. There was no such tough routine of offices and its management like that of the present day. But if a holiday was being observed, then why it should not be the Friday instead of Sunday, as it was a sacred day for all the Muslims?<sup>57</sup>

Similarly, Mawlana Abdul Mustafa Al-Azhari from JUP claimed that there were many *Ahadith* regarding the inviolability of the Friday in *Bukhari Sharif*, *Muslim* and *Tirmazi* that the people used to visit the Prophet's *Masjid* from far flung villages in order to offer their Friday Prayer in congregation with him. After hearing the Prophet at his *Masjid* on Fridays, they used to preach his sayings in their respective villages. One could imagine the importance and sanctity of the Friday from this act. Keeping in view the same holiness of the Friday, it should be declared by the government as a weekly closed holiday.<sup>58</sup>

After long discussions by the Members of the opposition in the National Assembly of Pakistan, the Resolution was then referred to the Special Committee. The Special Committee consisted of Muhammad Hanif Khan, Mawlana Abdul Hakim, Mawlana Abdul Mustafa Al-Azhari, Sardar Shaukat Hayat Khan, Begum Nasim Jehan, Malik Muhammad Akhtar, Mian Manzoor-i-Hassan, Sahibzada Faruque Ali, Malik Muhammad

Sulaiman and Rana Muhammad Hanif. After long deliberations, the Resolution took the shape of a Bill and was finally passed by majority Members of the House.<sup>59</sup>

## **2.9 The Interim Constitution of the Islamic Republic of Pakistan (First Amendment) Bill, 1972**

Ghafoor Ahmad from JI presented an amendment to the Interim Constitution of the Islamic Republic of Pakistan, 1972, carrying, "to introduce a Bill to amend the Interim Constitution of the Islamic Republic of Pakistan [The Interim Constitution of the Islamic Republic of Pakistan (First Amendment) Bill, 1972]."<sup>60</sup>

Ghafoor Ahmad explaining the motives of the amendment Bill said that the Constitution Committee had already been deliberating over far-reaching changes to the Interim Constitution. The time for submission of a draft for Constitution was also extended to the Constitution Committee up to December 31, 1972. The opposition members have made efforts to move some useful amendments to the Interim Constitution. The purpose of the present amendment was to ensure and safeguard fundamental rights of the citizens such as freedom of speech and freedom to make unions and associations. Further, it was mentioned in the Interim Constitution that decisions issued by the Tribunal would not be challenged in any court of law. The opposition members were, therefore, of the opinion that decisions made by the Tribunals or any Administrative Court might be challenged in the Supreme Court. If injustice was done to any of the citizen, he must have the right to knock at the doors of the highest court of law. Martial Law Regulations/Orders of March 25, 1969 were safeguarded in the Interim Constitution of the Islamic Republic of Pakistan, 1972. Right of self protection should be granted to the citizens against the

verdicts issued by the Administrative Courts under the cover of Martial Law Regulations. They ought to have the right to appeal to the High Court and Supreme Court against such decisions.<sup>61</sup>

Malik Muhammad Akhtar from PPP went into the details of the amendments Ghafoor Ahmad wanted to do away with the same. Muhammad Akhtar told the House that it was impossible to amend the said clauses as it would totally change the Constitution and were very dangerous for the Members to run the government. Therefore, the government benches refused the said amendments to the Interim Constitution of the Islamic Republic of Pakistan, 1972.<sup>62</sup>

## **2.10 The Law Reforms (Amendment) Bill, 1972**

Mahmud Ali Qasuri (Minister for Law and Parliamentary Affairs) moved the Bill to amend the Law Reforms Ordinance, 1972. The Bill was, "To amend the Law Reforms Ordinance, 1972 [The Law Reforms (Amendment) Bill, 1972], as reported by the Standing Committee be taken into consideration at once."<sup>63</sup>

Giving a brief resume of the principles underlying the amendment, Mahmud Ali Qasuri said that the President of Pakistan issued an Ordinance on April 1972 in order to make various amendments in different Acts including Limitation Act, Arbitration Act, Conciliation Courts Act, Legal Practitioner and Bar Council Act and Letter Patent. The main purposes of the amendments were to implement recommendations of the Law Reforms Commission, remove some mistakes from the Ordinance promulgated on April 14 and to present such a new amended Ordinance so that the problems faced by the government might be handled.<sup>64</sup>

Mahmud Azam Farooqi from JI emphasized that it was the foremost responsibility of the House to legislate for the country. Law was a basic tool in hands of the government to handle different issues of the public. If the law of the land would be wrong, it would lead them to inequity and injustice. Mahmud Azam Farooqi objected the Ordinance of the President, consisted of twenty pages and moved before the House for proper legislation. The Bill was totally against the fundamental rights of the people where an accused could not make a second appeal in the High Court against the verdict of a single judge.<sup>65</sup>

Ghafoor Ahmad moved a simple amendment to the Bill presented by the Minister for Law and Parliamentary affairs. The Bill had squeezed the right of an accused arrested under a prohibition order. Before the Bill was introduced, a single bench of judges of a High Court could issue orders to present the accused before the court in order to decide his appeal. The same High Court having a bench consisting of two or more than two judges could hear the appeal of the accused. The government, through the amendment, wanted to eliminate the bench of two or more than two judges to hear an appeal of the accused in the same court. The accused was supposed to knock at door of the Supreme Court and not a second bench in the High Court for his appeal against the verdict of first bench of the same court. Therefore, Ghafoor Ahmad moved an amendment in order to maintain the status quo of the Act-201 in the Interim Constitution of the Islamic Republic of Pakistan. In such a way an accused could easily avail justice within the court of his original jurisdiction and he would not suffer to go to the Supreme Court.<sup>66</sup>

The amendment of Ghafoor Ahmad regarding this Bill was rejected and that of the government was passed by majority of the Assembly.<sup>67</sup>

### **2.11 The Civil Commotion Compensation Fund (Repeal) Bill, 1972**

J.A. Rahim (Minister for Presidential Affairs, Production and Commerce) moved the Bill underlying, “that under rule 226 of the Rules of Procedure and Conduct of Business in the National Assembly (Legislature), 1972, sub-rule (2) of rule 66 of the said Rules be suspended in regard to the Bill to repeal the Civil Commotion Compensation Fund Ordinance, 1971 [The Civil Commotion Compensation Fund (Repeal) Bill, 1972, as reported by the Standing Committee.”<sup>68</sup>

Commenting on the salient features of the Bill, J. A. Rahim told the House that this was the Bill to close in the year 1971. The original Ordinance was issued in order to create the Civil Commotion Compensation Fund. It was meant for East Pakistan where there were civil troubles. This was done when the war came and the damages on account of war were not covered by Civil Commotion. As far as the Bill was concerned, it had both restrictions and usefulness. Its application ceased completely after a certain date. Now, it provided for the constitution of a compensation fund which included 10% surcharge on fire insurance, marine insurance and miscellaneous insurance business. By contribution of insurance company 8% of the net premium, if it did not exceed Rs. 25 lac, and 10% of net receipt, if it exceeded Rs. 25 Lac. The Ordinance provided that losses would be reimbursed if those occurred on or after the 1<sup>st</sup> of March and up to May 15, 1971. Now the Ordinance had provided that no losses accruing at any time due to the circumstances not covered by insurance policies were considered. Thereafter claims received were fallen into four categories. A company could appoint surveyors. That was also considered, but a survey was conducted to the extent of Rs. 133 Lac of which actual

payment was made. Out of 13 lac payment, balances of Rs. 20 lac were stopped because the claim of East Pakistanis was not there. Then with the division of the country, the authority of the government was ceased. So, there was no need to have the Fund operated upon. Therefore, it was proposed to repeal the original Ordinance. There were then three categories left of the claims with the government. One claim of West Pakistan was regarding companies, firms and individuals located in West Pakistan and in relation to goods left in East Pakistan, there were 30 claims amounting to Rupees 30 lac. Next was the claim of those who had business in East Pakistan and not migrated to West Pakistan that was amounting to Rupees 30 lac. Likewise, there were 15 claims totaling to Rupees 208 lac regarding the firms and companies who had registered offices in East Pakistan but had not migrated to West Pakistan, losses suffered by firms in East Pakistan, 18 claims totaling to Rupees 225 lac. There were also some claims which were neither supported by any reports nor other possessed relevant documents. It was not possible to make surveys regarding all claims as the war of 1971 had started. Moreover, on account of those troubled conditions, the government survey teams could not be sent. So, there were many claims which were put in improperly. In the same way, there were some claims on account of survey reports of their own surveyors. Then it was proposed to close down the fund. Payments from the amount at the disposal were made up to 113 lacs. Administrative expenses incurred were Rupees 18 lac. Whereas, interest of loan obtained from government were rupees 13 lac. The total was Rupees 134 lac on the deficit. However, it was true that premium due but not then paid would have to be collected

because there was delay in the collection and that covered the provision of the Repeal Order.<sup>69</sup>

Sardar Shaukat Hayat Khan from Cou. ML claimed that the Bill moved by the minister was not beneficial to the people at large. The government should help those hundreds of such persons who came to West Pakistan squandered and beaten. Their factories were sealed and properties confiscated in East Pakistan. The government must help such migrated people. The compensation fund should be distributed among such distressed people and not to adjust it into some other consolidated fund. Their losses could be fulfilled in this way. Those people could start their businesses here in West Pakistan with the compensation fund provided to them. The Pakistan Peoples Party claimed for providing the people with bread, cloth and shelter. Therefore, their government should help the poor, distressed, destitute and oppressed. He strongly demanded the government to issue the funds to those migrated people who lost their properties and businesses during dissensions in East Pakistan and then migrated to West Pakistan.<sup>70</sup>

Ghafoor Ahmad also rejected the Bill as it was very harmful for the people who suffered during the disturbances in the war of 1971. They were helpless and needed help from the government through the Civil Commotion Compensation Fund (Repeal) Bill, 1972. Therefore, the government was emphasized by the opposition not to convert the Civil Commotion Compensation Fund into Central Consolidated Fund. That fund should be used for the rehabilitation of the affected people.<sup>71</sup> The Bill presented by the government was unanimously passed by the Assembly.<sup>72</sup>

## **2.12 The Official Language Bill, 1972**

The motion moved by Mawlana Ghulam Ghous Hazarvi from JUI stated “that leave be granted to introduce a Bill to prescribe measures for the replacement of English by the National Language [The Official Language Bill, 1972].”<sup>73</sup>

Mawlana Ghulam Ghous Hazarvi said that Sindh and Bengal provinces had faced the oppressions due to the absence of our national language. China, Japan, England and France were using their respective national languages. Even their leaders used their own languages while addressing the assemblies abroad. It was heart-rending that our leaders used English abroad instead of Urdu, which was our national language. It was a double standard for our leaders as well as for our children getting education in our educational institutions. At first the children learn how to speak and write English. This was a very hard task for them. Therefore, most of the students failed in English and dropped out of schools and colleges.<sup>74</sup> The Bill was sent to a Special Committee.<sup>75</sup>

## **2.13 The National Press Trust (Appointment of Chairman) Bill, 1972**

Mawlana Kausar Niazi (Minister for Information, Auqaf and Hajj) moved the Bill in the Assembly. It said, “That the Bill to provide for appointment of the Chairman of the National Press Trust [The National Press Trust (Appointment of Chairman) Bill, 1972] as reported by the Standing Committee be taken into consideration at once.”<sup>76</sup>

Mawlana Kausar Niazi explaining the purpose of the Bill said that the present government, after coming into power, held the responsibility of appointing the Chairman, National Press Trust under Martial Law Order No. 31. This Order of Martial Law had not determined the terms and conditions of service for the Chairman of the National Press



Trust. When the Martial Law lifted, it was severely felt to bring some changes into the administration of the National Press Trust. These terms and conditions of service of the Chairman, National Press Trust had to be covered through an Ordinance. The same Ordinance was then moved before this House in the form of a Bill in order to make it an Act of the Interim Constitution, 1972. The Bill was forwarded to the Standing Committee and the same was returned in its original shape to be passed by the Legislature. Having no ambiguity the Bill should be passed unanimously by the Assembly.<sup>77</sup>

Mawlana Abdul Mustafa Al-Azhari from JUP, while expressing his views over the Bill told the House that the claims of the Pakistan Peoples' Party during the 1970 elections were to bring the National Press Trust to a halt as soon as they would come into power. The PPP had also claimed that the same Trust was quoting against the efficient people doing their best in the war days and was a tool in the hands of the people who were molding the public opinion negatively. It was astonishing to see that PPP being in power was then patronizing the Trust. They were even trying to appoint the Chairman of the Trust through the Bill. The government liked the National Press Trust as it was quoting against the opposition. The Trust was presenting the news in bursts and twists. The Newspapers affiliated to the National Press Trust were useless as they represented the Party in power only. Therefore, the opposition demanded to finish the National Press Trust and said that when there would be no such Trust then there will remain no question of appointing a person as its Chairman.<sup>78</sup>

Amirzada Khan (1918-77) from NAP said that the government, through the Bill, wanted to vest the power in the President to appoint the Chairman of the Trust. There was no

specific purpose and function of the Trust. The government wanted to aggrandize itself of the Trust. It was a demand of the public since the reigns of Ayub Khan and General Yahya Khan to cease the National Press Trust. It was established in 1964 by Ayub Khan. He established the Trust with bad intentions. Such kinds of Trusts worked for the welfare of the public in democracies. But the case in Pakistan had been different. Therefore, the National Press Trust must be diminished as it was a tool in the hands of the government to publicize only its own point of view before the people. It was also suggested by the opposition Member not to make President the sole authority in appointing the Chairman of the National Press Trust, if they had finalized to appoint the Chairman.<sup>79</sup>

He further said that the Members of the House in general and the Members of the government in specific must keep in mind that it was not the existing President, Zulfikar Ali Bhutto, but we were legislating for future Presidents too. He said we fully trust the existent President and that he would not appoint a wrong person as Chairman of the Trust but any kind of President could be expected to exploit the power in future. It was a known fact that we were not fulfilling the pre-requisites of the democracies in our country.<sup>80</sup>

Ghafoor Ahmad, on the behalf of opposition, forwarded the following amendments to the National Press Trust (Appointment of Chairman) Bill, 1972:- Amendment moved in sub-clause (1) of clause 4 namely:-

“(1) The President, after consulting the Standing Committee on Information, Broadcasting, *Hajj* and *Auqaf* of the NA of Pakistan, shall appoint a person of eminence,

repute and integrity as Chairman of the National Press Trust, for an initial period of three years, hereinafter referred to as the Chairman.”

Amendment moved in sub-clause (2) of clause 4 of the Bill was:-

“(2) The Chairman shall hold the office during the agreed tenure for three years, unless otherwise determined by the President earlier, and shall receive such remuneration and allowances to be paid from out of the Trust Fund and be subject to such conditions of contract of service as may be determined by the President.”<sup>81</sup>

Explaining and advocating his amendments before the House, Ghafoor Ahmad said that National Press Trust was a very important institution as ten most important Dailies were published under its supervision. Thousands of employees were working in it. The most revered class of the society, journalists, was attached to it and millions of funds were spent on that institution. Therefore, the President should not have the authority to appoint its Chairman out of his own whim and wish. President must be bounded by the advice of another person of high profile to appoint its Chairman. Ghafoor Ahmad said that he had also suggested through the amendment to appoint the Chairman for a period of three years tenure. In such a way the service of the Chairman would be safeguarded and he would not be expelled from the service without any proper reason. Without protection to the service, he would not be able to perform his duties honestly. If the President wanted to terminate him from his post under a legal way, then he should be paid for three or six month's salary. In such a way he would not have worries regarding the coming three or six month's livelihood.<sup>82</sup>

Mahmud Azam Farooqi from JJ also supported the statements of other opposition members and said that we were not legislating for a specific person, class or party. But we were making laws for Pakistan. We were not going to reduce the powers of the President that the government benches were against the amendment moved by Ghafoor Ahmad on behalf of the opposition. A President must be bounded by the law to take advice of a committee while making appointment to significant posts. Even a panel of members in the Public Service Commission mutually consulted for appointment of a sub-inspector of the Police. Then how could such an esteemed post of Chairman be neglected in that regard? <sup>83</sup>

The motion for the amendment presented by Ghafoor Ahmad on behalf of the opposition was adopted by the House and the Bill was passed. <sup>84</sup>

## **2.14 The War Risks Insurance (Amendment) Bill, 1972**

J. A. Rahim (Minister for Presidential Affairs, Production and Commerce) moved the amendment Bill which carried, "To amend the War Risks Insurance Ordinance, 1971 [The War Risks Insurance (Amendment) Bill, 1972], as reported by the Standing Committee, be taken into consideration at once." <sup>85</sup>

J. A. Rahim while explaining the main features of the Bill said that under the War Risks Insurance Ordinance, 1971, promulgated on December 5, the central government assumed liability to pay compensation for damages caused as a result of the war to owners' properties of certain categories specified in the Ordinance itself, and a scheme was formed to finance the surcharge levied on insured properties. Then a change was made later in the amendment to advance the date from December 5<sup>th</sup> to December 3<sup>rd</sup>,

because already enemy action had taken place and property had been damaged. So, that was a part of the amendment proposed by the government. Then the original Ordinance included sea-going vessels. It was found that they were actually insured separately and there was no need for second insurance under that Ordinance. Therefore, the amending Bill was also to exclude those ships from the Ordinance, because those were insured by shipping insurance company. In this Ordinance the premium had been collected on issue of insured property. Then with the amendment, the premium would not be payable, because the State of Emergency had thus ended, but the war risk itself continued. We had also to consider what happened to properties in East Pakistan. Then, what we were excluding was in fact, East Pakistan was no more under the control of the government of Pakistan, and so, there was no way of ascertaining losses over there. However, there was a provision for that purpose in the amending Bill.<sup>86</sup>

Mahmud Azam Farooqi from JI pointed out that the government had added the section 16-A to the Bill according to which the owners lived in West Pakistan having their properties in East Pakistan neither had the right to ensure it nor liable to get any compensation for those properties. When East Pakistan was a part of the West Pakistan and the government got an exorbitant premium over War Risks Insurance, then it was binding on the government to compensate those people. The owners in West Pakistan had already lost their properties in East Pakistan. It would be unjust not to compensate them for their losses in East Pakistan. The East Pakistan should not be exempted as it was a part of West Pakistan when that Ordinance was promulgated.<sup>87</sup>

Ghafoor Ahmad further explained that it was made compulsory for all the insurance companies in the country through the War Risks Insurance Ordinance, 1971 to issue a War Risks Insurance Policy while insuring a person or company. The premium of that policy was a huge one and nobody was exempted. Furthermore, all the four provinces had properties and branches of their companies in East Pakistan getting premium from head offices in the West Pakistan. Then there was no question of depriving them from compensation for their losses. The government wanted to withdraw the War Risks Insurance Scheme as they claimed it was out of their control. The government had also excused saying that exact assessment for the owners' losses could not be made in East Pakistan. But as earlier mentioned most of the companies having their branches in East Pakistan had been paying the premiums for insurance in West Pakistan. All those premiums were registered in West Pakistan showing the records of their properties in East Pakistan. So, those registers must be consulted for their losses and the suggestions from the opposition benches should be taken into consideration in the better interest of the public.<sup>88</sup>

The Bill was passed by the House.<sup>89</sup>

### **2.15 The Companies (Appointment of Trustees) Bill, 1972**

J. A. Rahim (Minister for Presidential Affairs, Production and Commerce) moved the Bill that said, "That the Bill to provide for the management of the affairs of certain companies [The Companies (Appointment of Trustees) Bill, 1972], as reported by the Standing Committee, be taken into consideration at once."

(2) the trustees shall hold office during the pleasure of the federal government (instead of the President).

(3) the trustee may, by writing under his own hand addressed to the federal government (instead of the President), resign his office.”

These amendments of Ghafoor Ahmad were adopted.<sup>91</sup>

Another amendment of Ghafoor Ahmad to the said Bill was:

“That sub-clause (2) of clause 5 of the Bill be substituted by the following namely:

The trustee appointed in respect of a company shall open and operate on behalf of such a company, with a branch of the National Bank of Pakistan an account to which he shall credit at the soonest all moneys received by him on behalf or on account of the company. Expenses relating to the management of the affairs of the company may be paid by the trustee out of the moneys received by him after obtaining prior approval of the federal government.”<sup>92</sup>

He said that the original Bill had given right to the trustee to open an account in any branch of the National Bank of Pakistan but he could not operate it. The amendment presented permitted the trustee to operate the account. In that way the trustee would be able to deposit the amount received from time to time. The possibility of corruption for a trustee appointed, would be absent in such a way. The government had allowed the trustee to deposit the amount received on daily basis after deducting the expenditures over the day long. The amendment presented had forbidden him to deduct the expenditures at the same day. He would deposit all the money received in the Bank. The trustee would be granted the permission to draw the amount of his expenditures from the

Bank after three or six months through an approval from the government. Subsequently, there would be no danger of embezzlement regarding the faith of the trustee.

The amendment was rejected by the government benches.<sup>93</sup>

Another amendment to the Bill moved by Ghafoor Ahmad was to the sub-clause (3) of clause 5:-

“(3) every trustee appointed in respect of a company shall cause to be kept proper books of accounts regarding:

- (i) All sums of money received and expended by him on account of the company and the matters in respect of which the receipts and expenditure take place;
- (ii) All income and expenditure received or incurred by him on account of the company; and
- (iii) The assets and liabilities of the company.”<sup>94</sup>

Ghafoor Ahmad emphasized that the amendment moved by him was in accordance with the Company Act 1913, which made it essential for each and every company to have its own account. Every company in Pakistan would also keep Registers of Accounts for the record of its incomes and expenditures. The record of all transactions made would also be maintained by the company. The company would also resume its assets and liabilities. According to the Companies Act 1913, the Managing Directors were entrusted with the powers to sell the assets. The trustee should only be able to manage the affairs of the companies but he should be prohibited to sell its property. Therefore, keeping in view the amendment being in accordance with the Company Act 1913 should be considered by the



Minister concerned. The amendment moved by Ghafoor Ahmad was rejected by the government.<sup>95</sup>

Major General (R) Jamal Dar (Independent) objected the clause 12 of the Bill and appreciated the Bill up to clause 11. He said that clause 12 of the Bill relating to the Bar of Jurisdiction should be deleted and the rest of the clauses renumbered accordingly. The doors of the courts were banned through the Bill. That step of the government would voice for the dictatorship and contamination of the democracy in Pakistan. Therefore, Jamal Dar rejected the clause 12 of the Bill introduced by the government.<sup>96</sup>

Clause 12 stood part of the Bill and was passed by the government.<sup>97</sup>

## **2.16 The Transfer of Evacuee Land (*Katchi Abadi*) Bill, 1972**

The motion moved by Choudhry Muhammad Hanif Khan (Minister for Labour and Works) was:

“That the Bill to provide for transfer of certain evacuee land to the occupants thereof [The Transfer of Evacuee Land (*Katchi Abadi*) Bill, 1972], as reported by the Standing Committee, be taken into consideration at once.”<sup>98</sup>

Elaborating the main characteristics of the Bill, the Minister for Labour and Works said that the Bill was very useful. When Pakistan got independence, innumerable people migrated to Pakistan. The problem of rehabilitation rose in response to that migration. Therefore, various laws were introduced in order to compensate them for the properties they left behind in India. Numerous people among them were not having any documentary proof to submit their claim under the law introduced in Pakistan. Therefore, such people made temporary houses over huge properties. The Bill put up before the

House only dealt with the Evacuee Property evacuated by the non-Muslim emigrants from Pakistan. The Bill did not belong to the State property. Those people wanted permanent ownership of the houses made over the evacuated properties. They went to the courts in that regard but their grievances were not redressed. The central government issued an Ordinance in this connection. That Ordinance was before the House in form of a Bill. The people occupying such property before April 15, 1972, could buy the property up to five *Marlas*. The settled price for the land would be equal to the rate of 1947. The persons having more than five *Marlas* would return the extra land to the government. The Chief Settlement and Rehabilitation Commissioner would be enabled to design a scheme for such lands under the Bill presented by the government. The Bill, if passed, would be enforced in all the provinces of Pakistan.<sup>99</sup>

Sardar Shaukat Hayat Khan from Cou. ML congratulated the Minister for Labour and Works over the Bill in order to provide houses to the poor. The opposition would never oppose the Bill in the House if to provide houses to the poor. The case was rather Robbing Peter to pay Paul. House from one poor was taken away in order to satisfy another poor. It had been noticed that when the Pakistan Peoples' Party came into power, the people occupied three to four *Kanal* of land built houses on these lands overnight. The Colony near the River Ravi Bridge was built after December 20, 1971, the day when the PPP came into power. Trespasses were being protected under the cover of Bill. The poor should be provided with lands and houses. Those usurpers should be punished under the law. The occupied lands should be taken away from them and distributed among the poor. Those who occupied the lands illegally after December 20, 1971 would pay in

accordance with the prices of 1947. One *Kanal* of land was worth Rs. 500/-only whereas, nowadays it cost Rs. 10,000/-only per *Kanal*.<sup>100</sup>

Mahmud Azam Farooqi from JI said that the Minister concerned declared the law made as a result of the Bill would be enforced in the province of Punjab at first and the rest of the provinces would get it afterwards when the government wished. It would be a discriminatory policy on the part of the government. All the provinces were equal constitutionally. The emigrants were present everywhere in Pakistan so, the law should be enforced in all the provinces at the same time. Furthermore, the Bill claimed that the emigrants from India at the time of Independence were allotted lands in Pakistan. Among them, who could not occupy the land due to one reason or another, would be compensated for that land. He declared that those lands were occupied by usurpers twenty-five years ago therefore, the legal claimants did not receive the lands allotted to them by the then government. It was a good step not to displace the occupants of their usurpation. The opposition was of the opinion to allot land to the legal claimants instead of cash payment. Because the amount paid to them would be much more less than the price of the land nowadays. Then the Chief Settlement Commissioner was empowered to declare any land as an evacuee land. Nobody could challenge the decision of the Chief Settlement Commissioner before the Governor of a Province, the President of Pakistan or any Court of Law. The same law should be applicable to the official lands all over the country where the poor were living in a miserable condition, had no houses and no basic facilities of life. The Chief Settlement commissioner should not be placed above the Law.<sup>101</sup>

On September 6, 1972, debating over the Bill, Mahmud Azam Farooqi condemned the arguments made by the government benches while presenting various Bills. They claimed that a person could knock at the doors of the High Court through its 'extraordinary jurisdiction' under the Article 201 of the Interim Constitution of the Islamic Republic of Pakistan. That claim of the government was null and void as an oppressed person could get access to justice under the Common Law in the democratic countries. The second argument of the government in curtailing the powers of the judiciary was that a lot of time and money would be spoiled in appealing the courts. He said that the powers of the Chief Settlement Commissioner were out of bounds. He along with the executive members of the government could influence the poor in getting justice regarding his evacuee property ranging from 3-to-5 *Marlas*. The third flimsy argument of the government that the courts were restraint in order to bring speedy socialist revolution was severely cursed by Mahmud Azam Farooqi. He suggested that all kinds of glorious revolutions had taken place through opening the ways to the judiciary for prompt justice. The Islamic Laws, practiced by the Prophet Muhammad (PBUH) and his followers, enabled a layman to challenge its laws in the *Qazi* Courts. The government must, therefore, enable the people to challenge the decisions made by the Chief Settlement Commissioner, before the court of law so that the Rule of Law could be maintained.<sup>102</sup>

Mawlana Abdul Mustafa Al-Azhari from JUP reminded the promises made by the government to provide shelter to the poor. He said that the poor living in those areas where PPP was failed were not provided with the basic facilities of life. The Rule of law

was expected from the high ups of the government. The existing situations did not satisfy the opposition members regarding the Bill moved for the welfare of the poor.<sup>103</sup>

Ghafoor Ahmad from JI forwarded an amendment to the clause 10 of the Bill. Clause 10 of the Bill had constrained the powers of the judiciary. The amendment moved by him was, "That in clause 10 of the Bill, as reported by the Standing Committee, the words "except the High Court" be added at the end."<sup>104</sup> The amendment was rejected by the House. He cited the speech of the Minister for Law and Parliamentary Affairs, made before the House on September 5, which envisaged that the judiciary was a hurdle in the path of socialist revolution and social justice. Therefore, the government was restricting the judiciary. He strongly criticized the government for strengthening its executive jurisdiction and curtailing the powers of the judiciary as well as the opposition in the Assembly. He warned the government to face perilous consequences for deducting powers of the judiciary.<sup>105</sup>

Mawlana Ghulam Ghous Hazarvi from JUI favouring the move of the government regarding the evacuee land cited the *Ahadith* of the Prophet, Muhammad (PBUH) which enjoined, "Whoever inhabited a barren land possessed to him." Therefore, the land in the possession of a poor rather than that was official or unofficial, according to *Shariah*, became his permanent property. While migrating from Madinah, the properties left behind by the followers of the Prophet in Makkah, occupied by the pagans there, permanently handed over to them. Therefore, following the teachings of the Quran, the five *Marlas* land occupied by the emigrants from India should be permanently given into their possession.<sup>106</sup>

The Bill was passed in the Assembly.<sup>107</sup>

### **2.17 The Development of Industries (Federal Control) Bill, 1972**

J. A. Rahim (Minister for Presidential Affairs, Production and Commerce) moved the Bill which said, "That the Bill to provide for certain matters relating to the development of Industries under Federal Control [The Development of Industries (Federal Control) Bill, 1972], as reported by the Standing Committee, be taken into consideration at once."<sup>108</sup>

J. A. Rahim pinpointing the purpose of the Bill said that it followed the action taken under the Economic Reforms Order, 1972. Certain number of industries and factories were taken over by the State. First of all we had come to the conclusion that certain basic and fundamental industries must be controlled by the public sector. We tried to cure the defect of the industrialization through the Bill. The whole thing was in chaos in the country and we wanted to usher in society an equitable distribution of wealth because the entire wealth of the country had accumulated in a few hands. The Bill set up a Board of Industrial Management and it did not create a company outside the companies which were managed by the Board of Industrial Management. The Board of Industrial Management was nothing more than a centralized management of those industries so that proper direction both of economic and national policies could be given and the purpose for which those have been taken over by the State could be fulfilled. Those would be managed for the benefit of the people. The share-holders were not deprived of anything because the misconception prevalent placed difficulties in the way of the management of company through the Board of Industrial Management.<sup>109</sup>

Mahmud Azam Farooqi opposed the Bill and said that the Board of Industrial Management would strengthen the capitalist class of the society. It would be better to disinvest the 22 industrialist families of Pakistan in order to grant shares to the laymen out of those industries. Those 22 families had monopolized all the resources of the poor nation. The Nationalization policy of the government had created an environment of unrest among the workers. The rates of the industrial products had increased. Most of the industries like Koh-i-Noor Mills (Rawalpindi), Indus Chemicals (Karachi) and Vilica Chemicals (Karachi) were closed due to workers' unrest. The rates of those industrial products were increased by 30% within eight months and the government claimed that the profit was increasing. Consumer Industry was also decaying. The Stock Exchange index showed the rates of shares for the nationalized industries as bearish.<sup>110</sup>

Ghafoor Ahmad moved amendments to the various clauses of the Bill so that it could be made better. The following amendments were presented before the House:

“Provided that none of the members or chairman so appointed is already a director in any other company.” In such a way the political hold of the industrialists would rupture. It must be assured that the companies were given in charge of the professional managers and not in the hands of its owners. The government would get rid of the influential capitalists on one side and their interruption would be curtailed in public sectors on the other hand. The Professional Managers would struggle for the benefit of common people as a whole while its owners would think only of their personal benefits. The amendment of Ghafoor Ahmad was rejected by the government benches.<sup>111</sup>

Another amendment moved by Ghafoor Ahmad was:

“That after sub-clause (3) of clause 5 of the Bill, as reported by the Standing Committee, the following new sub-clause (4) be added namely:-

(4) The office of the Chairman or of a member shall be vacated if-

- a) he remains absent from three consecutive meetings of the Board or from all meetings of the Board for a continuous period of three months, whichever is longer, without leave or absence from the federal government, or
- b) he accepts or holds any office of profit in any establishment, or
- c) he or any firm of which he is a partner accepts any loan of guarantee or enters into any business transaction with any establishment.”<sup>112</sup>

Explaining his amendment Ghafoor Ahmad said that the amendment must be inserted into the Bill under discussion so that a member or a Chairman of the Board might be disqualified for exploiting his designation for his personal interests or corruption. The amendment of Ghafoor Ahmad was rejected by the government benches on the ground that the details of the terms and conditions of service of the Members of the Board must be left at the discretion of the federal government.<sup>113</sup>

Next amendment moved by Ghafoor Ahmad was:

- “6A. Limitation of the Board-(1) The Board shall not take any loan from any establishment or guarantee any loan made to the Board;
- (2) The Board shall not enter into any contract for sale, purchase or supply of goods and material; and
- (3) The Board shall not purchase shares or debentures of any establishment.”



This amendment of Ghafoor Ahmad was rejected without any reason shown by the government.<sup>114</sup>

Another amendment moved by Ghafoor Ahmad was:

“That after sub-clause (2) of clause 7 of the Bill, as reported by the Standing Committee, the following new sub-clause be added, namely:-

(3) The federal government may appoint one or more competent inspectors to investigate the affairs of any establishment or of the Board and to report thereon in such manner as the federal government may direct.”

The amendment of Ghafoor Ahmad was rejected by the government on the ground that under the Rules certain investigating powers could be exercised by the federal government as the federal government had complete control over the Board of Industrial Management.<sup>115</sup>

The next amendment to the Bill moved by Ghafoor Ahmad was:

“That after sub-clause (2) of clause 12 of the Bill, as reported by the Standing Committee, the following new sub-clauses be added, namely:-

(3) Accounts. - The Board shall cause to be kept proper books of accounts with respect to all sums of money received and expended by the Board and the matters in respect of which the receipts and expenditure take place and with respect to assets and liabilities of the Board.

(4) Audit. - The federal government shall each year appoint an auditor or auditors to audit the accounts of the Board on such remuneration as fixed by the Federal

Government.”<sup>116</sup> The amendment was opposed by the government without any reason and the Bill was passed by the House.<sup>117</sup>

## **2.18 Resolution: Repeal of Family Laws**

Karam Bakhsh Awan from Cou. ML moved a Resolution before the NA, “That this Assembly is of the opinion that the Family Laws be repealed as no law repugnant to Islam and the Quran and *Sunnah* can be enforced in the Islamic Republic of Pakistan.”<sup>118</sup>

Karam Bakhsh Awan explaining the purpose of the Resolution moved by him said that the Preamble of the Interim Constitution of the Islamic Republic of Pakistan 1972 constituted that Sovereignty over the entire universe belonged to Almighty Allah alone and the powers vested by Allah will be used by the people of Pakistan as a sacred trust. It was also enjoined by the Constitution to enable the people of Pakistan individually as well as collectively to lead their lives in accordance with the teachings of Islam. He claimed that the Family Laws also contained some articles which were totally repugnant to Islam. For example, according to a clause of the Family Laws, a person marrying for the second time without the prior permission could be summoned to the court for his action. If he denied the accusation before the court and accepted having another woman without marriage could be exonerated by the court concerned. That meant the adultery was legal and second marriage was illegal. Therefore, the correction should be made in this regard and the Resolution might be passed if the Members of the House love the Islamic culture and civilization.<sup>119</sup>

In response to the Resolution, Begum Nasim Jahan from PPP presented the examples of the Muslim countries like Turkey, Egypt, Tunisia, Algeria, Morocco, Syria, Jordan and

Libya where the polygamy was prohibited in one form or the other within their Constitutions.<sup>120</sup>

Mawlana Abdul Mustafa Al-Azhari from JUP responded the debate made by Begum Nasim Jahan and said that all the Muslim countries quoted by her were having their own constitutions. As Muslims we had to follow the Quranic Laws and not a country being Muslim or non-Muslim. We were bound by the Preamble of our Constitution embodying "Sovereignty over the entire universe belongs to Allah." So, the commandments (in the Quran) sent by Allah through His Prophet Muhammad (PBUH) would be followed by our Constitution. Giving his opinion over the same Resolution, he told the honourable House that we all had been suffering from the laws of the British period for nearly 200 years. The opposition members wished the existing government to change all those laws and be replaced by the Islamic Laws. In such a way our sisters, mothers and daughters would be protected. He appealed the government to introduce the equitable Family Laws introduced by the Prophet Muhammad (PBUH) nearly 1,300 years ago. The opposition wanted their mothers, daughters and sisters to follow the life of Hazrat Fatimah, the daughter of the Prophet Muhammad (PBUH) and not the precedents of the women elsewhere.<sup>121</sup>

He further declared that Islam does not only protect the rights of men but also that of women as revealed in the *Surah Nisa* of the Quran. This *Surah* has guided women through their entire life. Islam has given solutions to all the problems of women and if the women of the House take interest in those issues and its solutions in light of the Quran then a Special Committee should be formed to discuss all those issues relating to the

women rights. The entire lady Members should be included into that Special Committee for better interest of the whole women of Pakistan.<sup>122</sup>

Mawlana Abdul Hakeem from JUI, answering an objection made by Sardar Abdul Aleem from PPP, said that Islam was a progressive religion. It enjoined to cope with the issues and problems rising with the passage of time. Islam was for all the humanity and all the times to come. As far as issue of Family Laws was concerned a woman had to remarry if her husband had been missing for consecutive four years.<sup>123</sup>

The Legislature continuing discussion over the Resolution on September 14, 1972, gave an opportunity to Mawlana Abdul Haq from JUI to give his expert opinion regarding the Family Laws in the Interim Constitution. He said that Islam has given an esteemed place to woman as a mother. Islam emphasized that 'the Paradise lie under the feet of mother.' Islam made a woman heir to the property of her father as well as to that of her husband. Pakistan came into existence on the basis of Islamic Ideology. Therefore, no learned person could oppose the Family Laws. A woman had not been enabled by the society to get her righteous place as was given by the Prophet Muhammad (PBUH) in his era. So, we will have to make reform in the society accordingly. The Family laws that were a part of the Interim Constitution had been enforced upon the women through Martial Law Orders. For example Islam had permitted a woman to marry a man (already having one wife) out of her own wish. But the Family Laws of the Interim Constitution had prohibited such a woman to marry the man having one wife. The man having two wives was bound by Islam to facilitate both of them with equal rights and no discrimination would be made upon in this regard. He requested the House not to prohibit the second

marriage but to make laws to punish the man for discrimination between the wives. The second woman could not be enforced not to marry the man. She would marry out of her own wish. Islam has permitted a man to marry two, three or four women. There were millions of members of the society who could not marry due to their illness, poverty or impotency including those who could be perished in wars. An unequal number of women would be a burden on the society or they would indulge themselves in wrong practices. Therefore, men should be permitted to marry second woman.<sup>124</sup>

Mawlana Ghulam Ghous Hazarvi declared that no religion had granted so many rights to women as much as Islam has given to them. Islam has given her the right to get education, the right to be heir to her father as well as husband and determined the wife-husband rights and duties to one another. The Quran has given a man the right to marry as far as four women bounding him to be equitable to all of them otherwise he could be punished for discrimination amongst them.

Mufti Mahmud from JUI recommended sending the Resolution to a Select Committee, so that a saturated discussion might be made over it. Otherwise the government should introduce a new Bill regarding the Family Laws as the Provinces had no jurisdiction over the Family Laws in the Provincial List.<sup>125</sup>

Mawlana Sadrushahid from JUI suggested that a Special Board should be formed as to determine which clauses of the Family Laws were in accordance to the teachings of the Quran and *Sunnah* and which were against the *Shariah*. The *ulama* from all schools of thought should be nominated to the Board so that a consistent opinion should be agreed upon.<sup>126</sup>

The Resolution was rejected by the House.<sup>127</sup>

## **2.19 The Pakistan Red Cross Society (Amendment) Bill, 1972**

Sheikh Muhammad Rashid (Minister for Health, Social Welfare and Family Planning) moved the Bill into the House which stated:

“That the Bill further to amend the Pakistan Red Cross Society Act [The Pakistan Red Cross Society (Amendment) Bill, 1972], as reported by the Standing Committee, be taken into consideration at once.”<sup>128</sup>

Explaining the purpose of the Bill, Sheikh Muhammad Rashid said that it was introduced for the first time as Red Cross Society Act in 1920 for the purpose of collections made for charity and medical aid and after 1920, when there was partition of the Sub-continent, it was through the Governor-General's Order Number 5 in the year 1947 that for the areas which came as part of Pakistan, some societies and Committees were constituted. Again it was on October 14, 1956, that those Committees were converted into three Committees, one for Karachi as it was the Federal area, the other Committee was for West Pakistan and the third Committee was for East Pakistan. There were five Committees under the Act of 1920, as amended, subsequently in 1947, in 1955 and again being amended by the existing government. It was then suggested that there would be one Branch of the Red Cross Society for each province and also for the Centrally Administered Area (Islamabad). It will be the fifth Branch.<sup>129</sup>

Mahmud Azam Farooqi declared the Bill as a sentimental for the Muslims of Pakistan as it was carrying the Logo of Cross (the Christians' symbol of religion). He demanded to

use Red Crescent instead of Red Cross as Crescent was the sign of Muslims all over the world.<sup>130</sup>

Mawlana Abdul Hakeem from JUI expressed his opinion by saying that every institution as well as a society within a country represented a special creed and psychology behind it. The Crescent had also a creed behind it. We must not follow others in any regard. We must go ahead through our own symbols and own creed. There was no international obligation to change the name of the Red Cross. The government's argument that the Act was already present and could not be changed was null and void. Constitutions were also present in the country. Even those constitutions were changed. So, there should be no objection on changing name of a Society. Therefore, the Red Crescent may be inserted into the Bill instead of the Red Cross in the better interest of the citizens' of Pakistan.<sup>131</sup>

The suggestions of the opposition were rejected and the Bill was passed by the House.<sup>132</sup>

## **2.20 The State Bank of Pakistan (Amendment) Bill, 1972**

Ghulam Mustafa Khan Jatoi (Minister for Political Affairs and Communications) moved the Bill before the National Assembly of Pakistan. The Bill was:

"That the Bill further to amend the State Bank of Pakistan Act, 1956 [The State Bank of Pakistan (Amendment) Bill, 1972], as reported by the Standing Committee, be taken into consideration at once."<sup>133</sup>

Highlighting the purpose of the Bill, Ghulam Mustafa Khan Jatoi said that he was to give powers to the government because it had been felt that the Banks and other financial agencies did not step forward to give financial assistance for house building especially to the low income groups of people. The Bill had also enabled the State Bank of Pakistan to

refinance the scheduled Banks and other Banks to advance loans to the agriculturists who would be able to develop their lands by fertilizers and tractors and thus improve their lands as well as its productivity. This would give an opportunity to the Banks too as it was further provided that all those losses would also be borne by the State Bank of Pakistan. The Bill would also enable the Banks to advance loans to small business communities and small industrialists in the discharge of their business.<sup>134</sup>

Sahibzada Safiullah from JI appreciated the Bill presented by the Minister concerned. The Banks would provide loan to the homeless people which would fulfill their basic right of a house. But he pointed out that the people who will get the loan would be overburdened with the curse of interest after some years. In fact the interest was a mean to ruin the life of the people individually as well as collectively. Pakistan had come into existence in order to get rid of the Western imperialism as well as of the Hindu usurer. Every opposition, from the very first day of Pakistan, had demanded the governments to establish an economic system based on the equity and justice of Islam. Sahibzada Safiullah presented an amendment to the Bill moved by the Treasury Benches. The amendment was:

“That after clause 2 of the Bill, the following shall be added as clause 3 and the subsequent clauses shall be renumbered accordingly:

3. In the State Bank of Pakistan Act, 1956, in Section 17, after sub-section (6) the following new sub-section (6-A) be added, namely:-



(6A) The State Bank shall provide interest-free loans to such of the institutions as will be set up for providing interest-free loans for building small houses of the value not exceeding ten thousand rupees.”<sup>135</sup>

Responding to the debate made by Ashraf Khatoon Abbasi from PPP Mawlawi Niamatullah from JUI said that Usury was prohibited both to *Sunni* and *Shia* sects in Pakistan. He challenged the House that if we were true Muslims then it was obligatory for us to follow the system based on the *Shariah* and not that of the West or elsewhere.<sup>136</sup>

Zafar Ahmad Ansari (1908-91), an independent MNA, supported the amendment moved to the Bill by the Treasury bench. The Interim Constitution of the Islamic Republic of Pakistan envisaged finishing the *Riba* as soon as possible. Most of the poor and needy will get benefit of the Bill, if amended as an opposition member proposed. If we were able to present loans to the poor strata of the society without any interest then it would be a great step forward in the direction of Islamizing the economy of Pakistan. The people would get prosperous after fulfilling their basic needs out of the interest-free loans.<sup>137</sup>

The second amendment to the Bill was also put up before the House by Sahibzada Safiullah. The second amendment was:

“That in clause 3 of the Bill, as reported by the Standing Committee, in the proposed clause (d) of sub-section (2) of section 17A, the following may be added at the end, namely:-

The banks shall not charge any interests on loans, for agricultural needs, not exceeding ten thousand rupees, and the State Bank shall also not charge any interest on the amounts advanced as loans to other banks for making such loans.”<sup>138</sup>

Both the amendments of the opposition were rejected by the government on the ground that The State Bank was not purely a government agency. It was not so simple to launch an interest-free economy as we had banks in Pakistan which were internationally functioning on the interest system and the State Bank had to refinance other agencies and banks within Pakistan from abroad. The House passed the Bill as it was presented.<sup>139</sup>

Keeping in view the above study, it can be concluded that the first general elections of 1970, based on adult franchise, being fair and impartial, gave way to the smaller parties to sit on the opposition benches with great dignity and honour. After the secession of East Pakistan from the West Pakistan the Pakistan People's Party was strong enough at the centre while the opposition parties of JUI and NAP got stronger position at the provinces of Khyber Pakhtunkhwa and Baluchistan. The opposition was again triumphant to compel the government to lift Martial Law from the country and as such democratic standard was restored. The foremost task before the government and the opposition was to frame a democratic and parliamentary constitution for Pakistan. It was a success on the part of opposition and for the government as well to sign a twelve-point agreement to adopt an interim constitution till a permanent constitution was framed for Pakistan. The opposition did not spare the Treasury benches to run the affairs of the state with some thwarted articles of the Interim Constitution of 1972. They brought forth the shortcomings of the Interim Constitution before the legislature and strongly demanded to correct those without any delay. Members from the opposition benches were included in the committee to frame a permanent constitution for Pakistan. The opposition members were also included in different Standing Committees, formed by the government. They

presented hundreds of amendments to the main body of the Interim Constitution in order to Islamise it. Socio-political and religious legislation emerged in the Interim Constitution of 1972 and the opposition members presented amendments to those bills for the amelioration of the constitution and guidance of the government at the same time. It was again a victory on the part of the opposition that most of their amendments were passed by the legislature and consequentially the main text of the Interim Constitution was changed in the best interest of the public of Pakistan.

## REFERENCES

<sup>1</sup> The QML was one of the splinter groups of the PML. A senior leader of the PML, Abdul Qayyum Khan, established his own faction during the course of the anti-Ayub agitation (1968-69). The QML manifesto for the 1970 elections was: nationalization of heavy industries; a truly democratic constitution; providing safeguards against any violation of its provisions and ensuring complete democracy and its continuity; provision of basic necessities of life, i.e., food, clothes, shelter, medical facilities and education to all Pakistanis; rationalization of the structure and management of public sector enterprises; check on the multiplication of ownership in the industrial sector; review of land ceilings; compulsory education; ban on the use of alcohol by Muslims; and giving due share to minorities; etc. When the PPP assumed power in December 1971, Qayyum Khan joined Bhutto's cabinet as the Interior Minister. For details see Safdar Mahmud's *Pakistan: Political Roots and Development 1947-1999* (Karachi: Oxford University Press, 2007), 124.

<sup>2</sup> Choudhry Khaleeq-uz-Zaman, who was appointed chief organizer of the Con.ML, organized the party throughout the country. By the time it was formally organized, Ayub Khan assumed its presidentship in 1963 and held that office till December 1970. The Con. ML was actually his handmaiden and revolved around his personality and policies. After Ayub Khan's exit from power in 1969, many of its leaders and workers left the party. Under the presidentship of Fazlul Qadir Choudhry, a former Bengali federal minister and Speaker of the NA, the party participated in 1970 general elections. The salient features of its manifesto were: a federal system of government with defence, currency, foreign affairs, foreign trade and inter-wing communications as the central subjects; decentralization of economic and provincial autonomy; nationalization of basic industries, banks, and insurance companies; and fixation of ceiling on landholding at 250 acres. In West Pakistan the party stayed with the opposition till it was merged with the Cou. ML to form a broader party. Ibid., 121-23.

<sup>3</sup> Jama'at-i Islami was a religious party founded in the Indo-Pak Subcontinent in 1941 by Mawlana Syed Abul Ala Mawdudi (1903-79). The party was established to reform society in accordance with the faith and drew its inspiration from the model of the prophet's original Muslim society. It called for moral reform and political action but was not concerned with questions of nationalism or national boundaries because Islam is a universal religion. The Jama'at-i Islami's aim was to bring about changes in the moral, political, economic and social system of the entire world and was designed to create an elite community of educated and devout Muslim leaders that would direct the way toward the revival of Islam. Although a religious party, the Jama'at has not remained apart from political activity in Pakistan. Mawdudi had opposed an independent Pakistan but, yielding to political reality, he focused his, and the party's, attention on Pakistan in 1947 until his retirement in 1972. In 1953, the Jama'at led a violent campaign against the Ahmadiyya sect that led to 2,000 deaths. For much of the next two decades, the party remained the voice of the Ulama and was active in opposition politics although it did support the wars with India in 1965 and 1971. After the overthrow of Zulfikar Ali Bhutto in 1977, the Jama'at supported General Zia ul-Haq's Islamization programme. Its manifesto described the Quran and the Sunnah as the basic sources of law. Other themes of the manifesto were provincial autonomy, separation of the judiciary from the executive, complete religious freedom for the minorities, foreign policy to conform to Pakistan's ideological needs, opposition to all kinds of imperialism and closer establish friendly relations with the Muslim world. It advocated for economic equality and justice for all. (See Kunal Mukherjee, "Islamic Revivalism and Politics in Contemporary Pakistan," *Journal of Developing Studies*, (2010): 329-53.

<sup>4</sup> JUI is a Deobandi organization, part of the Deobandi Muslim movement. The JUI formed when members broke from the Jami'yyat Ulama-i-Hind in 1945 after that organization backed the Indian National Congress against the Muslim League's lobby for a separate Pakistan. The first president of the JUI was Allama Shabbir Ahmad Usmani. The JUI remained a predominantly religious organization with limited political activity until it was revived by Mawlana Mufti Mahmud as a vehicle to oppose the modernization policies of then President of Pakistan, General Ayub Khan. Following the collapse of the Khan regime in the late 1960s, the JUI participated in Pakistan's first general elections in 1970. JUI is working continuously to convert the law of country according to their terminology of Islam. Ideologically, JUI is regarded as uncompromisingly rigid, insisting on strict enforcement of traditional Islamic law. JUI

helped establish thousands of Madaris in Pakistan, more than any other religious movement. (See Safdar Mahmud's *Pakistan: Political Roots and Development 1947-1999*, 156-59.)

<sup>5</sup> JUP was founded by the Ulama of the Bareilvi school of thought in 1948. Mawlana Abdul Hamid Badayuni was its first president. JUP wanted an Islamic system for Pakistan. It enjoyed the support of Pirs and Mashaikh and some landlords. For the first time it took part in the elections in 1970 where it won a few seats. During 1972-75, its leader Mawlana Shah Ahmad Noorani advocated legislation in accordance with the teachings of Islam. During the 1977 elections, JUP joined Pakistan National Alliance (PNA). It introduced the slogan of Nizam-i-Mustafa (Islamic system), a slogan which became popular in the agitation against the Government of Zulfikar Ali Bhutto. See Mazher Hussain, "Religio-Political Discourse and Jam'iyyat 'Ulama-i-Pakistan (JUP): A Careful Study of Different Narratives (1970-2003)," *International Journal of Social Science Studies*, Vol.4, No. 6 (June 2016): 24-36.

<sup>6</sup> The National Awami Party (NAP) was established on July 25, 1957 as a result of a rift in the Awami League. Mawlana Abdul Hamid Bhashani, the East Pakistan's chief of the Awami League differed with the President of the Party, Hussain Shaheed Suhrawardy, and left the party along with his supporters. In a democratic convention held in Dhaka in July 1957, the NAP was formally launched with Bhashani as the head of its organizing committee. The West Pakistan-based Pakistan National Party (PNP) merged into NAP. The PNP was a merger of six minor parties i.e., Azad Pakistan Party, Red Shirts, Sindh Awami Mahaaz, Sindh Haari Committee, Wrori Pakhtun and Ustaman Gal. The NAP's main policies were to break up the 'One Unit' in West Pakistan, introduction of land reforms, regional autonomy, and abrogation of defence pacts with the West and adoption of an independent foreign policy. Prominent leaders of NAP were Khan Abdul Ghaffar Khan, Abd-us-Samad Achakzai, Prince Abdul Karim, G.M. Syed and Mawlana Bhashani. (M. Rashiduzzaman, "The National Awami Party of Pakistan: Leftist Politics in Crisis," *Pacific Affairs*, Vol. 43, No. 3 (autumn, 1970): 394-409.)

<sup>7</sup> Cou. ML came into being in 1962 at Dhaka and Khwaja Nazim-ud-Din, former Prime Minister, was elected its president who led the party till his death in October 1964. Sayyid Muhammad Afzal, a Leaguer from East Pakistan, succeeded him in that office. Mian Mumtaz Daulatana took over as president in 1967. The party manifesto for the 1970 general elections advocated enforcement of the 1956 Constitution with a bicameral legislature at the Centre; maximum provincial autonomy with parity between the two wings; social and economic justice based on Islamic principles; nationalization of banks, insurance institutions, and basic industries such as iron and steel, machine tools, chemical, and fertilizers; fixation of land ceiling at 250 acres irrigated and 500 acres non-irrigated; enforcement of Quranic laws; independent foreign policy; etc. *ibid.*, 123.

<sup>8</sup> Abd-us-Sattar Ghazali, *Islamic Pakistan: Illusions and Reality* (Islamabad: National Book Club, 1999), 99.

<sup>9</sup> Somia Tasneem, "Working Relationship between Central and Provincial Governments in Pakistan (1971-77)," *International Journal of humanities and Social sciences*, Vol. 3, No. 17 (2013): 197.

<sup>10</sup> See Appendix A for the names of opposition members in the National Assembly of Pakistan, elected by the adult franchise, party-wise, which took oath and signed the Roll of Members on April 14, 1972. [*The Pakistan Times* (Rawalpindi). April 15, 1972), 5.

<sup>11</sup> Mujeeb Ahmad, *Jam'iyyat 'Ulama-i-Pakistan 1948-1979* (Islamabad: National Institute of Historical and Cultural Research, 1993), 92.

<sup>12</sup> *The Pakistan Times* (Rawalpindi), March 7, 1972.

<sup>13</sup> Mashriq (Peshawar) March 7, 1972.

<sup>14</sup> *Ibid.*, 62.

<sup>15</sup> *Ibid.*, 94.

<sup>16</sup> *Ibid.*, 24.

<sup>17</sup> *Ibid.*, 54-80.

<sup>18</sup> *The Pakistan Times* (Rawalpindi). February 11, 1972.

<sup>19</sup> *Ibid.*, March 13, 1972.

<sup>20</sup> *Ibid.*, April 16, 1972.

<sup>21</sup> See Appendix B for other members of the Committee preparing the draft of the Permanent Constitution of Pakistan.

<sup>22</sup> Hamid Khan, *Constitutional and Political History of Pakistan* (Karachi: Oxford University Press, 2001), 255.

<sup>23</sup> *Ibid.*, 255.

<sup>24</sup> *The Pakistan Times* (Rawalpindi). May 5, 1972.

<sup>25</sup> The Martial Law Regulations specified in the seventh schedule were mostly those which were made by Bhutto during the Civilian Martial Law, including Land Reforms Regulation, Removal from Service Regulation, Schools and College (Taking Over) Regulation.

<sup>26</sup> Hamid Khan, *Constitutional and Political History of Pakistan*, 256-57.

<sup>27</sup> Three days after the imposition of martial law by Ayub Khan, Martial Law Regulations Order was promulgated on October 10, 1958. The general effect of this Order was the validation of laws, other than the late constitution of 1956 that were in force before the promulgation of October 7. It was ordered that no writ would be issued against the Chief Martial Law Administrator or any person exercising powers or jurisdiction under his authority. No person or Court should call or permit to be called in question (i) the proclamation of October 7 (ii) any order made in pursuance of the proclamation or any Martial Law Order (iii) any finding, judgment or order of a Special Military Court. See G. W. Choudhury, *Constitutional Development in Pakistan* (London: Longman Group Ltd., 1969), 135-36.

<sup>28</sup> Ahmad, *Jam'iyat 'Ulama-i-Pakistan*, 94.

<sup>29</sup> See Appendix C for the seventeen Standing Committees carrying the names of the Members of the National Assembly of Pakistan including the names of the Members of opposition parties.

<sup>30</sup> Ahmad, *Jam'iyat 'Ulama-i-Pakistan*, 98.

<sup>31</sup> NA (Legislature) Debates, Volume 1, No.5 (August 19, 1972), 159.

<sup>32</sup> A merged state means a state which being immediately before the fourteenth day of October, 1955, an Acceding State, was on that day incorporated into the Province of West Pakistan and the merged States defined therein were the States of Bahawalpur, Khairpur and Baluchistan State Union, the Tribal areas of Baluchistan, the Punjab and the North West Frontier and the State of Amb, Chitral Dir and Swat. [NA (Legislature), Debates Official Report, Volume 1, No.5(August 19, 1972), 159-60].

<sup>33</sup> *Ibid.*, 159.

<sup>34</sup> *Ibid.*, 163-67.

<sup>35</sup> *Ibid.*, 168.

<sup>36</sup> *Ibid.*, 172.

<sup>37</sup> NA (Legislature) Debates, Official Report, Volume 1, No. 6(August 21, 1972), 212.

<sup>38</sup> *Ibid.*, 212-13.

<sup>39</sup> *Ibid.*, 213-28.

<sup>40</sup> *Ibid.*, 230.

<sup>41</sup> *Ibid.*, 219-20.

<sup>42</sup> *Ibid.*, 220-21.

<sup>43</sup> *Ibid.*, 231.

<sup>44</sup> NA (Legislature) Debates, Official Report, Volume 1, No. 8(August 23, 1972), 322.

<sup>45</sup> *Ibid.*, 322.

<sup>46</sup> *Ibid.*, 323.

<sup>47</sup> *Ibid.*, 324-25.

<sup>48</sup> *Ibid.*, 330.

<sup>49</sup> NA (Legislature) Debates, Official Report, Volume 1, No. 14(August 30, 1972), 675.

<sup>50</sup> NA (Legislature) Debates, Official Report, Volume 1, No.9(August 24, 1972), 383.

<sup>51</sup> *Ibid.*, 383.

<sup>52</sup> NA Debates, Official Report, Volume I, No. 9 (August 24, 1972), 385.

<sup>53</sup> *Ibid.*, 385-86.

<sup>54</sup> *Ibid.*, 393.

<sup>55</sup> *Ibid.*, 405-08.

<sup>56</sup> *Ibid.*, 416-18.

<sup>57</sup> NA (Legislature) Debates, Official Report, Volume I, No.15 (August 31, 1972), 762.

<sup>58</sup> *Ibid.*, 765.

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- <sup>59</sup> *NA (Legislature) Debates, Official Report, Volume 1, No. 21(September 7, 1972), 1172.*
- <sup>60</sup> *NA (Constitution-Making) Debates, Official Report, Volume 1, No. 3(August 25, 1972), 55.*
- <sup>61</sup> *Ibid., 55-6.*
- <sup>62</sup> *Ibid., 57-59.*
- <sup>63</sup> *NA (Legislature) Debates, Official Report, Volume 1, No. 12(August 28, 1972), 536.*
- <sup>64</sup> *Ibid., 551.*
- <sup>65</sup> *Ibid., 546.*
- <sup>66</sup> *NA (Legislature) Debates, Official Report, Volume 1, No. 13(August 29, 1972), 628-29.*
- <sup>67</sup> *Ibid., 636.*
- <sup>68</sup> *NA (Legislature) Debates, Official Report, Volume 1, No. 14(August 30, 1972), 675.*
- <sup>69</sup> *Ibid., 677-78.*
- <sup>70</sup> *Ibid., 680-81.*
- <sup>71</sup> *Ibid., 682-84.*
- <sup>72</sup> *Ibid., 689.*
- <sup>73</sup> *NA (Legislature) Debates, Official Report, Volume 1, No. 15(August 31, 1972), 743.*
- <sup>74</sup> *Ibid., 743.*
- <sup>75</sup> *Ibid., 744.*
- <sup>76</sup> *NA (Legislature) Debates, Official Report, Volume 1, No. 16(September 1, 1972), 780.*
- <sup>77</sup> *Ibid., 780-81.*
- <sup>78</sup> *Ibid., 781-82.*
- <sup>79</sup> *Ibid., 792-94.*
- <sup>80</sup> *NA (Legislature) Debates, Official Report, Volume 1, No. 16(September 2, 1972), 864-65.*
- <sup>81</sup> *NA (Legislature) Debates, Official Report, Volume 1, No. 16(September 1, 1972), 818.*
- <sup>82</sup> *NA (Legislature) Debates, Official Report, Volume 1, No. 16(September 2, 1972), 858-59.*
- <sup>83</sup> *Ibid., 866-70.*
- <sup>84</sup> *Ibid., 870-76.*
- <sup>85</sup> *Ibid., 877.*
- <sup>86</sup> *Ibid., 877.*
- <sup>87</sup> *Ibid., 877-78.*
- <sup>88</sup> *Ibid., 879-82.*
- <sup>89</sup> *Ibid., 887.*
- <sup>90</sup> *NA (Legislature) Debates, Official Report, Volume 1, No. 16 (September 2, 1972), 887-88.*
- <sup>91</sup> *NA (Legislature) Debates, Official Report, Volume 1, No. 18 (September 4, 1972), 935-36.*
- <sup>92</sup> *Ibid., 937.*
- <sup>93</sup> *Ibid., 938-39.*
- <sup>94</sup> *Ibid., 939.*
- <sup>95</sup> *Ibid., 939-44.*
- <sup>96</sup> *Ibid., 946.*
- <sup>97</sup> *Ibid., 955.*
- <sup>98</sup> *NA (Legislature) Debates, Official Report, Volume 1, No. 19 (September 5, 1972), 1001.*
- <sup>99</sup> *Ibid., 1001-03.*
- <sup>100</sup> *Ibid., 1003-05.*
- <sup>101</sup> *Ibid., 1006-10.*
- <sup>102</sup> *NA (Legislature) Debates, Official Report, Volume 1, No. 20(September 6, 1972), 1053-55.*
- <sup>103</sup> *NA (Legislature) Debates, Official Report, Volume 1, No. 19(September 5, 1972), 1017-20.*
- <sup>104</sup> *NA (Legislature) Debates, Official Report, Volume 1, No. 20(September 6, 1972), 1045.*
- <sup>105</sup> *Ibid., 1045-47.*
- <sup>106</sup> *Ibid., 1072-75.*
- <sup>107</sup> *Ibid., 1084.*
- <sup>108</sup> *Ibid., 1090.*
- <sup>109</sup> *Ibid., 1090-91.*
- <sup>110</sup> *Ibid., 1091-95.*

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- <sup>111</sup> Ibid., 1105-08.  
<sup>112</sup> Ibid., 1108.  
<sup>113</sup> Ibid., 1109-12.  
<sup>114</sup> Ibid., 1112-13.  
<sup>115</sup> Ibid., 1114-17.  
<sup>116</sup> Ibid., 1121.  
<sup>117</sup> Ibid., 1122-24.  
<sup>118</sup> *NA (Legislature) Debates, Official Report, Volume 1, No. 21*(September 7, 1972), 1179.  
<sup>119</sup> Ibid., 1179.  
<sup>120</sup> Ibid., 1179-83.  
<sup>121</sup> Ibid., 1184-86.  
<sup>122</sup> Ibid., 1192-95.  
<sup>123</sup> Ibid., 1187.  
<sup>124</sup> *NA (Legislature) Debates, Official Report, Volume 1, No. 24*(September 14, 1972), 1424-30.  
<sup>125</sup> Ibid., 1442-53.  
<sup>126</sup> *NA (Legislature) Debates, Official Report, Volume 1, No. 29*(September 21, 1972), 1874.  
<sup>127</sup> Ibid., 1887.  
<sup>128</sup> *NA (Legislature) Debates, Official Report, Volume 1, No. 26*(September 18, 1972), 1638.  
<sup>129</sup> Ibid., 1638-39.  
<sup>130</sup> Ibid., 1639.  
<sup>131</sup> Ibid., 1640-41.  
<sup>132</sup> Ibid., 1650-51.  
<sup>133</sup> *NA (Legislature) Debates, Official Report, Volume 1, No. 27*(September 19, 1972), 1700.  
<sup>134</sup> Ibid., 1701.  
<sup>135</sup> Ibid., 1703.  
<sup>136</sup> Ibid., 1706-07.  
<sup>137</sup> Ibid., 1707-08.  
<sup>138</sup> Ibid., 1713.  
<sup>139</sup> Ibid., 1712-13.



## **CHAPTER- 3**

### **ROLE OF OPPOSITION IN THE CONSTITUTIONAL ACCORD 1972 AND THE DRAFT CONSTITUTION**

All the opposition parties had representation in the twenty-five-member committee formed by the PPP government. The members of the opposition boycotted the meetings of the Constitution-making Committee. Zulfikar Ali Bhutto invited the opposition parties' leaders for full-fledge discussions over constitutional issues held talks in that regard on October 17, 1972. The opposition parties' leaders informed him about their constitutional proposals in detail and convinced Bhutto about their suggestions.<sup>1</sup> Bhutto also could not find any problem in accepting Constitutional proposals of the opposition members. After four days of negotiations an agreement was reached upon and in the light of the said agreement a "Constitutional Accord" was signed between the PPP and opposition parties on October 20, 1972.<sup>2</sup>

#### **3.1 The Constitutional Accord**

Ten leaders of the seven parliamentary parties signed the accord. The leaders of the parties who signed the accord on the behalf of their parties were: Zulfikar Ali Bhutto, the President of Pakistan and Chairman of the PPP, Mawlana Shah Ahmad Noorani, Member of National Assembly from JUP, Sardar Shaukat Hayat Khan (b. 1915), MNA from Cou. ML, Abdul Qayyum Khan (1901-81), MNA from QML, Sardar Sher Baz Khan Mazari (b. 1930), MNA (Independent), Major-General (R) Jamaldar (b. 1908), MNA from FATA, Arbab Sikandar Khan Khalil (1911-82), Member of Provincial Assembly from

NAP; Ghous Bakhsh Bazanjo (1917-89), MNA from NAP, Mufti Mahmud (1919-80), MNA from JUI and Chief Minister Khyber Pakhtunkhwa and Ghafoor Ahmad (b. 1927), MNA from JI.<sup>3</sup> The Accord contained forty-two clauses.<sup>4</sup>

The following decisions were taken in the accord unanimously:

(1) Federal parliamentary system of government will be adopted.

(2) President would be head of the state. The chief executive shall be the Prime Minister. The President shall act on the advice of the Prime Minister in all matters; advice shall be binding on him in all respects.

(3) National Assembly would elect Prime Minister who shall be called upon by the President to form the government.

(4) Prime Minister was authorized to dissolve National Assembly at any time, even during the pendency of a motion for a vote of no confidence against him.

A) A vote of no confidence shall not be moved against the Prime Minister, unless by the same resolution the name of another member of the Assembly is proposed as his successor.

B) A vote of no confidence shall not be moved during the budget session.

C) Once a vote of no confidence is defeated; a subsequent vote of no confidence shall not be moved for a period of at least six months.

D) For a period of 15 years, or three general elections hereafter, whichever is longer, a vote of no confidence shall be deemed to have failed unless passed by a majority of not less than two-third of the total membership of the National Assembly.

(5) There shall be separation of powers and the powers shall not be vested in the Prime Minister's hands so much so to make him a dictator.

(6) The Prime Minister shall be a member of the National Assembly. Other Ministers may be from either the National Assembly or the Senate, provided that the number of Ministers from the Senate does not exceed one-fourth of the total number of the Cabinet.<sup>5</sup>

### **3.1.1 Two Houses**

(1) There shall be a national Parliament consisting of two Houses, namely, the National Assembly (the Lower House) and the Senate (the Upper House); where the National Assembly shall consist of 200 members elected by direct adult franchise. Allocation of seats in the National Assembly to the provinces, the centrally administered tribal areas and the federal capital area shall be on population basis, and shall be regulated by an organic federal law.

(2) The Senate shall consist of 60 members. Each province shall be allocated 14 seats to the Senate. The two seats shall be allocated to the federal capital area, and two seats shall be allocated to the centrally administered tribal areas. The members of the provincial legislature of that province, exercising a single transferable vote, so as to ensure proportionate representation in the Senate of the parties in the respective Provincial Assemblies, shall elect the members of the Senate from the four provinces.<sup>6</sup>

### **3.1.2 Division of Powers**

It was agreed upon that there should be two legislative lists namely, the Federal List and the Concurrent List. Residuary powers of legislation shall vest in the provinces.

(1) Federal List shall consist of the defence, external affairs, currency, posts and telegraphs, Federal Public Services and Federal Public Service Commission, Federal pensions, libraries and museums.

(2) The Concurrent List shall comprise the subjects like criminal law; preventive detention;<sup>7</sup> criminal procedure, including all matters included in the Code of Criminal Procedure; evidence and oaths; marriage and divorce; transfer of property; trusts and trustees; contracts; arbitration; bankruptcy and insolvency; actionable wrongs; offences against laws; legal, medical and other professions; newspapers, books and printing presses, welfare of labours, pensions, employment, insurance, trade unions, electricity, *Zakat*, Islamic education; ancient and historical monuments, explosives, tourism, evacuee property, education, population planning and environmental pollution etc.<sup>8</sup>

### **3.1.3 Money Bills**

It was agreed upon in the accord that all money Bills shall originate in and be passed by the National Assembly. The Senate shall have no say in the matter. In other Bills relating to matters on the Federal List, the Senate shall only have recommendatory and delaying powers. But the final decision will rest with the National Assembly. In respect of the items mentioned above, so also matters on the Concurrent List, in the event of difference of opinion between the National Assembly and the Senate there shall be a joint session of the Parliament where the Bill shall be voted upon and passed by a majority of the members of the Parliament present and voting. The Senate shall not enjoy any administrative or supervisory powers.<sup>9</sup>

### **3.1.4 Islamisation and Fundamental Rights**

The Islamic provisions agreed upon to be included in the future Constitution were:

(1) The oath of office of the President shall be amended to include a declaration with appropriate text that he is a Muslim.

(2) In the introductory chapter of the Constitution it shall be stated that Islam is the State religion of Pakistan and all the laws should confirm to Quran and *Sunnah*.

(3) No law shall be repugnant to the injunctions of Islam and laid down in the Quran and *Sunnah* and existing laws shall be brought in conformity with such injunctions.

(4) Council of Islamic Ideology shall be constituted in a manner that it may pave way for the positive implementation of the teachings of Islam.

(5) The fundamental rights will be safeguarded and all the black laws of Martial Law will be eliminated.

(6) The Republic shall be styled as the Islamic Republic of Pakistan.<sup>10</sup> Constitution would incorporate provisions regarding Islam and fundamental rights.<sup>11</sup>

### **3.1.5 General Terms of the Accord**

There were many other terms and conditions of the Constitutional Accord which included the details about the qualifying age for the membership of the National and Provincial Assemblies and Senate, election of the President, Council of Common Interest, terms and conditions of service, National Planning and National Economic Co-ordination, the federal ombudsmen, census, emigration and expulsion from Pakistan, port quarantine, import and export across customs frontiers, Railways, maritime shipping and navigation,

foreign-exchange, mineral oil and natural gas, corporations, development of industries, the law of insurance, State Bank of Pakistan, elections of the offices of the President and Vice-President (if any), to the National Assembly, the Senate and the Provincial Assemblies, Chief Election Commissioner and Election Commissions, offences against laws, duties of customs and excise, taxes on income and corporations, state lotteries etc.

It was agreed upon that a Bill for amending the Constitution should require to be passed by two-third of the MNAs and a simple majority of the Senate. The judiciary and Election Commission shall be independent of the executive; and the fundamental rights shall be guaranteed and proper safeguard shall be provided against preventive detention.<sup>12</sup>

After signing the “Constitutional Accord”, Mawlana Shah Ahmad Noorani from JUP said, “Today we have reached an important mile stone in the history of our nation.”<sup>13</sup>

Mawlana Noorani thanked Allah for this unanimous agreement and hoped that Pakistan will have a Constitution, which will be in accordance with the wishes of the people.<sup>14</sup>

### **3.2 The Draft Constitution presented by the Government**

On December 31, 1972, Abdul Hafeez Pirzada (Minister for the Law and Parliamentary Affairs) presented before the National Assembly the Draft Constitution of the Islamic Republic of Pakistan. The Draft Constitution comprised 278 Articles.<sup>15</sup> Highlighting the main features of the Bill consisting of the Constitution of the Islamic Republic of Pakistan, Abdul Hafeez Pirzada said the Bill consisted of the Preamble, Fundamental Rights, Principles of Policy, Protection of the Constitution, Federation of Pakistan, Provinces relationship between the Provinces and the Federation, Finance, Property, Contracts, Suits, Ad judicature, Elections, Islamic provisions, Emergency provisions,

Election of the President, oaths of Members, Legislative Lists of subjects divided between the Provinces and the Centre, remuneration and terms and conditions of services of the judges and laws which were protected but could not be amended without the prior consent of the President of Pakistan and amendments procedure. He also pin pointed that there were certain laws which had been exempted from the operation of Fundamental Rights in as much as on the grounds of violation of those rights. Those laws concerning the fundamental rights were not challengeable before the courts. The details of the main features of the Draft Constitution were as under:

### **3.2.1 National Language**

The draft provided that the national language of Pakistan will be Urdu and arrangements shall be made for its being used for official and other purposes within 15 years from the commencing day. Subject to this provision, English may be used for official purposes until government makes arrangements for its replacement.<sup>16</sup>

### **3.2.2 State Religion**

A new article declaring that Islam shall be the State religion of Pakistan had been included in the draft. Another new provision regarding high treason had been introduced to guard against any possibility in the future of the Constitution being abrogated by any person.<sup>17</sup>

### **3.2.3 Fundamental Rights**

Abdul Hafeez Pirzada (Minister for Law and Parliamentary Affairs) said that all the fundamental rights given in the previous Constitutions have been continued. Civil liberties and rights of property were added newly. Preventive detention was safeguarded.

That if a person who was detained under any preventive law on the accusation that he was a threat to public order could not be detained for more than eight months in twenty-four months and in other cases such as Security of Pakistan or threat to the integrity of Pakistan he cannot be detained for more than one year in a period of twenty-four months.<sup>18</sup> He further stated that Preventive Detention Laws were provided for in all civilized societies in all civilized countries and it was not a novel procedure.<sup>19</sup>

### **3.2.4 Prime Minister**

The Draft Constitution provided that the Federation<sup>20</sup> would have a Prime Minister to be elected by the majority of the total membership of the National Assembly. He will appoint the Federal Ministers and Ministers of State from amongst the members. However, a person who was not a member of the Parliament might be appointed as Federal Minister or a Minister of State, but a person so appointed would have to get himself elected as a member within a period of six months.

Each province would have a Governor to be appointed by the President. No person would qualify to be appointed as a Governor unless he qualified to be elected as a member of the National Assembly.<sup>21</sup>

### **3.2.5 Obligations**

The rights of the individuals were to be dealt with in accordance with law. Loyalty to the State and the Constitution had been made a basic duty of every citizen. Similarly obedience to law had been described as the basic obligation of every citizen in Pakistan. As safeguard against abrogation or attempt to abrogate the Constitution, a provision said: "Any person who abrogates or attempts or conspires to abrogate, subverts or attempts or



conspires to subvert the Constitution by use of force or show of force or by other unconstitutional means, shall be guilty of high treason.” With regard to Emergency, a new provision had been made in the Draft Constitution that all proclamations shall be laid before the Parliament, and shall be subject to its approval from time to time.<sup>22</sup>

### **3.2.6 Provinces**

The chapter in respect of administrative relations between the Federation and the provinces provided that the President might direct the Governor of any province to discharge as his agent either generally or in any particular matter, such functions relating to such areas in the federation which were not included in any province as might be specified in the direction. The executive authority of every province was to be so exercised as to secure compliance with federal laws, which applied in that province. The federation had been made duty-bound to protect every province against external aggression and internal disturbances, and to ensure that governance of every province was carried on in accordance with the provisions of the Constitution.<sup>23</sup>

### **3.2.7 Islamic Council**

The Draft Constitution also provided for the formation of Council of Islamic Ideology to be known as the Islamic Council to give religious opinion to the government or Assemblies about laws. The President would constitute the Council within 90 days of the commencement of the Constitution. It would consist of such members being not less than eight and not more than 15 as the President may appoint from amongst persons having knowledge of the principles and philosophy of Islam as enunciated in the Quran and *Sunnah*, or understanding of the economic, political, legal or administrative problems of

Pakistan. While appointing the members due regard would be paid by the President to ensure that various schools of thought would be adequately represented in the Council. The functions of the Islamic Council included:

(a) To make recommendation to the Parliament and the Provincial Assemblies as to the ways and means of enabling and encouraging the Muslims of Pakistan to order their lives individually and collectively in all respects in accordance with the principles and concepts of Islam as enunciated in the Quran and *Sunnah*;

(b) To advise a House of Parliament, a Provincial Assembly the President or a Governor on any question referred to the Council as to whether a proposed law was or was not repugnant to the injunctions of Islam;

(c) To make recommendations as to the measures for bringing existing laws into conformity with the injunctions of Islam, and the stages by which such measures should be brought into effect, and

(d) To compile in a suitable form, for the guidance of the Parliament and the Provincial Assemblies, such injunctions of Islam as can be given legislative effect.<sup>24</sup>

### **3.2.8 Amendments**

The draft gave equal powers to the Senate in the procedure for Constitutional amendments. A Bill to amend the Constitution would originate in the National Assembly, and after its passage by at least two-third majority of the total membership, would be transmitted to the Senate. If the Senate by majority of the total membership would pass the Bill, it would be presented to the President for assent. If the Senate with amendments would pass the Bill, the National Assembly would reconsider it. If the amended Bill was

passed by the Assembly by not less than two-third majority of total membership, it would be presented to the President for assent.<sup>25</sup>

If the Senate did not pass the Bill within 90 days from the day of receipt, it would be deemed to have rejected by the Senate. The President had to assent to the Bill within seven days of its presentation, and if he failed to do so, he would be deemed to have assented to it at the expiration of that period. After the Presidential assent the Bill would become an Act of the Parliament and the Constitution would stand amended.<sup>26</sup>

A Bill to amend the Constitution, which would have the effect of altering the limits of a province, would not be passed by the National Assembly unless it had been approved by a resolution of the Provincial Assembly of that province passed by not less than two-thirds of its total membership.<sup>27</sup>

### **3.2.9 Principles of Policy**

Abdul Hafeez Pirzada (Minister for Law and Parliamentary Affairs) presenting the Draft Constitution in the House, assured that every year it should be the duty of the President in respect of affairs of the Federation and in respect of the provincial spheres, it should be the duty of the Governor of the province concerned to lay before the National Assembly or Parliament and the Provincial Assembly respectively, as the case might be, a full report as to how objective principles of policy had been implemented and it had been provided as a substantive clause that every State organ, every organ of the Executive should be bound to give full effect to the State Principles of Policy.<sup>28</sup>

### **3.3 The Opposition Members' Comments on the Draft Constitution**

#### **3.3.1 Comments of Mawlana Shah Ahmad Noorani from JUP**

After the Constitutional accord it was expected that the Constitution would be undisputed. When the Draft Constitution was prepared by the PPP, the Constitutional Accord between the government and opposition was violated. The government hampered the trust. Mawlana Shah Ahmad Noorani declared this violation as going back by the government on its words. The government blamed the opposition that they were not taking interest in the Constitution making.<sup>29</sup> The opposition parties were astonished to see that the formula made and agreed upon by the opposition parties was violated badly. The rulers had ignored the true draft of the Constitution in order to protect their desires for power. Each and every Islamic and democratic clause was vanished. According to Mawlana Noorani the Constitutional Accord could not be a complete Constitution but the blame of the ruling party was unjust to say that the opposition parties were not interested in the Constitution making process. He responded that his interest was apparent from the fact that he personally presented more than 200 amendments to the Draft Constitution during the Constitution committee proceedings. After the accord it was the duty of the government to insert the Islamic clauses in the Constitution. If there would be no Islam in the country then there was no question of the creation of Pakistan. The Constitutional guarantee should be given to all the Islamic clauses agreed upon by the government with opposition.<sup>30</sup> Mawlana Noorani while answering a question during an interview said that Islam was ever used for gaining political ends. Islam was used for instigating the public and to play with their emotions. It was compromised in the Constitutional accord that

Islam would be made the state religion of the country and no law would be made repugnant to the teachings of the Quran and *Sunnah*. But it was astonishing that no guarantee was given in the Constitution to Islamise all those laws, which were repugnant to the Islamic values.<sup>31</sup>

Mawlana Noorani regretted over the Draft Constitution and said that in spite of the best efforts made during the deliberations of the Constitution Committee, the proposed Draft Constitution was disappointing from the points of view of Islamic provisions, fundamental rights, independent judiciary, free and impartial elections, economic and social justice and parliamentary democracy. In his note of dissent Mawlana Noorani declared that Article-2 of the Draft Constitution provided that Islam shall be the State religion of Pakistan, demanded that laws in Pakistan should conform to the Quran and *Sunnah*. He therefore proposed that a Constitutional provision should be made that any law in contrast to Islam should be ultra-virus.<sup>32</sup> He further said, "The Constitution which was going to be framed, if framed on the basis of different nationalities then it would lead us towards destruction". Propaganda was being made that the Constitution was an Islamic one. It would be Islamic if the Quranic injunctions were incorporated. But surely it was not the case.<sup>33</sup>

### **3.3.2 Comments of Mawlana Abdul Hakeem from JUI**

While addressing the session of the National Assembly on February 19, 1973, Mawlana Abdul Hakeem said that the Constitution is a foundation on which one can build up the mighty edifice and the glorious superstructure of the country. He condemned Abdul Qayyum Khan from QML for his statement that 'We can bull-doze the Constitution'. He

also cursed the government to give constitutional validation to some of the laws enforced by the Martial Law Administrator, General Agha Muhammad Yahya Khan.<sup>34</sup>

He further suggested that it should be the privilege of the House that a Member should neither be arrested nor detained during the session of the House. He argued that the particular provision of the Constitution that the reference of Supreme Judicial Council will be put before the Parliament was very malicious because thereby we would be hampering the independence of the judiciary. The Draft Constitution provided that the decisions of the administrative Tribunals cannot be challenged in the High Court and the Supreme Court. The government had taken away the powers of the High Court under Article 23 (4). If a government took the property, the aggrieved person could not go to the courts. So the government could not claim to give the most democratic constitution to the people of Pakistan as all the above negative clauses were inserted into the body of the Draft Constitution. The Interim Constitution had a clause which enabled the people of Pakistan to have a referendum over a National issue. But the same clause was removed by the government from the Draft Constitution. That clause must be reinserted.<sup>35</sup>

### **3.3.3 Comments of Amirzada Khan from NAP**

Amirzada Khan from NAP presenting his note of dissent over the Draft Constitution in the National Assembly of Pakistan elaborated that the provincial autonomy was not preserved in the draft. If the government restricted the provincial autonomy then a natural prejudice would destroy the unity of the federation. All the powers were centralized. The provinces were deprived of its incomes gained through natural resources. This would lead the nation to chaos and distrust. He proposed that in order to pass the money bills the

upper chamber of the Parliament should be equally empowered with the lower chamber of the Parliament. In such a way the small provinces would not be exploited by the bigger provinces.<sup>36</sup>

### **3.3.4 Comments of Mahmud Azam Farooqi from JI**

Mahmud Azam Farooqi from JI commented that the best constitutions of the world respected the desires of the people. He objected the government for giving space to the Martial Law Regulations of the dictatorial era of Pakistan. He warned the government that the people of Pakistan would never forgive the PPP government for its crucial policies inserted into the body of the Draft Constitution. The Islamic Ideology was the basis of Pakistan and this Ideology was given space in the Draft Constitution as a show piece. Islam could never be implemented in its practical shape through the constitution. Although it was a good point to ensure the legislation not to be repugnant to the tenets of Islam, but there was negativity instead of the positivity. He emphasized the government to make sure the legislation totally in accordance with the teachings of the Quran and Sunnah. That surety would represent the positive approach. Without the Islamic provisions the institutions like the Islamic Council and the judiciary would be ineffectual. So the government has violated the true base of the Constitutional Accord signed in October 1972. The government has presented such a constitution under which the head of the state could declare himself not to be a drunkard although he would drink. The Interim Constitution of 1972 provided that 'the gambling, drinking and adultery should be prohibited, eliminated and discouraged'. But the Draft Constitution urged that 'the State will endeavour to eliminate the drinking, gambling and adultery.' The fluctuation of

words in the Draft Constitution would never be encouraged. The opposition will stand against the duplicity in the Draft Constitution. The judiciary was paralyzed by the government through the addition of Administrative Courts and Tribunals.<sup>37</sup>

### **3.3.5 Comments of Mawlana Abdul Haq from JUI**

Mawlana Abdul Haq from JUI expressing his views regarding the Draft Constitution felt jubilant over declaring Islam as a State religion of Pakistan. He negated the thoughts to give space to socialism in the Constitution. He demanded that a provision should be made in the Constitution in order to seek legal remedy in the High Courts or Supreme Court against the laws repugnant to the Quran and Sunnah. There should be a majority of the *ulama* in the Islamic Council suggested in the Draft Constitution.<sup>38</sup>

### **3.3.6 Comments of Mawlavi Niamatullah from JUI**

Mawlavi Niamatullah from JUI made some observations regarding the power of the President or the Prime Minister of the Islamic Republic of Pakistan to reduce the reprimands issued by the Courts. He assured the government that the opposition would never oppose the Draft Constitution if it would have been framed in the light of the teachings of the Quran and Sunnah. There was a clause which provided that the age of the President of Pakistan would not be less than 45 years. He argued that Muhammad (PBUH) was granted the Prophet-hood at the age forty years. The President of Pakistan could never be greater than the Prophet. The Prophet said that a fifteen year old boy was able to lead the prayers and was a mature one. Therefore the government must declare the age for adult franchise as fifteen instead of twenty one. The Constitution itself provided for the laws not to be repugnant to Islam. The government should, therefore, bring all the



clauses in conformity to the Quran and Sunnah. He forbade the government to make fun of Islam and suggested to formulate a Committee consisting of Mawlana Abdul Haq and Mawlana Ghulam Ghous Hazarvi from JUI and Mawlana Kausar Niazi from PPP in order to Islamise the Draft Constitution. He also assured the House to Islamise the Constitution within three months through those three suggested MNAs.<sup>39</sup>

### **3.3.7 Comments of Abdul Hayee Baluch from NAP**

Abdul Hayee Baluch from NAP regretted over the undemocratic and un-Islamic clauses in the Draft Constitution. He declared that the dictators, feudal lords and capitalists always disguised themselves in democratic words. In fact they dominated the Constitutions for their own interests. He claimed that the Bhutto government was not less than its predecessors. They distorted the Draft Constitution in the name of western democracy. He demanded complete protection of fundamental rights for the whole nation within the Constitution. He proposed to declare Pashto, Sindhi, Baluchi and Punjabi as official languages for Khyber Pakhtunkhwa, Sindh, Baluchistan and Punjab respectively. Urdu should be declared as the State language. He said that there were no primitive cultures and languages, but there were some that reflected different eras, different levels of historical developments and various national features. He advised to enforce the assimilation and unity in diversity for our various cultures and languages.<sup>40</sup>

He strongly demanded the provincial autonomy. He proposed to include the defence, currency, foreign affairs and commerce in the Federal List while the rest of the entire powers should be vested in the provinces. He further pinpointed that the claim as well as the political slogan of the government "Socialism is our economy" had no space in the

Draft Constitution. Socialist economic foundation was absent in the Draft. The Constitution must guarantee to provide opportunities of employment to the educated youth so that the promise of the government to facilitate the citizens of Pakistan with food, clothing and housing would comply with. There should be arrangements for the transfer of power through peaceful means at the end of the tenure of a government. The Senate had been given the status of a Debating Society. Equal powers should be granted to both the Houses of the Parliament. The age of a candidate for the Senate should be twenty five years instead of thirty five years as provided in the Draft Constitution. He reminded the House the sacrifices made by the students for the establishment of democracy in the country since 1947 and demanded that they should be given the right to vote at the age of fifteen instead of twenty one. All the black laws like Defence of Pakistan Rules (DPRs), Preventive Detention and Press Publication Ordinance had always been used against the opposition. He emphasized the government to withdraw all the black laws of the dictatorial eras from the Draft Constitution. He also demanded guarantees for a free and impartial foreign policy, transparent Election Commission and independence of judiciary from the executive.<sup>41</sup>

### **3.3.8 Comments of Mir Ghous Bakhsh Khan Bazanjo from NAP**

Mir Ghous Bakhsh Khan Bazanjo condemned the government to embarrass the opposition through different tactics. Therefore the opposition as a whole was not in a position to deliberate over the Draft positively and deeply. But the people of Pakistan had sent us as their representatives in order to give a viable Constitution to the Nation. Therefore the opposition will try their best to ameliorate the situation in the better interest

of the public. The government had presented the Draft of the Constitution in a way which was totally against the true soul of the Constitutional Accord signed in October 1972. The democratic institutions were paralyzed in the Draft Constitution. He said that I forwarded some observations to the Draft but never rejected it. The government was obviously wrong to declare the opposition as traitors for rejecting the Draft Constitution. The government went back on its promises made in the Constitutional Accord, therefore, the opposition protested against its falsehood. He further said that the peasants, workers and farmers were deprived of their fundamental rights in the Draft. The big land owners and industrialists were protected in the Draft Constitution. He assured the House that the opposition was much enthusiastic for the Constitution as compared to the government.<sup>42</sup>

### **3.3.9 Comments of Ghafoor Ahmad from JI**

Ghafoor Ahmad suggested taking care of the desires of the entire Pakistani citizens while making the Constitution. The democratic governments always sacrificed their interests for the people of their states. The government should avoid the centralization of powers into a single body of executive during legislation for the country. He assured the House that the opposition had not presented any amendment in the Constitution Committee which was against the Constitutional Accord of October 1972. He accused the government for sending letters to the teachers of the universities in order to stop them criticizing the government. He said that The Preamble of the Draft was the Objectives Resolution passed by the Constituent Assembly through mutual consensus on March 12, 1949. The government would be successful if it followed the true spirit of the Objectives Resolution during the Constitution-making process. He strongly censured the Minister for

Law and Parliamentary Affairs, Abdul Hafeez Pirzada, for his remarks declaring the Objectives Resolution as non-functional. The House must insert a clause into the Draft Constitution to omit an Article which would be repulsive to the Objectives Resolution. He further suggested declaring all those political parties as illegal whose manifestos were undemocratic. The judiciary and not the government should have the power to ban a political party. An addition should be made to the Draft in order to stop a government of threatening the opposition members. A Member of the Parliament infringement to his oath should be punished constitutionally. The Draft should provide for the peaceful transfer of power at the end of the tenure of every government. He appealed to avoid giving protection to the laws confronting the Fundamental Rights. He condemned the government empowering the bureaucrats to issue clearance certificate to the press release before publishing in the newspapers. That restriction was an attack over the freedom of press. So the Draft should also give protection to the press by inserting clause to give exemplary punishments to the Members from the government benches or bureaucrats curtailing the independence of press. There should be a Member Immunity Committee whose prior permission must be sought before arresting a Member of the Parliament. He appealed for the insertion of a clause to bind a government to take approval of the Assembly for internal or foreign loans. The entire semi-autonomous corporations must be brought under the jurisdiction of the Assembly. The collection of *Zakat* should be the duty of the government. In order to discourage the provincial prejudice, centralization should be diminished. Two-third majority should be obligatory to remove the Prime Minister and simple majority to pass the annual budget.<sup>43</sup>

### **3.3.10 Comments of Mawlana Ghulam Ghous Hazarvi from JUI**

Mawlana Ghulam Ghous Hazarvi declared the Draft as the negation of the Islamic norms and values. The government had made confusion by claiming three flavours of Islamic Government, democratic government and Socialism as the basis of the Draft Constitution. Sovereignty belonged to Allah in the Islamic Government. The people were supreme in democracy. Socialism was only an economic system. The President of Pakistan had no powers in the Draft Constitution. He proposed to give space to the proportional representation in the Draft Constitution. A clause should be there to elect a person as Prime Minister who must be honest, devoted, pious, obstinate and not notorious for the opposition of the state religion of Pakistan, Islam.<sup>44</sup>

## **3.4 Opposition's Amendments to the Draft Constitution**

The National Assembly of Pakistan (Constitution-making) met in the Assembly Chamber, Islamabad, at 9, O Clock, in the morning of March 7, 1973. The Speaker of the National Assembly of Pakistan, Fazal Ilahi Choudhry (1904-82) from PPP chaired the meeting and asked the legislators of the House to present their amendments for the betterment of the Draft Constitution. The opposition actively participated and forwarded various amendments to the different articles of the Draft.<sup>45</sup>

### **3.4.1 Opposition's Amendments for Islamisation of the Draft Constitution**

Main parties of the opposition were religious in nature. The opposition during the Bhutto government consisted of JUP, JUI, JI, Cou. ML, Con. ML and NAP. They tried their best to grant an Islamic Constitution to the nation. They as a whole presented hundreds of amendments to Islamise the Draft as well as the Original Constitution of the Islamic

Republic of Pakistan. The ever first amendment to the Draft Constitution was that of Mawlana Noorani from the opposition benches, which pleaded for Islamizing the Constitution. The amendment was:

“That Article 2 of the Constitution Bill be re-numbered as clause (1) of that Article and the following clauses be added thereafter, namely:-

(2) No law shall be repugnant to the teachings and requirements of Islam as set out in the Holy Quran and Sunnah; any law so repugnant shall to the extent of repugnancy be void; and all existing laws shall be brought in conformity with the Holy Quran and Sunnah within a period of five years from the commencing day.

(3) The provisions of the Constitution shall always be interpreted in the light of the Preamble.”<sup>46</sup>

Explaining the purpose of his amendment Mawlana Noorani said that declaring Islam as a State religion it was the duty of the legislature, executive and judiciary to avoid the laws which were in negation to the Quran and Sunnah. Existing laws must be made in accordance with the teachings of Islam. The Preamble of a constitution was always a guideline for the legislatures of the world. Preambles reflected the intentions of the nations regarding the system to be introduced in their respective countries. The Preamble must be made a functioning part of the Constitution of Pakistan. The government party as well as all the other opposition parties had promised the nation to frame a constitution which would be based on Islamic principles.<sup>47</sup>

Mawlana Ghulam Ghous Hazarvi from JUI strongly demanded guarantee within the Constitution for punishing those elements that were against the insertion of the commandments of the Quran and Sunnah. The amendment presented by the opposition should therefore be passed unanimously by the House. He further demanded to explain the structure and duties of the Islamic Council suggested by the Law Minister, Abdul Hafeez Pirzada.

Mawlana Abdul Hakim from JUI pleaded that Islam enjoined a complete code of life highlighting the economic, political, social and spiritual aspects of human beings. Then there was no need to spoil the time over framing the Constitution following any other nation or their religion. The Objectives Resolution passed by the Constituent Assembly on March 12, 1949 must be made a permanent clause of the Constitution as that was the best guideline for Islamizing it. He totally rejected the statement of Sheikh Muhammad Rashid that the Muslims of the Indo-Pak subcontinent had struggled for Pakistan on the economic basis. In fact the Muslims had struggled for an independent Islamic state of their own. If only economic lust was objective then the contented Muslim elite and rich class of the Indian subcontinent would not struggle for Pakistan. They would never left their huge properties cross borderline to join the helpless Pakistan. The Muslims of the Sub continent struggled to get a land where they would practice the teachings of the Quran and Sunnah only. The amendment before the House was declared by Mawlana Abdul Hakim as a fruit of that struggle for Pakistan and requested the House to pass the amendment.<sup>48</sup>

Mufti Mahmud from JUI condemned the government for hurting the emotions of the opposition in respect of the Islamic clauses promised by her in the Constitutional Accord of October 1972. He declared the Draft as a paper work only. There was no proper guarantee for Islamising the Draft of the Constitution. Therefore, he stoutly supported the mentioned amendment.<sup>49</sup>

The amendment presented by Mawlana Noorani, on the behalf of the opposition, was dropped by the House by seventy five votes to that of seventeen of the opposition.<sup>50</sup>

Another motion moved by the opposition came from Mawlana Sadrushahid of JUI. The motion moved was:

- “That Article 2 of the Constitution Bill be re-numbered as clause (1) of that Article and thereafter the following new clauses be added, namely:-
- (2) It shall be the primary duty of the State to protect, safeguard and propagate the fundamentals of Islam and their details as determined by religious experts.
  - (3) The way of life of citizens and the administration of the State shall be regulated according to the injunctions of Islam.
  - (4) The principles of democracy, freedom, equality, tolerance and social justice, as enunciated by Islam, shall be fully observed.
  - (5) No person shall be appointed to any key post unless he is prepared to serve in accordance with the injunctions of Islam.”<sup>51</sup>

Highlighting the objectives of the amendment Mawlana Sadrushahid said that it would be a futile exercise to declare the State as an Islamic Republic of Pakistan if not following the footsteps of Islam. It would only deceit the people of Pakistan. The motion moved by Mawlana got only eighteen votes. So, it was rejected by the House.<sup>52</sup>

Mahmud Azam Farooqi from JI moved a resolution to Islamise the Draft Constitution. It said, “That Article 2 of the Constitution Bill be re-numbered as clause (1) of that Article and thereafter the following clauses be added, namely:

- ‘(2) The right of every Muslim of Pakistan to be governed in accordance with the Holy Quran and Sunnah and not to be governed by any law which is in conflict with them is irrevocably affirmed.
- (3) Every citizen shall have the right to challenge a law, rule, regulation, custom, usage or decision of any organ or authority of the State in a properly constituted court of law on the ground that is repugnant to or not in accordance with the injunctions of the Holy Quran and Sunnah’.”

While explaining the purpose of the amendment Mahmud Azam Farooqi said that it had two parts. First part of the amendment would authorize each and every citizen of Pakistan to forbid the implementation of any law repugnant to the Quran and Sunnah. This was the fundamental right of Pakistanis as Islam was the basis of Pakistan. The second part of the amendment dealt with the empowerment of each and every Pakistani citizen knock at the door of the judiciary in order to confirm whether a law was in accordance to Islam or



against it. The amendment was brought before the House because the word Islam seemed to be a decoration in the Draft Constitution. In fact no supremacy was granted to Islam in the Draft.<sup>53</sup>

Sahibzada Safiullah from JI claimed that neither of the amendment from the opposition would be accepted by the government. It was repeatedly declared by the opposition parties during the campaign of 1970 elections that the big party of Pakistan aspiring for power was not sincere with the Ideology of Pakistan. They would be a threat to the solidarity of the country as well as Islam. The Nation was divided into two pieces by the said party after coming into power and they were not ready to accept any amendment based on the Islamic principles. He declared that the people of Pakistan had elected them in order to frame a constitution which would totally be based on Islam.<sup>54</sup>

The amendment was rejected by majority of the Members present in the House.<sup>55</sup>

Sheikh Muhammad Rashid presented an amendment to the Draft Constitution from the government side. The amendment was:

“That after Article 2 of the Constitution Bill, the following new Article 2-A be inserted, namely:-

2-A. Socialism to be basis of economy. - (1) Socialism shall be the basis of the economy of Pakistan.

(2) The State shall ensure the elimination of all forms of exploitation and the gradual fulfillment of the fundamental principle: from each according to his ability, to each according to his work.”

This amendment of Sheikh Muhammad Rashid was strongly opposed by the opposition members and the first amendment to this amendment came from Mahmud Azam Farooqi which said, “That in amendment No. 44 of Sheikh Muhammad Rashid in the proposed Article 2-A of the Constitution Bill, in clause (1) for words “socialism” occurring in the first line, the words “Islamic Principles of social justice be substituted.”

The second amendment in response to Sheikh Muhammad Rashid's amendment came from Ghafoor Ahmad. That was:

"That in amendment No. 44 of Sheikh Muhammad Rashid in the proposed Article 2-A of the Constitution Bill-

- (a) In clause (1) for the word "Socialism" occurring in the first line the word "Islam" be substituted; and
- (b) in clause (2), for the words "ability" and "work", appearing in the third and fourth lines, the words "capacity" and "needs" be substituted respectively."<sup>56</sup>

Mahmud Azam Farooqi explained that Islam is a complete code of life. Islam has presented the best economic system in the world. He condemned the ministers and government officials under socialism who led a luxurious life but the poor people were crushed under the system. He assured the House that there would be no poor in the entire world if the rich people paid *Zakat*. Socialism was a vague system and it had no ends while the Islamic economic system was a practiced one by the Prophet Muhammad (PBUH). The founder of Pakistan had also aspired for the Islamic principles in Pakistan. Therefore, it would be better to introduce the Islamic economic system in the Draft Constitution of the Islamic Republic of Pakistan.<sup>57</sup>

Explaining his amendment, Sheikh Muhammad Rashid said that the Islamic economic system and Socialism were the same.<sup>58</sup> Mawlana Ghulam Ghous Hazarvi of JUI commented that Islam has permitted to own private property while there was no concept of private property in socialism. Mawlana Abdul Haq said that Islamic socialism had no meaning. Islam itself had presented a pure economic system. The people prospered everywhere during the caliphates of the Pious Caliphs, the Umayyad Caliphs and the Abbasids although there was no socialism, communism or capitalism except Islam.<sup>59</sup>

Begum Nasim Jahan of PPP, from the government benches supported Sheikh Muhammad Rashid's amendment and claimed that Socialism and Islam were same in nature. She quoted the book "Religion in the Service of the People" written by Khalid Bin Khalid which says that this is socialism which our Muslim brethren of the Middle Eastern States have adopted, Socialism and Islam, which are in the service of the people and which do not exploit the people, and sometimes it has been done in the Western states also. Then she claimed that Quaid-i-Azam, the founder of Pakistan, had also said about the Islamic socialism. She said that it was her suggestion in the Constitution Committee that Islam should be the State religion but it was also her suggestion that according to the pattern set by the Islamic states of Syria, Libya, Algeria and Iraq, we should have socialism as part of our economy.<sup>60</sup>

Mufti Mahmud rejected the plea taken by the government benches. He said that after believing Islam to be a complete code of life, addition of socialism to be a part of our economy would be a stupidity. This would be a negation of Islam and its principles. The political slogan of the Pakistan Peoples Party "Islam is our religion, Socialism is our economy and Democracy is our politics" has rejected the Ideology of Pakistan. When the basis of Pakistan was Islam then there was no way to accept socialism as a part of our economy. The basis of economy in Islam and socialism were totally different. The life styles of the Prophet Muhammad (PBUH), the pious Caliphs and that of the Stalin, Lenin and Karl Marx were completely different. So Islam and Socialism were also completely different. Therefore Islam and only Islam would be our guide in every walk of life.<sup>61</sup>

The amendment of Sheikh Muhammad Rashid was rejected by the House so all the amendments put up by the opposition members to the amendment of Sheikh Muhammad Rashid were also null and void.<sup>62</sup>

The opposition Members mostly wanted to Islamise the whole society in the light of the Quran and *Sunnah*. Mawlana Noorani, on the behalf of the opposition, moved an amendment to make the Quranic teachings compulsory. His amendment in this regard was:

“That for paragraph (a) of clause 2 of Article 31 of the Constitution Bill, following be substituted, namely: -

- (a) To make teaching of Holy Quran and Islamiyat compulsory and reform the system of education in such manner that it may enable the Muslims to mould their lives in accordance with teaching of Holy Quran and *Sunnah*.”<sup>63</sup>

Highlighting the main features of the amendment Mawlana Muhammad Zakir of JUP said that the amendment from the opposition benches was to make the Quranic teachings as compulsory but at the same time he was astonished why they felt a need to forward such an amendment before the House! He aspired if the government had inserted the obvious Articles into the Draft Constitution according to the teachings of the Quran then there was no need for the opposition to bring so many amendments in that respect. The insertion of such Articles would be very useful for the uplift of our new generations. He condemned all the Parliamentarians to frame a Constitution which was totally against the teachings of the Quran and *Sunnah*. Constitution for a country was made for once and all. The right and left wings should cooperate for the sake of a better future of the nation. If the amendment of a Member was in good faith then that should be passed without any discrimination. The opposition was assured through the Accor of 1972 by the majority party in the House that the Constitution would be framed in accordance with the

teachings of Islam. The government was bound to frame the Constitution according to the Ideology of Pakistan and Constitutional Accord signed with the opposition in October 1972. He warned the government benches that if it did not frame the Constitution accordingly he would resign his seat as a protest at the House.<sup>64</sup>

Mawlana Abdul Haq from JUI reminded the government that they had promised the nation within the Article 227 of the Draft Constitution not to make laws repugnant to the Quran and Sunnah. He asked the government benches why they were inserting the Articles into the Draft Constitution which were not in accordance with the teachings of the Quran and Sunnah. He stressed that the government must grant a viable and adequate Constitution to the country.<sup>65</sup>

Mawlana Abdul Hakim of JUI appreciated the amendment forwarded by Mian Manzoor-i-Hasan from PPP which asked to secure the correct and exact printing and publishing of the Holy Quran and to set up organization for that purpose. He strongly demanded to settle the accounts of those organizations in Pakistan who intentionally printed and published the Holy Quran incorrectly. He also asked the Minister for Information, Mawlana Kausar Niazi, to expose the organization in Pakistan who intentionally ignored three hundred verses of the Quran to publish. The owners of that organization must be punished for their sinful act. That crime could be committed by a person who was an atheist or by a person who did not believe in the Finality of the Prophet- Hood. The organization might be an agent of the Jews or Qadianis. The Jews had distributed the incorrect copies of the Quran amongst the African Countries. Jamal Abdul Nasir of Egypt published thousands of correct copies of the Quran in response to those of the Jews and

distributed it in the entire world. The governments in the past have been enemies to Islam. Mawlana Abdul Hakim also demanded to hand over the management of the charitable endowments and *Masajid* at district level to those who were punctual to offer prayers five times a day. The bad conditions of the *Masajid* were because the managers of such Committees at district level were not offering prayers. Therefore he asked the government to appoint honest persons to manage the affairs of *Masajid*, endowments and *Zakat*. He also supported the motion forwarded for the practical arrangements of education in Arabic so that the citizens might be able to comprehend the teachings of the Quran and *Ahadith* properly.<sup>66</sup>

Mufti Mahmud urged that Arabic was the language of the Quran and the Prophet Muhammad (PBUH) as well. Nobody could get command over the Islamic teachings without knowing Arabic. We could also strengthen our diplomatic relations with the Muslim countries through the knowledge of the Arabic language. So it was essential to teach Arabic in schools and colleges as a compulsory subject. He also claimed that the Quran published by the press had almost many mistakes. He appreciated the positive efforts of the Taj Company in order to publish the Quran accurately. He suggested that all the companies and organizations should be made bound to publish the Quran accurately. He demanded that the earning got through the endowments should be used according to the conditions mentioned by Islam. Islam had urged to use the earnings of the endowments according to the will of the endower.<sup>67</sup>

The amendment forwarded by the opposition Members in order to make the teachings of the Quran and Islamiyat compulsory was rejected by majority of the Members of the House.<sup>68</sup>

Mawlana Abdul Haq from JUI presented an amendment from the opposition side before the House which said:

“That for paragraph (g) of Article 39 of the Constitution Bill, the following be substituted, namely:-

(g) prohibit completely prostitution, gambling and taking of injurious drug, printing, publication, circulation and display of obscene literature and advertisements through proper legislation within a maximum period of three years from the commencing day.”<sup>69</sup>

The amendment was rejected by majority of Members of the House.<sup>70</sup>

Mawlana Noorani forwarded an amendment on the behalf of the opposition which said:

“That for paragraph (h) of Article 39 of the Constitution Bill the following be substituted, namely:-

(h) prohibit the production, import, sale, possession and consumption of alcoholic liquor except for medical purpose, and in the case of non-Muslims for religious purposes through proper legislation immediately after commencing day.”<sup>71</sup>

Mawlana Abdul Haq explaining the purpose of the amendment from opposition side declared that Pakistan was an Islamic welfare State. It was, therefore, the responsibility of the government of Pakistan to legislate for the welfare of the citizens. The government should determine laws for the punishment of criminals involved in murders, gambling and adultery. Drinking and gambling were the route causes of deterioration of ethics. So those all kinds of sins should be prohibited within the society through the enforcement of laws by the establishment departments. The Holy Quran has also commanded to avoid gambling and drinking as those were the acts of a satan. Therefore he strongly demanded the approval of the amendment moved by the opposition Members.<sup>72</sup>

Mawlana Noorani commenting over the amendment said that the use of liquor had been destroying the Muslim society of the country for the last twenty-five years. The Muslim society could never be enhanced without the elimination of drinking. The use of liquor not only demoralized the society but also a huge amount of wealth as a foreign exchange was wasted over its import. So use of liquor was a curse both for the economy and moral values of the nation. Therefore the government should approve the amendment from the opposition side as soon as possible.<sup>73</sup>

Mawlana Noorani presented the following amendment on the behalf of the opposition:

“That for clause (f) of Article 40 of the Constitution Bill the following be substituted, namely: -

(f) Prohibit *riba* as early as possible but not later than five years from the commencing day”<sup>74</sup>

Mawlana Noorani made it clear before the House that the people were wrong to consider that Islam encouraged capitalism. As far as the Islamic teachings were concerned it prohibited the *riba* (usury). If the Muslims would indulge in that system they would be destroyed in this world and the World Hereafter. Without usury everybody could lead an honorable life in this country. But if there would be the system of usury then wealth would concentrate in a few hands and the poor would gain nothing out of it. So he demanded that the government should give a proper timeframe for the elimination of *riba* instead of saying ‘eliminate *riba* as early as possible.’ So the Islamic economic system would prevail and the country would flourish.<sup>75</sup>



Mahmud Azam Farooqi from JI added that the interest in all forms should be prohibited. The interest of banks, House Building Finance Corporation and any other kind of interest was unlawful. He declared that the existing Governor, State Bank of Pakistan, during his visit to the United States, had appealed the developed States not to take interest over the loans given to the developing States. In such a way the developing countries would not be able to move forward. He asked if the government could appeal the developed countries to stop taking interest from the poor countries then why that curse could not be stopped by them in their own country through the aforementioned amendment from the opposition. The amendment was rejected by the House.<sup>76</sup>

Mawlana Abdul Haq presented an amendment to the Constitution Bill for the President of Pakistan to be a male Muslim. The amendment said:

“That for clause (2) of Article 44 of the Constitution Bill, the following be substituted, namely:-

(2) A person shall not be qualified for election as President unless he is a male Muslim of not less than forty years of age.”<sup>77</sup>

Explaining the purpose of his objective, Mawlana Abdul Haq said that the head of a State was a responsible person. He must be a mature one as he has to do away with the most essential and sensitive functions. A person always became well matured at the age of forty. All the Messengers of Allah got revelations at the age of forty. Therefore amendment of the opposition demanded condition of forty years instead of forty-five for the election of the President of Pakistan. The condition of a male Muslim employed that the person enforcing Islamic laws in the country must be familiar with the Islamic

teachings. He would be in a position to discard all the laws repugnant to the commandments of the Quran and Sunnah. The ladies had no courage to face attacks from the enemies. The Prophet (PBUH) has urged that a nation could never achieve salvation when its head was a lady. The responsibilities and courage granted to male part of the population could never be fulfilled by the fair sex.<sup>78</sup>

The motion of the opposition was rejected by the House.<sup>79</sup>

Mawlana Abdul Mustafa Al-Azhari moved an amendment before the House for the honesty, righteousness, shrewdness and good conduct of a Member of the House. The amendment forwarded by Mawlana Abdul Mustafa Al-Azhari was:

- “That after paragraph (c) of Article 65 of the Constitution Bill, the following new paragraph may be added and subsequent paragraphs re-numbered accordingly:
- (c) If a Muslim, he is honest, and not an open violator of the dogmas of Islam and possess the necessary knowledge of his religion.”<sup>80</sup>

Supporting the amendment of Mawlana Abdul Mustafa Al-Azhari, Mawlana Abdul Haq declared that the Member of the Parliament must be an honest one. Parliament was a very important institution of the country. Its Members were the Constitution-makers and would provide justice to the citizens through legislation. If he would be a dishonest and unjust person then he could never be useful for the nation. He would contravene the injunctions of Islam and as such would be a very dangerous person for the dignity and integrity of the country where Islam had been declared as a State religion. Therefore the opposition strongly demanded to approve their amendment in the better interest of the public.<sup>81</sup>

Mawlana Abdul Mustafa Al-Azhari said that the Member of the Parliament would protect the ideology of Pakistan and Islam. Therefore he should be a good and honest Muslim.

The people knew that the Parliamentarians who were drunkard and against Islam, divided the country into two. If they would be true Muslims, they would have never bothered to divide the country into two lands. So the amendment should be inserted into the Constitution Bill in order to provide for the election of a good, honest and true Muslim.<sup>82</sup>

The motion of the opposition was rejected by the House.<sup>83</sup>

### **3.4.2 Opposition about the Fundamental Rights in Draft Constitution**

Mawlana Noorani moved this amendment before the House on March 12, 1973 in the Article-4. The amendment was: If a person or a part of the country is harmed he should have the right to knock at the door of the Supreme Court. This is his fundamental right.

If that fundamental right was suspended any time then there was no law for the person or institution to knock at the door of the Supreme Court. So, Mawlana Noorani was the first person to safeguard the fundamental right of the citizens in this respect.<sup>84</sup>

Another amendment moved by Mawlana Noorani in that regard was: -

“That after clause (2) of Article 4 of the Constitution Bill the following clauses be added namely: -

(3) The law shall not prejudice any vested rights, any judicial act accomplished or any adjudicatory matter.

(4) The law shall not exclude any injury to individual rights from consideration by the judicial power.”<sup>85</sup>

Mawlana Noorani from JUP drew the attention of the other parliamentarians to the “Martial Law Regulations”. He made it clear that the Constitution would be showed to the world in its democratic shape hiding the black laws of Martial Law. The preventive detention was safeguarded in the Draft Constitution. Mawlana Noorani of JUP was against the indulgence of bureaucracy in politics. He strongly opposed the black laws of the Constitution and demanded to consider the amendments made by him on the behalf of

the opposition. He aspired that we were supposed to make such a Constitution, which would not be defended by the National Assembly but by the citizens of the country.<sup>86</sup>

Mawlana Noorani moved an amendment to the constitution for the employment of every able bodied citizen of Pakistan. The amendment was:

"That Article 8 of the Constitution Bill be re-numbered as clause (1) of that Article and the following be added thereafter, namely: -

(2) Every able bodied citizen of eighteen years and above shall be entitled to demand from the State work within a reasonable distance of his place of residence and it shall be the duty of the State to provide work to such a person commensurate with his education and skill and if the State for any reason is unable to do so, he shall be paid a maintenance allowance till such time as the remunerative work is provided for him"<sup>87</sup>

The amendment moved by Mawlana Noorani regarding Article 8 of the Draft Constitution at last stood part of the Draft.<sup>88</sup>

Explaining the purpose of his motion, Mawlana Noorani said that being a welfare state it was the obligation of the government to provide job opportunities to those citizens who were qualified having good health at the age of eighteen and above without any discrimination. The government should utilize all the resources in order to provide employments to the citizens of Pakistan. Mawlana Noorani forwarded the precedents of the Islamic states of the Pious Caliphs for facilitating all the citizens with equal opportunities without bigotry.<sup>89</sup>

Although Islam was declared as the State religion of the Islamic Republic of Pakistan in the Draft Constitution, but it was not declared as an Islamic State. The Pious Caliphs were the heads of the Islamic States. Therefore, Mawlana Noorani was wrong here to forward precedents of that specific era.

Mufti Mahmud forwarded a motion on the behalf of opposition which says:

"After clause (4) of Article 9 of the Constitution Bill, the following new clauses be added, namely:

(4-A) Every person detained under the preventive laws shall be provided with the following facilities:-

- (i) He shall be lodged in a jail nearest to his residence as determined by the Review Board.
  - (ii) He shall be given class A in jail.
  - (iii) Suitable maintenance allowance is paid to his family according to his status during the period of his detention.
  - (iv) In the event he is found and reported not guilty by the Review Board, he shall be entitled to the award of damages to be determined by the Review Board.
- Explanation- In this clause, "the appropriate Review Board" means-
- (i) In the case of a person detained under Federal law, a Board appointed by the Chief Justice of Pakistan and consisting of not less than three members; and
  - (ii) In the case of a person detained under a Provincial law, a Board appointed by the Chief Justice of the High Court concerned."<sup>90</sup>

Mawlana Noorani, Ghafoor Ahmad, Mahmud Azam Farooqi and Mufti Mahmud strongly condemned the law of Preventive Detention and considered it as a blow to the fundamental rights of the citizens of Pakistan. They emphasized that Pakistan Penal Code and Criminal Law already existed in the Draft Constitution which could deal with the elements responsible for deteriorating the law and order situation or foreign agents. Twenty four hours were enough to investigate about the realities from an arrested person under such laws. The government had the powers to introduce a law-suit in an open court against an accused under such charges. They argued that the previous governments had misused the law of preventive detention against their opponents for their positive criticism. The citizens should have the right to knock at doors of the courts. They should know the reason for their arrest. They should also have the right to hire a lawyer for themselves. Otherwise it would be an injustice to them.<sup>91</sup>

Mawlana Abdul Haq moved a motion which said, "That for clause (1) of Article 10 of the Constitution Bill the following be substituted:-

- (1) No citizen shall be held in slavery and, except as permitted by injunctions of Islam; no law shall permit the introduction into Pakistan of slavery."

Mufti Mahmud claimed that there was no space in Islam for slavery. Islam had always been inciting for the liberation of slaves. Islam has ordered a Muslim to free a slave in order to expiate for swearing or an unintentional murder. He further strongly demanded that neither a Muslim nor a non-Muslim citizen of Pakistan should be made a slave. Even the slaves made by the Prophet Muhammad (PBUH) during the Battle of *Uhud* were released through compensation of teaching to the children how to read and write. All the opposition members therefore supported the motion in order to pass it by the majority of the members present in the House. The motion to this effect was recognized by the government benches and passed by majority of them.<sup>92</sup>

Mawlana Noorani forwarded a motion regarding fundamental rights of the citizens of Pakistan which said,

“That for Article 13 of the Constitution Bill the following be substituted, namely:-

13. The dignity of man, and subject to law, the privacy of home, and the freedom and secrecy of communication by writing and telephone shall be inviolable.”<sup>93</sup>

Mawlana Noorani presented an amendment which said,

“That for clause (2) of Article 13 of the Constitution Bill, the following be substituted, namely:- (2) No person shall be subject to torture in any form, whether as a mode of extracting proof or as a mode of punishment.”<sup>94</sup>

Explaining the purpose of his amendment on the behalf of the opposition members, Mawlana Noorani said that for the last few months it was observed that the telephone calls of the opposition members were being tapped in the National assembly, hostels and even their homes were not exempted. Criminal Investigation Department (CID) and

security agents were found moving in the corridors of the National Assembly. Daks of the opposition members were checked. That was a very serious offence on the part of the so-called democratic government. The motion was rejected by the House.<sup>95</sup>

Mawlana Noorani forwarded another amendment to the draft Constitution which said, "That for clause (1) of Article 14 of the Constitution Bill the following be substituted, namely:-

(1) Every citizen shall have the right to remain in Pakistan, to obtain a passport and to leave and enter the country."

He explained that every citizen shall have the right to remain in or enter Pakistan. A presumption was always in favour of a citizen that he was living in Pakistan for years. The government had also objection to grant a citizen the privilege to live in the country. The right which the opposition members aspired to guarantee to a citizen was to go out and to re-enter the country on the basis of a passport, because the freedom of movement inside as well as outside the country was his fundamental right. He emphasized that the government would not restrict the freedom of movement of any citizen of Pakistan.<sup>96</sup>

Mahmud Azam Farooqi further explained that there were three parts of the Article 14. The Article inserted by the government was:

"Every citizen shall have the right to remain in or enter Pakistan, to move freely throughout Pakistan and to reside and settle in any part thereof, subject to restriction of law."

Thus the government wanted to authorize the Parliament to restrict a citizen to settle in any other province of Pakistan. Hence the government of a province could stop the

citizens of other provinces to settle in that specific province. A gap would be developed in such a way amongst the provinces of Pakistan. He strongly demanded to amend the Article and to derogate the Parliament to snatch the Fundamental Rights of the citizens regarding freedom of movement.<sup>97</sup>

Mawlana Noorani forwarded an amendment for the peaceful gathering of the citizens which said,

“For Article 15 of the Constitution Bill the following be substituted, namely:-  
15. Every citizen shall have the right to assemble peacefully and unarmed without prior notification or permission:  
Provided that this right with regard to open-air meetings in public places may be subjected to reasonable restrictions imposed by law in the interest of public order.”<sup>98</sup>

Explaining the objective of his amendment, Mawlana Shah Ahmad Noorani said that there were two parts of the amendment. In its first part as far as the assemblage in private places was concerned, there was no need of getting permission under the law, because the laws of a country were always applicable to public places. But that particular restriction should not be imposed in a private place.

The amendment was rejected by majority of the Members present in the House.<sup>99</sup>

Mufti Mahmud moved an amendment on the behalf of the opposition Members. The amendment said,

“For Article 16 of the Constitution Bill the following may be substituted, namely:-

16. Every citizen shall have the right to form associations or unions or a political party and to be a member thereof, subject to any reasonable restrictions imposed by law in the interest of morality or public order-Provided that a person in the service of Pakistan shall not be a member of a political party.”<sup>100</sup>



The amendment was self explained and there was no need to explain it and the amendment was rejected by majority of the House.<sup>101</sup>

The amendment of Mawlana Abdul Hakim regarding the lawful professions according to the teachings of the Quran and Sunnah was moved by him, which said:

“That in Article 17 of the Constitution Bill, after the word “business” occurring in the fourth line, the words “if such profession or occupation, or lawful trade or business is not against the express provisions of the Quran or Sunnah” be added.”<sup>102</sup>

Mufti Mahmud explaining the rationale behind the amendment said that Article 17 had guaranteed the freedom of adopting any lawful profession by a citizen, but that Article had not cleared the difference between the lawful and unlawful professions. The Constitutional Accord of 1972 and the Constitution itself had guaranteed to Islamise the Constitution within seven years of its adoption. It would be too late to do away with the business in unlawful professions like dealings in interests and wines. So the amendment must be passed in order to Islamise the future Constitution of Pakistan article by Article.

Although Mawlana Abdul Hakim had moved the amendment in order to provide the opportunities to the citizens to adopt such professions which would be in accordance to the Quranic teachings but he was disappointed with the autocratic behavior of the government benches. He said that the twenty-five years history of Pakistan had proved that no single government was interested in Islamising the life of the citizens in Pakistan. He also condemned the Bhutto government for the same approach and violation of the Constitutional Accord signed with the opposition Members in 1972. The Constitution had the flavor of Islam but practically there was no way to restrict the people to lead their

lives in accordance with the teachings of the Quran and Sunnah. The government must slam all the ways and means of illegitimate businesses and professions.<sup>103</sup>

Mufti Mahmud also condemned the off-putting attitude of the government towards the Islamic amendments in the Draft Constitution. He regretted over the reversal of each and every amendment presented by the opposition members of the House. The amendments forwarded by the opposition members were properly in accordance with the Quran and Sunnah as well as the Constitutional Accord of 1972. The government had proved to make Pakistan a secular State in its unconstructive terms. The government had made fun of the opposition members not to pass any of the amendment as promised in the Constitutional Accord of 1972 and at the floor of the House as well.<sup>104</sup>

Mawlana Ghulam Ghous Hazarvi forwarded the amendment of Mufti Mahmud and declared that the amendment should be passed by the House as it had been observed that prostitution centers were working until then in the country which was completely an illegal business. He claimed that the gambling over horse race had been in vogue in Pakistan till the day. Many of such prohibited professions were at hand in the country. So the amendment under consideration should be approved by the House so that the suspicions of the opposition members might be addressed appropriately.<sup>105</sup>

Sahibzada Ahmad Raza Khan Qasuri from PPP wanted to speak over the amendment in favour of the opposition and just started his debate but the Speaker of the National Assembly declared his comments as irrelevant and stopped him to speak. He protested over the Speaker's autocratic attitude and warned that the Speaker had no right to insult him. It was the right of every Member of the House to speak and comment over an

amendment. The Speaker of the House got infuriated and ordered the Sergeant-at-Arms to take him out of the House. At this juncture a number of opposition members withdrew from the House as a protest.

The amendment was also rejected by the House.<sup>106</sup>

Mawlana Noorani, on the behalf of the opposition, forwarded an amendment to the Constitution Bill to make the government responsible for providing free education to its people. No timeframe was given in the Constitution Bill for providing free education. So his amendment moved in this regard was "That for paragraph (h) of Article 39 of the Constitution Bill the following be substituted, namely: - (b) Provide free and compulsory secondary education within a period of five years from the commencing day and remove illiteracy within the minimum possible time."<sup>107</sup>

The House rejected the aforesaid amendment of the opposition.<sup>108</sup> Earlier to this motion of the opposition, National Education Council was set up for making the education system better. Five Members, within the NA, were elected to the National Education Council<sup>109</sup>. Mawlana Noorani and Ghafoor Ahmad were representing the opposition among them. The said amendment was the result of continuous discussions in the meetings of the National Education Council.<sup>110</sup>

Explaining the purpose of the amendment, Mawlana Noorani said that it was the prime duty of the state to provide free education to its citizens. The government had promised to grant free education to the students up to secondary level. He demanded that a time frame should be given by the government to implement the free education policy to the citizens of Pakistan.<sup>111</sup>

Mawlana Shah Ahmad Noorani pin pointed that the government had inserted the provision of secondary education in the chapter of Principles of Policy. Prostitution was also prohibited in the said chapter. In fact education was the basic right of all the citizens and therefore it was supposed to be the Article of the Chapter of Fundamental Rights. There was a clear difference between the chapter of Principles of Policy and the Fundamental Rights. All the promises made by the government in the chapter of Principles of Policy could not be challenged in the Court of law. The Principles of Policy in a Constitution were always a guide line for the nation. That chapter was also not an operative part of the Constitution. The Articles inserted in the chapter of Fundamental Rights could be challenged in any Court of Law. So it was obvious that if there existed the prostitution in the country and the right of education was snatched from the citizens, they could not go to the Court of law to demand their right. Therefore he demanded to make those principles and promises made by the government as justifiable by putting it in the chapter of Fundamental Rights.<sup>112</sup>

The amendment was rejected by the House.<sup>113</sup>

Mir Ghous Bakhsh Khan Bazanjo from NAP moved an amendment to the Draft constitution in order to make the following additions to it.

“That paragraphs (a) to (e) of Article 40 of the Constitution Bill be shifted from Chapter 2- Principles of Policy, to Chapter 1- Fundamental Rights and suitably reworded and the following additional articles be included in Chapter 1 on Fundamental Rights:

- (1) Workers shall have the rights to form, organize and be active members of Trade Unions.
- (2) Workers shall have the right to strike and collective bargaining.
- (3) Workers shall have the right to work and earn a livelihood, and it shall be the responsibility of the State to provide suitable employment to every citizen.
- (4) Workers shall have the right to participate in the Armed Forces of Pakistan and it shall be the duty of the State to enable people from all parts of Pakistan to so participate.”<sup>114</sup>

Mir Ghous Bakhsh Khan Bazanjo said that ninety-eight per cent of the population of Pakistan was poor. The Constitution Bill had provided rights only to the two per cent of the population who are capitalists, feudal lords and industrialists. The peasants, workers and farmers have been ignored. He warned the government to provide all the fundamental rights to the poor strata of the society otherwise a day would come when they will snatch their rights by cutting the rich into pieces. The amendment was rejected by the majority of the Members of the House.<sup>115</sup>

### **3.5 Government's Bill for Approval of the Draft Constitution and the Opposition**

On February 2, 1973, Abdul Hafeez Pirzada moved for leave to introduce a Bill to provide a Constitution for the Islamic Republic of Pakistan. He hoped for useful amendments from the Members of the House and guaranteed that weighting would be given to the Members' viewpoints.<sup>116</sup> The National Assembly of Pakistan (Constitution-making) again met in the Assembly Chamber, Islamabad on March 6, 1973 for the endorsement of the Draft Constitution.<sup>117</sup>

Mawlana Noorani of JUP, from opposition benches, through his speech went into the past and said that Pakistan had come into subsistence after many sacrifices. One million Muslims were martyred and thousands of Muslim women were raped. These sacrifices were rendered for the sake of a land where the law of Allah and His Prophet Muhammad (PBUH) would be prospered. This country had not come into being by the sacrifices of its people as Punjabis, Baluchis, Sindhis or Pathans rather they were a single nation of the greatest sacred bond, which was Islam. Some people linked the Muslim nation with

twenty five hundred or five thousand ancient cultures and civilization. There was no room for Mohenjo-Daro civilization in Islam. Our culture and civilization was based only on the footings of Islam.<sup>118</sup>

Mawlana Noorani said that the people were mistaken to consider that Quaid-i-Azam fought for freedom on the base of Two-Nation theory and that Allama Iqbal founded the Muslim nation. Both of them fought on the basis of Islam, as they knew that nations were built up only on the basis of religion and not upon the culture or civilization. Nobody, within and outside the Parliament should be pompous to be Sindhi, Baluchi, Punjabi or Pathan. All of us should be proud to be the Muslims. According to the Quran all of us are Muslims.<sup>119</sup>

### **3.6 The United Democratic Front for Constitution and the Opposition**

The government anti-opposition policy had created discontentment within the opposition circles. Nobody could oppose the government. Many opposition leaders went into refuge while many were forced to stand by the government. For instance Mumtaz Daulatana of Cou. ML was made the ambassador and went to England. The government associated Khan Abdul Qayyum Khan of QML. Even the three members namely Mehar Ghulam Haider Bharwana, Sahibzada Nazir Sultan and Mian Muhammad Ibrahim Barq from JUP also left their own party. Primarily the opposition leader, Sardar Shaukat Hayat Khan from Cou. ML, was the head of the said party. He was leading the eleven members of his party but soon this number decreased to only one. The opposition bench decreased quickly and a new opposition was to be prepared. The toss favoured Abdul Wali Khan from NAP as he was leading more members in the opposition benches. So ten members

of the Cou. ML and three from the JUP had left their parties and had joined hands with the government for power.<sup>120</sup>

All the opposition parties were integrated against the autocratic measures of Bhutto government. However the leaders of the opposition parties held a meeting at Rawalpindi on March 13, 1973, under the chairmanship of Pir Mardan Shah of Pagara. They decided to set up the United Democratic Front (UDF).<sup>121</sup> Mawlana Shah Ahmad Noorani of JUP was nominated as the Chairman of the Coordinating Committee of the UDF.<sup>122</sup> The UDF was composed of the NAP, PML (under the leadership of Pir Pagaro), JUI, JUP, JI, Khaksar Tehrik (KT) and Pakistan Democratic Party (PDP). Apart from these parties some independent members were also there.<sup>123</sup> Ten members committee was created in its meeting so that important amendments to the Constitution should be recommended.

### **3.6.1 Agenda of the United Democratic Front**

The United Democratic Front issued a twelve point's press note. A summary of the points was: the protection of Pakistan solidarity; approval of an Islamic, democratic, federal and parliamentary Constitution; restoration of fundamental rights; abolition of exploitation and aggression; guarantee for the provincial autonomy; support of the peasants, workers and students; following the positive politics; united struggle for the termination of the ideological conspiracies; stunt against the dictatorship and efforts for the quick return of the POWs of the East Pakistan crisis.<sup>124</sup>

### **3.6.2 Mass-Contact Campaign of the Opposition and Government's Reaction**

Mawlana Shah Ahmad Noorani, as an in charge of the coordinating committee, in cooperation with the opposition Members, started tour of the whole country in order to

impose Islamic system and eradicate the 'dictatorship' in the country for bringing Islamic democratic style.<sup>125</sup> The opposition made the programs for public meetings and the first show of public power appeared in the shape of public gathering in Peshawar, which was triumphant. Apart from the Peshawar gatherings, the meetings at Quetta and Hyderabad were also noteworthy.<sup>126</sup>

The government tried to fail the contact campaign of the opposition but that effort was also unsuccessful. It used the traditional tactics to disrupt the next programs of the opposition. The loud speakers were smashed and the security forces used 'lathy charge' over the public. Bullets were also fired at the processions. While on the other hand the police arrested the administrators and workers of the processions in the name of peace. The arrested workers were tormented in jails. Even the permits of their public gatherings were cancelled.<sup>127</sup>

All the opposition members were stopped on their way at Rohri from Karachi to Multan and were delayed so much so that the time of the meeting was over. The people gathered at the station to receive the members of the opposition. As soon as they reached Multan, Mawlana Noorani, the Chairman of the UDF, started his speech just at the railway station. The local police stopped him from his speech and showed the orders that he could not address the gatherings anywhere at Multan. So in this way the meetings of the UDF were finished by force. But, Mawlana Noorani contacted public in the name of religious gatherings at *Urs* of the saints and informed the mass about the dictatorial mind of the government.<sup>128</sup>



Addressing the people at Sadiqabad, Mawlana Noorani said, "The present government is making fun of the democracy and freedom of writing and expression. The hooliganism and luxury has increased. The opposition is stoned and 'lathy charged'. The hooligans are encouraged and they have been kept above the law. "No such example of barbarity over the workers in the twenty-five years history can be found as during this government. How such a head of the government can be regarded as the *Quid-i-Awam*? The contact and relation between the government and public was broken."<sup>129</sup>

### **3.6.3 Charter of Demand of the UDF and Bhutto Government**

The Constitutional committee of the UDF presented the charter of demand before the Bhutto government on March 16, 1973.<sup>130</sup> It consisted of the points regarding Federation, Provinces, relationship between the Federation and the Provinces, the independence of judiciary, establishing the Election Commission, Fundamental Rights and the powers of the Prime Minister. Mawlana Ghulam Ghous Hazarvi and Mawlana Abdul Hakim of JUI on behalf of opposition demanded the Bhutto government to consider their Islamic amendments to the Draft Constitution. He declared that it was a severe demand of the public to Islamise the Constitution of Pakistan. He also said that they had handed over the written list of opposition's amendments to Zulfikar Ali Bhutto. The Bhutto government did not consider the agreed points of the opposition to be suitable for the Constitution.<sup>131</sup> So the leadership of the UDF decided to hold a procession in Rawalpindi on March 23, 1973.<sup>132</sup> The government dispersed the gathering with cruelty. As a result of this more than a dozen people including children and aged ones were killed and many wounded. The leadership of the UDF decided to boycott the next session of the NA as a protest for

not approving even a single amendment from the opposition benches in order to Islamise the future Constitution of Pakistan. During boycott of the opposition members from the session of the Assembly, the government benches forwarded and passed the rest of the Articles of the Draft Constitution, without any debates, within fifteen days.<sup>133</sup> However, Bhutto invited the opposition on April 2, 1973 for the sake of national consensus. Bhutto agreed with some of the demands of the Opposition and also invited them to participate the Assembly session on April 7. But the UDF decided to boycott that session.<sup>134</sup> But when Bhutto accepted some more amendments to the Draft Constitution at the final round of the talks, the UDF decided to attend the session.<sup>135</sup>

### **3.7 Voting over the Draft Constitution in the NA**

On April 10, 1973, voting within the National Assembly was held in order to know how many opposition members were against the Draft Constitution.<sup>136</sup> Before holding the voting on the Constitution, the UDF leaders met at Islamabad in which most of the party leaders suggested to vote in favour of the Constitution. But some of the opposition members were of the opinion that PPP had gone against the Constitutional Accord of 1972 and the Islamic clauses included in the Constitution were not satisfactory, therefore they would not vote in favour of the Constitution.<sup>137</sup> When the voting over the Constitution took place, Mawlana Shah Ahmad Noorani, Allama Abdul Mustafa Al-Azhari (1918-89), Syed Muhammad Ali Rizvi (b. 1916) and Mawlana Muhammad Zakir (1904-76) all from JUP did not take part. Other opposition leaders of the Parliament like Mir Bakhsh Bezanjo and Abdul Wali Khan from NAP (1917-2006) and Ghafoor Ahmad from JI tried their best to convince Mawlana Noorani but he did not vote. Mahmud Ali

Qasuri and Mir Ali Ahmad Talpur (1915-87) from PPP, Sahibzada Ahmad Raza Khan Qasuri of Tehrik-i-Istiqlal, also voted against the Constitution.<sup>138</sup>

When a journalist asked Mawlana Noorani that being the joint secretary of the UDF, why did not vote in favour of the Constitution although the opposition voted in its favour? He answered, "I do not consider the Articles of the Constitution completely Islamic and my party is also of the same opinion. He had decided in the meeting of the UDF that every person having any opinion individually about the Constitution should express it. Therefore there was no question of differences with the Coordinating Committee or the opposition. The Coordinating Committee had permitted the whole Members of the opposition to vote according to their own conscience."<sup>139</sup> Mawlana Noorani in a press meeting at Karachi informed the journalists that during the preparation of the Constitution the leaders of the JUP were offered the ministries at Center and Sindh but they rejected the offer for the sake of parliamentary democracy and Islam.<sup>140</sup>

Mawlana Noorani said that how could he call such a Constitution an Islamic one for which nine years period was specified to Islamise it completely? The government itself had 'confessed' that after the said period the Constitution would be made according to the Quran and *Sunnah*.<sup>141</sup>

So from the above study one can easily conclude that the government was not true to its words as shown in the Constitutional Accord signed with the opposition in 1972. There was no proper way for the Islamisation of the society in its true sense. The clauses of the Draft Constitution nominally declared to Islamise the society. No practical steps were there to be followed in that regard. There seemed to be loopholes in the true

parliamentary democracy. Fundamental rights were not safeguarded as was promised in the Accord. Instead the black laws of preventive detention were incorporated into the Draft Constitution. A few out of hundreds of the amendments forwarded by the Members of the opposition were passed by the government benches.

The Islamic provisions agreed upon to be included in the future Constitution were never considered by the Bhutto government. The oath of office of the President was not amended to include a declaration with appropriate text that he would be a Muslim. In the introductory chapter of the Constitution it was stated that Islam would be the State religion of Pakistan and all the laws should confirm to Quran and *Sunnah*, but when the opposition members moved their amendments in conformity to that, no amendment was approved by the government benches. It was also agreed upon by the government that in the Accord that no law shall be repugnant to the injunctions of Islam and laid down in the Quran and *Sunnah* and existing laws would be brought in conformity with such injunctions, but in reality no practical steps were taken in the right direction by the government. It was also promised by the government in the Constitutional Accord that Council of Islamic Ideology shall be constituted in a manner that it will pave way for the positive implementation of the teachings of Islam, but in fact that Council was usurped by the directions of the government. The government had also decided that Fundamental Rights would be safeguarded and all the black laws of Martial Law would be eliminated. Practically the Preventive Detention and black laws of the regimes of Martial Laws were not removed, although the opposition had forwarded numerous amendments in that regard.

Keeping in view the above study, it can be concluded that the opposition had played a pivotal role in the Constitutional Accord 1972 and the Draft Constitution of Pakistan. The Constitutional Accord, signed by ten leaders of the seven parliamentary parties, consisted of forty-two clauses, was a mile stone in the history of Pakistan. The Accord made the journey very easy towards smooth constitution-making process by the opposition and the government. However when the Draft Constitution was presented by the government, the Accord was violated. Most of the members from the opposition parties had been debating over the draft for many days. All of them were agreed that the government was not having a soft corner for the opposition. The main demand of the opposition for Islamic provisions, fundamental rights, independent judiciary, free and impartial elections, economic and social justice and parliamentary democracy, was embezzled by the government within the draft constitution. The opposition strongly condemned the cheating on the part of the government and boycotted the sessions of the National Assembly of Pakistan in that regard. The opposition members' demands were not only verbal but the most seasoned legislators amongst them forwarded many amendments and resolutions to the main body of the draft constitution of Pakistan for its betterment. Various opposition members, for instance, Mawlana Noorani, Mawlana Ghulam Ghous Hazarvi, Mawlana Sadrushahid, Mahmud Azam Farooqi, Ghafoor Ahmad, Mawlana Abdul Haq, Mawlana Abdul Mustafa Al-Azhari, Mufti Mahmud, Mawlana Abdul Hakim and Mir Ghous Bakhsh Khan Bazanjo moved different amendments to the draft constitution in order to declare Islam as the State religion, to declare Pakistan an Islamic and welfare state, avoid framing any law repugnant to the Quran and Sunnah, make the

Quranic teachings as compulsory, prohibit prostitution, drinking gambling, circulation and display of obscene literature and advertisements, prohibit the production, import, sale, possession and consumption of alcoholic liquor except for medical purpose, and in the case of non-Muslims for religious purposes, eliminate interest from the Pakistani society, eradicate black laws of the Martial Law regimes and safeguard all the fundamental rights of the citizens of Pakistan. As the draft constitution was to be presented before the House for endorsement on March 6, 1973, the opposition had worries that their aforesaid observations would not be incorporated into the body of the Constitution in the real spirit. The government had adopted anti-opposition approach and had successfully tried its best to reduce the volume of the opposition by enforcing some of them to stand by the government or going into refuge. Eventually the JUP was deserted by its three members out of seven and Cou. ML by its ten members out of eleven. The opposition was reshaped and integrated itself into the bond of UDF under Abdul Wali Khan as the Leader of the opposition. The opposition, under the flag of the UDF demanded the protection of Pakistan solidarity; approval of an Islamic, democratic, federal and parliamentary Constitution; restoration of fundamental rights; abolition of exploitation and aggression; guarantee for the provincial autonomy; support of the peasants, workers and students; following the positive politics; united struggle for the termination of the ideological conspiracies; stunt against the dictatorship and efforts for the quick return of the POWs of the East Pakistan crisis. The opposition, in order to achieve those goals, faced different hardships from the side of the government including physical tortures and political harassments. The opposition went on strikes and

processions and during their boycott from the session of the House the government passed the draft constitution without any debate from the opposition side. It is proved that the government intentionally kept the opposition out of the House and passed the rest of the Articles of the draft in hurry in order to avoid any amendment or debate from the opposition benches. When the draft was going to be presented before the House, the opposition members decided to vote in favour of the Constitution but some opposition members along with two members from the PPP did not vote as they thought the Constitution not an Islamic one as a whole. It can be opined that opposition had some strong members who were not ready to bow their head before the autocratic rule of the Bhutto government.

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- <sup>2</sup> Ibid., 73.
- <sup>3</sup> *Dawn* (Karachi), October 21, 1972.
- <sup>4</sup> The National Assembly of Pakistan (Constitution-Making) Debates, Official Reports, Volume II, No. 3, February 17, 1973. 50.
- <sup>5</sup> *Dawn* (Karachi), October 21, 1972.
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- <sup>7</sup> It was the West Pakistan Ordinance No. XXXI of 1960 promulgated by Ayub Khan on December 2, 1960. The essential concept of preventive detention is that the detention is not to punish the detenu for something he has done but to prevent him from doing it. Preventive detention is an exceptional measure to put restraints on the freedom of movement and liberty of a person who may not have committed a crime, but who, it is feared is about to commit and indulge in acts which may jeopardize public peace and may be categorized as prejudicial to public safety. A person is said to be detained, when under compulsion of an order issued by relevant authority he cannot freely move about and cannot go where he likes., Justice Muhammad Munir ed., *Constitution of the Islamic Republic of Pakistan: Being a Commentary on the Constitution of Pakistan, 1973*, (Lahore: P.L.D. Publishers, 1996), 261-62.
- <sup>8</sup> Ibid., October 21, 1972.
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- <sup>12</sup> Muhammad Munir, *Constitution of the Islamic Republic of Pakistan*, 261-62.
- <sup>13</sup> *Pakistan Times* (Rawalpindi), October 21, 1972.
- <sup>14</sup> *Dawn* (Karachi), October 21, 1972.
- <sup>15</sup> Ibid., January 1, 1973.
- <sup>16</sup> Ibid.
- <sup>17</sup> Ibid.
- <sup>18</sup> *NA (Constitution-Making) Debates*, Volume II, No. 1 (December 31, 1972), 8.
- <sup>19</sup> The National Assembly of Pakistan (Constitution-Making) Debates, Official Reports, Volume II, No. 3, February 17, 1973. 60-63.
- <sup>20</sup> Federation is a political system in which the state is divided into political units (provinces), there are two types of Governments (the federal Governments and the provincial Governments) and powers are divided between the two types of Governments. The provinces are known as the federating units.
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- <sup>30</sup> Ibid., 74-75.
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- <sup>53</sup> Ibid., 1012-13.
- <sup>54</sup> Ibid., 1015.
- <sup>55</sup> Ibid., 1016.
- <sup>56</sup> *NA (Constitution-Making) Debates*, Official Report, Volume II, No. 18 (March 12, 1973), 1019.
- <sup>57</sup> Ibid., 1022-23.
- <sup>58</sup> Ibid., 1030.
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- <sup>82</sup> Ibid., 1591-92.
- <sup>83</sup> Ibid., 1599.
- <sup>84</sup> *NA (Constitution-Making) Debates*, Official Report, Volume II, No. 18 (March 12, 1973), 1065.
- <sup>85</sup> Ibid., 1065.
- <sup>86</sup> *NA Debates*, Volume II, No. 14 (March 6, 1973), 730-31.
- <sup>87</sup> *NA (Constitution-Making) Debates*, Official Report, Volume II, No. 19 (March 13, 1973), 1125.
- <sup>88</sup> Ibid., 1131.

- <sup>89</sup> Ibid., 1129.
- <sup>90</sup> NA (Constitution-Making) Debates, Official Report, Volume II, No. 19 (March 13, 1973), 1135-36.
- <sup>91</sup> Ibid., 1140-44.
- <sup>92</sup> Ibid., 1176-87.
- <sup>93</sup> NA (Constitution-Making) Debates, Official Report, Volume II, No. 20 (March 14, 1973), 1204.
- <sup>94</sup> Ibid., 1205.
- <sup>95</sup> Ibid., 1207-09.
- <sup>96</sup> Ibid., 1229.
- <sup>97</sup> Ibid., 1231.
- <sup>98</sup> Ibid., 1235.
- <sup>99</sup> Ibid., 1235-37.
- <sup>100</sup> Ibid., 1238-39.
- <sup>101</sup> Ibid., 1250.
- <sup>102</sup> Ibid., 1253.
- <sup>103</sup> Ibid., 1254.
- <sup>104</sup> Ibid., 1255-56.
- <sup>105</sup> Ibid., 1256-57.
- <sup>106</sup> Ibid., 1259-60.
- <sup>107</sup> NA (Constitution-Making) Debates, Official Report, Volume II, No. 21 (March 15, 1973), 1360.
- <sup>108</sup> Ibid., 1391.
- <sup>109</sup> Apart from Mawlana Shah Ahmad Noorani (JUP) and Ghafoor Ahmad (JI) from opposition benches other members of the National Education Council were, S. Mahmud Abbas Bukhari (MNA), M. Hashim Khan and Mrs. Nargis Naim Sandhu. See NA (Constitution-Making) Debates, Official Reports, Volume II, No. 7 (January 6, 1973), 427.
- <sup>110</sup> NA (Constitution-Making) Debates, Official Report, Volume II, No. 7 (January 6, 1973), 427.
- <sup>111</sup> Ibid., 1371.
- <sup>112</sup> Ibid., 1384-86.
- <sup>113</sup> Ibid., 1391.
- <sup>114</sup> Ibid., 1397.
- <sup>115</sup> Ibid., 1399-1401.
- <sup>116</sup> NA (Constitution-Making) Debates, Official Report, Volume II, No. 14 (February 2, 1973), 23-4.
- <sup>117</sup> NA (Constitution-Making) Debates, Official Report, Volume II, No. 14 (March 6, 1973), 23-4.
- <sup>118</sup> Ibid., 717-18.
- <sup>119</sup> Ibid., 719-21.
- <sup>120</sup> Hussain, *Pakistan kay Siyasi Ittihad may Mawlana Shah Ahmad Noorani ka kirdar*, 79-80.
- <sup>121</sup> *Pakistan Times* (Lahore), March 14, 1973.
- <sup>122</sup> *Nawa-i-Waqt* (Karachi), March 14, 1973.
- <sup>123</sup> *Pakistan Times* (Lahore), March 15, 1973.
- <sup>124</sup> Hussain, *Pakistan kay Siyasi Ittihad may Mawlana Shah Ahmad Noorani ka kirdar*, 80.
- <sup>125</sup> *Nawa-i-Waqt* (Karachi), March 15, 1973.
- <sup>126</sup> Hussain, *Pakistan kay Siyasi Ittihad may Mawlana Shah Ahmad Noorani ka kirdar*, 81.
- <sup>127</sup> Ibid.
- <sup>128</sup> Ibid., 82.
- <sup>129</sup> Ibid.
- <sup>130</sup> *Nawa-i-Waqt* (Lahore), March 17, 1973.
- <sup>131</sup> NA (Constitution-Making) Debates, Official Report, Volume II, No. 27 (March 26, 1973), 1904-05.
- <sup>132</sup> *Nawa-i-Waqt* (Lahore), March 25, 1973.
- <sup>133</sup> NA (Constitution-Making) Debates, Official Report, Volume II, No. 27-36 (March 26-April 10, 1973), 1897-2473.
- <sup>134</sup> Ibid., April 3 and 5, 1973.
- <sup>135</sup> Ghafoor Ahmad, *Phir Martial Law Aa Gia* (Lahore: Jang Publishers, 1991), 39-42.
- <sup>136</sup> *Nawa-i-Waqt* (Lahore), April 11, 1973.

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<sup>137</sup> *Tarjuman-i-Ahl-i-Sunnat* (Karachi), May 1973, 46-47.

<sup>138</sup> *Ibid.*, 48-49.

<sup>139</sup> Siddiqi, *Nurani Siyasat*, 71.

<sup>140</sup> *Ibid.*, 72.

<sup>141</sup> *Tarjuman-i-Ahl-i-Sunnat* (Karachi), June 1973, 48.

## **CHAPTER- 4**

### **AMENDMENTS TO THE 1973 CONSTITUTION AND THE ROLE OF OPPOSITION**

This chapter mainly focuses on the role of opposition in amendments made to the 1973 Constitution of the Islamic Republic of Pakistan. Analysis of these amendments is given in the following paragraphs. The Constitution Bill was approved by the members of Parliament on April 16, 1973 but it was enforced on August 14, 1973. A number of measures were taken before the enforcement of the Constitution which included election to the Senate as well as to the office of the President, election of the Chairman and Deputy Chairman of the Senate, election of the Speaker and Deputy Speaker of the National Assembly of the Islamic Republic of Pakistan and eventually the election of the Prime Minister. New elections were not held to the National as well as provincial assemblies of the country. This was not fair on the part of the government and the United Democratic Front (UDF) of the opposition which did not aspire for the fresh elections after the dismemberment of the East Pakistan in 1971. May be the opposition was not certain of its triumph in the fresh elections due to their defeat in the general elections of December 1970 at the hands of PPP. They were dispirited and pleased with the seats they had secured.<sup>1</sup>

The Senate held its inaugural session on August 6, 1973 and elected Khan Habibullah Khan (1901-78) as its Chairman and Mirza Tahir Muhammad Khan as its Deputy Chairman.<sup>2</sup> Members of the National Assembly elected Sahibzada Farooq Ali (b. 1931), a

PPP representative, as Speaker of the National Assembly of Pakistan at August 9, 1973. Whereas, Choudhry Fazal Elahi (1904-82), candidate of the Pakistan People's Party (PPP), was elected as the President of the Islamic Republic Pakistan on August 10, 1973, whereas, a candidate of the opposition Amir Zada Khan (1918-77) from NAP for the post of the President was defeated by Choudhry Fazal Elahi.<sup>3</sup> The National Assembly met at August 12, 1973 to elect Zulfikar Ali Bhutto as the Prime Minister of the Islamic Republic of Pakistan under the new Constitution.<sup>4</sup> In order to instill the spirit of true parliamentary democracy, the opposition members, in a combined form of UDF, nominated Mawlana Shah Ahmad Noorani, to contest for the seat of Prime Minister of the Islamic Republic of Pakistan. Abdul Wali Khan, leader of the opposition in the National Assembly of the Islamic Republic of Pakistan, pledged to fully co-operate for the norms and values of parliamentary democracy and rule of law. The opposition members promised to secure fundamental rights for all citizens of the country, to set free the people from all kinds of exploitations, and to provide everyone with basic necessities of life. They also promised to stop all attempts to enforce dictatorship in Pakistan. At the day of the enforcement of the new Constitution of the Islamic Republic of Pakistan, the PPP government guaranteed the opposition benches that government will accommodate their amendments to the Constitution. But two days after enforcement of the new Constitution, Zulfikar Ali Bhutto broke his own rules and thus a gigantic confrontation with the opposition started. Various amendments, moved by the opposition, to many provisions of the Constitution, were rejected by the government. The main concern of the opposition was to bring a range of constitutional provisions into conformity with the

teachings of the religion of Islam as well as parliamentary democracy in the country. It was surely an awkward task in the presence of their little representation in the Assembly, when the majority party could only be influenced by their oratory.<sup>5</sup>

From the time of the dismemberment of East Pakistan in December 1971, the query of recognition of Bangladesh was a responsive political concern in Pakistan. The opposition was not ready for recognition of Bangladesh rather resisting the matter. All the efforts made finally paved the way for the Constitution (First) Amendment Bill.<sup>6</sup>

#### **4.1 The Constitution (First Amendment) Bill 1974: Recognition of Bangladesh**

After the separation of East Pakistan during December 1971, the recognition of Bangladesh was a crux of the question in Pakistan. On one hand, opposition in the National Assembly of Pakistan sternly resisted the recognition of Bangladesh but on the other hand the head of the government, Zulfikar Ali Bhutto was in favour of the recognition. Zulfikar Ali Bhutto was always criticized by the opposition members through both electronic and print media, for being a masterminding of the breakup of Pakistan. Bhutto was looking for ways to decide the problem without appearing too keen to recognize Bangladesh. Zulfikar Ali Bhutto took the issue to the Supreme Court of Pakistan where some hearings were held but the matter was still kept pending as the 1973 Constitution was publicized. The Constitution kept the matter open for discussion by all concerned. While mentioning the terrain of Pakistan, East Pakistan was omitted.<sup>7</sup> Finally, the prospect to recognize Bangladesh moved up itself in February 1974 when the Second

Islamic Summit Conference was just about going to be held in Lahore, the second largest city of Islamic Republic Pakistan.

#### **4.2. The Constitution (Second Amendment) Bill 1974: The Qadiani Issue**

Choudhry Zahur Ilahi (d. 1981), on behalf of the opposition, presented an adjournment motion for acceptability before the House and to discuss an incident of public importance which happened at Rabwah on May 29, 1974. Choudhry Zahur Ilahi said that the 160 students of Nishtar Medical College were on study tour to Peshawar on May 22, 1974. While crossing the Rabwah railway station, those students raised slogans in favour of the *Khatm-i-Nubuwwat*. On the way back, when those students reached Rabwah railway station on May 29, 1974 about 5000 men attacked the train, beat the students and looted them. Three or four Qadiani students amongst them were also travelling at the same train. Choudhry Zahur Ilahi argued that the Station Master was also involved in that very incident who was arrested by police. Choudhry Zahur Ilahi held employees of the federal government as responsible for the conspiracy and the sad incident at Rabwah railway station. Zahur Ilahi stressed to discuss the sad incident in the NA in order to shun such type of incidents in future and ensure peace, security and integrity in Pakistan.<sup>8</sup>

The Speaker of the National Assembly, Sahibzada Farooq Ali told that the incident was not happened in the jurisdiction of the federal government so it could not be discussed at the forum of the NA. He said that the issue was already moved up in the Provincial Assembly of Punjab<sup>9</sup> and a Judge of the High Court has been appointed for undertaking an inquiry in the said case.<sup>10</sup> Sahibzada Farooq Ali said that it would be an encroachment

upon the enquiry being undertaken by the Judge of the High Court. Choudhry Jahangir Ali from PPP blamed the opposition leaders and said that discussing the Rabwah incident in the NA of Pakistan was just to instigate the general public in order to create law and order situation for the Federal government. The opposition members strongly protested over the declaration of Jahangir Ali and demanded the Speaker to make him withdraw from his unparliamentary words against the opposition members.<sup>11</sup>

Addressing the Session of the NA of Pakistan, the Prime Minister Zulfikar Ali Bhutto told that the Rabwah incident was not a new problem created by the Qadianis of the area but they have been involved in creating such type of problem since partition. The Prime Minister said that opposition members of the parliament may not introduce an adjournment motion over the sad issue as it would instigate the general public of the country and would lead toward detestation, racism and hostility. He categorically admitted that it was exactly a national problem and was planned to jeopardize the integrity and solidarity of Pakistan. The Prime Minister requested the opposition members to get together out of the NA in order to resolve the gloomy issue in the best interest of the people of Pakistan. He put forth an indication to the Grand House that the government, in association with the opposition members, was honest and sincere to resolve the issue judiciously in the near future once for all.<sup>12</sup>

The opposition member, Mufti Mahmud, however, was not satisfied with such assurance. He therefore, invited a convention of *ulama*, *mashaikh* and leaders of various political parties to mobilize mass pressure on the government. The convention was held at the vicinity of Madrasah Qasim-ul-Ulum, situated at Lahore and set up the All Parties



*Khatm-i-Nubuwwat* Action Committee (APKNAC).<sup>13</sup> The convention gave a threat to the government that they will observe a countrywide strike on June 14, 1974 if their following four demands were not accepted:

- (i) Qadianis should be declared a non-Muslim minority;
- (ii) Qadianis should be removed from key positions in the country;
- (iii) Rabwah be declared as an open city and Muslims be allowed to settle there;  
and
- (iv) The Qadianis' Chief, Mirza Nasir Ahmed (1909-82), and others responsible for the incident of students at Rabwah, be arrested immediately.

The government did not accept their demands and resultantly, a nationwide strike was observed on June 14, 1974 in order to compel the government to recognize the four demands of the opposition.<sup>14</sup>

On June 30, 1974, the opposition leader, Mawlana Shah Ahmad Noorani, moved up a resolution signed up by 37 MNAs. The resolution stated that Qadianis may be declared as non-Muslims, and demanded that an amendment be made in the constitution in this regard.<sup>15</sup> The resolution moved up by Mawlana Shah Ahmad Noorani was:

“Whereas it is a fully established fact that Mirza Ghulam Ahmed (1835-1908) of Qadian claimed to be a prophet after the last Prophet Muhammad (PBUH);

And whereas his false declaration to be a prophet, his attempts to forge many Quranic texts and to eliminate *Jihad* were deceiving to the main issues of Islam;

And whereas he was a production of imperialism for the only purpose of destroying Muslim solidarity and misrepresent Islam;

And whereas there is an agreement of the entire Muslim *Ummah* that followers of Mirza Ghulam Ahmed's, whether they believe in the prophethood of the said Mirza Ghulam Ahmed or think him as their reformer or religious leader in any form whatever, are outside the pale of Islam;

And whereas his followers, by whatever name they are called, are indulging in dissident activities both internally and externally by mixing with Muslims and pretending to be a sect of Islam;

And whereas in a conference of the World Muslim Organization held in the holy city of *Makkah-Al-Mukarram* between the April 6 and 10, 1974, under the support of *Al-Rabita Al-Alam-i-Al-Islami*, wherein delegations from 140 Muslim organizations and institutions from all over the world participated, it has been unanimously decided that Qadianism is a disloyal movement against the religion of Islam and Muslim World, which wrongly and fraudulently claims to be an Islamic sect."

Now, this Assembly do proceed to declare that the followers of Mirza Ghulam Ahmed, by whatever name they were called non Muslims and that an official Bill be moved in the National Assembly of Pakistan to make enough and essential amendments in the constitution to grant effect to such statement and to provide protection for their legitimate rights and interests as a non-Muslim minority of the Islamic Republic of Pakistan.<sup>16</sup>

After representing the resolution, the Speaker of National Assembly, Sahibzada Farooq Ali told the opposition members that they had moved up a dreadful resolution. He said that it was not the duty of the Parliament to prove who was out and who was within the pale of Islam. That was to be the discussion of an Islamic Institution i.e. *Madrasah* or

*Dar-ul-Ulum*. Sahibzada Farooq Ali asked why the opposition wanted to bring such issues to the Parliament.<sup>17</sup> But at last Mawlana Noorani, an opposition member convinced all of them and resultantly the opposition members also met the Prime Minister, Zulfikar Ali Bhutto and made him realized about the sensitivity of the issue. They told the Prime Minister that if someone, in his presence, claimed to be the Prime Minister, what will be his expression? Certainly he would believe him a revolt. Similarly, as per *Khatm-i-Nubuwwat*, there was no prophet after Prophet Muhammad (PBUH). So, it was very easy to declare a person as non-Muslim who did not trust in the Finality of the Prophethood of Muhammad (PBUH).<sup>18</sup> In this way Zulfikar Ali Bhutto was convinced and got the resolution approved for discussion in the Parliament. But the problem was how to introduce the matter in the NA under existing rules and regulations. Mawlana Shah Ahmad Noorani suggested that it could be done in “in-camera session of Parliament” under the rules of the legislature.<sup>19</sup>

Zulfikar Ali Bhutto agreed to discuss the issue in “in-camera session of the House. The NA thus changed itself into a special committee to talk about and be purposeful upon the matter. The special committee made a steering committee for its help. Mawlana Shah Ahmad Noorani was included in that committee from the opposition members. Right from June 30 to September 7, 1974, the special committee focused this issue in in-camera sessions in a number of sittings.<sup>20</sup>

According to Mawlana Shah Ahmad Noorani, “all the points of discussion were prepared and arranged by Yahya Bakhtiar (1921-2003), the Attorney General of the Islamic Republic of Pakistan. Yahya Bakhtiar struggled hard for it. He prepared the series of

questions which would be asked from the Qadianis, sitting up to midnights and even caters. *Ulama* members of the Parliament from the opposition used to tell him about the beliefs of Qadianis and then he would prepare questions in the light of those instructions. “He used to ask questions on behalf of the Special committee’ Members and Mirza Nasir Qadiani would answer the questions. Zafar Ansari as well Abdul Hafeez Pirzada (1935-2015) also accompanied the Committee’s Members. The *ulama* had to prove that Rabwah, in fact, was another state within the State. Furthermore, Pakistan’s Passport having the stamp that ‘the Passport is valid for all countries of the world except Israel’, then how the Qadianis could go to Israel?” They had owned a Head Quarter in Israel and the Jews had especially permitted them. When Yahya Bakhtiar asked Mirza Nasir what was the relation of Israel with him for bearing an office over there? Mirza Nasir straight away rejected all these possessing. Correspondingly Yahya Bakhtiar presented all the magazines and addresses of his offices as a proof, which was provided by *ulama* from the opposition benches. After that thorough argumentation Mirza Nasir recognized that some people were working in Israel in their own capacity. The purpose of such argumentation was to prove that the Qadianis had special relations with the Jews of Israel and that the Jews had given them protection. On the other hand they were pushing out its own citizens i.e. the Arabs from Israel, whereas, the Qadianis were being colonized in Israel. Resultantly, hundreds of Qadianis had settled there in Israel who had got homes and offices there. The Jews employ them against Muslims in the target areas. We also quoted another feature of the time when Pakistan came into being; they had bought a separate place at Rabwah and Sir Prince Moody, the first Governor of the Punjab (Pakistan), had

given these places to them on very cheaper prices. At that time Sir Zafarullah Khan (1893-1985) was the foreign minister of Pakistan. He had also misused his position. Even Zulfikar Ali Bhutto had accepted all those proofs and the PPP had helped us in this regard. All the secular forces got united at that very time. "Therefore, we made a front before going into the Parliament. All the religious parties of the country including JUP, JUI and JI got united and the independent parliamentarians like Sardar Sher Baz Mazari (b. 1930), Mawla Bakhsh (father of Elahi Bakhsh Somro) also accompanied us." All these efforts finally paved the path for the Constitution (Second) Amendment Bill.<sup>21</sup>

In June 1974, when Mawlana Shah Ahmad Noorani, from the opposition members, presented a resolution that demanded declaration of Qadianis as non-Muslims, the leaders of Lahori Group met Mawlana Shah Ahmad Noorani in Lahore and reportedly offered him with rupees fifty lakh, if he omitted the words 'Lahori Group' from that very resolution. However, Mawlana Shah Ahmad Noorani totally rejected this offer.<sup>22</sup>

Likewise, on September 7, 1974, Abdul Hafeez Pirzada moved up the unanimous recommendations of the special committee to the NA of the Islamic Republic of Pakistan.

"That the Constitution of Pakistan may be amended as follows:

- i) That in Article-106 (3) a reference be inserted to persons of the Qadiani Group and the Lahori Group (who call themselves 'Ahmadis');
- ii) That a non-Muslim may be defined in a new clause in article-260."<sup>23</sup>

After adoption of these recommendations, Pirzada introduced his Bill to amend the constitution which was adopted by the House unanimously as 'The Constitution (Second Amendment) Bill, 1974. This Bill stood collectively passed by the House.<sup>24</sup>

The Prime Minister of Pakistan, Zulfikar Ali Bhutto and his government successfully cooled down the situation for time being by accepting the demand of the opposition benches who had worked up spin in the country but could not realize the long term implications including legal as well as constitutional of this shift.

### **4.3 The Constitution (Third Amendment) Bill 1975: Persecution of Political Opponents**

The PPP government was generally obsessive and domineering towards the opposition, which was obvious from the fact that political opponents were arrested and detained. Those political opponents therefore, knocked at the doors of the justice. The decisions made by the court were mostly in favour of the government. However, some relief was given to the opposition. A policy of frightening and contagion of judiciary's powers was adopted. An amendment was introduced in the Code of Criminal Procedure (CCP) excluding the courts from granting Bail Before Arrest (BBA) to a person except a case was registered and that an order of bail would be effective only relating to the case that stood registered against him and specified in the order therein.<sup>25</sup> Before that, the courts had permitted extensive BBAs to the political opponents in cases registered and to be registered as part of the procedure of such unfair treatment. In the mid-sixties, Choudhry Zahur Ilahi, a well known politician from Gujrat, remained under continuous political persecution by the Governor of West Pakistan, Nawab Amir Muhammad Khan of Kalabagh (1910-67). The Lahore High Court granted him BBA in all the cases registered and to be registered against him as part of such oppression.<sup>26</sup>

A Constitutional Amendment was moved to limit the rights of a *detenu* detained under a law for preventive detention by extending powers of the detaining authority. In this regard Article 10 of the Constitution that provided for certain safeguards against preventive detention were amended in February 1975 under the constitution (Third Amendment) Act, 1975<sup>27</sup> to the following effect.

- a) The period of preventive detention for a *detenu* was originally fixed at one month, beyond which no law for preventive detention could authorize preventive detention unless the appropriate Review Board<sup>28</sup>, after affording the *detenu* an opportunity of being heard in person, reviewed his case and reported that, in its opinion, there was sufficient cause for continuation of detention beyond one month. This initial period of detention was extended from 1 to 3 months under the Third Amendment.
- b) Under the Constitution at first, it was mandatory that a *detenu* held under a law for preventive detention should be communicated for the justification of his detention not later than one week of such detention so that he could make representations against the order of detention at the earliest. The Third Amendment extended that period from one week to fifteen days.
- c) The Constitution limited the total period of preventive detention to the maximum of 12 months within a period of 24 months. Though, an exemption to this restraint was for a person who was employed by, or worked for, or acted on instructions received from the enemy. Such person could be taken in custody for an indefinite period. This exemption was extended under the Third Amendment to include any

person 'who is acting or attempting to act in a manner prejudicial to the integrity, security or defence of Pakistan or any part thereof or who commits or attempts to commit any act which amount to an anti-national activity as defined in the federal law or is a member of any association which has for its activities, or which indulges in, any such anti-national action.'

The Constitution (Third) Amendment Bill, to be more accurate, was in fact introduced to prohibit the NAP. The opposition member from the JUIP, Mufti Mahmud, assuming the leading role of the opposition in the National Assembly of the Islamic Republic of Pakistan after the arrest of Abdul Wali Khan, walked out (along with the total opposition members) in protest against the amendment. Abdul Wali Khan blamed the government for not creating conducive conditions for the role of the opposition in the Grand House.<sup>29</sup> Another member Rao Khurshid Ali Khan opposed the Bill. Rao criticized that the Bill was not kept open to public opinion, although it had involved fundamental changes in the Constitution.<sup>30</sup> Members of the opposition boycotted the proceedings of the National Assembly of the Islamic Republic of Pakistan on January 31, 1975 when Sahibzada Ahmed Raza Khan Qasuri gave some unpleasant remarks while speaking on the Activities of Terrorists (Special Courts) Bill 1974. Consequently, the Speaker suspended him from attending session of the NA for the remaining period.<sup>31</sup> The boycott ended after the opposition and the government arrived at an agreement on February 6, 1975. Some prominent provisions of the Accord are given below:

1. Provisions in respect of legislation:



- a) Before beginning of every session of the National Assembly and Senate, the opposition in the House should be consulted in order to finalize the programme of that session;
  - b) The suspension of rule should be asked for by the government only when it is quite obligatory;
  - c) The government should not impose restrictions on them;
  - d) Amendments forwarded by the opposition to the Parliament should be taken sincerely;
  - e) The opposition should be consulted in all disputed Bills, prior to their opening in the House.
2. The government will take a serious and honest notice of the Resolutions and Motions, presented by the opposition.
  3. The opposition should not be oppressed and detuned regarding Privilege Motions.<sup>32</sup>

When a privilege motion forwarded by Mufti Mahmud with reference to the February 6 accord was ruled out by the Speaker of the House the opposition declined to attend the budget session of 1975.<sup>33</sup> Afterwards, he in the interim offered to end boycott if and when Abdul Wali Khan was got free and allowed to attend session of the House. He added that the budget approved with no consent of the opposition would be considered as a budget of the PPP only and not of the House as a whole.<sup>34</sup>

The opposition finished its boycott in the winter session. It was in that very session when government moved up the Constitution (Fourth) Amendment Bill 1975.

#### **4.4 The Constitution (Fourth Amendment) Bill, 1975: Prerogative of Courts Reduced**

Decision of the PPP government to lessen the powers and jurisdiction of the courts averting them from giving relief to political rivals, particularly in implementing constitutional jurisdiction under the Article 199, came under the Fourth Amendment to the 1973 Constitution.<sup>35</sup> High Courts were forbidden from issuing an order for preventive custody of a person or to grant bail to any one detained in this regard. This was a main reduction in the constitutional jurisdiction of High Courts disallowing them to grant aid to the political victims or even to grant such people bail during their detention.

The constitutional right of the High Courts was also reduced in the matter of granting stay of recovery, assessment, or collection of public revenue. Any stay order granted by the High Courts in such a matter would cease to be effective on the expiry of sixty days unless the matter was finally decided by the Court within such time. All such interim orders given by a High Court before the fourth amendment would also cease to be effective on the expiry of sixty days. The only good feature of this amendment was the allotment of six special seats in the National Assembly and an increase in the number of seats for minorities in the provincial assembly of the Government of Punjab from three to five numbers.

This amendment was passed in a very unparliamentarily manner. Members of the opposition in the NA of Pakistan wished to have a debate mainly on the reduction of powers of the High Courts. They were not given the opportunity to speak and were brutally thrown out of the House by the security guards led by sergeant-at-arms. Voting

on this amendment was done in absence of the opposition.<sup>36</sup> It was true that Zulfikar Ali Bhutto had enjoyed more majority than the required two-third in the NA of Pakistan. So, he was in position to pass any constitutional amendment but it was against all norms of the parliamentary democracy to hold back the voice of the opposition and to subject the members of the opposition to the disgrace of being bodily maltreated and thrown out of the Assembly.

The leader of the opposition, Mufti Mahmud, told that to enable the opposition members to speak on the Bill, the second session convened on Friday, November 14, 1975 should be held at 6 p.m. He blamed the government of not holding fast to the spirit of the February 6, 1975 accord, which stated that the opposition should be taken into confidence before finalizing programme of the session. He harshly criticized the government for not giving opportunity to the opposition for studying this important amendment in the Constitution with a view to suggest amendments to it.<sup>37</sup> Mawlana Niamatullah, a member of JUI criticized the right of minorities regarding representation in the House of Muslims, as the government benches did provide them with full protection of their life, respect, and property. Members of the opposition like Choudhry Zahur Ilahi (Cou. ML), Ghafoor Ahmad (JI), Mawlana Syed Muhammad Ali Rizvi (JUP), Malik Sulaiman (b. 1920), Sahibzada Ahmad Raza Khan Qasuri, Makhdum Noor Muhammad (an Independent member of the parliament) and Mawlana Abdul Mustafa Al-Azhari (1916-89) from JUP also demanded for a plenty time to enable the Members to discuss the proposed amendments in detail before the Bill was approved.<sup>38</sup> Mawlana Ghulam Ghous Hazarvi (JUI) presented his arguments that with the two-third majority, any amendment in the

Constitution was legal one. He pointed out that two days after the so-called February 6 agreement; Sherpao had been a target of a terrorist attack. Why then, he asked, could the House not undertake any legislation against such actions of sabotage? He suggested that government should not remain in power after occurring of the bomb blasts. Action must be taken against those who served as the agents of terrorists, and against those who recognized such people as their political leaders and he decided to boycott the session for their release.<sup>39</sup> After regular interference by the opposition, the Speaker ordered Sergeant-at-Arms to take away Choudhry Zahur Ilahi, Mahmud Ali Qasuri and Malik Sulaiman from the House.<sup>40</sup> As per order of the Speaker, the opposition members were thrown out from the House and the Constitution (Fourth) Amendment Bill 1975 was adopted.

The enactment of the Fourth Amendment, the way it was adopted, Choudhry Zahur Ilahi suffered multiple injuries when the members of the opposition were taken away from the Chamber. This brutal action brought the actual nature of the PPP government before the masses as well as towards the opposition.<sup>41</sup> The Lahore High Court Bar, in a resolution, termed this action of the government as 'uncivilized and anti-democratic' towards the opposition.<sup>42</sup> As a result of this brutal action about three hundred lawyers of the Lahore District Bar Association took out a procession against the Fourth Amendment.<sup>43</sup> Alongside Parliamentary group of the opposition constituted a five-member committee to chalk out the future line of action. The committee consisted of Mufti Mahmud (JUI), Sardar Sherbaz Khan Mazari (Independent), Ghafoor Ahmad (JI), Mawlana Shah Ahmad Noorani (JUP) and Senator Khwaja Muhammad Safdar.<sup>44</sup> While giving interview to a

representative of 'The Daily Sun', Zulfikar Ali Bhutto said that if the opposition go for provoking and offensive politics, then the government would have no choice but to react sternly.<sup>45</sup> Though the well-known criticism of the Fourth Amendment had provided the UDF with an opportunity to grow and glow, it was destabilized by the expulsion of the JUP from its crease which did not agree to honour the UDF decision regarding their boycott from the by-elections.<sup>46</sup> The JUP was requested not to nominate a candidate for the constituency of NA-7 Karachi that was vacated by the resignation of Mawlana Shah Ahmad Noorani for his election to the Senate. The JUP refused to accept the decision of UDF and declared that it would take part in the election with its own candidate. The UDF took the decision of the JUP to be examined by its Central Action Committee at Lahore, and decided to give it up to the JUP to 'abide by the UDF's decision or to adopt a separate line of action.'<sup>47</sup> In that very event, the JUP's leader Hanif Tayyib lost to the PPP's Nurul Arifin. Consequently, the JUP was expelled from the UDF.<sup>48</sup> Mufti Mahmud tried his best to keep the UDF in a stronger position after the expelling of the JUP, by means of 'walk outs' from the NA or occasional statements in the national press of the Islamic Republic of Pakistan.<sup>49</sup>

The Bhutto government had shown the NAP-JUI governments as unable to maintain law and order situation, but the government order did not improve after their dismissal. A riot raged in the province of Baluchistan. In the year 1974 and later, several bomb explosions took place in the Khyber Pakhtunkhwa province. Zulfikar Ali Bhutto, his fellow ministers, and the pro-government media charged that the NAP leaders had planned those bomb explosions in order to spread chaos in the country as well as to damage its unity,

solidarity and integrity in collaboration with the government of Afghanistan. On February 8, 1975, Hayat Muhammad Khan Sherpao (1937-75) was killed in a bomb explosion<sup>50</sup> as he rose to address a gathering of students at the University of Peshawar. A few days after this incident, the Central government declared that the NAP was an unlawful organization, so, closed down its offices, and arrested many of leaders of NAP in the provinces of Khyber Pakhtunkhwa and Baluchistan. The arrested leaders also included Abdul Wali Khan. Members of the NA of Pakistan and the Provincial Assemblies of Khyber Pakhtunkhwa and Baluchistan belonged to the NAP and were unwilling to change their affiliation. Most of those opposition members were threatened in order to enable the pro-Bhutto groups (Zulfikar Ali Bhutto-groups) to establish secured legislative majorities in the aforesaid provinces.<sup>51</sup> On February 10, 1975, the federal government notified that the NAP was operating 'in a way harmful to the autonomy, solidarity and integrity of Pakistan' and through another notification issued on the same date, the federal government notified that as a result of the first mentioned notification, the NAP 'stands dissolved, therefore, its properties and funds are surrendered to the federal government of the Islamic Republic Pakistan'. Thereafter, as required by Section 4 of the Political Parties Act 1962, the federal government made a reference to the Supreme Court of Pakistan on February 24, 1975. Exercising the said powers, the Supreme Court issued various notices regarding the apprehended leaders of the NAP and on May 24, 1975, a consolidated written statement was filed in the Court on behalf of the party. Subsequently, on June 14, other political leaders including Abdul Wali Khan, Arbab Sikandar Khan Khalil (1913-82), Sardar Khair Bakhsh Bazanjo (1928-2014) and Sardar

Ataullah Mengal (b. 1929) also filed separate written statements in the Supreme Court.<sup>52</sup> The Court held that the NAP was acting in a manner detrimental to the sovereignty, solidarity and integrity of Pakistan. The Court stated that Pakistan did not consist of only one 'nation' but several 'nationalities' each one was having ethnic, cultural, social and political differences, was to refuse the very basis of Pakistan. The Court further said if, along with it the right of self determination was demanded for each nationality, then it amounted a demand for the breakup of Pakistan, aim at destroying its integrity and creating numerous independent states within Pakistan. Whereas, the concept of nationalities is concerned, it was opposed to the rudiments of Islam which preached that the entire Muslim world was one nation and that was the Muslim.

The Supreme Court detained the following acts of the offending party (NAP) as harmful to the sovereignty, solidarity and integrity of Pakistan:

- a) Disagreement of the NAP and its leaders that they were no longer bound by the constitution as the ruling party had itself violated the Tripartite Accord<sup>53</sup> as well as the constitution both in its letter and spirit. This was subversion from the constitution as per court observations.
- b) The claim of the NAP and its political leaders that the Pakhtunistan movement only wanted to rename the two provinces was held to be overall unsustainable. In fact it was pragmatic; they were demanding secession in the name of autonomy by making a new province and demanding complete self-government with only three subjects left to the centre.

- c) The sovereignty of the state includes external sovereignty and a political party that talks of shifting international boundary from one place to another was fundamentally affecting autonomy of the country.
- d) When the tribal areas choose for Pakistan, it means that the right of self-determination was exercised and no such question could further be asked. Seeking the right of self-determination in the existing conditions would be equal to a disintegration of the existing composition of the country and completion of the goal by force, if necessary, would be equal to working in a manner harmful to the sovereignty and integrity of the country.
- e) That the classification of the two-nation theory as a false saying raised to look for division of India, and the proposal that once the objective had been achieved, the theory ceased to be of any legality, and the standpoint that the founder of the country had reported his views about polity in the country and preferred it to be a secular state were all absolute change of facts.

This judgment and proceedings of the court on which it was based were certainly a disappointment.<sup>54</sup>

#### **4.5 The Constitution (Fifth Amendment) Bill 1976: Chastising the Judiciary**

On September 1, 1976, the Constitution (Fifth Amendment) Bill was introduced in the House. It provided amendments to eighteen Articles, amongst those twelve were related to the judiciary. Those were concerning to the appointment of Governors, the National Finance Commission, the establishment and jurisdiction of the courts, the retirement' age



of judges of the Supreme Court, the acting Chief Justice of the Supreme Court, and the composition and jurisdiction of High Courts. The Bill also referred to the Acting Chief Justices of High Courts, the jurisdiction of High Courts, contempt of court (COC), the judges' resignation, the administrative courts and Tribunals, the continuance of the proclamation of emergency, and various definitions and laws which were exempted from the operation of fundamental rights. The Bill was deferred to allow the proposing of amendments in two days.<sup>55</sup> Debating over the Bill Abdul Hafeez Pirzada, Federal Education Minister said that the judiciary had been trying to encroach upon the functions of the legislature and also of the executive of the country. Abdul Hafeez Pirzada said that if the judges were not happy with their positions, then they should leave their office and contest elections and come to the Assembly.<sup>56</sup> He further said that judiciary was created by the Constitution and drew powers from it for imparting justice within the given jurisdiction. Therefore, any action outside the jurisdiction as conferred by the Constitution would be considered as to rebellion and high treason. Abdul Hafeez Pirzada added that there was confusion on limits of the powers of judiciary and it was the obligation of the legislature to remove it. He defended fixing of the tenures for the Chief Justices of the Supreme Court and also the High Court's because all other prominent positions of the State like that of the President, the Prime Minister and Members of the Parliament had a fixed term of office. Pirzada, stated that in the present position, one can visualize the frustration of the other judges if the serving Chief Justice continued for fifteen years or more. As per Pirzada, appointment of a judge for the Supreme Court was

given to the best talent and it was justified to retire a judge of the High Court if he did not accept appointment as a judge of the Supreme Court.

Mufti Mahmud while speaking over the Bill pointed out that since implementation of the Constitution on August 14, 1973, sixty amendments had been approved, after which the words 'unanimous adoption' had become a source of contempt for the nation. He argued that it was leading the country towards a flux and instability. Mufti reminded members of the House that for approval of the Constitution (Fourth Amendment) Bill, the opposition had to be thrown out. The Fifth Amendment, he added, had been criticized by the lawyers of the country. The protection of the Defence of Pakistan Rules (DPRs) under this Amendment was groundless. It specifically became meaningless when the government claimed to have strengthened Pakistan's territorial integrity and solidarity and thus freed it from external dangers. He further argued that jurisdiction of the High Courts and the Supreme Court of Pakistan had been limited by making the tribunals through which justice would be willfully delayed. This action, according to him, was nothing but a great catastrophe. He did not make any objection to the setting up of a High Court in Baluchistan, but without power those institutions would be meaningless.<sup>57</sup> The Prime Minister of Pakistan, Zulfikar Ali Bhutto in his speech argued that 'each organization must remain in its sphere of influence and in its own orbit. It cannot contravene into the orbit of another organization. The judiciary cannot intervene into the functions of the executive of the country.'<sup>58</sup> He further stated about the stance of the opposition's over the Bill, "Then we have seen judgments in which it has been stated that because a leader of the opposition is a frustrated individual, he can in his frustration, indulge in sedition and

break the law because he is only giving expression to his frustration.”<sup>59</sup> The Bill was opposed by five members of the House including Mian Mahmud Ali Qasuri, Ghafoor Ahmad, Mahmud Azam Farooqi, Sardar Sherbaz Mazari and Zafar Ahmad Ansari.<sup>60</sup>

On September 5, 1976, the Constitution (Fifth Amendment) Bill was passed by the NA by 111 votes in its favour, whereas, the opposition walked out from the NA after second reading of the Bill on the basis that their amendments were not accepted.<sup>61</sup> The same Bill was approved by the Senate on September 8, 1976 and that became an Act on September 15, 1976 after receiving the approval of the President of Pakistan.<sup>62</sup>

After the enactment of the Constitution (Fifth Amendment) Bill, the opposition benches seemed to be exhausted and fed up with unfruitful boycotts and walk outs from the Assembly. That probably convinced them to say farewell to the UDF. The statement of Mufti Mahmud on that very occasion regarding the Executive Body meeting of the JUIP at Lahore, that ‘negotiations are under way with the opposition on a collective election strategy’, was a proof in itself, as the UDF had already approved the manifesto for the polls.<sup>63</sup>

#### **4.5.1 Constitution (Fifth Amendment) Act, 1976**

The Fifth Amendment brought the following major changes to the Constitution of Pakistan:

- a) The Governor of a province was not to be a permanent resident of that province.
- b) The period for separation of the judiciary from the executive was enhanced from three to five years.

- c) The Chief Justice of the Supreme Court, unless he retired earlier on attaining the age of sixty five, would hold his office for a period of five years.
- d) In the same way, the Chief Justice of a High Court would hold his office for a period of four years.
- e) On the completion of the tenure of office as the Chief Justice of the Supreme Court or a High Court, as the case may be, would have either of the two options, to retire from the office and receive the pension to which he would have been entitled and if he retired from his office on attaining the age of retirement; or to presume the office of the most senior judges of the court concerned and to continue to receive the same salary which he was getting while holding the office of the Chief Justice.
- f) A Chief Justice, who continued after the completion of his tenure of office as senior-most judge, could not even be appointed as acting Chief Justice in absence of the Chief Justice or when a vacancy occurs in the office of Chief Justice.
- g) The term of office of the Chief Justice was to apply to those Chief Justices too who were appointed prior to the enactment of the Fifth Amendment.
- h) The power of the Supreme Court to issue directions, orders or decrees would be subject to the Article 175(2) of the Constitution, which stated that 'No court shall have any jurisdiction to save as is or may be conferred on it by the Constitution or by or under any law'. Thus the jurisdiction of the Supreme Court's was restricted to what was expressly granted under the Constitution or a law.
- i) The common High Court of Sindh and Baluchistan was dissolved and separate High Courts for these two provinces were to be established.

- j) The Supreme Court and the High Courts were stopped from issuing any order under Article 199 prohibiting the forming, or suspending the operation, of an order for the detention of any person under any law providing for preventive detention; releasing on bail, or suspending the operation of an order for the custody, of any person against whom a report or complaint had been made before any court or tribunal, or against whom a case had been registered at any police station in the country, in respect of any offence made, or who had been convicted by any court or tribunal; prohibiting the registration of a case at a police station, or the making of a report or complaint before any court or tribunal, in respect of an offence; or granting interim relief to any person, persons referred to above.
- k) All the orders, whether made by the Supreme Court or a High Court, formation of which was forbidden under the Fifth Amendment, were to become ineffective after the commencement of the Fifth Amendment Bill and all applications for such orders were to decline.
- l) A judge of a High Court could be transferred to another High court for a period after one year without his consent and without the consultation of the Chief Justices concerned.
- m) Article 204, regarding contempt of court, was amended and power of the High Courts to punish a person for contempt of court (COC) was made subject to ordinary law.
- n) A judge of a High Court who refused to accept appointment as a judge of the Supreme Court would be deemed to have retired from his office.<sup>64</sup>

It is clear that the main focus of the Fifth Amendment was the judiciary whose powers and jurisdiction were minimized and its members were made insecure, having been

uncovered to the threat of transfer. It took away the option of the Chief Justice or other judges of High Courts to negate elevation to the Supreme Court. One could only do so if he takes immediate retirement. The judiciary was hurt and its powers to punish for COC and constitutional requirements in this regard were withdrawn.

A positive progress of the lawyers' struggles against the law of contempt was that a new law on the COC was introduced at the end of 1976. The new law provided for criticism by way of fair comment about the general working of courts and the merits of a decision of a court. It also allowed the publication of a fair and accurate report of any judicial proceedings, of making true averments for beginning of action for, or in the way of disciplinary proceedings against a judge, or reasoning a plea of truth as defence in proceedings for COC. However, all this was allowed subject to the condition that it was done in good faith and spoken in mild language. The law also provided for appeals and transfer of proceedings from one judge or Bench to any other. In cases concerning to personal categorization of a judge, he could not sit in ruling over the subject and the trial was to be held by another judge or a Bench of judges in the country.<sup>65</sup>

#### **4.6 The Constitution (Sixth Amendment) Bill, 1976**

The Sixth Amendment Bill to the Constitution was approved rather quickly and overnight. While the NA of Pakistan was having its last session before its dissolution prior to fresh elections, the Constitution (Sixth Amendment) Bill was put before the Parliament and was approved. The Amendment related to four Articles governing the retiring age of Judges of the Supreme Court and the High Courts and others. It was provided that the chief Justice of the Supreme Court who had got the retirement age of

sixty-five, and a chief Justice of a High Court, who had got the retirement age of sixty-two and had not completed the tenure of their offices for five years and four years, respectively, would continue to sit in office till the completion of their respective tenure of office, as the case may be. Other provisions of the Sixth Amendment Bill were minor ones. The opposition members like Mawlana Abdul Haq, Ghafoor Ahmad and Mawlana Niamatullah strongly opposed the Bill on the one hand, by fixing a tenure of office for the Chief Justices, they were compelled to retire before reaching the retirement age, on the other hand, they were allowed to continue, under the Sixth Amendment even after the age of retirement to complete their tenure of his office. All the amendments presented by the opposition members to the Sixth Amendment Bill were rejected by the House.<sup>66</sup>

#### **4.7 Preventive Detention against the Opposition**

Changing political scenario was shown in the violation of personal liberties of the citizens of the State. Government's efforts to silence opposition frequently provoked legal challenges which led to oppression and further litigation. By 1977, the government had lodged hundreds of cases against opposition and party members as well as their family members on matters sometimes distantly related to politics.

As the law changed under which emergency detentions were enforced, so did the capacity of the courts to solve the grievances. It was easier to defend individual rights under the 1960 West Pakistan Maintenance of Public Order Ordinance as compared to the Defence of Pakistan Rules, which clearly restricted available remedies. Nevertheless, in its 1973 cases, the Karachi High Court supported citizens' rights even when it could not offer relief to the populace. Getting petitions filed after language riots in Sindh in 1972, the

High Court reminded the government that 'a violation of the rights of liberties of the citizens should be strictly construed,' and suggested that legal interpretation should, whenever possible, favour the citizen.<sup>67</sup>

Keeping in view the above study, it can be concluded that six amendments were made in the 1973 Constitution of the Islamic Republic of Pakistan. The opposition at that time had tried its best to defend the Constitution from distortion. As the new constitution was framed in 1973, the government was supposed to announce and the opposition to demand new elections in Pakistan. Perhaps the opposition and the government did not want to spoil the national wealth over another election within three years tenure. They agreed over the continuation of assemblies over the elections of 1970. This step of the opposition can be considered as its compromising and accommodative behaviour, which is the foremost feature of the parliamentary democracy. Being sure of the defeat in the Presidential election, the opposition nominated Mawlana Shah Ahmad Noorani to contest the election in order to chastise the democratic norms in its true spirit. Whenever the government benches presented the amendments to the Constitution, the opposition essentially put forward its comprehensive and expert opinion before the House for the protection of the Constitution. The opposition had held Bhutto responsible behind the conspiracy of separating East Pakistan. Bhutto, therefore, excluded the words 'East Pakistan' from the text of the 1973 Constitution and defined the borders of Pakistan without Bangladesh. Secondly he brought the first amendment to the Constitution in order to recognize Bangladesh as a separate state. Thirdly, he took the issue to the Supreme Court of Pakistan. The opposition, then, could do nothing except voicing in the



wilderness. Most of the opposition members, being *ulama*, had a contribution in one or the other way, since the creation of Pakistan, to realize the public the importance of *Khatm-i-Nubuwat*. These were the efforts of the opposition due to strong public demand, which scoop the second amendment to the Constitution of the Islamic Republic of Pakistan. The Rabwah incident was just an immediate cause for accelerating the constitutional amendment. The opposition members, collectively, were the first to move a resolution at the floor of the legislature, which demanded the declaration of Qadianis as non-Muslim minority of the Islamic Republic of Pakistan. The recognition of the opposition's demand and approving the resolution of the opposition by the government to discuss the matter in the 'in-camera session of Parliament' within the National Assembly was the proof of the opposition's stubbornness, devotion and being strong representatives of the people of their constituencies. The government did not spare an opportunity to suppress the opposition. The third amendment was passed by the government benches to persecute the opponents. The leader of the opposition, Abdul Wali Khan was sent to jail by the government and his party was banned under the third amendment of the Constitution. There would be no need for an accord between the government and the opposition with the observations from the opposition side that its resolutions, privilege motions and amendments were never honoured, if the government would seriously listen to the opposition's worries. The true democratic governments, in any part of the world, have never decreased the powers of the courts. But the PPP government, through the fourth amendment to the constitution, curtailed the powers of the judiciary hence jeopardizing its independence in Pakistan in order to meet its selfish ends of eliminating

the opposition from the scene. The main focus of the Fifth Amendment was the judiciary whose powers and jurisdiction were minimized and its members were made insecure, having been uncovered to the threat of transfer. It took away the option of the Chief Justice or other judges of High Courts to negate elevation to the Supreme Court. One could only do so if he takes immediate retirement. The judiciary was hurt and its powers to punish for COC and constitutional requirements in this regard were withdrawn. The Sixth amendment to the constitution was sternly opposable, on the one hand, by fixing tenure of office for the Chief Justices, they were compelled to retire before reaching the retirement age, and on the other hand, they were allowed to continue, under the Sixth Amendment even after the age of retirement to complete their tenure of their office.

The opposition strongly commented over the amendments to the constitution and presented their own amendments but most of them were rejected by the government benches, but the opposition played a positive role and fulfilled its duty to safeguard the rights of the citizens and also set an example for the future opposition parliamentarians to be followed by them. In short the above study provided information regarding the line of action, the opposition benches followed while performing their obligations and paved way for the future parliamentarians in the House.

## REFERENCES

- <sup>1</sup> Hamid Khan, *Constitutional and Political History of Pakistan* (Karachi: Oxford University Press, 2009), 286.
- <sup>2</sup> *Dawn* (Karachi), August 7, 1973.
- <sup>3</sup> *Dawn* (Karachi), August 11, 1973.
- <sup>4</sup> *Dawn* (Karachi), August 13, 1973.
- <sup>5</sup> Sayyid A. S. Pirzada, *The Politics of the Jamiyyat Ulama-i-Islam Pakistan 1971-1977* (Karachi: Oxford University Press, 2000), 88-89.
- <sup>6</sup> Hamid Khan, *Constitutional and Political History of Pakistan*, 289.
- <sup>7</sup> *Ibid.*, 290.
- <sup>8</sup> *NA (Legislature) Debates*, Official Report, Volume III, No. 3 (June 1, 1974), 78-82.
- <sup>9</sup> On May 30, 1974, the leader of the Opposition in the Punjab Assembly, Allama Rehmatullah Arshad, speaking on the incident, demanded an immediate investigation and urged the government to declare Qadianis a non-Muslim minority and to remove them from all key posts. See *Nawa-i-Waqt* (Lahore), May 31, 1974.
- <sup>10</sup> The Punjab government responded quickly and constituted an inquiry headed by Justice K. M. S. Samdani of the Lahore High Court. The terms of reference were 'to inquire into the incident and other matters pertaining to the incident in order to determine the extent of individual and collective responsibility and to recommend suitable action to the Government. See *The Pakistan Times* (Rawalpindi), May 31, 1974.
- <sup>11</sup> *Ibid.*, 82-9.
- <sup>12</sup> *NA (Legislature) Debates*, Official Report, Volume III, No. 4 (June 3, 1974), 125-30.
- <sup>13</sup> From the Opposition side, the APKNAC was to consist of Mufti Mahmud, Mawlana Obaidullah Anwar, Mawlana Taj Mahmud of the JUIP, Mawlana Shah Ahmad Noorani, Mawlana Abdul Sattar Khan Niazi and Qazi Rasul of the JUP, Ghafoor Ahmad and Choudhry Ghulam Jilani of the JI, Arbab Sikandar Khan Khalil and Amirzada Khan of the NAP. Sayyid A.S. Pirzada, *The Politics of the Jamiat Ulama-i-Islam Pakistan 1971-1977* (Karachi: Oxford University Press, 2000), 120.
- <sup>14</sup> *Ibid.*, 121.
- <sup>15</sup> Mujeeb Ahmad, *Jam'iyyat 'Ulama-i-Pakistan 1948-1979* (Islamabad: National Institute of Historical and Cultural Research, 1993), 107.
- <sup>16</sup> *Ibid.*, 125-26.
- <sup>17</sup> Mazhar Hussain, *Pakistan kay Siyasi Ittihad may Mawlana Shah Ahmad Noorani ka kirdar: Qaumi Ittihad say Muttahida Majlis-i-Amal tak* (Lahore: Allama Shah Ahmad Noorani Research Centre, 2009), 97.
- <sup>18</sup> *Ibid.*, 97-98.
- <sup>19</sup> Sahibzada Faiz-ur-Rasul Raza Nurani, *Afkar-i-Nurani* (Lahore: Maktabah-i-Ahl-i-Sunnat Jamia Nizamiya-i-Rizwiya, n.d.), 41-44.
- <sup>20</sup> Ahmad, *Jam'iyyat 'Ulama-i-Pakistan*, 107.
- <sup>21</sup> Nurani, *Afkar-i-Nurani*, 43-44.
- <sup>22</sup> Ahmad, *Jam'iyyat 'Ulama-i-Pakistan*, 110.
- <sup>23</sup> *Ibid.*, 109.
- <sup>24</sup> *Ibid.*, 109.
- <sup>25</sup> Code of Criminal Procedure (Amendment) Ordinance, 1975, PLD 1976 Central Statutes 57. Code of Criminal Procedure (Amendment) Act 1976 (Act XIII of 1976) PLD 1976 Central Statutes 175. Section 498-A was added to the Code of Criminal Procedure.
- <sup>26</sup> Hamid Khan, *Constitutional and Political History of Pakistan*, 293.
- <sup>27</sup> Act XXII of 1975, PLD 1975 Central Statutes 109.
- <sup>28</sup> In case of detention under a federal law, the Review Board was to consist of three former judges of the Supreme Court or a High Court, and in case of detention under a Provincial Law, such Board was to consist of three former judges of a High Court.
- <sup>29</sup> *NA Debates*, Official Report, Vol. II, No. 16, February 12 1975, 250-51.

- <sup>30</sup>Ibid., 255-56.
- <sup>31</sup>Ibid., Vol. 1, No. 9, January 31, 1975, 406.
- <sup>32</sup>For details see *ibid.*, Vol. II, No. 13, February 6, 1975, 93-5.
- <sup>33</sup>See report of Mufti Mahmud's press conference at Islamabad in *Nawa-i-Waqt* (Rawalpindi) and *The Morning News* of May 27, 1975.
- <sup>34</sup>See his statement in *Nawa-i-Waqt* (Rawalpindi), June 2, 1975 and *Hurriyat*, June 3, 1975.
- <sup>35</sup>Constitution (Fourth Amendment) Act, 1975. Act LXXI of 1975. PLD 1975 Central Statutes, 337.
- <sup>36</sup>*Dawn* (Karachi), November 15, 1975. The members of the Opposition who were forcibly removed from the Assembly by the security staff were Choudhry Zahoor Choudhry, Mahmud Ali Qasuri, Malik sulaiman, Mufti Mahmud, Ghafoor Ahmad, Sahibzada Ahmad Raza Khan Qasuri, Dr. Ghulam Hussain and Zulfiqar Ali Bajwa.
- <sup>37</sup>*NA Debates*, Official Report, Vol. II, No. 12, November 14, 1975, 52-5.
- <sup>38</sup>For their speeches, see *ibid.*, 26-43, 2-13, 45-51.
- <sup>39</sup>See his speech, *ibid.*, 13-17.
- <sup>40</sup>For Speaker's directions see *ibid.*, 62-4.
- <sup>41</sup>For details see Ghafoor Ahmad, *Ain Main Taza Termeem: Hazb-i-Ikhtilaf ka Muwaqqif* (Urdu) in *Nawa-i-Waqt* (Rawalpindi), November 24-6, 1975. For condemnation of the Amendment by the JI, see *Wafaq*, November 29, 1975 and *Hurriyat*, November 30, 1975.
- <sup>42</sup>*Wafaq* (Lahore), November 19, 1975.
- <sup>43</sup>*The Sun* (Lahore), December 11, 1975.
- <sup>44</sup>*Nawa-i-Waqt* (Rawalpindi), November 20, 1975.
- <sup>45</sup>*The Sun* (Lahore), December 8, 1975.
- <sup>46</sup>For UDF decision, see *Nawa-i-Waqt* (Lahore), August 1, 1975.
- <sup>47</sup>*Morning News* (Karachi), August 8, 1975 and *Dawn* (Karachi), August 19, 1975.
- <sup>48</sup>*Imroze* (Lahore), November 23, 1975.
- <sup>49</sup>*Jang* (Lahore), June 27, 1976.
- <sup>50</sup>Hayat Muhammad Sherpao was a close companion of Bhutto and had served as a member of his cabinet. At the time of the explosion, he was senior minister in the cabinet of Khyber Pakhtunkhwa.
- <sup>51</sup>Khalid Bin Sayeed, *Politics in Pakistan* (New York: Praeger Publishers, 1980), 135.
- <sup>52</sup>Hamid Khan, *Constitutional and Political History of Pakistan*, 295.
- <sup>53</sup>This was the accord reached between the PPP on the one hand and the NAP-JUI alliance on the other hand before the Constitution of Pakistan became effective.
- <sup>54</sup>Hamid Khan, *Constitutional and Political History of Pakistan*, 297.
- <sup>55</sup>*NA (Legislature) Debates*, Official Report, Vol. VIII, No. 19 (September 3, 1976), 590-97.
- <sup>56</sup>*Dawn* (Karachi), September 4, 1976.
- <sup>57</sup>*NA (Legislature) Debates*, Official Report, Vol. VIII, No. 19 (September 3, 1976), 590-7.
- <sup>58</sup>*Ibid.*, 600.
- <sup>59</sup>*Ibid.*, 601.
- <sup>60</sup>*Ibid.*, 624-86.
- <sup>61</sup>Various amendments suggested by Mahmud Azam Farooqi, Zafar Ahmad Ansari, P.K. Shahani, Mawlana Ghulam Ghous Hazarvi, Mawlana Niamatullah and Ghafoor Ahmad were rejected by the House. See *ibid.*, 612-73.
- <sup>62</sup>Constitution (Fifth Amendment) Act, 1976. Act LXII of 1976. PLD 1976 Central Statutes 538.
- <sup>63</sup>Pirzada, *The Politics of the Jamiat Ulama-i-Islam Pakistan 1971-1977*, 133.
- <sup>64</sup>Act LXIV of 1976. PLD 1977 Central Statutes 18.
- <sup>65</sup>Hamid Khan, *Constitutional and Political History of Pakistan*, 300.
- <sup>66</sup>The All Pakistan Legal Decisions (1977), Vol. XXIX, Lahore, pp.46-7.
- <sup>67</sup>Hamid Khan, *Constitutional and Political History of Pakistan*, 303.

## CHAPTER- 5

### ROLE OF OPPOSITION IN LEGISLATION DURING 1973-1977

#### SECTION-I

#### ROLE OF OPPOSITION IN LEGISLATION REGARDING RELIGIOUS ISSUES

The religious, social, economic and political issues as discussed and critically analyzed by the opposition members in the NA of Pakistan during 1973-77 are highlighted hereunder. The *ulama* and the religio-political parties had left with only 18 Members of National Assembly (MNAs) but this tiny group of *ulama* had a stronger voice in the National Assembly. The opposition members were callous critics of Zulfikar Ali Bhutto and his product of socialism. They were suspicious of his religious credentials. The PPP had very little representation in the Khyber Pakhtunkhwa and Baluchistan whereas the JUI was stronger in both these provinces. Because of enjoying majority of JUI elected members in the Baluchistan Assembly, Mufti Mahmud offered a formula for coalition with any of the parties (NAP and QML) on the following basis:

1. The coalescing party would support JUI in its stand on the process of constitution-making; and

2. The provincial governments would abide by the injunctions of *Shariah* to the extent permitted by the limitations under which they functioned.<sup>1</sup>

This formula brought JUI and NAP together and they agreed to support each other for making the governments in Baluchistan and Khyber Pakhtunkhwa provinces.

The opposition parties combined in UDF in March 1973 demonstrated their commitment to safeguard and protect the country's geographical entity and unity, to achieve an Islamic, democratic and parliamentary constitution. They pledged to protect fundamental rights for all citizens, unshackle the people from all forms of mistreatment and to provide basic necessities of life to the common populace. They promised to protect provincial autonomy from encroachment by the centre, to combat all internal and external conspiracies against the ideology of Pakistan and to secure the revocation of the national emergency which provided the government with authoritarian power. The opposition vowed to eliminate 'fascism' and foil all attempts to impose dictatorship in the country. The prime response of the PPP government to the opposition parties was to counter the latter's suggested amendments to different constitutional provisions. The main concern of the opposition was to bring different constitutional provisions in accordance to the teachings of the Quran and *Sunnah*. After long debates between the opposition members and government benches over the Draft Constitution, the permanent constitution of Pakistan was eventually approved on April 10, 1973. After being approved by the President on April 12, the Constitution was implemented on August 14, 1973.<sup>2</sup> The opposition members did not cast their vote in favour of the original Constitution because

it sought to enable the citizens of Pakistan to live according to the teachings of Islam and not to force them to live in accordance with the teachings of Islam.<sup>3</sup>

Zulfikar Ali Bhutto, the Prime Minister of Pakistan, embarked on Islamic socialism which engrossed vigorous criticism from the opposition members. It was due to the opposition's efforts that Bhutto's favourite slogans of "socialism" and "Islamic socialism" were completely omitted from the text of the original constitution.<sup>4</sup> In order to conciliate the opposition, Bhutto in the 1973 Constitution acknowledged Islam as the 'state religion' and obviously mentioned that 'only a Muslim was permitted to become the President of Pakistan. Going through the written document, one can see the issues the opposition members were faced with. The fact that both parliamentary and presidential forms of governments failed were of much concern to the opposition. The opposition members moved various amendments to the Original Constitution of Pakistan in that regard. Bhutto agreed to a parliamentary form of government in order to make the office of the Prime Minister extraordinarily authoritative with respect to that of the President. The President had no veto powers with respect to legislation, he was to execute over the strap advice of the Prime Minister and he was only to dissolve the NA on the advice of the Prime Minister. On one hand, the President could be removed by two-third majority in the joint session of the Parliament while on the other hand, a vote of no-confidence against the Prime Minister could only be moved if the name of a successor was also provided and in case of failure of such a vote to oust the Prime Minister, such a resolution could not be moved again for a period of six months. A federal form of government was approved by the Constitution, with provinces having jurisdiction and legislative powers over their

provinces while the federal jurisdiction was over the entire state. The legislative powers were divided into two lists. The first was the Federal List which comprised of 67 items including enumerated subjects in which the Federal Centre alone could legislate. The second was the Concurrent list having 47 items in which both the Centre and the provinces were allowed to legislate, but in case of conflict the federal law was superior. The Chief Justice was to appoint an arbitrator to settle a dispute between the centre and provinces. The Constitution however failed to provide a separate list for sole Provincial legislation. Unlike the previous constitutions, this time a bicameral Parliament was provided with the Senate (Upper House) giving equal representation to the provinces and the National Assembly (Lower House) allocating seats to each province according to their population. The Senate was meant to be a check over the NA. Thus the Constitution provided plentiful safeguards in order to maintain a stable and prosperous system but it were not enough. So, a series of amendments from the opposition persuaded the government to bring some changes in the original text of the 1973 Constitution of Pakistan.<sup>5</sup>

Although the 1973 Constitution cannot be regarded as an Islamic one completely but due to the efforts of the opposition members and the *ulama* some Islamic clauses were included in this Constitution. The Islamic clauses, which were made part of, the 1973 Constitution due to the amendments of the various opposition members, are as under:

1. Islam will be the State religion.
2. No law will be made repugnant to the Quran and *Sunnah*. Already existing laws will be brought in accordance with Quran and *Sunnah*.



3. Forming the Islamic Ideology Council within 90 days of the implementation of the Constitution will be compulsory. The Chairman of the Council will be appointed from the two judges of the Supreme Court or the High Court, who will be members of the Council.
- 4 Two-fifth of the minority of the Provincial or Central Assembly will be able to send any law under consideration to the Islamic Ideology Council. (At first this right was given to the majority)
5. If a bill was passed in a hurry on necessary basis and later on the Council gives the opinion that it was against the Quran and *Sunnah*, then the revision will be compulsory.<sup>6</sup>

## **5.1 Opposition's amendments for Islamisation of the Constitution of Pakistan**

### **5.1.1 Opposition's amendments to bring various provisions into Conformity with Islam**

While forwarding his suggestions, from the opposition side, Mawlana Shah Ahmad Noorani from JUP, for the future constitution of Pakistan, said that:

Our constitution should be Islamic one. The Islamic democratic society should be the part of our constitution. This constitution has a space for the Muslim to adopt any religion but when protection is not granted to the religion of a Muslim in a constitution that could not be considered as a complete Islamic one... It was heard that if the apostasy was stopped the world will make fun of us and will say that the Muslim has stopped the Muslim in his country to divert from his religion. So I will say that this objection of the people is wrong.<sup>7</sup>

If someone left the religion of Islam he was an apostate and the punishment for apostasy in Islam was death. The example of the different world constitutions was present and those who rebelled against the constitution were awarded the penalty of death. So, we

should also give a provision in the future constitution for a law regarding Apostasy.<sup>8</sup> He declared that as Quran has presented the best democratic system to the world. Each and every deed of the Muslim was successful through mutual consultation. The Quran has a complete *Surah* with the title '*Shurah*' in this regard. Mawlana Noorani said that the Europeans had adopted the same democratic system of Islam and they were successful eventually.<sup>9</sup>

Mawlana Abdul Hakim opposed the amendment forwarded by Sheikh Muhammad Rashid and suggested that the words 'Socialism is to be basis of economy' be substituted with Islamic justice or social justice'. He urged that Islam was a complete code of life, and socialism was tagged by the nations in contradiction to the teachings of the Quran. So, socialism should be rejected. Sahibzada Ahmad Raza Khan Qasuri an elected member of the PPP proposed that Socialism be substituted by *Masawat-i-Muhammadi* that was rejected too.<sup>10</sup>

In an amendment to para (b) clause (2) of Article 3, about individual rights to be dealt with under law, Mawlana Abdul Hakim from JUI suggested to include that 'no person shall be free or forced to undertake something contrary to the Quran and Sunnah.' He moved another amendment to clause (1) of Article 7, on laws in harmony with fundamental rights, and suggested to condition the fundamental rights of individuals with Islamic teachings. Mawlana Ghulam Ghous Hazarvi from JUI supported it in the NA. Another amendment by Mawlana Abdul Hakim required the addition of 'recognized injunctions of Islam' in clause (1) of Article 16, about the forming of associations, in the context of freedom of association. The Mawlana asserted that freedom of association,

governed by clause (1) of Article 16, 'be subjected to the injunctions of Islam with a view to arrest the activities of associations engaged in anti-Islamic activities or those indulging in defaming Islam'. His other amendment pertained to Article 17, guaranteed the formation of associations regarding economic, business, or of trade nature, and asked to restrict them within the express provisions of the Quran and Sunnah.<sup>11</sup>

Mawlana Hazarvi presented an amendment which placed restrictions on the freedom of speech and of the press, if they were found to be contrary to the integrity, security, or defence of Pakistan, maligning Islam, or any act of *qausi-shariah* nature. The amendment was withdrawn by Mawlana when 'glory of Islam' was added to the said Article by the government benches. Mawlana Hakim put forward an amendment to para (a) of Article 19, about the freedom of religion, and recommended that non-Muslims could propagate religious views 'among (those) professing that religion but shall not propagate against Islam'. Through this amendment, he wanted to arrest the missionary activities of the non-Muslims.<sup>12</sup> In an amendment, Mawlana Abdul Haq from JUI sought to substitute clause (2) of Article 44 with: "A person shall not be qualified to be elected as President unless he is a male of not less than forty years of age." A similar amendment, requiring that the President must be a male Muslim, was supported by Mawlana Hazarvi and Mufti Mahmud. The proposal drew severe criticism from women members of the Assembly, namely, Begum Nasim Jahan and Nargis Naeem Sandhu of PPP. In addition, Mawlana Abdul Haq required the President 'to hold a position of distinction in the field of religious and temporal knowledge and on account of piety, integrity, observance of *faraiz* and avoidance of *munkirat*'.<sup>13</sup>

### 5.1.2 Opposition for the Teachings of Quran and Sunnah

Members from the parliamentary opposition parties were staunch Muslims and wanted to Islamise the whole society in the light of the Quran and *Sunnah*. They moved various amendments to make the Quranic teachings compulsory. For example one of those amendments in this regard was presented by Mawlana Abdul Hakim:

That for paragraph (a) of clause 2 of Article 31 of the Constitution Bill, following be substituted, namely: -

(a) To make teaching of Holy Quran and Islamiat compulsory and reform the system of education in such manner that it may enable the Muslims to mould their lives in accordance with teaching of Holy Quran and Sunnah.<sup>14</sup>

The House rejected the above amendment to the Constitution Bill of Mawlana Abdul Hakim.<sup>15</sup> He also forwarded an amendment for eradication of the alcoholic liquor from our society. The amendment moved in this regard was:

“That to the effect for paragraph (h) of Article 39 of the Constitution Bill, the following be substituted, namely: -

(h) Prohibit the production, import, sale, possession and consumption of alcoholic liquor except for medical purpose, and in the case of non-Muslims for religious purposes.”<sup>16</sup>

The above amendment of Mawlana Abdul Hakim was rejected by majority of the members of the House.<sup>17</sup>

### 5.1.3 Opposition against the Usury

Mawlana Ghulam Ghous Hazarvi, on behalf of the opposition, made it clear before the House that the people were wrong to consider that Islam encouraged capitalism. As far as the Islamic teachings were concerned the *riba*’ (usury) was prohibited. If the Muslims would indulge in *riba*’ they would be destroyed in this world and the world hereafter. Without usury everybody could lead an honourable life in this country. But if there would

be the system of usury then wealth would concentrate in a few hands and the poor would gain nothing out of it. So, he demanded that the government should give a proper timeframe for the elimination of *riba* instead of saying 'eliminate *riba*' as early as possible.' So, the Islamic economic system would prevail and the country would flourish.<sup>18</sup>

Mawlana Abdul Haq presented the following amendment in this regard:

"That for clause (f) of Article 40 of the Constitution Bill the following be substituted, namely: - (f) Prohibit *riba*' as early as possible but not later than five years from the commencing day."<sup>19</sup>

The Assembly rejected the amendment of Mawlana Ghulam Ghous Hazarvi regarding *riba*.<sup>20</sup>

#### **5.1.4 Opposition on the Formation of Council of Islamic Ideology**

Mawlana Noorani, from the opposition benches, moved an adjournment motion to discuss the formation of the Council of Islamic Ideology that was contrary to the spirit of the Constitution of the Islamic Republic of Pakistan, which had caused great resentment throughout the country. He cited section (2) of the Article 228 that "The Islamic Council shall consist of such members being not less than eight and not more than fifteen as the President may appoint from amongst persons having knowledge of the principles and philosophy of Islam as enunciated in the Quran and *Sunnah*, or understanding of the economic, political, legal or administrative problems of Pakistan." He emphasized that it was also written "not less than four of the members or persons, each of whom has been engaged, for a period of not less than fifteen years, in Islamic research or instruction."<sup>21</sup>

He pointed out that the members appointed to the Council had no scholar except one according to the Constitution. So, the abovementioned clause of the Constitution had been negated. He made the government realize the mistake and demanded to appoint the *ulama* according to the spirit of the Constitution so that they might be able to provide the country with the best Islamic laws.<sup>22</sup>

#### **5.1.5 Resolution for the Economic System to be based on Islamic Injunctions**

Mawlana Abdul Haq moved a resolution which said:

“That this Assembly is of the opinion that the economic system of transaction based on usury e.g., banking, etc., should be done away with and it be brought in line with the injunctions of Islam.”<sup>23</sup>

Highlighting purpose of the resolution, Mawlana Abdul Haq said that Islam was the State religion of Pakistan and on that basis usury must be contaminated through Constitution of the Islamic Republic of Pakistan. Usury was prohibited by Islam in its each and every form. Giving reference of the Quran where Allah has warned every nation and individual to be in war with Him who was involved in businesses based on interest. Therefore he strongly demanded to remove the economic system based on usury and brought in line with the injunctions of Islam.<sup>24</sup>

Mawlana Ghulam Ghous Hazarvi declared that some countries in the world were managing banking without interest. The government could experiment Islamic banking and it would function the best way as it was the commandment of Allah for all humans in the world. He suggested forming a Board containing the *ulama* who would decide whether the existing system of banking was legal on the basis of the injunctions of Islam

or otherwise. The *ulama* could better issue a verdict how much the usury was a curse and root cause of most of the evils.<sup>25</sup>

Mawlana Abdul Hakim made it clear that including banking all other businesses in the economic system of Pakistan were to be brought in the circle of Islam. It was also a part of the government's manifesto to implement interest free economy in Pakistan. He forbade the Members of the House to give reference from the western system based on exploitation. He suggested inviting the experts in Islamic banking in order to prepare a system based on interest free economy. We will have to terminate the unequal distribution of wealth and its accumulation into few hands. If we wished to have equality, social justice and fair play in the country then the government would have to eradicate all the illegal ways of livelihood.<sup>26</sup>

#### **5.1.6 The Publication of the Holy Quran (Elimination of Printing Errors) Bill, 1973**

Mawlana Kausar Niazi (Minister for Information and Communication, Hajj and Auqaf) moved the following Bill:

“That the Bill to ensure publication of the text of the Quran free from errors of printing [The publication of the Quran (Elimination of Printing Errors) Bill, 1973], as reported by the Standing Committee, be taken into consideration at once.”<sup>27</sup>

Explaining the purpose of the Bill, Mawlana Kausar Niazi said that the previous governments had never heeded to publish the Quran without errors. Many copies of the nature were brought into notice of the government which earned bad name for the existing government within and outside the Pakistan. The news regarding missing of verses in the Quran were published in the international dailies. Letters from various parts

of Pakistan were received which pin pointed the printing errors in the copies of the Quran published by different Publishing Companies. The government responded sharply and presented the Bill for the purpose. The Bill had guaranteed correct publication of the Quran. The registration of the Quran's Publishers was made obligatory. Punishment was recommended for the publishers publishing the Quran with errors. A certificate at the end of the Quran bearing the authentication of the correct printing and publishing was made compulsory for the publishers of the Quran.<sup>28</sup>

Mufti Mahmud appreciated the Bill presented by Mawlana Kausar Niazi and requested members of the House to pass it unanimously. He mentioned three causes for the incorrect publications of the Quran. The first reason was the movement of anti-Islamic elements in the world who intentionally amended the Quran. He gave the example of the Jews of Israel who published the Quran using the best paper and charming printings. They had tampered the text and distorted the meanings at many places. Wherever, the Jews were condemned in the Quran, they tampered those verses and distributed millions of copies of that tampered Quran among the newly independent Muslim States of Africa. Jamal Abdul Nasir of Egypt collected all copies of that edition and threw away into the sea. He established a permanent station with the name of *Iza'at-ul-Quran* for publishing correct copies of the Quran and sent it to all Muslim countries of the world. Secondly, the errors occurred unintentionally by the stupidity and ignorance of a book-binder. Third cause was the carelessness of the companies just making hurry in order to earn money. He also suggested establishing a Radio Station for the purpose of teaching the Quran methodically and correctly to the Muslims.<sup>29</sup>



Going into the details of history of the Quran Mawlana Abdul Mustafa Al-Azhari of JUP told that Allah had taken the responsibility of the protection of the Quran. The Quran was revealed to the Prophet Muhammad (PBUH) in twenty-three years duration. The Prophet Muhammad (PBUH) appointed twenty-nine writers for writing the Quran. Hazrat Zaid wrote the Quran in the form of a Book. In the final year of the life of the Prophet, the angel Gabriel recited the entire Quran before the Prophet and vice versa. Hazrat Zaid was present in the later recitation of the Quran. Then Hazrat Umar (the second Caliph of Islam), after consulting Hazrat Abu Bakr (the first Caliph of Islam), gave the responsibility of the writing of the Quran in the form of a Book. He gave it the form of a Book and keeping one of its copies in his own custody, Hazrat Abu Bakr sent its copies to various places like *Masjid-i-Nabavi*, Kufa, Damascus and Egypt. The same copies were followed by the Muslims and no distortion could take place at any stage. Therefore, he requested the Members of the House to pass the Bill under consideration unanimously.<sup>30</sup>

Mawlana Abdul Hakim esteemed the Bill and proposed the government to avoid the audacity of the Quran. It should prohibit the owners of the printed media to write the verses of the Quran over Newspapers, journals, magazines, books, pamphlets and other printing materials. The decayed papers of the same printing materials were seen lying on the earth having the verses of the Quran. So, there were chances to disgrace the Quran unintentionally. The official resources especially the media and publications could be effective sources in that regard.<sup>31</sup>

Sahibzada Safiullah of JI forwarded the following amendments to the Bill under deliberation:

“That in clause 3 of the Bill, as reported by the Standing Committee for the word “person” occurring in the first line, the word “publisher” be substituted.”

“That in sub-clause (1) of clause 4 of the Bill, as reported by the Standing Committee, between the words “ulama” “A” and “of” occurring in the second line, the words “Huffaz and Qaris” be inserted.”

“That in clause 5 of the Bill, reported by the Standing Committee, for sub-clause (2), the following be substituted, namely:

“(2) In printing the Holy Quran, a publisher shall not use the paper use of which is prohibited by the federal government.”<sup>32</sup>

All those amendments forwarded by Abdul Mustafa Al-Azhari, on behalf of the opposition, were accepted by the Minister Mawlana Kausar Niazi.<sup>33</sup>

Sahibzada Safiullah, on behalf of the opposition members, moved another amendment to the same Bill. The amendment was:

“That for clause 7 of the Bill, reported by the Standing Committee, the following be substituted, namely:-

‘7’ *Offences by Corporations.* If the person guilty of an offence under sub-section (1) of section 6 is a company or other body corporate, the Chief Executive including a Secretary, manager or any person occupying such position by whatever name called, and every director thereof shall, unless he proves that the offence was committed without his knowledge or that he exercised all the diligence to prevent the commission thereof, be

deemed guilty of the offence.”<sup>34</sup> The amendment moved from the opposition side was adopted and passed by the House.<sup>35</sup> The Bill was also passed by the NA of Pakistan unanimously.<sup>36</sup>

As the Bill was forwarded to the Senate of Pakistan on May 12, 1976 for its approval by two-third majority of the total Senators, Mawlana Shah Ahmad Noorani, from the opposition side, congratulated the government over the special program for the publication of the Quran. He said that all the conspiracies and intrigues of the Jews to change the Quran had been made unsuccessful though the bill. The Jews tried in 1970, 1971 and 1972 respectively within Egypt and other African countries to publish the Quran in distorted form for distribution. Some Muslim countries, especially the Egyptian government and the Al-Azhar University successfully confronted this conspiracy. The whole perils in the future were gone astray through the imposition of law in 1973, which was a successful effort. The bill was totally unchallengeable and passed.<sup>37</sup>

#### **5.1.7 The Auqaf (Federal Control) Bill, 1976**

Mawlana Kausar Niazi (1934-94), Minister for Religious Affairs, Minority and Overseas Pakistanis moved The Auqaf (Federal Control) Bill. The Bill was: - “That the bill to provide for the proper management and administration of Auqaf under Federal Control- The Auqaf (Federal Control) Bill, 1976-, as amended be passed.”<sup>38</sup>

Mawlana Noorani, from the opposition benches, defined the “*Waqf*” in the way as “To deduct something from one's own property only for the sake of Allah in order to give its benefits to the human beings and to get blessings of Allah in return”.<sup>39</sup>

He further explained that a believer would always aspire to act in such a way that his life, his death and his property be spent in the way of Allah so that he might get salvation in the world hereafter. This would be a continuing charity. The human being contact with this world would be cut off after death. But the three things could grant him blessings after death. One was knowledge; the other was noble deed while the last was his/her kids. The knowledge would spread and as it would spread the person would get its virtues. The virtuous deed was which he would perform only for the sake of Allah. The virtuous and pious descendants would pray for him/her in this world.<sup>40</sup> The condition for the endowment was not to sell the original charity. Neither one could grant it as a gift nor could it be brought under heritage. The hereditary law could not be applied to the endowment. So it was the duty of an Islamic government to protect the endowments and to keep it as sacred trust of Allah, as any person, for the sake of Allah, endowed it. Endowment was a trust. The Auqaf Department had the responsibility to protect it. Mawlana further informed members of the house about its use. The amount gained from the endowments should not be used or spent over the administrators. It should be spent over the objectives for which the property was endowed. If it were not spent over the specific fields, it would be dishonesty. Mawlana pointed out that administration of the Auqaf was in the hands of the bureaucrats. There should be a representation of the endower in the administration. Secondly, there should be a representation of the religious experts in its administration, as they knew well where to use the amount for public charity? The public representatives should supervise the Administrator general, the Chief Administrators at the provinces and the Administrators under the provincial heads.<sup>41</sup>

The government accepted the above suggestions forwarded from the opposition benches by Mawlana Noorani and amendments were made in the bill according to his demands. The government in this regard adopted the foundation of a Board.<sup>42</sup> Mawlana Noorani also moved an amendment to make the Auqaf Bill better. The amendment moved by him was: The Administrator general of Auqaf shall carry out his functions and duties under this Act on the advice of Auqaf Advisory Board appointed by the federal government from amongst the public representatives and *ulama*.<sup>43</sup> The amendment of Mawlana Noorani was dropped.<sup>44</sup>

Mawlana Noorani further explained that the *Waqf* property be used for the purpose for which it was dedicated or had been used or for any purpose recognized by Islam as religious, pious or charitable.<sup>45</sup>

#### **5.1.8 Resolution for Banning of Literature Inimical to Muslim Beliefs and Pakistan Ideology**

The Resolution moved by Mawlana Abdul Haq was that, "this Assembly is of the opinion that the printing, circulation and entry of literature likely to affect adversely the character and the beliefs of Muslims and the ideology of Pakistan, be banned and that the publication of obscene literature be also prohibited."<sup>46</sup> Debating over the Resolution, on behalf of the opposition, Mawlana Abdul Haq explained that all the laws made so far were concerning the protection, solidarity and integrity of Pakistan. Pakistan was an ideological State which came into existence on the basis of Islamic ideology. Those who followed the ideology of Islam were prestigious amongst the comity of nations. The piety, prestige, modesty and abstinence were the fortunes of those nations. The legislators

of Pakistan were bound to protect the Islam and follow its teachings during legislation in the Parliament of Pakistan. All the hostile forces to Pakistan wanted to break up its ideology into pieces. We needed fraternity for the strength of Pakistan. The implementation of Islamic teachings in the country would remove all clashes and bigotry from the hearts of all Pakistanis. Inimical literature was imported to the country in order to move the Muslim beliefs and Ideology of Pakistan. The same literature was also present within Pakistan. Atheism was being preached through different books and magazines. Blasphemy was also being committed in those literatures. The Indonesian Muslims claimed that they had got huge number of the Quran from Karachi which was tampered intentionally. The tampered copies of the Quran were found in Baluchistan which was imported. The Obscene literature was available in the markets. That literature was deteriorating the faith and ethics of our young ones. Cinemas were displaying movies which were not in accordance with the teachings of Islam. The obscene literature would motivate the citizens to drink wine and for that purpose they would not avoid theft, robbery and smuggling. He told the House that he visited the Governor at Peshawar and requested him not to issue permits to open cinemas but he flatly refused saying it was a thing of refreshment for the labourers. He suggested the government to ban the obscene literature, close the cinemas displaying the obscene movies and stop importing movies, but his request was deferred.<sup>47</sup>

### 5.1.9 Resolution for Banning Obscene Films in Pakistan

Mawlana Abdul Haq moved the following resolution before the House on January 17, 1974, "This Assembly is of the opinion to ban the exhibition of obscene films in the entire Pakistan for the sake of the Islamic commandments and better national interests."<sup>48</sup>

Throwing light over the resolution from the opposition benches, Mawlana Abdul Haq said that he forwarded the resolution only for the sake of religious sanctity. He claimed that the people voted the Members of the House as they raised the slogan for introducing Islamic Laws in the country. The members of both the government as well as the opposition benches should fulfill their promises and introduce the *Shariah* in the country through Constitution. The cinemas should display the Islamic culture and tradition of the people of Pakistan. He argued that films exhibited in different cinemas at Pakistan were obscene and showed ways which would lead the nation towards various crimes. He emphasized that the immoral activities were increasing in the society due to the influence of those vulgar films. He strongly criticized the film 'Dawn of Islam'. The life of the Prophet (PBUH) and his companions were pictured by the actors in the film. Nobody in the world could match his personality. He was pious and free of sins. Even a Satan could not disguise himself as Prophet in the dreams of humans. Whenever, a person claimed the Prophet (PBUH) to be in his or her dream, that would be true as a strong Satan could not do that in humans' dreams. Such kinds of films were to make fun of the religion of Islam. He requested the government benches to ban all kinds of obscene and immoral films in the entire Pakistan.<sup>49</sup>

Sahibzada Safiullah strongly condemned the government for leaving the cinema operators openly to show obscene films in the cinemas of Pakistan. He said that the PPP government claimed to fight for Pakistan for thousand years but could not take action against single immoral activity in the country. He appealed the government to take action against the wrong-doers and make sure the use of the cinemas for the betterment of the society and propagating of the Islamic values.<sup>50</sup>

Minister for Law and Parliamentary Affairs, Abdul Hafeez Pirzada addressing the queries raised by the opposition, said that as far as the necessity of having law and rules on the subject was concerned the censorship code said, "Censorship Boards aim should be to eliminate free public exhibition of the following:" This is provided in the code itself, a code framed under the law and the rules. "Anything likely to impair accepted moral standard and social values, glorification of vice or crime, "Anything that shows ceremonies at places of religious significance such as Shrines and Mosques in such a manner as to disrespect religion or violate the tenets of Islam would include showing of miracles, vulgar and suggestive dances, music and song by men and women. He said that under the law the following scenes were not to be permitted in the exhibition of films, "In the light of foregoing principles a film shall be regarded as unsuitable for public exhibition if directly or indirectly it projects the following." "If a film tends to lower the sanctity of marriage and family life, Justifies or shows adultery or illicit sex relations as worthy of emulation". "Displays lustful passions, suggestive lewd postures and gestures." "Kissing in local films should be strictly avoided." "If a film exhibits scenes of seduction, rape, it is not to be permitted. "If it depicts sex perversion or any visual inference of it."



“If it exhibits scenes of actual child birth in fact or insinuate...”. “Contains dialogues, scenes, speeches or jokes which are vulgar or suggestive of indecent interpretation.” “Displays bedroom scenes showing man and woman in compromising position or in lewd state.” “Shows woman selling her virtue glamorizes drinking.”<sup>51</sup>

Answering the queries of the opposition members, Abdul Hafeez Pirzada blamed the opposition in general and the *ulama* in particular not serving the nation religiously in its true sense for a century or more. He further said that the *ulama* were failed in their duty to enrich the nation with better cultural thinking. He said that such frivolous resolutions wasted the precious time of the House.<sup>52</sup>

Mufti Mahmud condemned the Minister for Law and Parliamentary Affairs, Abdul Hafeez Pirzada for blaming the *ulama* not fulfilling their duties. He said that the *ulama* had established *Dar-ul-Ulum* for the teachings of the Islamic principles. They were trying their best to show right path to the nation in *masajid* during their Friday sermons. They had taught them to avoid vulgarity and immodesty otherwise they would face dangerous consequences in the form of various calamities from the heavens. Even after long and untiring efforts the *ulama* were not successful because the different Pakistani governments were never ready to legislate for the eradication of immodesty and vulgarity from the society. Islamic principles were never seen to be followed by the families of the governments’ executives. In fact the government was never ready to legislate properly and sincerely over the subject under consideration. He suggested the government to implement the laws forcefully in the country and be a role model for the society religiously and socially.<sup>53</sup>

Mawlana Abdul Mustafa Al-Azhari of JUP strongly condemned the Minister concerned for not implementing the laws to prevent the nation from obscenity and nudity. He said that the Ministers were always a role model for their society but unfortunately the PPP government's ministers were not a role model for the Pakistani society. He argued that no minister was seen offering prayer. The *ulama* were not specified to preach and practice Islam. It was the duty of each and every follower of the Prophet Muhammad (PBUH) to preach Islam and its principles.<sup>54</sup>

#### **5.1.10 Opposition's Resolution for the Ulama of Madaris**

Mawlana Shah Ahmad Noorani, on behalf of the opposition, moved a resolution in the Senate of Pakistan which stated: - "That this House is of the opinion that the government does (sic) recognize the *Tanzeem-ul-Madaris (Ahl-i-Sunnah)* Pakistan's certificate as equivalent to degree of Bachelor of Arts."<sup>55</sup>

Mawlana Noorani said that the resolution had an Islamic and sacred history, which was associated to the Indo-Pak Subcontinent. The objective of the resolution was to facilitate the *ulama* of the society to play a very important role in the Pakistan's society and to increase the role of *Madaris* and *Dar-ul-ulum* where Islamic teachings were mostly taught in Arabic.<sup>56</sup>

The Ministry of Education, Communication and Religious Affairs was trying to develop the Arabic education through Radio, Television and National centers. The struggle of the government was admirable. The aim of that pace was to prepare the people understand the Arabic directly. Mawlana Noorani said that all the ninety-five *Madaris* from Karachi to Khyber were given education in Arabic. They had a permanent curriculum. He

demanded that government should recognize the certificates of those *Madaris*, that its *ulama* could get an upright and suitable place in the society. They could be very obliging in promoting the Arabic teachings.<sup>57</sup>

Mawlana Noorani explained the history of the *Madaris* in the Subcontinent. He said that the magnificent Islamic civilization was concerned with those *Madaris*. The Umayyad, the Abbasids, the *Salatin-i-Delhi* and later on the Mughals had acknowledged all the *Madaris-i-Arabia Islamia*. They patronized the religious institutions for the promotion of the Arabic teachings. Baghdad had the same *Madrasah* with the name of *Dar-ul-ulum Madrasah-i-Nizamia*. Imam Fakhr-ud-Din Al-Razi, Imam Abu Hamid Muhammad-al-Ghazali and the Prime Minister of the Saljuq dynasty, Nizam-ul-Mulk Tusi were the graduates of the same *Madaris* of the Baghdad. Then he turned towards the Arabic *Madaris*, which had a particular scheme. The *Madaris-i-Arabia Islamia Dar-ul-ulum* had created freedom fighters like Fazlul Haq Khairabadi and Mawlana Kifayat Ali. These *Madaris* also played a great role during Mughal era. The graduates of those *Madaris* were given a high place in the society. The Funds provided by the *Bait-ul-Mal* to those *Dar-ul-ulum* and *Madaris-i-Islamia*, were blocked at the advent of the British. It should be noted that the total number of *Madaris* around the Shahjahani Mosque in Thatta was three hundred. Those *Madaris* were up to the Secondary level. There were also about seventy-five colleges, where Persian, Arabic, religious, spiritual and moral trainings were granted. Except those places Peshawar and Lahore had also the same sort of *Madaris*. But Thatta was the center of learning during the Mughals. After the appearance of the British in India the certificates of those *Madaris* were not accepted. So, British snatched the

proper place given to the *ulama* in the society by the Mughals. The British did that deliberately because they did not want spread of religious teachings among the Muslims. The *ulama* were a spring of light among Muslims in order to save them from the command of the Christian missionaries. The Christian missionaries had reached the nook and corner of India. The British knew that the Muslim *ulama* served the society in the religious affairs and kept them conversant. They were the source of illumination for the Muslims. The same *ulama* preached and guided the people through their learned and virtuous teachings.<sup>58</sup>

The British were a colonial power and were Christians. They wanted to spread Christianity throughout the Indian sub-continent. Therefore, the *ulama* twisted over their effort towards the other end. They tried their best to have an '*alim*' in each city of India. They appealed to the Muslim population and their leaders like Sir Syed Ahmad Khan to play their role. Sir Syed Ahmad Khan struggled to convince Muslims to get the modern education in order to acquire a prestigious place in the society. Sir Syed organized the Muslims to achieve a good political stature, while the *ulama* played their own crucial role in the society. They spread a chain of *madaris* in the whole country and the best types of *Madaris* were established in the Indo-Pak sub-continent. It created the *ulama* that played their role in the society very well.<sup>59</sup>

It was a great achievement to get independence in the year 1947. That was a very bright characteristic of our history. Most of the graduated *ulama* of that *Madaris-i-Arabia Islamia* stood by Quaid-i-Azam in his struggle for independence. The *ulama* played a significant role, in referendums of the Khyber Pakhtunkhwa and Sylhet, at the voice of

Quaid-i-Azam. Most of the *ulama* were at the forefront of the freedom movement for Pakistan. So, they were amongst the founders of Pakistan.<sup>60</sup>

The *Madaris-i-Arabia Islamia* had the same place as it had during the British. They could not gain the rank, which it had during the rule of the Muslim empires in the sub-continent. Their certificates were not acknowledged even then. The education ministries at different provinces were struggling to introduce the Islamic education at secondary level. Those institutions needed the *ulama*. The same institutions needed the “*Huffaz*” and the *Qaris*. Most of *madaris* were imparting knowledge of *Tajweed* and *Hifz*. That was compulsory over there. After getting knowledge in those areas, they were further trained for eight years in the Islamic studies curriculum. But the government of Pakistan could not get advantage of their learning’s, as their certificates were not recognized. Mawlana Noorani drew the attention of the Education Ministry towards the resolution of their problem and demanded to recognize the certificates of the *Madaris-i-Arabia-i-Islamia*, so that the society could completely get benefit of their knowledge. Mawlana said that the cradle of knowledge had been illuminated by those *ulama* and the same *ulama* would enlighten other brains through their knowledge.<sup>61</sup>

Mawlana Noorani further explained his aspire and said in the response of a minister that *Tanzeem-ul-Madaris* was a registered institution, which controlled all the ninety-two *Madaris* in Pakistan. The education department had all the details of the *Madaris*. The rest of the *Madaris* should also be recognized and their certificates should be considered equivalent to the Bachelor of Arts (BA), so that they might be able to get admission into Master of Arts (MA) in the universities of the country. *Tanzeem-ul-Madaris* had its

curriculum based on nine years duration. The government had approved the same curriculum. In this way the *ulama* could get their due place in the society and there would be a harmony among the ancient and Modern knowledge.<sup>62</sup>

The resolution of the opposition was sent to the Standing Committee for full-fledged discussion and for deliberation, which was later on adopted by the Senate and passed.<sup>63</sup>

Bhutto began to make efforts to please the opposition parties. For that purpose a Ministry of Religious Affairs was established. Mawlana Kausar Niazi was made minister of that new Ministry. The opposition members never accepted the scholarly credentials of Mawlana Kausar Niazi. The opposition condemned his appointment and the formation of religious ministry. The opposition members, mostly comprising of the *ulama*, were of the opinion that the lives of Muslims were governed by Islam and there was no need for a special Ministry of Religious Affairs. There was no division between the sacred and the secular in Islam. Each and every Ministry was bound to regulate state activities in accordance with the principles of Islam.<sup>64</sup> The opposition demanded complete application of *Shariah* in all spheres of society. The opposition members through public meetings, posters and press campaigns reminded the public that nothing had been achieved in respect of the transformation of the existing laws in conformity with the Quran and the Sunnah.<sup>65</sup>

Toward the end of 1976, an international conference on the life and work of Prophet Muhammad (PBUH) was sponsored and funded by the Bhutto government.<sup>66</sup> In April 1977, Bhutto instituted a number of Islamic measures to break the momentum of the Islamic mass movement led by the *ulama* of opposition parties, which threatened to

overthrow him. These steps included a ban on alcohol; on all forms of gambling and night-clubs. The Islamisation of Pakistan's civil and criminal laws were to be completed in six months instead of four years allowed by the 1973 Constitution; and the reconstitution of the Council of Islamic Ideology, which would include leaders of the Islamic political parties and would be responsible for the introduction of the *Shariah*. Bhutto's regime instituted a range of Islamic measures to appease and undercut the opposition parties in Pakistan. These measures ranged from the symbolic to the expedient and their cumulative impact injected a powerful Islamic overtone to Pakistani society. Although the opposition parties did not enjoy a mandate like Bhutto, yet they succeeded in securing many Islamic provisions in the Constitution of Pakistan. This added a new strength and stamina in them which culminated in their successful agitation movement in the name of Nizam-i-Mustafa, ensuring the end of Bhutto's rule in July 1977.

## **SECTION-II**

### **ROLE OF OPPOSITION IN LEGISTION REGARDING SOCIAL ISSUES DURING 1973-77**

#### **5.2 Opposition's Adjournment Motion regarding Price Hike in Essential Commodities**

Mahmud Azam Farooqi moved an adjournment motion in order to discuss the price hike in the essential commodities. He emphasized that it was a social issue disturbing the opposition, government and the entire citizen in general and the poor and middle class in particular as their wages were not meeting their needs. He urged that it was the prime responsibility of the government to keep balance in the incomes of people and prices of commodities. He demanded the government to reduce the prices of essential commodities or increase the wages of the laymen so that they could meet their needs of daily life easily. The wages increased by the government were far lesser than the increased prices of commodities. Country was self sufficient in sugar production. Apart from that sugar worth Rs. 600 million was imported within previous seven months. He suggested that the government should undertake proper legislation for controlling the prices of the commodities. If the interior Minister along with the Provincial ministers promised to stabilize the prices and would take steps for legislation, then there must be no hurdle or delay to legislate for the betterment of the citizens. The Ministers concerned confessed so many times in various dailies the rise in the rates of different commodities. The Minister for Health had himself issued notification that the importers could earn twenty-five



percent profits over the imported medicines. Then again the said profit was raised, through a notification, to fifty per cent. Mahmud Azam Farooqi forwarded three causes for the price hike before the House. One was increase in population, the other being imbalance between the demand and supply of the commodities and the third was the failure of the government. The statistical record showed no increase in population in Pakistan. The agricultural production was also greater than the earlier one. Then it was inability of the government to eradicate smuggling of the commodities and other necessities of life. The President of the country himself had confessed on January 22, 1973 before the reporters that wheat, sugar and other commodities were being smuggled from the areas of Sindh province to India. Mahmud Azam Farooqi pin pointed that the first cousin of Zulfikar Ali Bhutto, Mumtaz Ali Bhutto (b. 1933), was the Chief Minister in Sindh Province and even then the smuggling was at peak there. The prices of wheat, being a staple food, were increased from Rs. 20 to Rs. 35 per mound. So, a ban was imposed over the transportation of wheat and government issued permits to its party workers for the transportation of wheat. He condemned the government to waste all of its time and energies in curbing and torturing the opposition and leaving the smugglers and dacoits open hand to create social issues for the public.<sup>67</sup>

Mawlana Abdul Hakim reminded the government benches their promises of providing the people with 'bread, cloth and shelter' done to them during the election campaign. He said that a peon could not send his kids to school in order to educate them because of price hike in commodities. He could not fulfill the basic needs of his family through his low salary paid by the government. The per capita income of a common man was far

lower than prices of the commodities available in the market. He suggested the government to take steps to stop the black marketing in the country and punish those who were involved in that crime.<sup>68</sup>

Mawlana Abdul Mustafa Al-Azhari while debating over the motion reported that near about fifteen thousand workers were labouring in Karachi and most of them were kept in lock ups by the government whenever they went on strikes against the price hike in commodities. He warned the government to be careful about the working class of the society otherwise, the opposition would rise against the government alongside the workers.<sup>69</sup>

Mawlana Abdul Hakim strongly criticized the government for its price hike in the commodities. He said that there was no dearness earlier to the existing government and the farmers could afford to keep cattle in a huge number. The cattle-dung was used by those farmers in their farms as pure and natural fertilizers. Now due to price hike in each and every thing it had become difficult for them to keep a large herd of cattle. If prices of artificial fertilizers were increased, the future of the farmers in Pakistan would be very disappointing. He requested the Minister concerned not to raise prices of the fertilizers in the better interest of the eighty-five percent population of the country.<sup>70</sup>

Ghafoor Ahmad moved an amendment to the Bill under consideration. The amendment was:

“That after sub-clause 2 of clause 3 of the Bill, as reported by the Standing Committee, the following new sub-clause be added, namely:-

- a) The development surcharge so collected be credited to a fund to be known as Farmers' Benevolent fund, and
- b) The fund shall be utilized exclusively for the benefit of the land-owners having land not exceeding a subsistence holding; and
- c) The money credited to the fund shall be held in custody and utilized in such manner as may be prescribed.”<sup>71</sup>

Explaining purpose of his amendment to the Bill, Ghafoor Ahmad of JI said that the government had claimed time and again to be great sympathizer of the farmers and poor strata of the society. The same government was raising the rates of fertilizers for that poor section through the implementation of the Development Surcharge. The so-called sympathetic government should deposit the said Development Surcharge as a Benevolent Fund and distribute that amount amongst the poor farmers. He further suggested that the government must avoid using that fund over their luxuries and in an illegal way.<sup>72</sup>

The amendment moved by Ghafoor Ahmad was rejected by the majority of the House and the Bill was passed.<sup>73</sup>

### **5.3 The Loans for Agricultural Purposes Bill, 1973**

Minister for Finance, Mubashir Hassan, moved the Bill before the House for providing the loan facilities to the farmers of Pakistan. The Bill moved was:

“That the Bill to provide for credit facilities for persons engaged in agriculture [The Loans for Agricultural Purposes Bill, 1973], as reported by the Standing Committee, be taken into consideration at once.”<sup>74</sup>

Ghafoor Ahmad forwarded an amendment to the Bill which said,

“That in sub-clause (1) of clause 4 of the Bill, as reported by the Standing Committee, between the words ‘advance’ and ‘may’ occurring in the second line, the words ‘for his agricultural needs’ be inserted.”

Explaining purpose of his amendment, Ghafoor Ahmad said that there was no word used for the agricultural needs of the farmers. The farmers would be overburdened by loans on interests. The land owners would use the loan for unnecessary productive schemes rather than for the agricultural needs. So he suggested the government to take a declaration in written from the land owners to use the loan only for fulfilling the agricultural needs and not the other necessities.<sup>75</sup>

Minister for Health and Social Welfare, Sheikh Muhammad Rashid, appreciated the amendment of Ghafoor Ahmad and requested the Finance minister to accept his amendment to the Bill. So, the amendment of Ghafoor Ahmad was adopted by the House.<sup>76</sup>

Ghafoor Ahmad presented second amendment to the Bill under consideration. The amendment had two parts. Its first part was:

“That in clause 4 of the Bill, as reported by the Standing Committee, the following proviso be added to sub-clause (4), namely:

‘Provided that loan or advance granted to any land-owner shall not exceed ten thousand rupees.

The second part of the amendment was:

“That in clause 4 of the Bill, as reported by the Standing Committee, after sub-clause (4) the following new sub-clause be added namely:

‘(4a) the bank shall not charge any interest on loan or advance granted to the land-owners under sub-section (4) of section 4’.”<sup>77</sup>

Explaining objective of his amendment, Ghafoor Ahmad, said that his amendment was having two parts. First part was for fixing the limit of the loan rendered to the owners of the agricultural land while the other was to make the banks bound not to charge interest over the loans forwarded to the land-owners. The small land-owners generally could not receive loans from the scheduled Banks. Big feudal lords were already receiving loans from the scheduled banks, cooperative banks and Agricultural Development Banks. In such a way those lions were getting the lion’s share. The poor farmers were without any share out of it. So he suggested the government to restrict the land-owners to get only Rupees ten thousand and not more than that so the amount would go into the hands of poor farmers. The second part, if implemented, would lessen the burden of additional amount in the shape of interest. That would be a real help from the government side and the promise done by the government to the common men would be fulfilled.<sup>78</sup>

The amendment of Ghafoor Ahmad to the Bill was rejected by the House while the Bill was passed by majority of the House.<sup>79</sup>

#### **5.4 The Pakistan Citizenship (Amendment) Bill, 1973**

Minister for Interior, States and Frontier Regions and Kashmir Affairs, Abdul Qayyum Khan, moved the Bill:

“That the Bill further to amend the Pakistan Citizenship Act, 1951 [The Pakistan Citizenship (Amendment) Bill, 1973], as reported by the Standing Committee, be taken into consideration at once.”<sup>80</sup>

Discussing objectives of the Bill, Abdul Qayyum Khan, said that about 70,000 citizens of Azad Jammu and Kashmir were living in the United Kingdom. About 20,000 of them had been able to obtain British nationality. The rest of the 50,000 had Pakistani passport. The British Government had treated them as British protected persons, and as such they were not able to become British citizens. Here the House passed Dual Nationality Act where a citizen of Pakistan who became a citizen of Great Britain or other government, with whom we had agreements, could at the same time retain his Pakistani nationality. Therefore, an Ordinance was promulgated by the President of Pakistan in February 1972 that all such persons who were likely to suffer in the matter of obtaining British nationality, retrospective effect was given to that and it was stated that they had always been Pakistan' nationals. That conferred on them the right to become the British citizens. He hoped that the House would give assent to the Bill under consideration so that the 50,000 nationals had a sigh of relief, and that their status as Pakistani citizens and their ability to hold British nationality at the same time become easier. There was also the Bill before the British Parliament, the Pakistan Bill, where there was a provision under which it had sought to be given retrospective effect from 1972. On the other hand the President's Ordinance came into force in 1973, whereby Azad Kashmir residents would also be able to acquire the British nationality. Assurances had been given to Pakistan's Government by responsible British authorities that the Members of the Select Committee were also in favour of the Bill to the hardship in the way of the Azad Kashmir citizens to become British nationals.<sup>81</sup>

Ghafoor Ahmad and Mawlana Abdul Hakim appreciating the Bill, advised the Government of Pakistan to extend the same facilities to the residents of Azad Jammu and Kashmir living in other countries.<sup>82</sup>

Mawlana Ghulam Ghous Hazarvi said that the Bill under consideration was very beneficial for the social welfare of the Kashmiri brethren. He claimed that the British Government was a sagacious one and would not hurt the feelings of Pakistan nationals including Kashmiris. He appreciated the Bill to declare the Kashmiris as nationals of Pakistan thereby paving the way for them to acquire the nationality of the United Kingdom.<sup>83</sup>

The Bill was passed by the House unanimously.<sup>84</sup>

### **5.5 The National Development Volunteer Program Bill, 1973**

Mubashir Hassan (Minister for Finance) moved the Bill in the Assembly which said:

“That the Bill to make provision for promoting, developing and regulating systematic apprenticeship programs for educated persons to equip them for securing gainful employment [The National Development Volunteer Program Bill, 1973], as reported by the Standing Committee, be taken into consideration at once.”<sup>85</sup>

Explaining the Bill, Mubashir Hassan submitted that the Bill was to enable the government to establish an institution by which the unemployed persons particularly scientists, engineers, doctors, technicians and those who had science degrees could register themselves and their qualifications matching their jobs which were available.<sup>86</sup>

Ghafoor Ahmad presented three amendments to the Bill under consideration. Those amendments were as under:

1. "That in clause 2 of the Bill, as reported by the Standing Committee, in paragraph (e) the words "established under section 15" be added at the end."
2. "That in clause 2 of the Bill, as reported by the Standing Committee, in paragraph (f) between the words "the" and "Government" occurring in the third line, the words "Federal Government or a Provincial" be inserted."
3. "That in clause 3 of the Bill, as reported by the Standing Committee, sub-clause (2) be renumbered as paragraph (a) of that sub-clause and, thereafter, the following new paragraph be added, namely:-

"(b) The Director-General may, by writing under his hand and addressed to the federal government, resign his office."

All of those amendments forwarded by Ghaffoor Ahmad to the Bill under consideration, on the behalf of the opposition, were accepted and passed by the House. The Bill was also passed unanimously by the Assembly.<sup>87</sup>

## **5.6 The Evacuee Property and Displaced Persons Laws (Amendment) Bill, 1973**

Choudhry Muhammad Hanif Khan moved a Bill from the government benches which said:

"That the Bill further to amend certain laws relating to evacuee property and the rehabilitation of displaced persons [The Evacuee Property and Displaced Persons Laws (Amendment) Bill, 1973], as reported by the Standing Committee be taken into consideration, at once."<sup>88</sup>



Explaining purpose of the amendment in the Bill, Choudhry Muhammad Hanif Khan said that the department of rehabilitation had given birth to various clashes among the people and therefore the government had decided to terminate the said department. The amendment was about the forsaken properties which were in the possessions of some persons but not then determined by the government. A scheme would be premeditated by the government to hand out the remaining properties among the people and finally eliminate the concerned unit within a year.<sup>89</sup>

Sahibzada Safiullah, during discussion over the amending Bill, said that the government was not able to fulfill the verified claims of the deserved immigrants within twenty-five years then how could it claim to do away justice with the undecided claimants within a year. He further claimed that the Bill was being amended by the government to dislodge the helpless immigrants in a tyrant way. Those claimants who could grease the palms of the government officials got their claims fulfilled while the penniless claimants were helpless to get the properties. The government was supposed to appoint honest officers in the special cell but they went wrong way and the result was the deprivation of the displaced persons even after twenty-five years. The government should have enquiries against the corrupt officers of the rehabilitation department and punish the guilty ones for the delaying tactics. The corrupt officers gave more properties to the claimants who bribed them highly while the small claimants got nothing. The said Bill was totally based on the enmity with the immigrants. Sahibzada Safiullah pin pointed a clause within the Bill which emphasized to legalize the illegal possessors of the properties. It was very

annoying to deprive the legal verified claimants and shower bounties on illegal occupants.<sup>90</sup>

The Bill was passed by the House.<sup>91</sup>

### **5.7 The Newspaper Employees (Condition of Service) Bill, 1973**

Minister for Labour and Social Welfare, Choudhry Muhammad Hanif Khan, moved the Bill for the welfare of the employees of the newspapers in Pakistan. The Bill says,

“That the Bill to repeal and, with certain amendments, re-enact the Working Journalists (Condition of Service) Ordinance, 1960 [The Newspaper Employees (Condition of Service) Bill, 1973], as reported by the Standing Committee, be taken into consideration at once.”<sup>92</sup>

Explaining main provisions of the Bill, Choudhry Muhammad Hanif Khan told the House that initially the Wage Board was constituted by the Central Government and held that the authority to constitute the Wage Board was the provincial government. That power was, therefore, given to the provincial governments. But in order to avoid conflict, arising of different Wage Boards, the Provinces decided to have one Wage Board so that a uniform formula was worked out. The salient features of the Bill were as under:

1. The Federal Government had been empowered to constitute a Wage Board at the national level.
2. The Wage Board had been empowered to fix rates of wages in respect of non-journalist newspaper employees also.

3. The Wage Board would consist of a Chairman of the status of a High Court Judge and equal number of representatives of employees and employers of newspaper establishments, to advise him.
4. The decision of the Board would be binding on all the employers and would be deemed to be an award of the Full Bench of the National Industrial Relations Commission. Hence, it would be final and non-questionable before any Court or authority.
5. It had been made obligatory for the newspaper establishments to give written orders stating the terms and conditions of their services, on the occasions of their appointments, transfers and promotions.
6. Termination of the services of a newspaper employee by his employer had been prohibited, except when it took place in accordance with the provisions of the Act.
7. Every newspaper establishment would be bound to establish in the prescribed manner a Provident Fund for its employees.
8. Newspaper employee should be required to work for more than forty-two hours in a week.
9. Every newspaper employee would be entitled to:-
  - i. Earned leave on full wages for not less than one-eleventh of the period spent on duty;
  - ii. Medical leave on one half of the wages for not less than one eighteenth of the period of service; and
  - iii. Casual leave with wages for ten days in a year.

10. Every newspaper employee and his dependants would be entitled to medical care (including treatment at clinic as well as residence or the patient's treatment by a specialist, provision of essential pharmaceutical supplies and hospitalization) at the cost of his employer.

11. The West Pakistan Industrial and Commercial Establishments (Standing Orders) Ordinance, 1968, which ordinarily applied to commercial establishments employing twenty or more workmen and, industrial establishments employing 50 or more workmen, had been applied to the newspaper establishment employing ten or more employees on any day of the preceding twelve months. That will give them benefits of inter-alia, group incentive scheme, compulsory group insurance and payment of bonus.<sup>93</sup>

Debating over the Bill from the opposition benches, Choudhry Zahur Ilahi said that journalism was the most respectable profession than others. We could not have a true democracy unless we gave a respect to the working journalists. But it's unfortunate in the body politics of Pakistan to treat that profession with utter disregard. The journalists had ever been exploited in Pakistan since its independence but the PPP government exceeded its limit to humiliate them. The Associated Press of Pakistan (APP) and Pakistan Press International (PPI) were under the complete influence of the government. He further said that the government had restricted the journalists in one way or the other. The Bill under consideration was a satisfactory effort from the government side but it was not enough for the working journalists. They should be freed from different chains of the government. All the journalists were free but everywhere in chains. We would be very

thankful to the government benches if they approved the amendments from the opposition side in the better interest of the journalists and non-journalists.<sup>94</sup>

When clause by clause consideration of the Bill started, Ghafoor Ahmad moved an amendment to the Bill from the opposition side. The amendment was:

“That for sub-paragraph (ii) of paragraph (d) of clause 2 of the Bill, as reported by the Standing Committee, the following be substituted, namely:

“(ii) a whole-time non-journalist, including a manager, accountant, clerk, typist, stenotypist, printing engineer, linotype operator, composer, type-setter, photo studio attendant, printing worker, teleprinter engineer, mechanic, operator, wireless engineer and operator, traffic attendant, driver, helper, chowkidar and an office peon.”<sup>95</sup>

Explaining the object of his amendment, Ghafoor Ahmad told the House that the Bill was categorized into two parts; journalists and non-journalists. Confusion existed in the category of non-journalists. So, in order to make it clear, the workers mentioned in the amendment should be included in the Bill.<sup>96</sup>

Another amendment moved by Ghafoor Ahmad was:

“That for sub-clause (4) of clause 5 of the Bill, as reported by the Standing Committee, the following be substituted, namely:

“(4) During the first three months of his service, the newspaper employee may or may not, at his option, subscribe to the Provident Fund and, if he so subscribes, the employer in relation to the newspaper establishment shall subscribe to it an equal amount.”<sup>97</sup>

Mawlana Shah Ahmad Noorani also forwarded an amendment to the Bill under consideration. The amendment was:

“That in clause 4 of the Bill, as reported by the Standing Committee, for the full stop occurring at the end of the second proviso to paragraph (c), a colon be substituted and thereafter the following further proviso be added, namely:-

“Provided further that such notice of termination of service shall specifically mention the reasons of terminating the service of an employee.”<sup>98</sup>

The above amendments from the opposition benches were adopted by the House.<sup>99</sup>

The Bill was passed by the House in majority.<sup>100</sup>

### **5.8 The Pakistan National Council of the Arts Bill, 1973**

Abdul Hafeez Pirzada (Minister for Education and Provincial Co-ordination) moved:

“That under sub-rule (3) of rule 66 read with rule 226 of the Rules of Procedure and Conduct of Business in the National Assembly (Legislature), 1972, sub-rule (2) of rule 66 of those rules be suspended in regard to the Bill to provide for the establishment of Pakistan National Council of the Arts [The Pakistan National Council of the Arts Bill, 1973], as reported by the Standing Committee.”<sup>101</sup>

Explaining purpose of the Bill, Abdul Hafeez Pirzada said that it was a simple Bill authorizing the federal government to set up the Pakistan National Council of Arts which has, in fact, without its legal cover and legal authority, been functioning informally. It was absolutely necessary for the promotion of culture and art in the country that a statutory organization under the cover of law must come into existence and start functioning with proper demarcation of its functions, powers, duties and authorities.<sup>102</sup>

Sahibzada Safiullah, on the behalf of the opposition, condemned the Bill and said that billions of Rupees would be spent over the Arts Council. The said Council was

patronized by the persons who were importing the American and Russian culture and civilization into Pakistan. We were having our own glorious culture and civilization. That was the Islamic culture and civilization. Then there was no need to import the alien culture into Pakistan. Eventually that would overlap our own identity at the cost of our prominent culture and civilization. The girls who were sent to the foreign countries by the government never represented the Islamic culture and civilization. The Western culture and Islamic culture were two different things. The life style in the West and East were totally contradicting each other. The government had tried to show that both the cultures and traditions were the same. In fact the followers of Islam could never be immodest. He told the House that we were a poor nation where people could hardly get to eat and drink pure water. The Pakistanis would never allow their daughters to dance nakedly in the so-called name of culture and civilization implemented through the National Council of Arts. He declared the Bill as contradictory to our social norms and values and a luxurious one and strongly demanded the government to withdraw it.<sup>103</sup>

Sardar Shaukat Hayat Khan of Cou. ML said that Islam had its own culture and Pakistan, since its inception, followed the same culture. Therefore there was a need of such a council to display the Islamic culture and civilization before the whole world.<sup>104</sup>

Sahibzada Ahmad Raza Khan Qasuri said that we should have an organization that should promote our culture as culture portrayed the identity of a particular nation. So we should give a purified culture to the nation as well as the outside world. Our culture should be based on the line of Islamic thinking.<sup>105</sup>

Mawlana Abdul Hakim went into the history of culture and civilization and informed the Members of the House that the culture and civilization started when the first human stepped the earth. The humans started writing their ideas and conceptions over papers, clay, wood and cloth. The prophets brought the ideologies and movements of humans under the influence of their teachings through preaching. When the last Prophet Muhammad (PBUH) came to the Arab world, the art and culture existed in the shape of different beliefs, ideologies, emotions and thinking of humans. All those beliefs were against the will of Allah. He prohibited all those unlawful beliefs and presented the heavenly ideas of modesty and Oneness of Allah. That was the Islamic culture and civilization. He urged that the Islamic belief was prior to the human culture and civilization. It was the culture of the pagans to circumambulate the *Ka'abah*. When Islam revealed, the humans were commanded through the Quran that dress was a thing of dignity and nudity was the thing of ferocity. He demanded the government to present the Islamic culture and civilization before the world as Islam was founded on the bastion of Islamic Ideology.<sup>106</sup>

Debating over the Bill under discussion, Ghafoor Ahmad emphasized that Islam was a complete code of life and covered all the aspects of a Muslim's life. Each and every Muslim would lead his life in accordance to the injunctions of Islam and hence he would follow the Islamic culture and civilization. The commandments of the Quran and the life of the Prophet Muhammad (PBUH) were the basic elements of Islamic culture and civilization. So Pakistan was one nation having single nationality of Islam hence following the same culture and civilization.<sup>107</sup>



Ghafoor Ahmad forwarded amendments to the Bill. The amendments were:

“That the existing sub-clause (3) of clause 4 of the Bill, as reported by the Standing Committee, be re-numbered as paragraph (a) of that sub-clause and thereafter the following new paragraph be added, namely:-

“(b) The members of the Board, excepting the ex-officio members, may by writing under their hands addressed to the Chairman, resign their offices.”

“That after sub-clause (2) of clause 5 of the Bill, as reported by the Standing Committee, the following new sub-clause be added, namely:-

“(3) The Director General may, by writing under his hand addressed to the Chairman, resign his office.”

Both of the amendments were accepted and adopted by the House.<sup>108</sup>

Mawlana Shah Ahmad Noorani also condemned the government benches on the presentation of the Pakistan National Council of the Arts Bill, 1973. He argued that Art Council already existed with the name of Art and Culture. They wanted to have Cultural Agreements with other countries through which the dancers could be exchanged and they were giving it the name of culture. He asked the minister concerned to explain whether the European culture and civilization would be developed or Islamic ones? Therefore Mawlana Noorani moved a motion in order to keep in view the Islamic injunctions regarding the said bill. He guided the government legally that they were supposed to take the guidance from the principles of policy mentioned in the Constitution. Principles of policy had the clause to make laws keeping in view the Islamic injunctions. If we make

any law or establish an arts council constitutionally, we should keep the Islamic injunctions in view.<sup>109</sup>

After debates over the Bill and adoption of amendments from the opposition benches, the Bill was passed by the House.<sup>110</sup>

### **5.9 The Service Tribunals Bill, 1973**

During the legislative business, Khurshid Hasan Meer forwarded the Bill from the government bench. The Bill was:

“That the Bill to provide for the establishment of Service Tribunals to exercise jurisdiction in respect of matters relating to the terms and conditions of services of civil servants, The Service Tribunals Bill, 1973, as reported by the Standing Committee, be taken into consideration at once.”<sup>111</sup>

Explaining the purpose of the Bill, Khurshid Hasan Meer, said that for entertaining complaints of the public against any act of public servants or government departments Administrative Courts would be set up with the names of Service Tribunals. Those Tribunals would exclusively be for dealing with the service conditions and grievances or appeals against major penalties by the public servants themselves. Those Service Tribunals would be comprised of three persons. The Chairman would be a person who had been or was qualified to be a Judge of the High Court. Two other persons should be experienced officials. It was also provided therein that in case any one's departmental appeal or petition was not disposed of within ninety days, and then he would have a right to come to the Service Tribunal. The decision of the Tribunal would be final.<sup>112</sup>

Sardar Shaukat Hayat Khan, from the opposition benches, appreciated the Bill which promised for appointing two experienced officers to be able to command the confidence of aggrieved servicemen. But he felt sorrow to appoint a person as Chairman over those two experienced officers who would have been a Judge, or was qualified to be a Judge, any lawyer with ten year's standing, or with ten years without any experience. He suggested the government should revise the Bill and consider a Judge by a Judge of the High Court as the next Judge of the High Court as the Chairman of the Tribunal so that the Tribunal carried its weight and people could have confidence that they were going to meet justice from Tribunal consisting of the judiciary officer as well as senior government servants.<sup>113</sup>

The Bill was passed by the House without forwarding any written amendment from the opposition side.<sup>114</sup>

### **5.10 The Civil Servants Bill, 1973**

Minister for Education, Abdul Hafeez Pirzada, introduced the Bill in the house. The Bill was:

“That the Bill to regulate the appointment of persons to and the terms and conditions of service of persons in the service of Pakistan [The Civil Servants Bill, 1973], as reported by the standing Committee be taken into consideration at once.”<sup>115</sup>

Elucidating the Bill, Abdul Hafeez Pirzada said that it was provided under Article 240 that subject to the Constitution, the appointments to and the conditions of service of persons in the service of Pakistan shall be determined:

- a) In the case of the services of the Federation, posts in connection with the affairs of the Federation and All-Pakistan Services, by or under Act of Parliament; and
- b) In the case of the services of a Province and posts in connection with the affairs of a Province, by or under Act of the Provincial Assembly.

Then under article 241, it was said:

“Until the appropriate Legislature makes a law under article 240”, that meant that until a law was made by the appropriate Legislature i.e., in the case of All Pakistan Services or Services of the Federation by the Federal Parliament, “all rules and orders in force immediately before the commencing day shall, so far as consistent with the provisions of the Constitution continue in force and may be amended from time to time by the federal government or, as the case may be, the Provincial Government.” Under Article 275, the government had protected the existing terms and conditions of service of persons in the service of Pakistan subject to this, that this protection was to be available until a law was made by competent legislature. So the law which had already come in the shape of an Ordinance on the August 20, that now would replace the previous terms and conditions of services and once that law was endorsed in the form of a Bill by the NA and then by the Senate in accordance with the provisions of the Constitution, those shall be the terms and conditions of civil servants of Pakistan.<sup>116</sup>

Muhammad Shafi from PPP appreciated the Bill presented by the government benches in the House as it was awaited by the people as well as civil servants. He claimed that the civil servants had harmed the country very much during the last twenty-five years. They were inefficient and corrupt. The fault lied in the system. There was no proper procedure

of selection. The Public Service Commission was by-passed and the high ups of the civil bureaucracy appointed the officials of their own choice without any merit on the ad-hoc basis and were finally regularized by them after one or two years. Those officials then acted not as public servants but started bribing considering the public department as their private business. The Annual Confidential Reports of those servants were filled by their seniors who would be pleased of them in their personal capacity and not in the better service of the people at large. The civil servants did not get their pensions settled in due time. When those retired officials knew that they would not get their pensions for quite long time they would think to accumulate wealth for their rainy days after retirements. He suggested handing over completely the selection of civil servants to the Federal and Provincial Public Service Commission's so that efficient, honest and deserved candidates could be appointed to the public posts.<sup>117</sup>

Mawlana Ghulam Ghous Hazarvi pin pointed that the base of all evils was the space for corruption in the system. No system could flourish unless a suitable law for the eradication of corruption in the whole of the public departments was passed by the legislature. He presented proofs before the House regarding involvement of the Federal Minister for Labour, J. A. Rahim, appointing a candidate to a post without any criteria. The other candidates for the same post were not informed for its interview. He suggested to legislate for the reformation of the Ministers of the Government, the Secretaries and other civil servants under their jurisdiction would be reformed automatically. Promotions should be awarded to the servants on the basis of their efficiencies and original

performances in their fields and not at the personal pleasure and annoyance of their immediate heads.<sup>118</sup>

Muhammad Shafi forwarded an amendment to the Bill under consideration. The amendment was:

“That in clause 11 of the Bill, as reported by the Standing Committee, in sub-clause (1) paragraph (iii) be deleted.”<sup>119</sup>

He said that the purpose behind the amendment was that the said paragraph of the Bill was favouring the appointments on the ad hoc basis which were a great source of nepotism. So the deletion of paragraph (iii) would be better for the service as well as for the people. But the amendment was not accepted by the Minister concerned.<sup>120</sup>

The Bill was passed by the House in majority.<sup>121</sup>

### **5.11 The Employees’ Cost of Living (Relief) Bill, 1973**

Choudhry Muhammad Hanif Khan from PPP moved a Bill from the government benches which said:

“That the Bill to provide for payment of a cost of living allowance to employees [The Employees’ Cost of Living (Relief) Bill, 1973], as reported by the Standing Committee, be taken into consideration at once.”<sup>122</sup>

Elucidating purpose of the Bill, Choudhry Muhammad Hanif Khan said that the Bill was in favour of the workers. Because of rise in prices, the Dearness Allowance was allowed to all government servants as well as to workers employed in different industrial and commercial undertakings. The amount allowed was Rs. 35/- and persons drawing wages up to Rs. 700/- were covered by that concession. As far as the government servants were

concerned, the objective was achieved through a notification by the government but so far as the industrial and commercial undertakings were concerned, that concession could be allowed only through the approval of Bill by the House.<sup>123</sup>

Mahmud Azam Farooqi opposed the Bill on the ground that the relief announced by the government to the worker and poor class was not satisfactory. A responsible government always kept the balance between the workers' wages and rates of commodities. The most unfortunate strata of our society were the teachers and other ministerial staff. They were usually affected by the price hike. The business class and the shopkeepers got their profits in one way or the other. The nation did not see any substantial relief in the rates of commodities since January 1972. The newspapers were having distinct news on a single page. One was that of the increase in salaries of the government servants and workers while the other was about the price hike in the rates of sugar and cooking ghee. The cost of living allowance was far more less than the cost of index. So, the rates issued by the government under the cost of living index must be in harmony with the cost of living allowance granted to the wage-class. Hence, the matter would be settled once for all through that way.<sup>124</sup>

Mawlana Abdul Hakim appreciated the Bill moved by the government for the betterment of the workers. He brought other issues of the working class before the House. He said that there were such industries and private organizations who would not grant the allowance announced by the government through the Bill. Those owners should be traced and awarded severe punishments by the courts. Usually the working class was living in small huts. They did not possess their own property in order to build houses for

themselves. The government should be serious to solve the housing problem of the working class. The working class should be awarded free plots without any discrimination. It was also the foremost duty of the government to provide loans to them without any interests for building the houses over those plots. The workers' families were deprived of the education and health facilities. Mawlana Abdul Hakim said that upper areas of Khyber Pakhtunkhwa were deprived of the basic facilities and its working class was forcefully expelled from their houses by the wicked class of the area through guns and pistols. He claimed that the leaders and Constitutions changed in Pakistan but the fate of the workers remained stubborn. The Bill under consideration should be revised and re-introduced with changes for the sake of the workers whose huts were burnt by the cruel. Even the poor workers were burnt in the said areas.<sup>125</sup>

Mawlana Ghulam Ghous Hazarvi claimed that coming from Karachi he met hundreds of workers out of millions living in thousands of huts over there. Due to public demand a legal shape was given to their demand but they were not granted the rights of ownership of properties. Millions of workers were worried that only Rs. 35/- increase could not solve their problems. He reported that a Divisional Forest Officer at Mansehra handed over fifty thousand square feet of woods to a party through bribing. He could easily register his name in the good books of the ministers but on the other hand the poor working class was dying of starvation. He suggested that the corruption should be exterminated from the society and the wages of the poor working class be raised to a satisfactory level.<sup>126</sup>



Sahibzada Ahmad Raza Khan Qasuri proposed to control the market rates of all the commodities and stop the inflation in the country. No allowance could be effective unless the rates were controlled and inflation eradicated by the government.<sup>127</sup>

Rao Khursheed Ali Khan brought to the notice of the House that the allowance of Rs. 35/- was not a permanent one. It was a temporary bonus for a specific duration. Therefore the workers could not get any benefit out of the Bill. He suggested that the allowance awarded to the workers should be a permanent one.<sup>128</sup>

Mufti Mahmud said that the PPP had got majority votes in the elections of 1970. They were totally favoured by the workers as the PPP leadership had promised that the government would be of the workers, farmers, peasants and poor strata of the society. During the two years of the PPP government, the workers had got nothing so far. The number of workers killed during the PPP government during two years of their rule was more than the numbers killed during the previous twenty-six years since the inception of Pakistan. The workers had got no protection. Their lives were in danger. The workers should be given protection of lives at first and then their wages increased substantially.<sup>129</sup>

On the behalf of the opposition, Ghafoor Ahmad presented an amendment to the Bill. The amendment was:

“That in paragraph (a) of clause 3 of the Bill, as reported by the Standing Committee, for the words “seven hundred”, occurring in the second line, the words “ one thousand” be substituted.”<sup>130</sup>

Explaining purpose of the amendment, Ghafoor Ahmad said that the Minister concerned was supposed to render the relief of allowance to workers getting up to Rs. 1000/- per

month. The workers getting Rs. 1000 was not enough to meet his needs easily. He further proposed to apply the benefit of the allowance over workers' Provident Fund, gratuity and Social Security. He appealed the government to accept the amendment from the opposition benches.<sup>131</sup>

The amendment moved by the opposition to the Bill was rejected by the House.<sup>132</sup>

The Bill moved by the government benches was passed by the House.<sup>133</sup>

### **5.12 The House Building Finance Corporation (Amendment) Bill, 1973**

Mubashir Hassan moved the Bill before the House:

“That the Bill further to amend the House Building Finance Corporation Act, 1952 [The House Building Finance Corporation (Amendment) Bill, 1973], as reported by the Standing Committee, be taken into consideration at once.”<sup>134</sup>

Highlighting main features of the Bill, the Finance Minister Mubashir Hassan said that according to the already existing Act of the House Building Finance Corporation, only the citizens from urban areas could get loans. The Bill moved before the House was carrying some amendments to the House Building Finance Corporation Act, 1952 in order to facilitate the citizens of rural areas with the same facility as well. The loan would not only be provided for house building but also for its reconstruction, repair and flood affected houses too. He said that many amendments moved by the opposition members during the Standing Committee meeting were incorporated into the body of the Bill. Therefore he appealed the House to pass the Bill without any hesitation.<sup>135</sup>

Sahibzada Safiullah suggested that the government should not take interests over loans provided to the citizens of Pakistan for house building. He further said that the poor

people were exploited by the capitalist class on one hand and by the government on the other. The government always suppressed the people through taxes and interests over loans. The houses affected by floods were always owned by the poor strata of the society. Those poor, at least, must not be charged by the government with interests over loans.<sup>136</sup>

Mawlana Abdul Hakim emphasized that Islam had strictly prohibited any kind of interest. Islam had commanded to provide loans without interests for the amelioration of the people. Interest was a source of the destruction of the society. It had been a common experience in Pakistan since its inception that all kinds of loans were taken by the rich instead of the poor. He suggested making a policy to distribute the loans amongst the poor in the real sense.<sup>137</sup>

Ghafoor Ahmad forwarded the following amendment to the Bill under consideration:

“That in clause 2 of the Bill, as reported by the Standing Committee, for the words “and purchase of House”, occurring in the 4<sup>th</sup> and 5<sup>th</sup> lines, the following be substituted, namely: —

“reconstruction, repair and purchase of houses”.

The above amendment was accepted by the Finance Minister, Mubashir Hassan.<sup>138</sup>

The Bill was also passed by the House in majority.<sup>139</sup>

### **5.13 The University Grants Commission Bill, 1973**

Minister for Education, Abdul Hafeez Pirzada moved the following Bill in the House:

“that the Bill to provide for the establishment of a University Grants Commission (The University Grants Commission Bill, 1973), as reported by the Standing Committee, be taken into consideration at once.”<sup>140</sup>

Forwarding statement of objects and reasons of the Bill, Abdul Hafeez Pirzada said that it was the fulfillment of the promise made by the federal government to make an education policy announced on the March 15, 1973. In the education policy it was pledged that for the proper development of higher education in the Universities of Pakistan, a University Grants Commission would be set up which should be a buffer between the government bureaucracy and the university. It would be a research body of learned persons to advise the government on development of the universities. The said Commission would bring national unity and national integration through education. The University Grants Commission would look into the needs of the Universities.<sup>141</sup>

Before discussion over the Bill under consideration, the Speaker of the NA of Pakistan instructed the Members of the House to forward their amendments to it. Therefore, Ghafoor Ahmad presented an amendment to the Bill from the opposition benches. The amendment was:

“that in clause 4 of the Bill, as reported by the Standing Committee, after paragraph of sub-clause (1), the following new paragraphs be added and subsequent paragraphs renumbered accordingly:

- (d) two Members elected by the National Assembly from amongst themselves;
- (e) two Members elected by the Senate from amongst themselves;
- (f) The Managing Director of the National Book Foundation, ex-officio;
- (g) the Director General of the National Sports Trust, ex-officio;”<sup>142</sup>

The amendment was accepted by the Education Minister, Abdul Hafeez Pirzada.<sup>143</sup>

Debating over the Bill, Sahibzada Ahmad Raza Khan Qasuri suggested that in the Charter of the University Grants Commission a clause should be added that the entire curriculum of Pakistani Universities should be subservient to the Ideology of Islam which was the basis of Pakistan. He argued that if we would be able to inculcate the spirit of Muslim nationalism in the minds of Bengali students instead of the Bengali nationalism then there would be no disintegration of Pakistan into two wings in 1971. Therefore, he appealed the Minister for Education to introduce the Ideology of Pakistan in the curriculum and the syllabus as well.<sup>144</sup>

The Bill was unanimously passed by the House.<sup>145</sup>

#### **5.14 The Workers' Welfare Fund (Amendment) Bill, 1973**

Minister of Labour and Works, Choudhry Muhammad Hanif Khan introduced the following Bill into the House:

“That the Bill further to amend the Workers' Welfare Fund Ordinance 1971, [The Workers' Welfare Fund (Amendment) Bill, 1973], as reported by the Standing Committee, be taken into consideration at once.”<sup>146</sup>

Explaining salient features of the Bill, Choudhry Muhammad Hanif Khan said that the Bill was moved to amend the Workers' Welfare Fund Ordinance 1971. The Workers' Welfare Fund Ordinance 1971 provided that initially a grant was to be made by the federal government. As a result of the Ordinance, the government contributed Rs. 100 Million to the Fund. The second object of the Bill was that the governing body was to be formed which was supposed to be of a tripartite nature consisting of the representatives of the government, the employers and the employees. This body would be authorized to

operate the Fund. The third object of the Bill was that the governing body was authorized to allocate the fund to different provinces for the construction of the houses for the workers. The Boards would be constituted by the Provincial Governments and would be authorized to deal with property, to allocate those houses, to maintain, repair and carry out other functions relating to the administration of that property.<sup>147</sup>

Ghafoor Ahmad said that apparently the objectives of the Bill were very attractive but in fact the funds already allocated for the houses schemes of the workers were not used for their betterment. There were no amenities of life in those colonies of the workers. Ghafoor Ahmad asked the government benches when the fund worth Rs. 100 Million was not used properly by the government, then how could the opposition members vote for the approval of allocating further amount to the Fund? It was sure that the Fund was allocated for the amelioration of the workers but was not used properly. The workers were not representing the Board which was established for the use of that Fund at Federal level. The number of the members of the governing body was eighteen. There were only two members from the workers who represented them. The workers were in minority in the body. Therefore their problems could not be solved. The Welfare Board at the Provincial level was consisting of nine members. There were no members from the workers side at the Provincial level. He suggested that the workers representatives should be included in the Workers Welfare Boards at Provincial level so that they could not be exploited.<sup>148</sup>

Ghafoor Ahmad presented the following amendment to the Bill from the opposition side:

“That in clause 4 of the Bill, as reported by the Standing Committee, for paragraph (b) of the proposed sub-section (2) of Section 7, the following be substituted, namely:

‘at least one shall be appointed from each province amongst the workers; and.’”<sup>149</sup>

The said amendment of the opposition was accepted by the Minister concerned and adopted by the Speaker of the House.<sup>150</sup>

Another amendment moved by Ghafoor Ahmad, on the behalf of the opposition benches was:

“That in clause 7 of the Bill, as reported by the Standing Committee, the following proviso be added, to sub-section (6) of the proposed section 11 E, namely: —

‘Provided that the widow of the deceased worker shall not be evicted before the expiry of ‘*Iddat*’.’”<sup>151</sup>

Explaining purpose of the amendment, Mawlana Abdul Haq said that it was obligatory in the Islamic Law those four months and ten days after the death of the husband; the widow must not step out of the house where her husband was died. When the widow would not be pregnant, the duration of ‘*Iddat*’ was four months and ten days. When she would be pregnant of the deceased husband then it would end at the delivery. Therefore the opposition appealed to determine nine months for the vacation of the house by the widow of the deceased worker.<sup>152</sup>

The amendment of the opposition benches was accepted by the Minister for Labour and Works and adopted by the Speaker of the House.<sup>153</sup>

The Bill was also passed by the House.<sup>154</sup>

### **5.15 The Passport Bill, 1974**

The Interior Minister introduced the Passport Bill, 1974 in the NA of Pakistan. The Bill was:

“that the Bill to regulate departure from and entry into Pakistan and visit to foreign countries of the citizens of Pakistan (The Passport Bill, 1974), as reported by the Standing Committee, be taken into consideration at once.”<sup>155</sup>

As the objective of the Bill was very clear therefore the opposition directly started discussion to criticize the Bill in order to forward suggestions for the betterment of the Bill. The first useful discussion came from Ghafoor Ahmad on the opposition side. He said that clause 4 of the Bill carried that a citizen, leaving Pakistan, having no Passport or travelled for an invalid country, would be punished. It was also there that a person unknowingly broke the law, would be punished too. He asked what would be the scale for “knowingly” and “unknowingly”. He argued that the British had legislated for the Indians in 1920 over the same issue. They were not as crueler to the Indians as the PPP government was in independent Pakistan. The British laws never punished the people over a tinny doubt. He said that there were four stages, motive, intention, preparation and the real act. That was one of the accepted principles of jurisprudence that unless act had been performed a man could not be arrested. So passing the said Bill in its present form would be an injustice to the people of Pakistan. He strongly demanded to remove the ambiguity of ‘doubt’ from the Bill as all the citizens of Pakistan were patriots. The amendment forwarded by Ghafoor Ahmad was accepted by the House.<sup>156</sup>

Mawlana Shah Ahmad Noorani moved the following amendment to the Bill:



“That in clause 6 of the Bill, as reported by the Standing Committee, in sub-clause (1), for the words ‘three years’, occurring in the second line, the words ‘one year’ be substituted.”<sup>157</sup>

Another amendment presented by Mawlana Noorani was:

“That in clause 6 of the Bill, as reported by the Standing Committee, in the proviso, for the words “shall not be less than six months and with fine which shall not be less than one thousand’, occurring in the second and third lines, the words ‘may extend to six months and with or without fine which may extend to five hundred’, be substituted”.<sup>158</sup>

Explaining purpose of both of his amendments, Mawlana Noorani said that the punishments proposed by the Interior Minister in the Bill were very lengthy. The persons attesting the documents were also included in the Bill. He said that the documents for the passport were usually attested by the Members of the NA. So, he blamed the Interior Minister for proposing so lengthy punishments so that the opposition members could be debarred from the Assembly. If a person had provided some bogus documents for the passport he knew that himself but the attester would not know about the fakeness of the documents as no responsible and sensible person like MNA would attest without scrutiny. Therefore the punishment must be decreased to one year. Both of the amendments of Mawlana Noorani were opposed by the Interior Minister without any reason.<sup>159</sup>

Ghafoor Ahmad, on the behalf of the opposition, moved some amendments which were accepted by the Interior Minister. Those were:

1. "That in clause 4 of the Bill, as reported by the Standing Committee, in sub-clause (1), in paragraph (a), the words "or does any act preparatory to such contravention", occurring in the second and third lines, be omitted."<sup>160</sup>
2. "That in clause 7 of the Bill, as reported by the Standing Committee, in sub-clause (4), for the words" without unnecessary delay", occurring in the first and second lines, the words "within a period of twenty-four hours of such arrest, exclusive of the time necessary for the journey from the place of arrest to the court of nearest Magistrate" be substituted."<sup>161</sup>

Mahmud Azam Farooqi strongly opposed the Passport Bill. He said that the government was vastly empowered in the Bill. The government could confiscate the Passport of any citizen without any reason for four months. If the government was of the opinion a person was involved in subversive activities, his passport could also be forfeited. In such a way the government wanted to stop the opposition members from travelling to other countries if needed for legal necessities.<sup>162</sup>

The Passports Bill was passed by the House.<sup>163</sup>

### **5.16 The Peoples Open University Bill, 1974**

Minister for Law and Parliamentary Affairs, Education and Provincial Coordination, Abdul Hafeez Pirzada introduced the following Bill into the House:

"That the Bill to provide for the establishment of the People's Open University at Islamabad by The Peoples Open University Bill, 1974, as reported by the Standing Committee, be taken into consideration at once."<sup>164</sup>

Elucidating purpose of the Bill, Pirzada said that the People's Open University was a mutual media system of education for teaching at a distance. It would not be confined to a Campus, but will teach through correspondence courses, tutorials, seminars, workshops, laboratories, television, radio broadcast and other mass communication media. Its aim was to teach those who could not leave their homes or jobs or otherwise unable to attend conventional university system. It would meet the needs of in-service categories for continuing education that was done with conventional profession.<sup>165</sup>

Ghafoor Ahmad, on the behalf of the opposition, appreciated the step of the PPP government in the field of education. He confessed that the PPP government had allocated more budgets for the education purpose than any other government in the past. But the removal of the basic flaws in the education system was not heeded by the government. The schools and colleges were nationalized but the curriculum remained the same as it was during the British rule in the sub-continent. He appealed the Minister for Education to Islamise the curricula in order to create better humans as Muslims in accordance to the principles of Islam who must face the modern world through their potentialities. He also suggested enlightening the backward areas of Pakistan through the teachings of the Open University in the Bill under consideration.<sup>166</sup>

The opposition benches presented amendments to the Open University Bill, 1974. The first amendment moved in this regard came from Ghafoor Ahmad which was accepted by the House. The amendment was:

“The following paragraph be added in clause 4 and existing re-lettered accordingly.

- (a) to provide educational facility to people who cannot leave their homes and jobs in such a manner as it may determine;
- (b) to provide such facilities to masses for their educational uplift as it may determine;
- and
- (c) to provide facility for the training of teachers in such a manner as it may determine.”<sup>167</sup>

The second amendment to the Bill came from Mawlana Shah Ahmad Noorani which was passed by the House:

“That in clause 18 of the Bill as reported by the Standing Committee in sub-clause (1) in paragraph (e) for the words “Islamic Advisory Council”, the words “Council of Islamic Ideology” be substituted.”<sup>168</sup>

The Bill was passed by the House.<sup>169</sup>

### **5.17 The Road Transport Workers (Amendment) Bill, 1974**

Choudhry Muhammad Hanif Khan moved the following Bill:

“That the Bill to amend the Road Transport Workers Ordinance, 1961 [The Road Transport Workers (Amendment) Bill, 1974], as reported by the Standing Committee, be taken into consideration at once.”<sup>170</sup>

Explaining objectives of the Bill, Choudhry Muhammad Hanif Khan said that the Bill was meant to bring the provisions of the Road Transport Workers Ordinance, 1961, in accord with the policy of the government to provide more facilities to workers in every field. It would require employers to give letters of appointment, promotion, transfer so that it could be at the record of the employee in the employees’ better interest. Secondly,

the reduction was being made in the daily hours from nine to eight and weekly from fifty-four to forty-eight. A new section 6A was being inserted to entitle the transport workers to ten festival holidays with wages in a year. Road Transport Service had been brought at par in the matter of compulsory group insurance, payment of bonus, termination of employment, procedure for re-employment of retrenched workers and punishment. As far as the security of service was concerned they would be brought at par with the employees of other commercial and industrial undertakings.<sup>171</sup>

Mahmud Azam Farooqi strongly condemned the Bill of the government. He argued that the festival holidays were not granted to the road transport workers in the Bill. The accidents occurred in Pakistan due to carelessness of the road transport workers as they were not paid highly. All the government, non-government and industrial employees were granted the casual, sick and earned leaves under the Industrial Ordinance 1961. The amendment Bill under consideration had not provided the road transport workers with the same privileges. He also suggested considering the service of the road transport workers for gratuity which they had rendered earlier to the passage of the Bill under consideration.<sup>172</sup>

Mawlana Abdul Mustafa Al-Azhari suggested that the drivers of the bus services should be provided with the best facilities at various bus terminals for rest. In such a way they would be fresh and there would be no chances for road accidents and mishaps. The drivers should be restricted to perform single duty as they strived for double duty to get additional amount.<sup>173</sup>

During clause by clause consideration of the Bill, Ghafoor Ahmad moved the following amendments from the opposition benches:

“that in clause 4 of the Bill, as reported by the Standing Committee, in the proposed section 6-A, for sub-section (1), the following be substituted, namely: —

“6-A. *Festival holidays*.—(1) Every worker shall be allowed, with full wages, such festival holidays as are declared by the government to be public holidays.”

This amendment was opposed by the Minister concerned and not adopted by the House.<sup>174</sup>

He moved an oral amendment for facilitating the road transport workers with twelve festival holidays. The amendment was accepted by the concerned Minister. The amendment was:

“that in clause 4 of the Bill, as reported by the Standing Committee, in the proposed new section 6-A, the word “ten” occurring in the second line be substituted by the word “twelve”.<sup>175</sup>

The Bill was adopted by the House.<sup>176</sup>

### **5.18 The Dowry and Bridal Gifts (Restriction) Bill, 1975**

Mawlana Kausar Niazi (Minister for Information and Communication, Hajj and Auqaf) moved the following Bill:

“That the Bill to provide for restrictions on Dowry and Bridal Gifts [The Dowry and Bridal Gifts (Restriction) Bill, 1975], as reported by the Standing Committee, be taken into consideration at once.”<sup>177</sup>

The mover of the Bill explained that the dowry and bridal gifts at marriages created imbalance and socio-economic issues within the Pakistani society. He declared the dowry as a curse in the society. He said that due to the curse of the dowry most of the girls remained unmarried which further created social problems. The Bill had provided, under clause 10, to punish the wrong-doers with three years imprisonment or Rs. 10,000 fine or both of the punishments could be given at the same time. The federal government could confiscate the dowry in order to spend over the helpless and orphan children. In order to avoid wrong reports from the public, Deputy Commissioner of every district was directly made responsible. He would issue a notice to the law-breaker and call for the *Nikah* Registrar and a first class Magistrate would be appointed for further investigations.<sup>178</sup>

Mawlana Ghulam Ghaus Hazarvi declared that the Bill consisted of two parts within the Islamic framework. One was the dowry while the other was bridal gifts. He said that according to Islam the dowry was not a curse rather it was the *Sunnah* of the Prophet Muhammad (PBUH). The Prophet himself gave dowry to Hazrat Ali (R.A) but according to his capability. He cleared a misconception amongst the society and argued that it was not the duty of a Muslim father to fulfill the needs of a young boy. The grown up boy would fulfill all of his needs by himself. If a father did that, it was just like a *Nafal* for him and he would be rewarded by Almighty Allah for that purpose. The people always gave dowry as a dissimulation. Islam enjoined that anything given or done in the society as a token of show was illegal near Allah. He further informed the House that punishment of imprisonment was right according to Islam and the fine according to the Bill was not in accordance to the *Shariah*. He therefore suggested removing the punishment of fine

from the Bill. He explained that the bridal gift was also *Sunnah* but the dissimulation of the gift at marriage was totally illegal.<sup>179</sup>

Mawlana Abdul Hakim appreciated the Bill moved by the government benches. He informed the House that the show of dowry was an influence over the Muslims of the Subcontinent from the Hindu society. He pin pointed that it had become a common tradition in most of the areas of Pakistan that dowry was given in abundance to the daughter in order to quit her out of the inheritance of the property of her father. That was completely against the verses of the Quran. Quran and *Sunnah* had given both the rights of dowry as well as inheritance in property to women. Taking benefit of the debate over the Bill under discussion, Mawlana Abdul Hakim presented a historical event of the British rule in India that when the 'Sharia'at Bill' was introduced in the Khyber Pakhtunkhwa Assembly, a questionnaire was issued whether the people believed in matters of *Nikah* and inheritance according to Islam? The big landlords and women replied negatively and favoured the traditions instead of the *Shariah*. He pin pointed that the peoples took loans on interest or sold their lands for giving dowry to the bridegroom. He also proposed that the government should also prohibit, through the Bill, the extravagant *Walima* given at marriages. *Walima* was a part of the dowry according to Islam. It should be the simplest one. He quoted the example of the *Walima* from the life of the Prophet Muhammad (PBUH) when he was travelling from Makkah to Madinah and married on the way. The Prophet instructed his companions after offering the prayer to serve the food which was for the purpose of travelling. They all served it along with the Prophet (PBUH). All of them ate out of those dates and barley beverage. That was the



*Walima* offered by the Prophet as a model for his followers. He said that garlanding of groom was also a Hindu custom. He said that the custom of extravagant dowry had compelled the government officials to take bribes. He pin pointed that the *Nikah* Registrar would also take bribes in order to keep secrecy of his clients and would not be able to report against the client as the Registrar usually used to be the *Imam of Masjid*. He also proposed the government to make the law of dowry practicable amongst its own circles and be a role model for the rest of the society.<sup>180</sup>

The opposition members strongly demanded that the Bill under consideration should be sent to Select Committee or circulated to elicit public opinion as it was concerning a large number of people. Therefore, a Select Committee was formed consisting of fifteen Members<sup>181</sup>. The quorum for the Committee was five Members.<sup>182</sup>

As the Bill was presented before the Senate for its approval, the opposition members termed it as a valuable step towards the abolition of social evils from the Society. Mawlana Noorani, from the opposition benches, further said the dowry was a *Sunnah*. Everybody could gift anything he wanted according to his capability. The bill was moved in the house because some people considered it as a source of vainglory and snobbery.<sup>183</sup>

Mawlana Noorani appreciated the bill and argued that Quran had also commanded "When the believers spend, they did not spend extravagantly and also avoid miserliness. They adopt the moderation". The Prophet (PBUH) has also said that Muslims should judge their economy during both the poverty and riches. They should cut their coats according to their cloths. Mawlana pointed out some flaws and demanded to remove those from the bill. The *Salami* to the bride and bridegroom should not be constrained as

it was legal. But the extravagancy in this connection should also be damned. Secondly, the social evils adopting the shape of a bill should at first be publicized and then after some months be imposed. The Bill must not be passed and enforced suddenly. Steps should be taken to convince the public to control the evil by themselves.<sup>184</sup>

Mawlana Noorani was very surprised to see that the punishment in the Bill was recommended for the girl side. The girl side was compelled to fulfill the demands of the boy side. It was the boy side that demanded the air conditioner, refrigerator, cars etc as dowry. No punishment was suggested for the boy side. Both of the sides should be held responsible. The amount of Rs. 10000 as a fine was very huge. For example a widow would marry her daughter and if she was fined, how would she do away with?<sup>185</sup>

The Senate passed the Bill.<sup>186</sup>

### **5.19 The Education Bill, 1976**

Mian Muhammad Ataullah (Minister of State for Education) moved the Bill into the Senate:-

That the requirement of sub-rule (2) of rule 83 of the Senate, 1973, in regard to the Bill to make provision for Federal supervision of curricula, text-books and maintenance of standards of education [The Federal Supervision of Curricula, Text-books and Maintenance of Standards of Education Bill, 1976], as reported by the Standing Committee, be dispense with.<sup>187</sup>

When the government benches presented the above Bill, Mawlana Shah Ahmad Noorani, on the behalf of opposition, strongly opposed it, as it had several technical faults. Mawlana Noorani said that no regard was paid towards those faults. He recommended that the whole education system of Pakistan was supposed to be made in accordance with the Islamic system. All the moral, spiritual and literal values must be highlighted in this Bill. But he felt sorry over the inattention of those objectives in the bill. As far as the

other aspect was concerned, that was our national language, Urdu. But the plan for education, made by the Education Minister had no way for our national language. Only the local languages and English had been sheltered in it. Mawlana Noorani informed the house that he had gone through some books published by the national plan for curricula and textbooks. The books published by the National Bureau of Curriculum had a room for the learning of the languages. That plan had sanctioned twelve periods at the primary level and sixteen periods for the middle school level per week.<sup>188</sup>

Mawlana Noorani said that the National Bureau of Curriculum as well as the Bill, presented in the Senate, would not accomplish the objectives. He pointed out that the educational curriculum was already working under a plan. The plans presented by the Bureau had already faults and the Bill under consideration was not correcting the previous faults, but it was a source of increase in those drawbacks. Mawlana Noorani drew the attention of the Education Minister towards the education system, textbooks and standard of education. He said that all the aspects of education were covered under that Bill but at least they were bound to make Urdu a fundamental part of the system. Arabic should also be a momentous part of the system. Mawlana Noorani reminded the house that one of the most significant causes for the separation of Bangladesh was that our education system was not an Islamic one. It was essential to make the Arabic an obligatory part of our system, so that a common Muslim child could comprehend it directly. We had gained a lesson from the fall of East Pakistan. He referred to the speech of Siraj-ul-Haq, Head of the Arabic department at Dhaka University, who participated in the *Sirat Congress*. Sirajul Haq strongly advocated the teaching of Arabic language in all

the Muslim countries from the elementary stages of education. Mawlana measured his advice as a guideline for our next textbooks and standard of education.<sup>189</sup> Mawlana Noorani pointed out that unless and until Islam was not given the importance in the education system, no good results could be achieved. It was necessary to give space for the Arabic in our education system to Islamise it. All the facilities should be provided to the students in that connection. That was very easy as the students were already getting education regarding the Quran at home, *masjid* and *madrasah*, but the curriculum had no space for it. Its results were unfruitful. There was confusion among the students and teachers. They were always seen on strikes. The course books were rarely available, and if available, that had objectionable topics. If the government was of the view to get good results of the bill in the field of education, it was just to make castles in the air.<sup>190</sup> Mawlana Noorani further argued that the education ministries of countries play a vital role to promote its spiritual values. "Education ministry was like the backbone. But here in our country the state advisers gave their advices according to their own whims and wishes and so the system was destroyed severely". The objectives in the Bill were not proper so, Mawlana Noorani rejected it to be enacted and accepted.<sup>191</sup>

The Bill was unanimously passed.<sup>192</sup>

## **5.20 The Employees' old age Benefits Bill, 1976**

The motion moved by the government benches was: "That the bill to repeal and re-enact the law relating to old-age benefit for the persons employed in industrial, commercial and other organizations [the employees' old age benefits Bill, 1976], as reported by the standing committee, be taken into consideration at once".<sup>193</sup>

Mawlana Noorani, on the behalf of the opposition, opposed the motion and moved an amendment to the abovementioned motion. The amendment of Mawlana Noorani was:

“That the bill as reported by the standing committee be circulated for eliciting public opinion by 20<sup>th</sup> April, 1976.”<sup>194</sup>

Mawlana Noorani said that the bill had a number of clauses and was very important. It was related to the workers and employers. It had safeguarded the workers against the mistreatment of the employers. A system for both the parties had been laid down by the Bill. So, Mawlana demanded to circulate the bill for the workers among the public before discussing it in the Senate. He recommended that the bill was mostly related to the labour unions and textile associations, so they must be invited to the Standing Committee and be consulted. Then the Senate should be informed of the consequences in that state. Mawlana Noorani objected over the awkward type of clauses of the old age benefit bill. He said that it was totally a deception in the name of old age benefit and was far away from facts.<sup>195</sup>

Mawlana Noorani pointed out that the qualifying conditions for old age benefits were due at the retirement of 55 years for men and 50 years for woman according to the bill under discussion. The amount of pension for both was Rs. 75 each. What an old person will do with the Rs. 75? How would he fulfill his needs out of such a tinny amount? The government did not keep their words of providing “bread, clothing and shelter”. Therefore, at least they were given Rs. 75. If the government could not give pension to its servants at their retirement, so how could it provide pension to the workers?<sup>196</sup>

Mawlana Noorani assured the honourable house that the bill was not prepared by the Minister for Labour but by the bureaucracy. Staff would be employed in the name of Board of Trustees, as the labour division existed. The workers were already afraid of the name of the said labour division. There was also the social welfare department. It was not useful. In the same way the Board of Trustees or such other institution would be of no use. All the expenditures would be deposited from the employees and employers. Board of Trustees and Institutions etc. would be functionalized out of these expenditures. Mawlana talked over the principles of the bill and repeated a special feature of the bill. The bill said, "The federal government may, subject to such conditions as it thinks fit to impose, by notification in the official Gazette, exempt any establishment or industry from all or any of the provisions of this act".<sup>197</sup>

According to the above provision, the government could exempt any industry. If the workers worked in an industry and the very same industry was exempted, then how would the workers get the old age benefits? The institution would also be under the jurisdiction of the federal government. The workers would be exploited and the ways to bribery get opened. There were many flaws in the bill. The institution and Board of Trustees were being made for the upbringing of some government officials. The workers would get nothing out of it. Another ambiguity, which was pointed out by Mawlana for the correction, was about the transfer of a worker from one industry to another. For example, if a worker had some compulsions to leave Lahore for Gujranwala after one year and shifted there to another factory and again he got an opportunity to have better job in Karachi, then what would he do about his funds? There was no way for the

shipment of his funds to another factory. What the Board of Trustees and institution would do?<sup>198</sup>

Mawlana Noorani pointed out another technical fault in the bill. If a person claimed orally to be a worker in a specific factory. Then the same factory dismissed him. Then it was very easy for a person to say such things, as there was no documentary proof of the worker. A person on the basis of enmity could claim such things easily. A person could exploit an owner of a factory in such a way. So there should be a registration card for each and every worker. The worker should be registered with the factory. The same flaw could be vanished through that measure very easily. Mawlana Noorani also suggested the government to press the capitalists in favour of the workers. The factories should be made responsible to allocate allowances out of the profit made by the owners, so that rights of the workers could be preserved.<sup>199</sup>

Mawlana Noorani moved an amendment for the eradication of flaws in the bill. The amendment was:

That clause 3, be numbered as clause 3, sub – clause

1. and the following be added after it as sub clause (2): -

2. The employer shall get all insured persons in his establishment registered with institution before the first of August 1976, and the institution shall issue registration card prepared as prescribed under the rules. In case the employer fails to get insured person registered as aforesaid, the insured person may himself apply to the institution for his registration.<sup>200</sup>

Mawlana Noorani explained that the procedure presented in the amendment was for the sake of the welfare of worker as well as benefit of the employer. The institution would issue a card to the worker after registration. Different countries had the procedure for old age pension. There existed the registration card system. That card was always with the worker. Where he got employment, he was registered there and whenever he left that

place and would go to another factory that card would also go with him. All the benefits would be availed by him. If he had not the registration card, the capitalist could cheat him. The card would be very helpful for both the employee and employers. The Board of Trustee, the institution and the employer would have the knowledge that where and when he was working? It would be very easy to determine his rights through this method.<sup>201</sup>

Mawlana Noorani said that the Board of Trustees would deposit the amount of the employees in bank. The audit would be undertaken. But what would be the utility of that amount? If it were ensured that the amount paid by the employees would be protected under the insurance policy, it would be better. But the Board of Trustees was empowered to invest the amount. This had been experienced in our country so many times that the insurance companies were given the capital and they invested the said capital in many fields, which was totally destroyed. The bank could keep it secure but if the authority of its investment was given to the Board of Trustees, then it was sure that the amount was not safe. There was no such restriction; therefore it was not in favour of the workers. The country was given the impression that the capitalists were completely being controlled according to the interests of the workers. The Board should not be empowered to exempt any factory.<sup>202</sup>

The presiding officer of the Senate called the opposition members as socialists. Mawlana responded very optimistically that they were staunch Muslims and were presenting the economic aspect of Islam before the honourable house. Our economic system was not based on socialism. Islam itself was an economic system. There were instructions present in Islam, for the best economic system that was also our religion. Mawlana Noorani



quoted a very brilliant example before the Senate. The Prophet Muhammad (PBUH) asked a worker why his hands were so rough. The worker replied that he cut woods with the help of these hands. The Prophet Muhammad (PBUH) kissed his hands and said that these hands were earning his livelihood. Our Prophet has valued the workers very highly. There was no better system than Islam all over the world.<sup>203</sup>

Mawlana Noorani then presented the political aspect of the bill. He said that the bill was moved only to get some political objectives. So the bill was very important on the political point of view but as far as the interests of the workers were concerned, there were no such clauses for their benefits. Therefore, Mawlana strongly opposed the bill.<sup>204</sup>

The Senate rejected the amendments of Mawlana Noorani while the Bill stood passed.<sup>205</sup>

## **5.21 Adjournment Motions from Opposition regarding Social Issues**

### **5.21.1 Stage Drama in WAPDA Auditorium, Lahore**

Mawlana Abdul Hakim presented the reports along with pictures published in the Daily Mashriq and Daily Shahab dated June 6, 1973, pin pointing the immodest, obscene and immoral characters pictured by some of the artists at the Auditorium of Water and Power Development Authority (WAPDA) Lahore. The newspapers had published these reports titling "Campaign against Obscenity". He emphasized the government to stop such immoral acts and dramas staged in the Auditoriums as it were under the jurisdiction of the government. The whole nation would be disgraced in the comity of nations through such immoral dramas.

Over strong demand of the opposition members, Mawlana Kausar Niazi assured them to enquire about the artists tainted in the obscene stage drama would be punished and removed from the TV and Radio channels.<sup>206</sup>

#### **5.21.2 Unlawful Forced Labour**

Mawlana Abdul Hakim presented an adjournment motion which demanded to declare the forced labour as illegal constitutionally. He claimed that no practical steps had taken place in Pakistan to eradicate the duress. The farmers and peasants were beaten for not undertaking forced labour. The sacred Constitution of the country was violated in that way. He presented the various newspapers' cuttings which had the names of the places and peasants who were beaten by the feudal lords. The peasants of Nakki Maweri were beaten in Jewry and that of kutterlung Bala in Battal for declining the forced labour of feudal of the concerned areas. The tillers of Tehsil Battgram and Mansehra were evicted by the feudal from their lands as they denied their duress. The feudal were then stronger as they had occupied ministries in the government. The poor peasants were helpless and therefore the opposition strongly demanded to relocate the affected peasants of the areas concerned.<sup>207</sup>

The government benches got rid of the matter by referring it as a subject of the Provincial List. Whereas the opposition members said that it was a violation of the Constitution and protection of the rights under Constitution was the responsibility of the Central Government.<sup>208</sup>

### **5.21.3 Resolution to ban Rotary Club and Lions Clubs**

Mawlana Abdul Haq moved a resolution which said,

“This Assembly is of the opinion that such clubs as ‘Rotary Club’ and ‘Lions Club’ which are engaged in activities similar to those of “Free masons”, be banned throughout the country”.<sup>209</sup>

The opposition members including Mawlana Abdul Hakim, Mawlana Abdul Mustafa Al-Azhari, Mufti Mahmud and Sahibzada Safiullah, while debating over the resolution, told the House that there were two kinds of imperialism. Direct imperialism threatened the liberty and freedom of a nation while the indirect imperialism destroyed its culture, civilization and ideology. The counter movements could bring back the freedom to a nation but once deprived of culture and ideological base would mean a complete destruction. They declared the Rotary Club and Lions Club as an embodiment of indirect imperialism in Pakistan. Pakistan was achieved through an ideology. That ideology would be destroyed by indirect imperialism through those kinds of clubs. Whenever a country was destroyed ideologically and intellectually, its population took years and years to come out of its slumber of serfdom. They also reported that the members of those clubs were also drinking and gambling within those clubs which were prohibited in Islam emphatically. They unanimously demanded to ban the same types of clubs in the country so that intellectual decay of the nation could be stopped.<sup>210</sup>

### **5.21.4 Resolution from Opposition Banning Immoral Cultural Activities**

Mawlana Abdul Haq moved the following motion on the behalf of opposition:

“This Assembly is of the opinion that all activities in the name of culture (dances, musical concerts, etc.) resulting in moral laxity, obscenity and immodesty in society be banned throughout the country and that the exchanges of cultural troupes with foreign countries for performances at musical and stage-shows be stopped.”<sup>211</sup>

Abdul Hafeez Pirzada, Minister for Education, declared the resolution as absolutely superfluous, meaningless and an abuse of the privileges of the House. He claimed that the resolution was against the Rules of Procedure of the NA of Pakistan. He advised the opposition to bring forth the Bill in order to eradicate such activities in the society.<sup>212</sup>

Mawlana Abdul Haq, responding to the statement of Abdul Hafeez Pirzada and explaining the purpose of his resolution, said that if the government agreed to the expressed opinion of the opposition then a Bill could also be introduced in the House. The Principles of Policy in the Constitution should be legislated and made the Acts of the Constitution of the Islamic Republic of Pakistan so that the Islamic requisites were fulfilled. He further said that “Don’t do in Rome as the Romans do”. They would drink but the Muslims were commanded by Allah and His Prophet not to drink. They would dance but Muslims were forbidden to dance. The Muslims should follow the Islamic culture even in the European countries and must be proud of that. The European culture cannot be a part of our culture. If we followed their culture then we should also be hard-working like them. They never told lies. They always stood by their promises done with the nation. We should follow them in their good deeds and not in their bad ones. Islam has commanded the Muslims to shun evil deeds. The nations who avoided evil doings were always respected. The men and women took bath in the same pool in Europe but

according to the teachings of Islam, its followers could never do so. Our nation was dying of starvation. There was price hike in our society. The government should spend over the poor nation in order to eradicate their hunger instead of lavish expenditures in the name of immodest culture. In order to preach the teachings of Islam within the Pakistani citizens, the government should pass the resolution forwarded by the opposition and have a piece of legislation over the matter.<sup>213</sup>

While debating over the resolution, Mawlana Abdul Hakim said that every nation was based on a specific ideology and the signs of that ideology appeared in their economies, education, social life and their collective life styles. He astonished over thinking of the political leaders to consider Islamic way of life as a hurdle in the progress and modernization of the nation. Islam was never against the modernization rather it was not in favour of the immodest culture. The developments were never achieved by the nations through immodest cultures. They achieved advancements through their hard work and honesty. Immodesty always led the humans to cowardice and destruction. The immodesty of dancing women deteriorated the moral values of a leader like General Yahya Khan. He was the main cause for separation of East Pakistan. He was a weak man and did not trust in Allah that's why we lost the East Pakistan. Millions of rupees were spent over the immodesty of the nation. If that amount was spent over character-building of the nation then the country would flourish. It was possible only when the resolution moved by the opposition got passed by the House.<sup>214</sup>

Mufti Mahmud claimed the leadership entered the Legislature with the promises to Islamise the life style of the nation and to inculcate democracy and socialism in the lives

of the citizens. There flourished capitalism and dictatorship in reality in Pakistan. The leadership was victim of duality in their faiths. They should approve the resolution of the opposition in order to fulfill their promises and patronize the Islamic ways of life.<sup>215</sup>

Mawlana Abdul Mustafa Al-Azhari condemned the government for not fulfilling its political slogan during electioneering that "Islam is our religion". The Constitution was so designed as to Islamise the lives of the citizens of Pakistan, but practically no step was taken by the government so far in that direction. Obscene movies were displayed in cinemas which badly affected the immature minds of the illiterate strata of our society. The dancing women and prostitutes were exchanged with other countries in the name of culture and civilization. That practice should be stopped and the resolution of the opposition must be conceded by the Assembly.<sup>216</sup>

Sahibzada Safiullah said that the obscene and immodest culture was prevalent even before the advent of Islam. The pagans used to circumambulate the *Ka'bah*. Through the Prophet Muhammad (PBUH), Allah prohibited all those activities within the Islamic society. The pagans tried their best to stop the Prophet from the right path. Ibn-i-Abbas narrated that one of the Arabs from the family of Quraish gathered the pagans of Arabia and convinced them to stop the honest, trustworthy and firm man, Prophet Muhammad (PBUH), from his path. That pagan also promised to bring maids from Iraq in order to spread immodesty and obscenity in the society. Those maids were utilized to persuade those persons to obscenity and immodesty which were influenced by the preaching of the Prophet Muhammad (PBUH). As such various ways were used to curtail and exterminate Islamic movement in every age. Sahibzada Safiullah said that the British ruled in the

Sub-continent for about one hundred and fifty years. They left behind their influences over the inhabitants of the land. Those minds still existed in Pakistan and wanted to sabotage our own Islamic culture in Pakistan's society. Some were following the American culture while the others followed the Russians and Japanese. The ruling class of Pakistan was mostly impressed of those foreign cultures. They had joined clubs and gatherings over there and were overwhelmed. When returned to Pakistan, they started to style their lives in the alien culture. He asked the Minister for Education that what type of Pakistani and Muslim culture those dancers were representing in the foreign countries. We were being disgraced in the comity of nations through such immoral and irrelevant activities in the name of culture. They were representing but only the capitalist class of Pakistan which was less than one per cent of the population. They never represented the culture of Muslims in the real sense. He strongly favoured the resolution and appealed the House to approve it.<sup>217</sup>

Ghafoor Ahmad presented an amendment to the resolution on the behalf of opposition. The amendment moved was:

“That at the end of Resolution the following words be added:

“That official delegations going abroad be directed by the government not to witness such musical and stage shows in foreign countries.”<sup>218\</sup>

Ghafoor Ahmad said that all the delegations sent by the Pakistani government should represent their own culture and religion. He claimed that it was published in a newspaper dated November 29, 1973 that a person had launched a movement of nudity in a foreign country. But that was their culture. Our culture would never allow such movements and

campaigns. He demanded that the delegations sent by Pakistan must be restricted to join any Western social show which was against our culture, civilization and religion.<sup>219</sup>

The amendment moved by Ghafoor Ahmad was rejected by the House.<sup>220</sup>

Minister for Education, Abdul Hafeez Pirzada opposed the Resolution moved from the opposition benches on the ground that it was not properly framed and second part of the resolution was not in the interest of the country if it was adopted. The second part said that the exchanges of cultural troupes with foreign countries for performances at musical and stage-shows be stopped. That was part and parcel of cultural agreements that Pakistan had signed with a large number of countries including a majority of the Muslim countries. The crux of the matter was that nothing should be obscene; nothing should result in moral laxity. What was moral laxity, what was obscene, might differ from person to person. He claimed that if his own conscience was clear then what was going on around did not amount to obscenity or moral laxity. Such types of cultural agreements helped tremendously in strengthening the ties of friendship and relationship between the people of different countries. He asked the opposition why to presume that every exchange of a cultural troupe would result in obscenity and moral laxity. The Punjabi Bhangra Dance, famous Khattak Dance of Khyber Pakhtunkhwa, the Jhoomer in Sindh and Leva Dance of Baluchistan were our cultural heritage. He claimed that music and dance were not banned by Islam. He claimed that the music was foremost among the beautiful gifts of God. On those very grounds he opposed the Resolution of the opposition.<sup>221</sup>



The mover of the Resolution, Mawlana Abdul Haq, responded to the questions and claims raised by the Minister for Education and replied that the Members of the House had solemnly declared while taking oath that they would protect the Islamic ideology of Islam and Pakistan. He said that he himself was a Khattak and was totally against the Khattak Dance as it was prohibited by our *Shari'ah*. The Quran and *hadith* had prohibited the dance and music. History has shown how the Muslims faced downfalls due to luxuries. The downfalls of the Umayyad and Mughal dynasties were all due to their lavish life styles. The British came and crushed the Mughal emperors and princes ruthlessly and snatched their rule from them very easily. He appealed the government to exterminate the evils from the society. The dancing girls were the mothers and sisters of our nation and they should be provided with honourable possessions as substitute. He said that Allah always blessed those nations with prestige and honour who followed His commandments. The money lavished over dancing girls in the name of culture should be spent over the betterment of the poor people of Pakistan.<sup>222</sup>

The Resolution, after a long debate, was rejected by 28 Members of the House to that of 12 in favour.<sup>223</sup>

## **5.22 Questions of Opposition Members regarding Social Issues in the Society**

The opposition members actively participated in the Questions and Answers sessions of the NA of Pakistan. They collected data from their relevant constituencies regularly and put questions before Speaker of the Assembly to be answered by the Ministers concerned. The following various questions regarding different social issues were asked by the

opposition members relating to the social conditions of the country in general and their constituencies in particular.

#### **5.22.1 Exhibition of Films**

Mawlana Abdul Haq asked Mawlana Kausar Niazi, the Minister for Information and Broadcasting, Auqaf and Hajj, to stop the exhibition of obscene English Films in the cinemas of Pakistan as those were deteriorating the morality at the national level. He demanded to exhibit such Films which could improve the education, knowledge and manners of the public all over the country. He also advised the government to stop the advertisement and publicity of obscene Films generally in the newspapers published on Fridays. Friday was a sacred day for all the Muslims religiously. The exhibition of obscene pictures in the daily newspapers, especially on Fridays, would not be afforded by the opposition.<sup>224</sup>

#### **5.22.2 Import of Liquor**

Mawlana Abdul Haq asked the Minister for Health and Social Welfare, Sheikh Muhammad Rashid, to state the foreign exchange spent by the Central Government on the import of foreign liquor. According to the answer of Sheikh Rashid imports of liquor were to be reduced gradually. Then he asked for the latest measures under consideration of government for discouraging the use of liquors. The concerned Minister told that existing laws in the Provinces were being strictly enforced. The government denied a total ban keeping in view the needs of foreigners residing in Pakistan and foreign tourists. Over that reply Mawlana Abdul Hakim demanded a complete ban over the import of

liquor as we should care for the better future of our nation and not the tourists for their luxuries.<sup>225</sup>

### **5.22.3 Bribery and Corruption**

In order to stop the bribery in the federal government offices, Mawlana Ghulam Ghous Hazarvi asked the Minister concerned to take steps in order to eradicate the bribery and corruption within the offices of the federal government where the selfish and opportunist officers were looting the common people. He suggested the government to consider the desirability of appointing Tehsil-wise (sub divisional level) Committees consisting Members of National and Provincial Assemblies to make enquiries on the spot and to take the remedial measures themselves or submit a report otherwise. Minister Khurshid Hasan Meer replied that the government was already taking actions in that regard and the suggestions forwarded by the opposition members would be seriously taken into consideration.<sup>226</sup>

### **SECTION-III**

## **ROLE OF OPPOSITION IN LEGISLATION REGARDING POLITICAL ISSUES DURING 1973-77**

### **5.23 Amendments for a smooth Democratic System**

The opposition members were not in favour of five years tenure of the National Assembly. They demanded to reduce it to four years. Because the sooner the elections were conducted the more political awareness was developed. Where the term of the Assembly was protracted, the flaws became evident. So they recommended fixing the Assembly tenure at four years instead of five. The representatives of the people would be more dynamic and the people would also be politically grown-up. The amendment moved by Mawlana Noorani, on the behalf of the opposition, in that association was:

“That in Article 55 of the Constitution Bill, for the word “five”, occurring in the second line the word “four” be substituted.”<sup>227</sup>

The House annulled the amendment.<sup>228</sup>

A true parliamentary democracy was that which protected the parliamentarians within the sphere of law. Mawlana Noorani also presented some amendments to the Constitution Bill in order to get some relief for them for a better effectiveness on their part. He declared that all the previous constitutions had the provisions for sixty days regular leave for a member of the parliament while that was decreased to forty days in the new Constitution. Most of the parliamentarians remained abroad when there was no session of the house. Then there would be no source of message where they stayed. That was the

basis that he considered the forty days sanctioned leaves to be less for the members of the Assembly. Therefore he demanded to increase the leaves from forty to sixty days.<sup>229</sup>

Mawlana Noorani was of the opinion that when the members of the NA were satisfied they would be able to represent their electorates energetically and autonomously. Mawlana Noorani considered their satisfaction as a price of true parliamentary democracy. He demanded, through an amendment to the Constitution Bill, the security of the parliamentarians from the instigation of the government benches. He feared that the opposition members of the NA would be ensnared in different false cases by the government. He moved amendment to guard the opposition members from the government's blackmailing:

That at the end of clause (2) of Article 69 of the Constitution Bill, the following proviso be added, namely: -

Provided that no member of the Parliament shall be arrested or detained on any ground whatsoever unless a Committee known as the "Members Immunity Committee" to be elected in accordance with a law made by the Parliament has given prior authority for affecting such arrest. Until such a Committee is formed, its powers and functions shall vest in the existing Privileges Committee of the National Assembly.<sup>230</sup>

The main purpose of the amendment was to stop any person from indulging a Member of the NA, especially the opposition member, in false cases or stop him from joining the session of the NA. So the NA should have the right to take action against such person. He did not mean that the Members of the National Assembly were innocent. He meant that if a parliamentarian committed a crime, the Parliament should have a committee of its own to deal with such a member. After the decision of that Committee the honorable member of the Parliament should be trialed. In such a way the democratic norms would be protected.<sup>231</sup>

Each and every pathway of the parliamentary and democratic government should be controlled properly through the Constitution. Three organs of the government (legislature, executive and judiciary) should be separate from each other. Mawlana Noorani found some gaps in the Constitution Bill in this link and pointed out those one by one. He criticized severely the issuance of ordinances. One hundred and thirty days were specified for the Parliament in the new Constitution Bill. So there was no need for the issuance of the ordinances by the government as enough time was given for the working of the Parliament. The ordinance could be issued when the country was in war. When there would be peace then the session of the National Assembly could be called at once and a Parliament Act could be passed and promulgated. Even if an ordinance was passed and a person or party could be harmed by that ordinance, the person or the aggrieved parties could have the democratic right to confront it in the Supreme Court.<sup>232</sup> The amendment moved by Mawlana Noorani, from the opposition benches, in that connection was:

That at the end of clause (1) of Article 92 of the Constitution Bill, the following proviso be added, namely: -

'Provided that it shall be open to the aggrieved parties to challenge the validity of Ordinance so made and promulgated on the ground that it was passed mala fide in the total absence of existence of emergency which is claimed to be the occasion for the exercise of that power.'<sup>233</sup>

The House rejected the above amendments of the opposition.<sup>234</sup>

## **5.24 Opposition's Stance about Situation in Baluchistan Province**

Mahmud Azam Farooqi moved an adjournment motion in the NA of Pakistan in order to discuss the situation in Baluchistan. He claimed that the Central Government had issued

instructions to the Civil Armed Forces and Army Units to take military action in Baluchistan to help its government. The action taken by the Armed Forces on May 23, 1973 was a blow to the unity and integrity of Pakistan. The military action was no solution to the political issues of Pakistan. He suggested government to deal the political problems in a political way.<sup>235</sup> He further pointed out that Nawab Akbar Bugti who was blamed for the 'London Plan'<sup>236</sup> by the existing government, was made the Governor of Baluchistan, after the dismissal of the NAP-JUI coalition government over there. He said that Nawab Akbar Bugti was declared by the Government as one of the active figures of the so-called 'London Plan'. He was mentioned time and again by the Newspapers. A radio was established in foreign with the name of 'Free Baluchistan'. Nawab Akbar Bugti had uttered that Pakistan had no base and would break within no time. Baluchistan should be freed one; Khyber Pakhtunkhwa should be a part of Pakhtunistan; Sindh should be included in Bombay while Punjab should be merged with the Indian Punjab, otherwise Pakistan should make a Confederation with India. Azam Farooqi said that all those were the speeches made by Akbar Bugti and even then the government appointed him as the Governor in Baluchistan soon after dissolving the democratic government of NAP-JUI coalition over there. He added if Akbar Bugti was right to be placed by the Central Government as the Governor of Baluchistan then it was obvious that the 'London Plan' hatched by the same government was completely a malicious design in order to weaken the opposition members of the House.<sup>237</sup>

Mir Ghous Bakhsh Khan Bazanjo from NAP assured the House that the Baluchis were neither traitors nor undemocratic. It was an intentional move of the Zulfikar Ali Bhutto

government to break up the democratic government there. There was no Government of the PPP in the provinces of Baluchistan and Khyber Pakhtunkhwa; therefore, it was not affordable for them to face anti governments in those two provinces. He further claimed that Zulfikar Ali Bhutto wanted to avenge his defeat in the election of 1970 at Baluchistan for both the Central as well as provincial legislatures. Only four men in Baluchistan Assembly, having lust for power, joined the government benches. It was propagated by the Centre that the majority government in Baluchistan was dissolved on the basis of its involvement in conspiracies against Pakistan and that they had received weapons from the external powers. But prior to this plea the government claimed in the beginning that law and order situation was worsened at district Lasbela and due to that reason the Central Government interfered into Baluchistan's internal affairs. So, there was a clear contradiction in two separate statements of the Central Government to terminate the democratic government in Baluchistan. The dissolution of the Baluchistan Government was also based on the ill faith of the Interior Minister, Khan Abdul Qayyum Khan who intentionally sent some of his men to make incursions in the Province in order to disturb law and order conditions there for paving the way for the imposition of President rule in Baluchistan. Mir Ghous Bakhsh Khan Bazanjo from NAP, as a Governor, used hot words with the Interior Minister for trying to make disturbances in any part of the Province. So it was the logic behind the dismissal of the majority government in Baluchistan.<sup>238</sup>

Mir Ghous Bakhsh Khan Bazanjo blamed the Central Government for creating confrontation between the Armed Forces and the innocent people of Baluchistan. All



these actions were taken by the Centre in order to sabotage the constitutional and majority government in the Province of Baluchistan.<sup>239</sup>

Mufti Mahmud, while debating over the situation in Baluchistan, warned that through military intervention into Baluchistan the government would face consequences like the separation of East Pakistan. He advised the government to withdraw the Armed Forces from Baluchistan and send them back to barracks.<sup>240</sup>

### **5.25 Opposition regarding Coalition Government in Baluchistan**

Mahmud Azam Farooqi moved that the business of the Assembly be adjourned to discuss an important and urgent matter of national importance, namely the federal government's action of negotiating the formation of a coalition government in Baluchistan with Ataulah Mangal and Ghous Bakhsh Bazanjo, the NAP leaders, who were in jail on alleged charges of various crimes. Those negotiations had caused great concern to the people and confusion that either the arrest of those leaders was on political grounds and the charges leveled against them were false and baseless or that federal government was handing over the Government of Baluchistan to the alleged "criminals".<sup>241</sup>

The government benches flatly denied having negotiations with the NAP leaders in jail to form a coalition Government in Baluchistan. They claimed the statement of the opposition benches, reported from the Daily Jang published from Karachi dated November 13, 1973, as baseless. Responding sharply to the statement of the government, Mahmud Azam Farooqi emphasized that usually the denial of a statement in the newspaper came the next day and not after eight days. The denial of the Minister for Communications, Ghulam Mustafa Jatoi, regarding negotiations with the detained

opposition leaders at Sihala Rest House published on November 21, 1973 in the same newspaper. Mahmud Azam Farooqi said that if Ghulam Mustafa Jatoi would deny on the floor of the House that he did not go to Sihala, he did not carry on negotiations, only then the opposition members would accept it. Otherwise the denial through a Press statement issued after eight days would not be accepted. The opposition members were ready to get a written statement from the detained opposition leaders affirming Jatoi, had talks for four hours and negotiated with them, if they were allowed to meet them in jail.<sup>242</sup>

### **5.26 Disruption of UDF Public Meeting at Multan by Federal Security Force (FSF)**

Mawlana Abdul Haq presented an adjournment motion in the House on June 4, 1973 which stated that the public meeting of the UDF at Multan was disrupted by the Federal Security Force (FSF). The so called security force stopped the public at large to attend the public meeting by use of brute force. By that method the regime was trying to block all the process of democracy, and thereby trying to clamp dictatorship and fascism in the body-politic of Pakistan. The disruption of Rawalpindi public meeting and indiscriminate killing of the innocent people by the FSF was only a happening of the other day. The repeated violent interference of the FSF in the constitutional and peaceful process of democracy had created a wave of indignation against it. The people of Pakistan then rightly believed that the force had been established on the pattern of German S.S. Guard to physically eliminate any opposition in the country.<sup>243</sup>

Ghafoor Ahmad while debating over the motion told the House that FSF was created under an Ordinance that became an Act some days ago. The Interior Minister had

promised to use the said FSF against smuggling and dacoits only. But unfortunately, this Force had been using by the government against the peaceful processions in order to create a havoc among the public as well as the opposition. The processions at Rawalpindi, Multan and Lahore were dispersed by that Force. In such a way the government had banned the public gatherings. The FSF had been using by the government against its basic objectives. The constitutional right of freedom of expression was snatched from the public of Pakistan through FSF. He requested the government benches not to snatch the rights of people and demanded to discuss all the matters at the floor of the House.<sup>244</sup>

Mir Ghous Bakhsh Khan Bazanjo from NAP warned the Government of harsh consequences if not decided to remove the enforcement of Article-144 in the country. The government Members argued that it was a Provincial subject and could not be dealt with by the Central Government. Bazanjo said that the Assembly Members were the protectors of the fundamental rights of the citizens. Therefore the violation of the fundamental rights by the government would not be afforded by the opposition members of the House. He warned the government not to use FSF against the fundamental rights of the people and for the disturbances of the peaceful demonstrations of the citizens.<sup>245</sup>

The government benches declared the actions of FSF at Multan, Rawalpindi and Lahore as the matters concerning the law and order situations. Sahibzada Safiullah condemned the statements of the government at the floor of the Assembly and said that those matters were under the jurisdiction of the federal government and was the matter of violation of democratic rights of the opposition and public. The conduct of the FSF was not in their

jurisdiction. They had interfered in the fundamental rights of the people. He emphasized that FSF was a Federal subject which came under the Parliament. The scope of their duty was spelt out in the Act and they should not exceed the constitutional obligations regarding their duties.<sup>246</sup>

### **5.27 Adjournment Motion regarding Burning of Tehrik-i-Istiqlal's Office at Karachi**

Ahmad Raza Khan Qasuri gave notice to adjourn the business of the Assembly for the purpose of discussing a definite matter of public importance; that on July 28, 1973, in Karachi the office of the Tehrik-i-Istiqlal (TI) was burnt by the hoodlums of the Pakistan People's Party. The car of Rahim-ul-Haq, a leader of Tehrik-i-Istiqlal, Karachi, was burnt on the spot and seven workers of Tehrik-i-Istiqlal including Abdur Rauf, a leader of Tehrik-i-Istiqlal, were seriously injured by lethal arms and pistols. In fact, the target of those hired assassins was to kill Air Marshal (R) Asghar Khan who had emerged as an alternative leader in the country. That had caused a grave concern to the citizens of Karachi in particular and people of Pakistan in general. The democratic forces all over the country had been shocked on that high-handedness of the government party workers and the inability of the district administration to take the preventive action. Through those tactics, the Peoples Party regime was trying to clamp worst type of dictatorship and fascism in the body politic of Pakistan. The government was trying to terror its political opponents and the people of Pakistan who were fighting for their economic and democratic rights. It was inherent democratic right of all the political parties in the country to go to the people and project their point of view. Since the PPP government

was afraid that the ugly picture of its performance and misdeeds might not be highlighted before the people of Pakistan, therefore, it was trying to stifle the voice of the opposition.<sup>247</sup>

### **5.28 The National Guards Bill, 1973**

Minister of State for Defence and Foreign Affairs, Aziz Ahmad presented the Bill before the NA. The Bill says:

“that under sub-rule (3) of rule 66 read with rule 226 of the Rules of Procedure and Conduct of Business in the NA (Legislature), 1972, sub-rule (2) of rule 66 of those rules be suspended in regard to the Bill to provide for the constitution and discipline of the National Guards (The National Guards Bill, 1973), as reported by the Standing Committee.”<sup>248</sup>

Explaining the objects of the Bill, Aziz Ahmad told the House that the Bill proposed to set up a National Guard to be organized and trained to create a reservoir of trained and disciplined manpower to serve the country in its nation building projects, aid the Federal and Provincial Governments during national calamities like flood and earthquake and to relieve, as far as possible, the regular Army of its secondary roles during war or emergency. It was not a force being organized to help in the maintenance of internal law and order in peace time. But in war time, we should relieve the Army of its secondary roles and get that work done by the National Guards mentioned in the Bill under consideration. It would not be a regular force but a sort of auxiliary reserve force. That force would consist of four sub-forces or four units:

1. The Mujahid Force

2. The Janbaz Force
3. The National Cadet Force, and
4. The Women Guards

The Mujahid Force would require males between the ages of 18 and 30. The said Force would be organized on voluntary basis and not on compulsory basis. The existing Mujahid Force consisted of 44 thousand men and would be reorganized into 78 battalions with the strength of 48 thousand and to maintain it at that level for a certain number of years. The Mujahid Force would be available for duty throughout Pakistan.

Janbaz Force would be organized, trained and used only in the area from where the recruits would be taken into that Force. That would also be a volunteer Force. The age limit for that Force would be 18 to 50 years. That Force would look after the homes in their home districts during war times. 25,000 people would be trained for the purpose in its first year, 50,000 in the second year, 75,000 people in the third year and altogether in the course of five years to train three lacs for the purpose. Its initial training would only be spread over a period of 144 periods, consisting of six months.

The National Cadet Force would comprise students and teachers from 300 Degree and Intermediate colleges. 1,80,0000 students and teachers would be trained per year not disrupting their educational syllabus.

The Women Guards would consist of women between the ages of 18 to 45 years. Initially village corps would be formed as pilot project in four Provincial capitals and in Rawalpindi and Hyderabad. Later on the organization would be enlarged on the basis of experience actually gained.

The control of all the above forces would be vested in the Ministry of Defence. Its training would be undertaken by the military personnel, and would be primarily used for nation-building. The syllabus would be designed in consultation with the Ministries concerned. Those who were employed and would be under training or being deployed for nation-building projects or in war time, when they would go back to their jobs, the employers would be bound under the Act to take them back into their old jobs.<sup>249</sup>

Debating over the Bill from the opposition benches, Choudhry Zahur Ilahi declared the Bill as a tool for political harassment of the opponents of the government. He criticized the Minister for Defence and Foreign Affairs for not mentioning the objectives of the four units of the National Guards clearly. He emphasized that the economic and political conditions of the country were worst. The poor people were hardly meeting their basic needs. He further argued that those Forces were designed by the government in order to crush its political opponents and suppress the freedoms of people. The people were not ignorant to the brutalities of Militia, Federal Security Force (FSF), Frontier Constabulary and Rangers in the Province of Baluchistan. Billions of Rupees were spent over the Federal Security Force in the annual budget of 1972-73. The FSF was formed to stop smuggling, robberies and burglaries but the Force was of no use in that regard. The FSF was used to bring the troop carriers full of youths in order to create anxiety through firing amongst the processions in Rawalpindi. He suggested doing something for the amelioration of Regular Defence Forces of Pakistan. He further suggested the government to train such Forces in the line of Turkish and Iranian Forces. They train all of their youths and were used for the help of the Armed Forces during war times. So the

purpose of the said Forces should be a positive one and the government must assure the House not to use those Forces against the opposition members and other political opponents. Then the opposition would favour the Bill in the Assembly.

Mahmud Azam Farooqi said that before the secession of East Pakistan, thirty million Rupees were allocated in the annual budget of 1970-71 for Police services against the total population of 1.2 billion in Pakistan. That police was sufficient for the internal law and order of the entire nation during peace time. Then the country was cut into two in 1971 and then the existing government needed 1.5 billion of Rupees for the lesser force of police. He asked the government to explain the reasons before the nation to spend five times larger amount over the police force. The government itself created the law and order situation within the country and was wasting the wealth of the national exchequer. Although the ratio of the crimes and criminals was increasing even a greater force was available than ever. Then it was clear that the increased forces would be used to harass the political opponents of the government.

Mir Ghous Bakhsh Khan Bazanjo strongly opposed the Bill and said that the Force which would be formed in accordance with the objectives of the Bill would totally be a futile exercise. There was no threat to Pakistan in order to organize a voluntary and untrained force. Pakistan was not a warrior country. He suggested strengthening the efficiency of the existing regular Forces. Their number should be increased and must be equipped with the modern weapons. The temporary and irregular Forces proposed in the Bill would be a threat to the democracy and democratic institutions of Pakistan including the opposition within the House.<sup>250</sup>



During second reading of the Bill the opposition members presented amendments to it.

Zafar Ahmad Ansari moved the following amendment to the Bill:

“That after clause 3 of the Bill, as reported by the Standing Committee, the following new clause be added and subsequent clauses re-numbered accordingly:

4. Functions and field of operation of the National Guards:

The functions of the forces constituting the National Guards and the field of their operation shall be specifically and strictly restricted to serving the country in its nation-building projects and to aid the Federal and Provincial Governments during national calamities or war. Provided that the forces constituting the National Guards shall, in no circumstances whatsoever, be employed to work directly or indirectly for political objectives, for curbing political activities or for harassing or harming persons or parties holding or advocating views opposed to those held by persons or parties in power!”<sup>251</sup>

Highlighting the purpose of the amendment, Zafar Ahmad Ansari explained that the amendment moved by him would stop the chances to use the Forces under consideration by the government against the political opponents. The existing government had increased chances for the emergencies in the country. Everywhere the political conditions were deteriorated by the government. The mistrust created by the government during past in the circles of the opposition members would be curtailed by accepting the aforesaid amendment.<sup>252</sup>

Ghafoor Ahmad presented another amendment to the Bill on the behalf of opposition. The amendment argued:

“That after sub-clause (2) of clause 38 of the Bill, as reported by the Standing Committee, the following new clause be added, namely:

“(3) No court inferior to that of a Magistrate class invested with powers under section 30 of the Code of Criminal Procedure, 1898 (Act V of 1898), shall try the offence under this section.”

The amendment was accepted by the Minister concerned and adopted by the House.<sup>253</sup>

Amendment moved by Zafar Ahmad Ansari was:

That after clause 40 of the Bill, as reported by the Standing Committee, the following new clause be added and the subsequent clause re-numbered accordingly:-

“41. Notwithstanding anything contained in the foregoing clauses, the rule for enrolment in the Mujahid Force and other forces constituting the National Guards shall be so made as to adequately ensure that a person shall not be qualified to be enrolled if he belong to any community or organization which:-

- (a) repudiates *Jihad* as an immutable and abiding institution or considers it obsolete, inoperative or *Haram*, or
- (b) is pledged under any religious or quasi-religious directive, or otherwise, to strive against the integrity or existence of Pakistan as a fully independent and sovereign State.”<sup>254</sup>

Explaining the purpose of his amendment before the House, Zafar Ahmad Ansari said that the people of those groups should not be enrolled into the National Guards who considered the *Jihad* as illegal and redundant. Such people were against the Ideology of Pakistan and its existence. Those groups were trying to re-unite Pakistan with India

making the Greater India. So the people belonging to those groups could not be useful for the National Guards as it would be a voluntary force fighting for Pakistan having spirit for *Jihad*.<sup>255</sup>

The amendment was rejected by the House in majority.<sup>256</sup>

The National Guards Bill, as amended, was passed by the House.<sup>257</sup>

### **5.29 The High Treason (Punishment) Bill, 1973**

Abdul Hafeez Pirzada presented the Bill before the House which said:

“That the Bill to provide for the punishment of persons found guilty of acts of abrogation or subversion of a Constitution or of high treason [The High Treason (Punishment) Bill, 1973], as reported by the Standing Committee, be taken into consideration at once.”<sup>258</sup>

Explaining purpose of the Bill, Abdul Hafeez Pirzada said that the consensus of the Constitution Committee became the consensus of the NA for providing in the Constitutional safeguards and innumerable safeguard against any adventurous attempts to abrogate or subvert the Constitution. During its short history of about 25 years, Pakistan had faced two abrogations of the Constitutions of 1956 and 1962. It was in pursuance of that history that by an overwhelming consensus including the opposition benches adopted and incorporated in the permanent Constitution of Pakistan Article 6 which said:

“(1) Any person who abrogates or attempts or conspires to abrogate, subverts or attempts or conspires to subvert the Constitution by use of force or show of force or by other unconstitutional means shall be guilty of high treason.”

(2) Any person aiding or abetting the acts mentioned in clause (1) shall likewise be guilty of high treason”.<sup>259</sup>

Therefore, the offence of high treason had been exhaustively defined and described by the Constitution itself. He said that by clause 3 of Article 6, the punishment for the offence of high treason would be prescribed by the NA and Senate of Pakistan. Therefore, the Treasury Benches had proposed in the Bill the penalty of death or transportation of life for the offence of high treason as provided for in the Constitution. No more heinous crime could exist than the crime of abrogation and subversion of the Constitution governing the life of the people and prepared and given to the people of Pakistan by the people themselves through their chosen representatives.<sup>260</sup>

Sardar Shaukat Hayat Khan, Member of the opposition benches, supported and congratulated the Minister for Law and Parliamentary Affairs for having brought such essential provision in the Constitution. He said that the abrogation of the Constitution was a standing joke in Pakistan. Any man could decide, on his own, to destroy the Constitution of the country and then the entire country was not only paralyzed but even the country's judiciary was paralyzed under the doctrine of necessity. The opposition wanted to put an end to the question of doctrine of necessity and the fear of the courts of Pakistan to take action against those who through *coup d'état* or through other unconstitutional means abrogate the Constitution. It was a matter of impeachment and it should be treated by the chosen representatives of the people in the existing Assembly because if it was left to the future government, it would never impeach itself.<sup>261</sup>

The Bill was passed by the House unanimously.<sup>262</sup>

### **5.30 Election of Speaker for the National Assembly of Pakistan under the 1973 Constitution**

On August 9, 1973, Sahibzada Faruque Ali was elected as Speaker of the NA of Pakistan. He took oath under the permanent Constitution enacted on April 12, 1973.<sup>263</sup>

During felicitations to the Speaker, the opposition members congratulated him and said that while sitting in that chair Speaker's position was that of a judge and a referee in the game of politics. They expected that the newly elected Speaker would be impartial and fair. Everybody including Prime Minister would be humble before you. Your orders would be of great value for all the Members of the House including the opposition. You were not a party man after the election as a Speaker and should behave accordingly. The opposition suggested that our Speaker should be so highly respected a man that whenever he went for the polls, no party should put up a candidate against him.<sup>264</sup>

### **5.31 Election of Deputy Speaker for the National Assembly of Pakistan under the 1973 Constitution**

Two candidates contested election for the seat of Deputy Speaker. One was Ashraf Khatun Abbasi and the other was Jennifer Jahanzeba Qazi Musa. Ashraf Khatun Abbasi secured 98 votes and Jennifer Jahanzeba Qazi Musa got 26 votes. So, Ashraf Khatoon Abbasi was elected as Deputy Speaker of the NA of Pakistan. She took oath as Deputy Speaker under the Interim Constitution and the Constitution enacted on the April 12, 1973.<sup>265</sup>

Giving felicitations to the newly elected Deputy Speaker of the House, Abdul Wali Khan, the leader of the opposition, emphasized that there were some great ladies in the world

who were in charge of the destinies of certain nations. He felt sorry that unlike any parliamentary traditions, the opposition was never taken into confidence. He said that the Treasury Bench should take the opposition in confidence so that they could work united at least on issues that were above party politics; issues at the national level should be taken in a spirit of national cooperation and not at the party level.<sup>266</sup>

### **5.32 Election for the President of Pakistan under the 1973 Constitution**

The election for the President of Pakistan took place on August 10, 1973 in the joint sitting of the Parliament of Pakistan. There were two contestants for the Presidential election. Choudhry Fazal Elahi was a candidate from the PPP while the opposition benches had nominated Amirzada Khan. Out of 191 Members of the NA, only 185 cast their votes. Choudhry Fazal Elahi got 139 votes out of 185 while Amirzada Khan secured 45 votes. Choudhry Fazal Elahi was declared as the President of Pakistan by the Chief Election Commissioner.<sup>267</sup>

Felicitating the newly elected President of Pakistan, the opposition leader, Abdul Wali Khan, said that the President had got a greater responsibility to look after the interest of the entire nation. It was a great thing in the history of Pakistan where we had a first directly elected President. The trouble in this country was that we had no constitutional head to look after the sanctity of the Constitution. The first head of Pakistan, Major-General Iskander Mirza, functioned in old medieval French style of Henry Louis XVI when he turned out and declared himself as the State. The opposition leader advised the newly elected President, Choudhry Fazal Elahi, to create healthy traditions in Pakistan so that everyone could live with dignity, honour and safety. He assured the President, on

behalf of the entire opposition, to cooperate him for the better democratic values and well being of the citizens of the Islamic Republic of Pakistan.<sup>268</sup>

### **5.33 Election for the Prime Minister of Pakistan under the 1973 Constitution**

Zulfikar Ali Bhutto and Mawlana Shah Ahmad Noorani were nominated for election as the Prime Minister of Pakistan. The election took place in Special Session of the NA of Pakistan on Sunday, August 12, 1973. Zulfikar Ali Bhutto had secured 108 votes while Mawlana Shah Ahmad Noorani secured 28 votes. Zulfikar Ali Bhutto securing votes of the majority of the total membership of the Assembly was declared by the Speaker as the Prime Minister of Pakistan.<sup>269</sup>

While congratulating the newly elected Prime Minister of Pakistan, leader of the opposition, Abdul Wali Khan said that it was indeed a great day having elected the Prime Minister of Pakistan under the permanent Constitution. He assured the Prime Minister to cooperate him in every step he would take for creating a progressive social order and rehabilitating democratic institutions in Pakistan. He aspired that if the newly elected Prime Minister wanted to bring a true democracy to the country, he could do that very easily. The opposition would accompany him in flourishing the nascent democratic set up in the country. He also warned the Prime Minister of not betraying the people of Pakistan otherwise they would fight for their democratic and constitutional rights within the House as well as outside the House.<sup>270</sup>

While addressing the House the newly elected Prime Minister of Pakistan, Zulfikar Ali Bhutto assured leader of the opposition as well as members of the opposition that there

would be no contradiction between the government's objectives and the opposition's aspirations if they remain in conformity with the same principles. He said that whenever members of the opposition had got into the frame of mind to negotiate, the government had welcomed it. He also assured members of the opposition to be faithful adherents to democracy. He said that the newly elected government was determined to establish the democratic traditions in Pakistan.<sup>271</sup>

### **5.34 The Private Military Organizations (Abolition and Prohibition)**

#### **Bill, 1973**

Abdul Qayyum Khan forwarded the Bill before the House. The Bill moved was:

"That the Bill to abolish, and provide a penalty for the formation of, certain organizations prohibited by the Constitution [The Private Military Organizations (Abolition and Prohibition) Bill, 1973], as reported by the Standing Committee, be taken into consideration at once."<sup>272</sup>

Explaining purpose of the Bill, Abdul Qayyum Khan drew the attention of the House to Article 256 of the Constitution of Pakistan, which said that "No private organization capable of functioning as a military organization shall be formed." It had to be given effect to in the form of the Bill under consideration. The Ordinance was promulgated by the President of Pakistan on the October 27, 1973. The idea of the Bill was to make the Ordinance as a permanent statute of the Constitution in order to ban all Para-military organizations and to provide punishment for those who organized such military set-up and also to dissolve such organizations.<sup>273</sup>



Sahibzada Ahmad Raza Khan Qasuri said that the habit of Ordinances must be discouraged in the elected Parliament. He considered the introduction of the Bill as a mechanism of the PPP government to introduce worst type of fascism and dictatorship in the body politics of Pakistan. The government had suggested that Para-military organizations should be banned, but it was a misfortune that in the body of the Bill itself, government had not established a machine which would take the action to declare a Para-military force as unlawful. He suggested that the power of declaring a particular organization to be unlawful should be vested in a Judge of the High Court and not the Lower Court as it would then take a long time to be decided. Then that particular organization would be in a position to defend itself before the High Court. In that way the rule of law and democratic principles would be followed.

Ghafoor Ahmad proposed to form a Review Board. That Board would ban an organization causing a threat to the security of the country. The Review Board would consist of three Judges. Chairman of the Review Board and another member would be from the Supreme Court. The second member would be a Judge of the High Court. They should decide the case within three months. If they decided an organization to be a private military organization that would be banned otherwise it would function.

Mufti Mahmud declared the Bill under consideration as very defective as it could empower the federal government to declare any political party as illegal. The existing organizations could be in danger with the approval of the Bill.

While debating over the Bill from the opposition benches, Sahibzada Safiullah disclosed top secret about the Peoples Guard made by the federal government. He claimed that the

Para-military organizations were the production of the PPP government. He said that the people of my constituency were having some problems to discuss with Aftab Sherpao from PPP. For that purpose he was waiting along with those people at the road side in Mardan for the arrival of Aftab Sherpao as he was coming from Islamabad to his native town. Two cars came out of the Mardan having some persons of PPP. A Peoples Guard came and stood near me. He took me as a Member of the PPP. He gestured me with an eye and told me that they had murdered the Station House Officer (SHO) of Mardan. Then he shook hand with me and went away. Then after returning from Mardan, Sahibzada Safiullah himself enquired about the SHO. He was told that the said SHO was an honest and dutiful servant. He had forbidden the Peoples Guard from corruption, kidnappings and banditry. He warned the government to stop such illegal actions otherwise the citizens would form their own military organizations as a reaction.

Leader of the opposition, Abdul Wali Khan, said that the Bill under consideration was in accordance to the spirit of the Constitution of the Islamic Republic of Pakistan. It would be acceptable to the opposition, if it only confirmed to the rule of law. The opposition felt that the process of law had been interfered with. He said that the opposition wanted to safeguard the interests and solidarity of the State. Leader of the opposition claimed that he had good reason to express the government's interference with the rule of law, as he had himself suffered at the hands of the mover of the Bill, Abdul Qayyum Khan, for six long years behind the bars, without ever being produced before a court of law for a single day. The movable and immovable property of Abdul Wali Khan was confiscated and his house looted. He emphasized to approve the Bill without interfering with the rule of law.

Mawlana Niamatullah strongly opposed the Bill under discussion and said that Pakistan was surrounded by its enemies. We needed the *Jihadi* organizations in order to fight those enemies. He considered the Bill as to make the nation coward. All the citizens should know how to fire bullet through gun. The entire nation must have the spirit of *Jihad*. He reminded the government its promise to make a new Pakistan. Therefore the opposition voted at the floor of the House for Zulfikar Ali Bhutto to be the Prime Minister of Pakistan. He appealed the House not to pass the Bill as the country severely needed private military organizations in order to fight against the enemies of Pakistan.<sup>274</sup>

When the Speaker of the NA of Pakistan, Sahibzada Faruque Ali, asked for amendments to the Bill under discussion, Ghafoor Ahmad moved the following amendment:

“That for sub-clause (1) of clause 2 of the Bill, as reported by the Standing Committee, the following be substituted, namely:

- (1) If the Federal Government, on receipt of a report from the Governor of a Province or otherwise, is satisfied that any private military organization, group or body of individuals is capable of functioning as a military organization, it may, by notification in the Official Gazette, declare such organization, group or body of individuals to be illegal and direct that it shall stand abolished forthwith.”<sup>275</sup>

Explaining purpose of the amendment, Ghafoor Ahmad said that there were two objectives incorporated in his amendment. Firstly, how the government would get itself satisfied? The words were “on receipt of a report from the Governor of a Province or otherwise”. The word ‘Otherwise’ meant every possible source of the government. Secondly, the word ‘group of body of individuals’ should be incorporated as the word

‘organization’ had not been interpreted in the Constitution. That may create difficulties for the government.<sup>276</sup>

The amendment moved by Ghafoor Ahmad was rejected by the House.<sup>277</sup>

Another amendment presented by Ghafoor Ahmad, from the opposition benches, was:

“That after sub-clause (2) of clause 2 of the Bill, as reported by the Standing Committee, the following new clause be added, namely:

(3) Where any organization has been declared illegal by notification issued under section 2, the Federal Government, shall, within seven days from the date of the publication of the notification, refer the notification to the Review Board for the purpose of reviewing and reporting to the Federal Government within a period of three months whether or not, in its opinion there is sufficient cause for declaring the organization illegal.

*Explanation.*— (i) For the purpose of this section, the Review Board means a Board appointed by the Chief Justice of Pakistan and consisting of a Chairman and two other persons, each of whom is or has been a Judge of the Supreme Court or a High Court.

(ii) The opinion of the Review Board shall be expressed in terms of the views of the majority of its members.<sup>278</sup>

The amendment presented by Ghafoor Ahmad was rejected by the House.<sup>279</sup>

Ghafoor Ahmad forwarded another amendment to the Bill which was accepted by the Minister concerned. The amendment was:

“After clause 3 of the Bill, as reported by the Standing Committee, the following new clause be added and the subsequent clause be re-numbered accordingly: —

“4. *Power to make rules.*— The Federal Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.”<sup>280</sup>

The Bill was also passed by the House.<sup>281</sup>

### **5.35 The Prevention of Anti-National Activities Bill, 1973**

The Interior Minister, Abdul Qayyum Khan presented the following Bill:

“That the Bill to provide for the more effective prevention of certain anti-national and treasonable activities [The Prevention of Anti-National Activities Bill, 1973], as reported by the Standing Committee, be taken into consideration at once.”<sup>282</sup>

Explaining the salient features of the Bill, Abdul Qayyum Khan said that the Bill under consideration was preceded by an ordinance promulgated by the President of Pakistan. It was introduced in the House to be a law on the Statute Book. The Constitution of the Islamic Republic of Pakistan provided for a change of government by peaceful means at stated intervals. The Constitution also provided for that an Assembly could be dissolved at any time and elections held, which might result in the change of government if the majority of the voters so desired. There being a peaceful mechanism for a change of government, certain forces in Pakistan, in the name of waging a ‘*Jihad*’ for the restoration of democracy, have resorted to undesirable tactics. He could not pin point those forces but he certainly said that those forces were out to undo the PPP government in Pakistan. He blamed the Khyber Pakhtunkhwa government for bombing Ministers’ residences, sudden firings, burning of the records in the offices of Mardan, cutting of telephone wires and damaging the transformers. He also blamed the Baluchistan government for a murder of a very eminent political leader throwing bombs at his

residence. He further claimed that students were convinced by the Khyber Pakhtunkhwa and Baluchistan governments to create troubles for the PPP government in order to be thrown out. He also held the governments of Baluchistan and Khyber Pakhtunkhwa responsible for the movements of Greater Baluchistan and Pakhtunistan respectively, and movement of Sindhudesh over linguistic and regional basis. For the eradication of such movements and organizations, the federal government had provided in the law that it would declare such organization as anti-national through a notification. A Tribunal would be appointed by the federal government in consultation with the Chief justice of a High Court. Either a sitting or a retired Judge would constitute the Tribunal and any association or group of individuals affected by the notification would have the right within thirty days to move to that Tribunal. Government would be a party to that and the proceedings would be conducted under the Code of Civil Procedure within six months. The funds and places used for meetings by those anti-national organizations would be banned by the Central Government through a notification. Rights were given to the anti-national organizations or the affected persons to file case with the District Judge within a period of fifteen days in order to challenge the notification of the government. He requested the entire House including the opposition members to pass the Bill.<sup>283</sup>

Ghafoor Ahmad, on the behalf of the opposition, opposed the Bill and moved the following amendment to it:

“That the Prevention of Anti-National Activities Bill, 1973, as reported by the Standing Committee, be circulated for eliciting opinion of the public by the end of this month, i.e., December, 1973.”<sup>284</sup>

Mawlana Abdul Haq said that the Bill introduced by the government benches in the House was a symbol of injustice, dictatorship, violation of rule of law in the body-politic of Pakistan. If the clauses and sub-clauses of the Bill were compared, one would forgive the MLRs of Ayub Khan and General Yahya Khan. 'If the federal government was of the opinion', it could straightaway ban any organization. That was a fascist way of the federal government to ban a lawful organization or association. The Bill would empower the executive to raid any house and any peaceful place used by the so-called seditious organization as they have used the technical word 'notified place'. A Party in the Government could easily misuse the law and declare any opposition party as an anti-national by issuing a notification. Therefore he requested the House to negate the Bill for the sake of integrity and solidarity of Pakistan.<sup>285</sup>

Ghafoor Ahmad condemned the government benches for introducing a Bill which could wipe out every political party by establishing the dictatorship of a single party in government. He responded that no opposition party was involved in anti-national activities. The government was asked to bring forth a single proof against an opposition party involved in seditious activities in Baluchistan, Khyber Pakhtunkhwa and Sindh. False evidences would be provided in the Tribunal against the affected organization by the federal government. He suggested appointing an in-service Judge to the Tribunal or increasing the number of Judges so that perfect and prompt justice should be provided to the affected organization.<sup>286</sup>

Mawlana Shah Ahmad Noorani appreciated the government's acceptance of opposition's proposal for appointing in-service Judges to the Tribunal instead of the retired ones. He

further pin pointed that extra ordinary powers were given to the government in the Bill. If a political party or any other organization was banned by the Government through a notification and its offices closed and funds confiscated prior to the decision of the Tribunal, then it would be very difficult for the affected party to function and face the trials of the Courts. Prior to the Gazette notification, through the Bill, the government could declare the decision of the Tribunal as null and void. The party opposing the government would easily be banned by the party in government through a Gazette notification. He said that the opposition parties in past had issued statements against the governments' malpractices. Those opposition parties were banned by the dictators. Those parties had not uttered a single word against the State. Their statements against the government were made confused and distorted and reproduced as anti-State activities. Everybody knew that there was a lot of difference between state and government. One could speak against the malpractices of the government but not against the State. In fact the anti-government activity of an opposition party was declared as anti-national activity, which was made a ground for black-mailing the said opposition party. He appealed the government to avoid such illegal practices against the opposition as done by its predecessors. He reminded the government that most of the clauses about the anti-national activities were already present in the clause (a) of Article 1 of Pakistan Penal Code (PPC) in the 1973 Constitution of the Islamic Republic of Pakistan. The people under the same Article could be punished. Therefore, Mawlana Noorani said that there was no need to pass the Bill under discussion.<sup>287</sup>



Mahmud Azam Farooqi said that those elements that were propagating hatred and prejudice among the four provinces of Pakistan on the base of races and languages or those who were busy in anti-State activities should be punished. He assured the government for cooperation of the opposition if it wished for punishing the anti-State elements through the Bill. But going into the meticulous objectives of the Bill under discussion no Member of the House could declare it as a Bill for the purpose which was presented by the Minister concerned. He said that the Acts already existed in the Statute Book which could easily be amended in order to get the required results. He emphasized that the Political Parties Act 3(1) of the Statute Book said, "No political party shall be formed with the object of propagating any opinion, or acting in a manner, prejudicial to the Islamic Ideology, or the integrity or security of Pakistan." Then there was no question of persons, a group of persons, an association or a political party to function against the integrity of the State. If the government's intention was not mala-fide, the Statute could be amended for the purpose. There were also Defence of Pakistan Rules (DPRs) through which the government could declare emergency for interior and exterior defence of the country. During emergencies the government could punish the anti-national elements under the umbrella of the DPRs. The government wanted constitutional dictatorship through the Bill. He further criticized that under Section 6, sub-clause (2) of the Bill, after everything had been proved against a political party, the government could forgive that political party, decided by the Tribunal as anti-national. That clearly meant that the government wanted to black mail the opposition parties through the legislative Bill. He informed the House that Ayub Khan had inserted a clause into the MLRs which vested

the entire powers regarding the anti-national activities of a party at the discretion of the Supreme Court and not the government. It would be a shameful act for a representative government to get constitutional powers in order to exploit and black mail a national political party by declaring it through an executive notification as anti-national. Then it would be another injustice to the guiltless citizens and parties that the federal government would not disclose any fact about the accused party or person which it could consider to be against the public interest. The freedoms given to the people and political parties of Pakistan would be condensed by the federal government through legislation under consideration. He said that the government wanted to punish the opposition for not supporting it in its malign designs. He said that the government had already misused its powers against the poor nation through the Constitution and the opposition would not bother to vest more such discretionary powers into the Central Government's hands. There already existed such laws to deal with strong hands with the anti-State elements. Therefore, there was no need to pass such Bills.<sup>288</sup>

Sahibzada Safiullah strongly opposed the Bill and said that the Bill under consideration, if passed by the House, would divest the fundamental rights of the citizens of Pakistan. The accused persons or organizations would not go to the general courts for justice but would be trialed in Special Tribunals where the right of appeal was snatched from them. He highlighted the main feature of the dirty politics of Pakistan by saying that every ruling party always considered itself as a loyal one and the opposition as traitors. He criticized the PPP government vehemently. He asked the Government to bring forth the faces involved in the fall of Dhaka, to punish the culprits involved in 'London Plan' and

those bringing weapons to the Iraqi embassy. Those were the real traitors implicated in anti-national activities and should be punished for their misdeeds. He claimed that the same traitors were designated against key posts by the PPP government. He said that the purpose of the Bill was to humiliate and disgust the oppositions' parties. Therefore, the Bill should not be passed by the House.<sup>289</sup>

Leader of the opposition, Abdul Wali Khan said that the PPP government had already a lot of constitutional powers to deal with the traitors with strong hands. The PPP government was blamed by Abdul Wali Khan for firing on peaceful public meetings, making the students naked in the streets of Karachi and arresting the innocent people, struggling for the restoration of democracy, for violating section 144 and putting them in jails. Thousands of people, having fears from the government's side in minds, elapsed from Sind and went over to India. He requested the government benches to keep the people tied to their homes and hearths by not giving even wider powers into the hands of those implementing agencies who were quite liable to be unscrupulous in the use of those powers. The Constitution of the Islamic Republic of Pakistan has given freedom of expression to its people, but the Editor of the Daily Jasarat was threatened, that if he put forth the opposition's point of view, his wife would be picked up. He also requested to solve the problems of Baluchistan by accepting the 1970 elections results over there and accepting the legal and democratic government over there. He warned the government that if it passed the Bill under consideration, it would face dangerous consequences in response.<sup>290</sup>

After the approval of the Bill by the Speaker for clause by clause consideration, Ghafoor Ahmad presented the following amendment to the Bill:

“That in clause 2 of the Bill, as reported by the Standing Committee after sub-paragraph (i) of paragraph (a), the following new sub-paragraphs be added and subsequent sub-paragraphs re-lettered accordingly:

(ii) which is intended or supports any claim, to interfere with, or any ground whatsoever, the free decision of the people of the State of Jammu and Kashmir to accede to Pakistan?

(iii) which disrupts the unity and the observance of the teachings and requirements of Islam as set out in the Holy Quran and Sunnah.”<sup>291</sup>

Explaining objectives of his amendment, on the behalf of the opposition, Ghafoor Ahmad said that the Constitution of Pakistan had enjoined that whenever the conflict of Kashmir was settled, it would be included into Pakistan. The addition made by was including a person in the list of anti-nationals who disrupted the position of Kashmir. The other addition was including a person in the anti-national activities list who uttered something against the Islam or Ideology of Pakistan. Ghafoor Ahmad was astonished for opposing the amendment by the Interior Minister.<sup>292</sup>

The amendment moved by Ghafoor Ahmad stood rejected by the House.<sup>293</sup>

The next amendment to the Bill was moved by Ghafoor Ahmad, Mawlana Abdul Haq and Mawlana Shah Ahmad Noorani, Mahmud Ali Qasuri and Abdul Hamid Khan Jatui.

The amendment was:

“that in clause 7 of the Bill, as reported by the Standing Committee, in sub-clause (1)—

- (i) for the words “the Federal Government may, by order in writing”, occurring in the sixth line, the words “the Federal Government may apply to the Tribunal to pass an order to”, be substituted; and
- (ii) after the word “Government”, occurring in the 11<sup>th</sup> line, the words “or the Tribunal” be added.”<sup>294</sup>

Elucidating purpose of the amendment, Mawlana Abdul Haq said that ‘all power corrupts and absolute power corrupts absolutely’. Going into the French Revolution history, he explained that Montesquieu was wise enough to give the theory of separation of powers because at the time in the French Society there was a concept of *Letter Deco she*. This Letter could be issued against any citizen in the French Society and in a matter of seconds; the man was behind the wall of Bastine. That was the reason the wall of Bastine was a symbol of tyranny. When the French Revolution came the people ran to rescue all the victims who were in Bastine and they raised Bastine to the Ground. The government was introducing a similar type of Bastine in Pakistan. The moment the *Letter Deco she* would be issued by the government, the man’s property would be confiscated, the man’s life would be in danger, and the man would be tortured physically as well as mentally. So he appealed the government that there should be balance of power. There was no separation of powers in the body of the Constitution of Pakistan. He suggested that the House should not give to the federal government immense power to issue *Letter Deco she*. Equal power should be vested in the judiciary in order to have balance of power. Balance of power gave stability, temperance and responsibility to the citizens. He requested the House leaving the judiciary to apply its judicious mind, whether the

security or the property of a particular organization or an individual should be confiscated.<sup>295</sup>

Mawlana Shah Ahmad Noorani, Mawlana Abdul Haq and Ghafoor Ahmad moved another amendment to the Bill. The amendment was:

“That in clause 7 of the Bill, as reported by the standing Committee, in sub-clause (1), —

- (i) for the words “the Federal Government may, by order in writing” occurring in the sixth line, the words “the Federal Government may apply to the Tribunal to pass an order to”, be substituted; and
- (ii) after the word “Government”, occurring in the 11<sup>th</sup> line, the words “or the Tribunal” be added.”

The amendment was rejected by the House.<sup>296</sup>

The Bill was passed by the House in majority.<sup>297</sup>

During discussion over the Bill in the Senate, Senator, Khawaja Muhammad Safdar strongly condemned the provisions of the Bill and said that there was no need to introduce such a Bill in the Parliament as the anti-State elements could be dealt with strong hands through Criminal Law Amendment Act, already existing in the Constitution. The Bill before the Senate was to empower the government not to enlist the causes of arrest of the accused person or persons. So any political opponent of the government in power could be arrested without any reasons. Further criticizing the objectives of the Bill, he said if the Tribunal decided that a particular organization was anti-national even then the government had got the powers to withdraw the orders against that organization. It proved that a party, which did not saw eye to eye with the government, could be declared

illegal. But if that organization or party bowed down before the government of the day then that party could become a patriotic one. So he strongly demanded not to pass the Bill under consideration.<sup>298</sup> Khawaja Muhammad Safdar also presented twenty-one amendments to the Bill under consideration, but all of those were rejected by the Interior Minister, Abdul Qayyum Khan. The Bill was also passed by the Senate.<sup>299</sup>

### **5.36 The Electoral Rolls Bill, 1974**

Minister for Law and Parliamentary Affairs, Education and Provincial Coordination, Abdul Hafeez Pirzada introduced the following Bill into the House:

“That the Bill to provide for the preparation and revision of electoral rolls for elections to the National Assembly and the Provincial Assemblies [The Electoral Rolls Bill, 1974], as reported by the Standing Committee, be taken into consideration at once.”<sup>300</sup>

Elucidating purpose of the Bill, Pirzada said that the main responsibility for preparation of rolls, as envisaged and required by the Constitution, had been placed on the Chief Election Commissioner. The last electoral rolls were prepared in the year 1969. It would be a two-way operation; to introduce on the rolls the names of the persons who are qualified to be entered; and, on the other hand, to delete from the rolls the names of the persons who had since died or who had suffered a disqualification as contemplated by the Constitution. The Registration Officers had prepared the electoral rolls on the basis of inquiry made by them, those preliminary electoral rolls would be published and the aggrieved parties would lodge objection within fifteen days against any names which, in their opinion, did not qualify to be entered in the electoral roll. The Constitution laid down four basic qualifications for entry into electoral roll. First was the citizenship,

second the age which in the case of next general elections would be twenty-one, third was soundness of mind and fourth being the name was entered in an electoral roll for an electoral area. Residence of a person meant where a person normally resided, owned property or worked. In the case a person resided at more than one place, an option was given to decide where the person liked his/her name would be entered because Article 51 of the Constitution said that a person could not be entered twice in the electoral rolls of one electoral area. Similarly, a person could not be entered as a voter of more than one electoral area. After the objections and claims had been disposed of, the final electoral roll would be published. Even after the final electoral roll was published, the Registration Officers with an authority to keep on revising rolls as and when a person died or became disqualified and when a new person became qualified to be entered. That would be a constant process undertaken regularly at the end of every year. Once an electorate or a constituency would be called upon to elect its representative, between the date of the notification calling upon the constituency to elect a member and until the holding of that election, further entries could not be made.<sup>301</sup>

Ghafoor Ahmad, criticizing the Bill from the opposition benches, said that preparation of the electoral rolls was the first step towards any election. In the past fair and impartial elections were stopped in Pakistan. It was seen that the elections of 1951 in the Khyber Pakhtunkhwa and Punjab were rigged bitterly due to improper preparation of the electoral rolls. Therefore, in order to avoid all possibilities of rigging in the next elections to the National and Provincial Assemblies, the Bill must be made accurate through the suggestions of the Members of the House whether it came from the opposition or other



way. He said that the electoral rolls prepared and the census undertaken in 1969 was wrong. Therefore, he suggested preparing new and accurate electoral rolls for fair and free elections thus avoiding the rolls of 1969 as a base. He pin pointed that the electoral rolls of 1969 were prepared by the schools and colleges teachers sitting in a single room so many flaws existed in the said electoral roll. He proposed to appoint permanent staff for the purpose so that they might consider themselves as responsible. Their services should be supervisory in order to check the work of the subordinate temporary staff. He also suggested adding the space in the electoral roll for National Identity Card number of the voter. He said that the lists prepared for the rolls should be hanged at a proper place in villages so that the voters might see their details. The time for corrections of voters' details should be extended from fifteen to thirty days.<sup>302</sup>

Mawlana Abdul Mustafa Al-Azhari suggested that the age limit in the Bill should be decreased from the eighteen to sixteen as the youngsters were active and conscious than ever.<sup>303</sup>

### **5.37 The NWFP Suppression of Crimes Bill, 1975**

Malik Muhammad Akhtar introduced the following Bill in the NA of Pakistan:

“That the Bill to make provisions to deal more effectively with the offences against life and property in the North-West Frontier Province [The North-West Frontier Province Suppression of Crimes Bill, 1975], be taken into consideration at once.”<sup>304</sup>

Malik Muhammad Akhtar said that the objects and reasons of the Bill were that in particular circumstances in the Province of Khyber Pakhtunkhwa, it had become incumbent to make provisions of law to deal more effectively with certain offences

punishable with death, imprisonment for life or with imprisonment for a term which might extend to two years or more. The Bill sought to make provision for collective fine which might amount to Rs. one lac.<sup>305</sup>

Ghafoor Ahmad appreciated the Bill to punish the criminals but strongly condemned the powers vested in the hands of bureaucracy through the same Bill. The powers in the hands of the executive meant the political harassment of the opposition. The provision in the Bill in order to punish the entire people of a village was very dangerous. The peoples, under the summary trial, would not have an opportunity to say something to defend them in front of the District Magistrate. The people would appeal to the government instead of a court of law. He suggested empowering the High Court instead of the District Magistrate in order to decide the cases of such crimes and punishments as mentioned in the Bill. The Bill was passed by the House without answering the questions and worries raised by Ghafoor Ahmad.<sup>306</sup>

### **5.38 The Political Parties (Second Amendment) Bill, 1976**

The Law Minister, Malik Muhammad Akhtar moved the following Bill in the NA of Pakistan:

“That the Bill further to amend the Political Parties Act, 1962 [The Political Parties (Second Amendment) Bill, 1976], as reported by the Standing Committee, be taken into consideration at once.”<sup>307</sup>

Explaining salient features of the Bill, Malik Muhammad Akhtar said that the Bill contemplated that office-bearer of a political party dissolved under sub-section (2) of section 6 who had not resigned or publicly announced such dissociation from such a party

and, secondly, if any of such persons has been convicted under section 7 of the Political Parties Act, he should be disqualified from being a member of the Parliament or a Provincial Assembly for a period of five years commencing from the date of such dissolution or conviction. Office-bearers of a political party were explained as office-bearers at provincial or national level, and the members of the Executive Committees.<sup>308</sup>

The Bill was strongly opposed by Mahmud Azam Farooqi. He pin pointed that the Ordinance was presented before the House in May 1976. The Standing Committee submitted its report to the Assembly on June 1, 1976 recommending passing the Ordinance as it was. The Bill was kept unheeded in the custody of the Law Ministry for the last six months and was moved into the House for its approval on November 22, 1976. The government pretended to be short of time to pass the Bill. He declared that the government was busy in bargaining, during those six months, with the Members of the opposition, to ally with the PPP, the government's party. But when the government was not successful in its ugly designs, it brought the Bill before the House in order to harass its political opponents. He condemned the government to declare its political allies as patriots and opponents as traitors. The amending Bill was to amend the Political Parties Act of 1965 approved during the Martial law Regime of General Ayub Khan. When Mahmud Azam Farooqi wanted to have an elaborative debate over the basic elements of the Political Parties Act, 1962 building up his arguments for the amending Bill, presented by the government the Law Minister, Malik Muhammad Akhtar interrupted him again. The Speaker too hurriedly presented the Bill for amendments from the Members of the

Assembly. Mahmud Azam Farooqi, over that rush of the Speaker, walked out of the Assembly as a protest.<sup>309</sup>

The Bill was put up before the House for approval and was eventually adopted.<sup>310</sup>

### **5.39 The Parliament and Provincial Assemblies (Disqualification for Membership) Bill, 1976**

Minister for Law and Parliamentary Affairs, Malik Muhammad Akhtar introduced the following Bill into the House:

“That the Bill to provide for the disqualification of certain persons from being elected or chosen as and from being a Member (sic) of Parliament or a Provincial Assembly [The Parliament and Provincial Assemblies (Disqualification for Membership) Bill, 1976], as reported by the Standing Committee, be taken into consideration at once.”<sup>311</sup>

Explaining purpose of the Bill, Muhammad Akhtar said that the Bill sought to provide for the disqualification of public representatives on a charge of misconduct, who will be tried in case of reference, by a Division Bench of the High Court. The Bill provided an explanation that a person would be guilty of misconduct, corruption or bribery if, as a Member of Parliament, a Federal Parliamentary Secretary, a Federal Minister and similarly, as a Member of the Provincial Assembly, a Provincial Parliamentary Secretary or a Provincial Minister, he abused his position as holder of that office and obtained any valuable gains or pecuniary advantage for himself or for any person on his behalf. The Bill provided that the High Court would have the jurisdiction from where such a person was elected as a member of the concerned Assembly. The procedure which had been provided was that, in case of a Federal Minister, a Parliamentary Secretary or a Member

of the NA or that of the Senate or a Member of the Parliament, the federal government would initiate the proceedings and, in case of a Member of the Provincial Assembly or a Provincial Parliamentary Secretary or a Provincial Minister, the proceeding would be initiated by the federal government or a provincial government under the direction of the federal government. An option had been given, as provided in sections 6 and 7 of EBDO. A person against whom proceedings were to be conducted, he could choose to retire from his seat and his disqualification remained only till the first general election, the date from which he gave that option. But if he, on the other hand, did not plead guilty and appeared before the High Court, he might be convicted or released and even the reference sent to the High Court could be sent back. In that case also, if he was found guilty, he would stand disqualified for the remainder of the term. That meant, in the case of the existing members, the disqualification would be, if the elections were held at the appointed time under the Constitution, till the August 14, 1977, or the first meeting of the Assembly after the first general election under the Constitution, whichever was earlier. It was provided that the proceedings would be strictly in accordance with the Code of Criminal Procedure and a person against whom the charges were leveled could be a witness in his own case.<sup>312</sup>

Mahmud Azam Farooqi, on the behalf of the opposition, having debate over the Bill, stoutly criticized the exemption of the Prime Minister and Chief Ministers of the Provinces, in case of their corruption or misconduct, from the law. Secondly, he objected that the High Court could not proceed to a Federal Minister, a Parliamentary Secretary or a Member of the NA or that of the Senate or a Member of the Parliament. The federal

government would initiate the proceedings and in case of a Member of the Provincial Assembly or a Provincial Parliamentary Secretary or a Provincial Minister until the federal government sent a written complaint to it against any person out of the aforesaid members. He asked the government benches how it would be possible for the federal government to take action against its minister who was corrupt and committing misconduct. He suggested inserting a provision in the Bill under discussion to empower the citizens to go to the court against any corrupt minister or member instead of vesting the power into the hands of the federal government. He also anticipated providing a clause in the Bill to avoid illegal scandal by a citizen against any minister or Member of the Parliament. He emphasized that the members of the assemblies must declare their entire assets at the time of their election in order to make the accountability very easy at the end of the tenure of their membership. He, further criticizing the Bill, affirmed that the punishment of declaring 'disqualification until holding of the next general election' was making fun of the Bill as well as the government's intentions. He recommended that any such member, convicted under the law, should be imprisoned for seven years and the properties and bank balances acquired through corruption during his tenure of membership should be confiscated by the government.<sup>313</sup>

Ghafoor Ahmad said that under the clause 3, sub-clause 2 of the Bill, the provincial governments had no jurisdiction regarding its Ministers and Parliamentary Secretaries. That power was vested into the federal government. He pin pointed that it could create some complications as there were four provinces where any of the provinces could have the government in opposition to the federal government. Therefore, in order to avoid such

complications, the jurisdiction over the Provincial Ministers should be given to the Provinces and in case of the Federal Ministers to the federal government. There was also no limitation of time in the Bill. A case could be referred to the High Court against any Member of the Assembly even he was retired of his political career. In such a way the governments could harass its old political opponents. So, he suggested limiting the time and punishing the corrupt Members in the real sense.<sup>314</sup>

Commenting on the Bill, Mawlana Abdul Hakim said that the Constitution of the Islamic Republic of Pakistan, 1973 envisaged that no law would be framed which was repugnant to the religion of Islam. He objected that the Bill carried many points which were in negation to Islam. He quoted a *hadith* of the Prophet Muhammad (PBUH) which meant that every one of you was carrying a responsibility and would be accountable before Allah for his responsibility. So, he appreciated the government's move to introduce the Bill in to the House which would make the responsible persons accountable in one or the other way.<sup>315</sup>

The House passed the Bill.<sup>316</sup>

#### **5.40 The Pakistan Arms (Second Amendment) Bill, 1976**

Malik Muhammad Akhtar moved the Bill in the Senate on December 15, 1976 for its approval. The bill was: "That the Bill further to amend the Pakistan Arms Ordinance, 1963 {The Pakistan Arms (Second Amendment) Bill, 1976}, as reported by the Standing Committee, be taken into consideration at once."<sup>317</sup>

Stating the purpose and objectives of the amending Bill, he further argued that the proposed amendment in the West Pakistan Ordinance No. XX of 1965 was made to

empower the federal government, which might direct the provincial government to prohibit the keeping, carrying or display of arms at such places, times or occasions as might be necessary. The idea was to prohibit the display of arms at fairs, gatherings or processions of political, religious, ceremonial or sectarian character or in the premises of law courts, and in particular, within the premises of educational institutions and their hostels or boarding houses.<sup>318</sup>

He further said that it was essential to bring that amendment. Then again, provision had been added to section 13, which provided for punishment for the defiance of such limitations, and it laid down the minimum sentences in case where the offences were committed in respect of dangerous weapons.<sup>319</sup>

While debating over the Bill, Mawlana Noorani, on behalf of the opposition, said that the ordinance, which was being made an Act, was the product of the year 1965 and was a masterwork of the dictatorial regime. The government, which was made over the rubble of dictatorship, was trying to follow the same model. The government was supposed to declare that the law was invalid at the first priority. The country had been transformed into a police state through the law. For example Section 11 (B) (2) of the said law had empowered the Magistrate to check the weapons and arrest the person. A police officer had also the same powers. That was also adequate but it was very astonishing that “any person” was approved by the court to inspect the weapons and arrest a person. The “any person” could also incorporate even a constable, who would arrest a person having or “not having” the weapons.<sup>320</sup>



Mawlana Noorani further said that the government was deceiving the people in the name of democracy. He claimed that the public was the source of power, but, in fact, bureaucracy was empowered by the government. The universities and colleges existed even during the British rule. The Muslim University Aligarh, the Banaras University, the Bombay University, the Calcutta University, the Madras University, the Agra University and the Meerut University existed there in that very era. The procession in the *Muharram* also existed during the British rule. But they did not follow the law under discussion. If such law was needed at that stage, it would mean that there was something wrong at the bottom. In fact, through the law, the government wanted to disarm the opposition and to arm itself at the approaching elections. So, the people would be hassled through the arms and they would not come to the polling booths. In that way, the rigging would be possible. Therefore, the opposition, as a whole, opposed the Bill.<sup>321</sup>

## SECTION-IV

### ROLE OF OPPOSITION IN LEGISLATION REGARDING ECONOMIC ISSUES

#### 5.41 The Chemical Fertilizers (Development Surcharge) Bill, 1973

Minister for Labour and Works, Choudhry Muhammad Hanif Khan moved the Bill in the House, which said,

“That the Bill to provide for the levy and collection of a development surcharge on chemical fertilizers and for matter connected therewith [The Chemical Fertilizers (Development Surcharge) Bill, 1973], as reported by the Standing Committee, be taken into consideration at once”<sup>322</sup>

Explaining purpose of the Bill, Choudhry Muhammad Hanif Khan said that the government was importing half of the total fertilizers and the remaining half was produced within Pakistan. The fertilizers imported from USA, Kuwait and Saudi Arabia carrying cost of production as Rs. 900 per ton were sold on subsidized prices for Rs.700 per ton. On the other hand, the cost of production of local fertilizers factories of ESSO and Daud Hercules was lesser and sold it to the farmers for Rs. 700 per ton including their profit. The prices of fertilizers were raised on March 30, 1973 so that the subsidiary might be decreased. When the prices of fertilizers were raised, the prices of agricultural products were also raised. Then the imported fertilizers carrying cost of production as Rs. 1200 were sold at subsidized prices for Rs. 840 only. Daud Hercules and ESSO were already selling it for Rs. 700 only including their profit and when the prices were

increased they started earning an additional amount of Rs. 140 per ton. An Ordinance was approved for the Development Surcharge after these changes in rates. Daud Hercules and ESSO were restricted to sell the fertilizers for the same Rs.700 and were asked to give the Development Surcharge of Rs. 140 per ton to the government. The government got Rs. 70 million in such a way. Even then the government had to pay subsidy of Rs. 400 million. The rates of fertilizers were uncertain as those were fixed in the Europe. So, the Ordinance approved on March 30 in that regard was being presented in the House in the form of a Bill. As the factories were not in large number within Pakistan and sophisticated machinery could not be imported therefore subsidy was a compulsion for the government. Surcharge was the only tool in the hands of the government and that was the main purpose of the Bill under consideration.<sup>323</sup>

Mahmud Azam Farooqi strongly opposed the Bill presented by the government benches. He said that Providence had given vast natural resources to Pakistan and fertilizer produced was one of them. The government knew that the cost of imported fertilizer had gone up because of the very act of devaluation. We could produce fertilizer in the country at a cost lower than that of imported fertilizer. The government was trying to neutralize that benefit that the country was getting in the form of surcharge on it. He suggested the government to immediately take steps to concentrate on the increase of production and more capacity in the country for the manufacture of fertilizer instead of taking a negative view that the government was going to find money by levying subsidy on the local manufacturers of fertilizer so as to try and make some money in connection with the import of fertilizers.<sup>324</sup>

Mufti Mahmud said that agriculture was the basic economy of Pakistan. To ruin agriculture would mean to ruin Pakistan. The Bill under consideration had suggested the levy in the prices of the fertilizers. Fertilizer was a very important ingredient of the agriculture sector. When the prices would go up, the whole budget of small landlords and the tenants would be upset creating a total chaos in the agricultural economy of Pakistan. He suggested that our economy should be subservient to agricultural purposes as agriculture was our basic economy. We should divide industry into two sectors. One should be the industrial sector which should boost agriculture through fertilizers, pesticides and tractors. The other sector should consume the raw material of our agriculture. So it would be the scientific basis of industrial development in Pakistan. He further suggested the government to maintain the price of fertilizers worth Rs. 700 per ton in order to maintain the agricultural development in Pakistan.<sup>325</sup>

#### **5.42 The Kasim Port Authority Bill, 1973**

Minister for Political Affairs and Communications, Ghulam Mustafa Jatoi, moved the Bill which was:

“That the Bill to provide for establishment of the Kasim Port authority [The Kasim Port Authority Bill, 1973], as reported by the Standing Committee, be taken into consideration at once.”<sup>326</sup>

Forwarding the purpose of the Bill, Ghulam Mustafa Khan Jatoi, said that the Bill sought to provide for the establishment of Authority to plan establishment and management of a new port to be named as Port Muhammad Kasim at a site in Phitti Creek-that was also near Karachi-to handle the cargoes for the country. The country was having only one sea

port which handled the entire imports and exports of not only Pakistan but also of Afghanistan. Since the establishment there had been a heavy pressure on the port of Karachi because the country had undergone a heavy industrialization. The port of Karachi had reached a point where it could not handle more goods for imports and exports. At the time of independence the Karachi port handled about two million tons and in 1971-72 it handled 9.3 million tons. That was bound to increase because of the population growth in the country and more industrialization meant more imports. Therefore a new port was needed at Karachi.<sup>327</sup>

Mir Ghous Bakhsh Khan Bazanjo, on the behalf of opposition, suggested that the said port should be established at Hangol which was 125 miles away from Karachi. The port was to be connected with Dadu through train service. The area was already plain. Expenditures would be less as compared to that of Karachi. A risk was involved in making the new port near the already existing one. If there was any calamity or a security threat from enemy side then both of the ports would become un-functional. The long distance between the two ports would enable us to carry on our imports and exports even if one of those was not functional during war or other natural calamity.<sup>328</sup>

Mawlana Abdul Hakim appreciated the Bill presented by the government benches. He said that there should be no opposition to plan for eradicating poverty and unemployment within Pakistan. He recommended the government to make arrangements to avoid smuggling of commodities and other necessities through the newly establishing port at Karachi. The port should not be a backdoor for the smugglers so that the people could no longer face the problems of price hike and other economic repercussions.<sup>329</sup>

The Bill, as amended, was passed by the majority of the Members of the House.<sup>330</sup>

### **5.43 General Budget for 1973-74 and the standpoint of the Opposition**

Discussing the Budget, presented by the Zulfikar Ali Bhutto's government, Mahmud Azam Farooqi, from the opposition benches, suggested that the Finance Minister was required to divide the budget into separate components in line with the People's Party Manifesto, which was complicated system of demand for grants under a multiplicity of heads and sub-heads. He asked the government that the budget should have contained detailed explanations and justifications for the rate of devaluation of our currency at the rate of 120 to 130 per cent. He further proposed that as an introduction to budget there should have been estimate of industrial production not based on generalization but actual figure for 1972-73 and the estimate for 1973-74 with details in percentage of rise or fall. He referred that the PPP government had fully relied on the government of the United States for the last fifteen months and got 293 million Dollars plus some million Dollars as short term debt relief in terms of foreign loans, which overburdened the already deteriorated economy of Pakistan. He suggested that the government should avoid the loans from the World Bank and the U.S. government and must enter into bilateral agreements with different countries of the world in various financial areas of mutual interests, in order to make better the devastated economy of Pakistan.<sup>331</sup>

Mawlana Shah Ahmad Noorani, on behalf of the opposition, commented that the Finance Minister was a friend of the capitalists and had made his budget for those capitalist families. He condemned the statement of the Finance Minister that he was not levying any fresh duty on petrol and that he was not adding anything to the income-tax. But in

reality, the Wealth Tax, Gift Tax and Corporation Tax, which affected the rich only, remained the same as were the previous year. The taxes which affected the poor and particularly the peasants had been added and all the 630 millions of rupees that the Finance Minister was going to raise, except for 90 million of rupees, which was an additional duty from the import of cars, would be taken from the peasants and poor men. He strongly condemned the enhancement of funds in the budget for importing the luxurious cars and wines but it was very astonishing that no space was spared for the establishment of the Islamic system which could flourish the political, economic and social life of the citizens of Pakistan. He also pin-pointed that the allocation of funds for the defence purpose was also lowered in order to strengthen the Federal Security Forces, which would be used for the oppression of the opposition in the Centre as well as the Provinces.<sup>332</sup>

Mufti Mahmud, from the opposition benches, made it clear that the Budget 1973-74 was neither Islamic nor democratic as it was totally based on the usury. The citizens were overburdened with taxes and there was nothing for the welfare of the poor strata of the society. He also suggested the government not to close the small industries in Pakistan by raising the various duties over its owners. He also criticized the government for its nationalization policy. He declared that it was only the change of possession of different Mills. The owners were deprived of their legal ownership of the Mills through nationalization strategy and some PPP workers were given the administration of those nationalized Mills in order to make their own financial position better than ever.<sup>333</sup>

Leader of the opposition, Abdul Wali Khan, strongly criticized the government for misleading the citizens of Pakistan by showing false figures of Rs. 113.34 Crores, which in reality would be far more than the said figure. Bringing forth the real conditions of the citizens of Pakistan, he said that there were two portions of Pakistan, one being Islamabad, where the people were living in palaces, the other being three miles away from Islamabad and Sind and Khyber Pakhtunkhwa, where the people were living in caves. One would find the people in Islamabad who lived in palatial buildings who were feeding people on promises. Then there was another portion of Pakistan where people were without food, clothes and shelter. He appealed the government not to deceive the poor people of Pakistan and suggested to get down reconstructing the country.<sup>334</sup>

#### **5.44 The Land Reforms (Amendment) Bill, 1973**

Abdul Hafeez Pirzada moved the following Bill before the NA of Pakistan:

“That the Bill further to amend certain Regulations [The Land Reforms (Amendment) Bill, 1973], as reported by the Standing Committee, be taken into consideration at once.”<sup>335</sup>

Highlighting the objectives of the amending Bill, Abdul Hafeez Pirzada told that the Bill belonged to the agricultural economy of Pakistan. He assured the House that it was not a substantive piece of legislation as it already existed in the shape of certain Regulations like the main Land Reforms Regulation which used to be Martial Law Regulation 115, the Pat Feeder Regulation dealing with the land in Pat Feeder and Dir-Swat Land Disputes Regulation. In those Regulations, the main Land Reforms Regulation as well as there was a substantive provision being paragraph 29 under which the President of



Pakistan was the final revision authority in respect of cases decided regarding land reforms President had the *suo motu* jurisdiction to call for the record of any case at any time in which certain orders had been passed on the land reforms and with the object of satisfying himself with regard to the legality or propriety of action taken or orders passed, could pass such suitable orders as he might deem fit and proper. That provision existed already in paragraph 29 of the Regulation and the only legal requirement was that before passing any order which might affect a person adversely by the modification, the President had to give hearing to the person who was likely to be affected. There was a two-fold object of bringing the aforesaid consolidated amending Act. Firstly there were a large number of cases and it might be impossible for the President alone to dispose of all those cases. Therefore if it would be a larger body of persons exercising that power, the disposal would be expeditious. Secondly the objective was to respect the wishes of the Constitution of Pakistan in respect of change in the executive system of government in the country. Under the Interim Constitution President of Pakistan was the Chief Executive whereas the executive power of the Federation under the permanent Constitution would vest in the federal government consisting of the Prime Minister and his Cabinet. Simultaneously, measures were taken to delegate those powers to bodies and authorities to investigate in to certain matters and report back to the federal government and in certain cases where delegation was complete to exercise the power of revision jurisdiction either on objection side or *suo motu* side.<sup>336</sup>

Mir Ghous Bakhsh Khan Bazanjo strongly opposed the Bill introduced by the Law Minister as it was encroaching upon the provincial autonomy. He said that the

agricultural reforms were the matters under the jurisdiction of the Provinces in Provincial List. Such kind of legislation proposed by the Law Minister would be interference in the provincial autonomy. One of the reasons of separation of East Pakistan from the West Pakistan was crushing the provincial autonomy. The Bill under discussion would create frustration, faithlessness and anxiety amongst the provinces of Pakistan. The two smaller provinces of Pakistan, Sindh and Khyber Pakhtunkhwa would completely be disheartened through that piece of legislation. He warned the government to face a civil war in Pakistan as a result of such legislation which would curtail the provincial autonomy.<sup>337</sup>

Debating over the Bill, Choudhry Zahur Ilahi reminded the government the Constitutional Accord made with the opposition members in order to distribute the powers among the Provinces of Pakistan through provincial autonomy. The government was trying to take the powers into their hands before the implementation of the permanent Constitution. The land reforms were introduced by the government with a promise to ameliorate the conditions of farmers and farming. The big land lordships were to be eradicated by the government through the amendment. But in fact the government had failed in its struggle. There was no socialism and no *Masawat-i-Muhammadi* in the country. The poor farmers were happy that their condition would be better than ever through land reforms but all in vain so far. There were only twenty-five richest families in the country and that number had exceeded twenty-five hundred during the existing government. They had never earned so wealth in the last twenty-six years as compared to the previous one and a half year. Although thousands of acres of land were distributed by

the government, even then an inch of the land, under the Land Reforms Bill, was not received by a poor farmer of Sindh, Punjab, Baluchistan or Khyber Pakhtunkhwa.<sup>338</sup>

Sahibzada Safiullah said that the Land Reforms Bill had created great problems for the inhabitants of Dir. Going into the past, he pin pointed that the government had interfered during 1960 in Dir and arrested the Nawab of Dir. The people started fighting over there. The political agents did not try to solve the problem. The movable and immovable properties were severely damaged during two local wars at Dir. The Martial Law government appointed a Land Commission in order to resolve the trouble. Cases regarding disputed lands were decided under the MLRs. Some cases came under the central jurisdiction while the others were entrusted upon the provincial government of Peshawar to decide. The inhabitants of Dir started consulting the lawyers at Peshawar for deciding their cases concerning their rights to have lands under the Land Reforms Bill. Two years had passed but with no positive result in favour of the poor people of Dir. The poor farmers were fed up of the lawyers' fee. They could not afford the fare to go to Peshawar again and again as it was far away from Dir. The delaying tactics were adopted by the court members in association with the landlords of Dir. It was a good step by the government to confiscate the lands of the Nawab of Dir but the lands of the poor people of Dir were also snatched. The Land Commission appointed by the government had committed large scales corruption. The documents of the properties were present with the people of Dir but those were not demanded from them and hence discharged their claims to lands. He proposed to resolve the crisis of land in Dir with patience and justice.<sup>339</sup>

During clause by clause consideration, Ghafoor Ahmad moved the following amendment to the Bill presented by the government benches:

“that for clause 2 of the Bill, as reported by the Standing Committee, the following be substituted, namely:-

“2 Amendment of paragraphs 2 and 4, Land Reforms Regulation, 1972..- In the Land Reforms Regulations, 1972, hereinafter referred to as the said Regulation:-

(a) In paragraph 2, in sub-paragraph (3), for the word “Central” the word “Federal” be substituted: and

(b) In paragraph 4, in sub-paragraphs (7) and (8), for the word “President” the words “Federal Government” be substituted.”<sup>340</sup>

The amendment was rejected by the Minister concerned.<sup>341</sup>

Another amendment moved by Ghafoor Ahmad was:

“that in sub-paragraph (1) of the proposed paragraph 4A, in clause 3 of the Bill, as reported by the Standing Committee, for the words “member of the President’s Council of Ministers” the words “Federal Ministers” be substituted.”

The above mentioned amendment from the opposition side was accepted by the Minister concerned and adopted by the House.<sup>342</sup>

The Bill as amended was passed by the House in majority.<sup>343</sup>

#### **5.45 The Finance (Supplementary) Bill, 1973**

The Finance Minister, Mubashir Hassan presented the following Bill before the House:

“That the Bill to give effect to the supplementary financial proposals of the Federal Government and to amend certain laws [The Finance (Supplementary) Bill, 1973], be taken into consideration at once.”<sup>344</sup>

Presenting purpose of the Bill before the House, Mubashir Hassan said that the disastrous floods in Pakistan resulted in considerable loss of revenue to the government and a burden of additional expenditure on the Federal Exchequer. It was, therefore, necessary to raise further finances for the federal government in order to meet the emergency situation. For that purpose a supplementary Finance Ordinance was promulgated in September, 1973. It made certain amendments in the Tariff Act, 1934. It made possible to levy flood surcharge on sugar and cigarette. It also made levy development surcharge of income tax and super-tax liability. The Bill was therefore introduced to make that Ordinance into law.<sup>345</sup>

Ghulam Faruque opposed the Bill on the behalf of opposition and said that the Finance Minister had introduced almost a new budget. He wanted an additional income in billions of rupees in revenue. He suggested that a special session of the NA should be summoned as it was a large item. The flood was not a national tragedy but it was a human tragedy. According to the figures given the Chenab was the only river in flood. There was a lack of coordination. The water of the Jehlum and the Indus which should have passed into normal channel was diverted into Chenab. The water travelled to the Ravi and the Sutlej causing immense flood. The Bill, if passed, would have overwhelming and hazardous impact on the economy of Pakistan as an extra burden of duties and taxes worth 100 crore

rupees would be levied upon the people. He appealed the Finance Minister to investigate the matter and make proper arrangements to avoid such human tragedies in future.<sup>346</sup>

Ghafoor Ahmad, while debating over the Bill under consideration, said that the persons responsible for causing the artificial floods should be duly punished. He asked the Treasury Benches in general and the Finance Minister in particular to bring the details of the foreign aids before the House in order to know the utilization of the aid in a proper or improper way. He assured the House that the foreign aid for flood affected areas was not utilized by the government properly. If the aid would have been used properly then there would be no need to levy further taxes over the citizens. The government was supposed to cut its own expenditures by ten per cent. Then it would be able to meet the required additional expenditures very easily. The economic policies of the PPP government destroyed the economy of Pakistan. There was deficit financing and inflation in its governance. The tax thieves were increasing. The Central Board of Revenue was victim of corruption. He emphasized that the government never called for the meeting of Public Accounts Committee as it would bring forth the malpractices of the government in the accounts.<sup>347</sup>

Mufti Mahmud forbade the government benches to quote the inference of the United States and India in order to mention their taxation. He aspired that the government should mention their earning capacity before they mentioned their taxation. Their per capita income was higher than that of Pakistan. In the case of Pakistan our per capita income was decreasing and on the other hand taxation table was increasing. In such a situation the country would face an economic debacle.<sup>348</sup>

After a long discussion, the Bill was passed by the House.<sup>349</sup>

#### **5.46 The Pakistan Maritime Shipping (Regulation and Control) Bill, 1974**

Choudhry Muhammad Hanif Khan presented the following Bill before the House:

“That the Bill to regulate the operation and future development of the maritime shipping [The Pakistan Maritime Shipping (Regulation and Control) Bill, 1974], as reported by the Standing Committee, be taken into consideration at once.”<sup>350</sup>

Explaining purpose of the Bill, Choudhry Muhammad Hanif Khan said that on the January 1, 1974, the maritime shipping was nationalized by the government. Ten shipping companies were nationalized in order to regulate the management, operation and improvement of the maritime shipping to promote foreign trade. The management of those shipping companies came under the direct supervision of the Managing Director, National Shipping Corporation.<sup>351</sup>

Opposing the Bill, Ghafoor Ahmad said that only nine companies came under the jurisdiction of the government by nationalizing the shipping companies. Those shipping companies in collaboration with the National Shipping Corporation earned a foreign exchange worth Rs. One billion through twenty seven ships the previous year. He claimed that the government had made fun of the people by nationalizing those companies. Most of the share holders in those private shipping companies were lower income people. The British had formed the Companies Act in 1913. That was an autocratic Act in nature. That was made to defend the capitalists. The share-holders were granted some powers in 1913. They could appoint the Directors by rotation in their

annual meeting. At the end of the year the presentation of profit and loss account balance sheet in the meeting of the share-holders was made essential. They could also appoint the auditor. They had also the right to sell their shares. The government in chair snatched the right of appointing Directors from the share-holders. The government was empowered through the Bill to appoint the Managing Director. No terms and conditions for the service of the Managing Director were issued. No annual report would be presented before the share-holders. The share-holders could not comment at the annual meeting. Only a complaint could be registered by the share-holder before the federal government. The government could remove the auditor and appoint another at its own discretion. The share-holders could not sell their shares to others except the government. The government could remove any person from the Board of Managing Directors and he would not be liable to knock at the doors of the Supreme Court or any other Court. The credits given to the low creditors would be recovered from them within thirty days even if their contract tenure was six months. The private companies were overriding the National Shipping Corporation in a better way. But the opposition afraid the passage of the Bill under consideration could influence the foreign trade in a negative way. Therefore, he requested the House, on the behalf of the opposition, not to approve the Bill.<sup>352</sup>

During the third reading of the Bill, Ghafoor Ahmad forwarded the following amendments to the Bill:

“That in clause 5 of the Bill, as reported by the Standing Committee, in sub-clause (1) after the word “order”, occurring in the third line, the words “in writing” be added.”



The amendment was approved by the House.<sup>353</sup>

“That in clause 8 of the Bill, as reported by the Standing Committee, in sub-clause (1), in paragraph (c), between the words “person” and “to”, occurring in the first line, the words “who is a Chartered Accountant within the meaning of the Chartered Accountants Ordinance, 1961” be inserted.”

The amendment was adopted by the House.<sup>354</sup>

“That in clause 22 of the Bill, as reported by the Standing Committee, in sub-clause (1), for the words “by the corporation”, occurring at the end the following words be substituted, namely: –

“in accordance with law or any rules applicable to such corporation.”

The amendment was accepted by the Minister concerned and adopted by the House.<sup>355</sup>

The Bill was also passed by the House.<sup>356</sup>

As the Bill was introduced in the Senate, the opposition members demanded to refer the Bill to the Standing Committee concerned. Their demand was accepted by the Minister concerned and the motion was adopted by the Senate to refer the Bill to the Standing Committee for its elaborative details.<sup>357</sup>

The Standing Committee presented its report over the Bill in the Senate on February 13, 1974. Muhammad Hashim Ghilzai, the leader of the opposition at the Senate of Pakistan, appreciated the Bill from the government benches in order to develop the shipping sector for the economic development of Pakistan. But he criticized the government for nationalizing the Shipping Companies. He pin pointed that it was a bad experience in hands of the government to nationalize the transport department. The conditions of the

government transport had been deteriorating day by day since its inception. The transport department of the government had been in incessant deficit. So he proposed not to nationalize the Shipping Corporation of Pakistan as it would create dangerous results for the economy of Pakistan. Shahzad Gul, on the behalf of opposition, forwarded many useful amendments for the betterment of the amending Bill, but none of those was accepted by the government benches and the Bill was passed by the House.<sup>358</sup>

#### **5.47 The Banks (Nationalization) Bill, 1974**

Mubashir Hassan presented the following Bill:

“That the Bill to provide for the nationalization of banking business in Pakistan [The Banks (Nationalization) Bill, 1974], as reported by the Standing Committee, be taken into consideration at once.”<sup>359</sup>

Explaining objectives of the Bill, Mubashir Hassan said that the Bill was moved in order to finish the exploitation by the banking system. All the banks were nationalized. A Banking Council was established to monitor all the banks. The banks would compete under the supervision of the Council. The Banking Council would have the executive powers but it would be made accountable. The Banking Council would formulate policies and standard of efficiency for all the banks. The Banking Council would report to the government about the efficiencies of the banks. The conditions of services of the servants of the banks were safeguarded and the banks would be reorganized.<sup>360</sup>

Ghulam Faruque said that there was nothing wrong in the principle itself of the nationalization of the Banks, but its timing had been wrong because Pakistan was in a position of great economic difficulty. This was not the time to try and bring in new

innovations, administrative changes, and the creation of new corporations overnight without any regard to the fact whether those steps would work properly. The currency of Pakistan had become devalued in the extreme. He termed the government statements, published in various newspapers, as misleading information to the people that the Pakistan currency had cherished in value. He claimed that it was not the Pakistan currency that had valued, but it was due to the oil crisis, due to conditions prevailing in Europe, due to the fact that the United States became economically stronger on account of the oil crisis being less dependent on import of oil than any other country, that the value of the Dollar went up and because the Rupee was linked up with the Dollar well, naturally it went up. He informed the Members of the House that there were four elements of production in the modern economics. Those were capital, land, labour and entrepreneurship/organization. Whatever position Pakistan's economy had attained was more due to entrepreneurship and good management rather than capitalism. He said that due to inefficiency of the PPP government the two poor provinces of Pakistan, Khyber Pakhtunkhwa and Baluchistan, still remained poor. Some of the Dailies of Pakistan had stated that within two or three days of the nationalization of banks in Pakistan, 1.5 billion of rupees had been taken out of the banks. The money taken out of the banks was invested in commodities, buying properties, steel and other things. That practice had added to further inflation as the people afraid of further devaluation of rupee every day. Therefore they tried to convert the money in commodities which they could sell or in gold. The price of gold in Pakistan went up by Rs. 200 soon after the nationalization of the banks. Private banking had been one of the pillars of banking in the last 100 years in

the Sub-Continent having great potential. Its example was that all the large number of cotton mills only at Ahmadabad, ranging from 100 to 110, were set up by the private bankers. In the private banking transactions took place on little chits of papers. He said that the policy adopted by the government was neither socialist nor Islamic. They had created a feudal economy instead of capitalism and entrepreneurship. He said that the National Banks of Pakistan and the Muslim Commercial Banks were established by the government during 1947-49. Those banks were run by devoted and sincere men. Some of them were still alive. They were good professionals and the best managers. He suggested the government to take care of them and allow them to work in the way they had been working before.<sup>361</sup>

Ghafoor Ahmad said that two factors of the government had endangered the economy of Pakistan. Firstly the government's economic policies were undetermined. Secondly the government did not know which industries would be in private sector and which ones to be in public sector. The government had developed a mixed economy which was very unfavourable for the poor conditions of Pakistan. He also blamed the government not following its own written manifesto. In reply to a question raised from the sides of industrialists and businessmen, the Prime Minister Zulfikar Ali Bhutto said that his government could not declare long term economic policies as the elections were coming into hand. He further said that the PPP would renew its manifesto in the light of the oppositions' manifesto in the forthcoming elections. That was the reason the economic development of the country was nearly stopped. said that the Cooperative banks were established to help the people in the agricultural sector and cottage industries. Those

banks were not nationalized. The trade of the Cooperative banks was much more than the Scheduled banks. He demanded to nationalize the Cooperative banks and Exchange banks too. He suggested stopping the Exchange banks to open more branches in Pakistan. He also proposed to make the foreign banks bound to send only 30 per cent of their total profit to their country after paying taxes. The remaining 70 per cent must be utilized in Pakistan. The work permits of those skilled foreigners, whose alternate were available in Pakistan, should be cancelled.<sup>362</sup>

Mufti Mahmud strongly condemned the nationalization of banks by the government. He said that the government had failed politically as well as economically. Therefore it nationalized the banks in order to fill the economic gaps created by its wrong economic policies. Before the nationalization of banks the people would submit a feasibility report to business tycoon like Dawood or Habib. After nationalization a minister would simply call a manager of a bank to issue such and such amount to a person without any feasibility report. An element of corruption would enter into our economic system. The bank managers would be appointed on political basis rather than merit. Therefore the system would be deteriorated by their inefficiency. He enumerated the bad experiences of Pakistan Industrial Development Corporation (PIDC), Pakistan Industrial Credit and Investment Corporation (PICIC) and Water and Power Development Authority (WAPDA) which were run by the government officials.<sup>363</sup>

Mawlana Shah Ahmad Noorani suggested that all types of corporations must be amalgamated into one. In such a way its efficiency would be improved. In order to empower itself, the bureaucracy had multiplied the number of corporations thence

increasing the ways of expenditures which led them to more corruptions. He objected that the bonds which would be issued through the banks, as allowed being transferable by the Bill under consideration, would endanger the economy of Pakistan. The big banks would sell those bonds cheaply and the amount received by selling those bonds would be transferred to foreign banks. He suggested making the bonds un-transferable in any way. He also pin pointed that the tallest plaza constructed by the Habib Bank at the cost of the share-holders' amount at Chundrigar Road, Karachi, was shifted to Habib Trust. He proposed that the all the properties of the banks shifted in the name of any Trust during 1971-73, must be confiscated by the government. He also suggested that it was very easy to Islamise all the banks in Pakistan after its nationalization. So all the businesses based on usury, which was the basis of capitalism, should be terminated and the economic system based on Islamic laws should be introduced in Pakistan.<sup>364</sup>

Ghafoor Ahmad, on behalf of the opposition, moved the following amendments to the Bill which were accepted by the Finance Minister, Mubashir Hassan and adopted by the House:

(1). "That in clause 6 of the Bill, as reported by the standing Committee"

(i) after sub-clause (1), the following proviso be added namely:

"Provided that, in formulating the redemption program, the federal government may make provision for preferential redemption of the bonds of such class of persons who are of meager means such as orphans, widows and pensioners, and the amount of compensation payable to whom does not exceed such maximum amount, as the Federal government may deem fit."; and

(ii) in the existing proviso to sub-clause (1), between the words "Provided" and "that",

occurring in the first line, the word "further" be inserted."<sup>365</sup>

(2). "that in clause 8 of the Bill, as reported by the Standing Committee, in sub-clause (1), the following be added at the end, namely: —

"and this removal shall not entitle him to any compensation and no such claim shall be entertained by any court, tribunal or other authority". "<sup>366</sup>

(3). "that in clause 8 of the Bill, as reported by the Standing Committee, in sub-clause (3), the word "valuable", occurring in the fifth line, be omitted."<sup>367</sup>

Mawlana Shah Ahmad Noorani presented the following amendments from the opposition benches which were rejected by the Finance Minister:

"That in clause 9 of the Bill, as reported by the Standing Committee, in sub-clause (4), the following new paragraph be added and subsequent paragraphs re-numbered accordingly: —

"(i) to formulate and make necessary arrangements for the abolition of *RIBA* ' from the banking system within a period of one year from the date of its constitution."<sup>368</sup>

Mawlana Noorani drew the attention of the House to rule No. 94 which said that the Bill would be repugnant to the injunctions of Islam.— (1) If a member raised the objection that a Bill was repugnant to the injunctions of Islam..." So he declared on the basis of the aforesaid rule that:

"the Bill was repugnant to the Injunctions of Islam. Therefore it should be referred to the Council of Islamic Ideology."<sup>369</sup>

The Bill was passed by the House.<sup>370</sup>

During the first reading of the Bill in the Senate, Mufti Zafar Ali Numani, on the behalf of the opposition, demanded to refer the Bill to the Islamic Advisory Council under the rule-85, sub-clause (1) of the Constitution of the Islamic Republic of Pakistan, as it was against the injunctions of Islam, being the matter of *riba* (interest), prohibited in Islam. But the motion was rejected by the government benches in the Senate.<sup>371</sup> Mufti Numani said that it never meant that the government party being in majority was always right. Righteousness was on the basis of the Quran and Sunnah and not over the majority. He therefore condemned the government for making the poor as poorer and the rich as richer through the nationalization of different financial institutions in Pakistan. He commented that the slogan of the 'Scientific Socialism' by the Chairman of the PPP was for the enforcement of the Islamic socialism (*Masawaat-i-Muhammadi*). But that slogan was hypocrisy from the government side as, in the real sense; they wanted to impose the communist approach in the field of economy within Pakistan. He warned the government of the bitter consequences of the scientific socialism which were faced by the USSR. The followers of the scientific socialism were back for the privatization and left the nationalization as it destroyed their economies and so would be the fate of the Pakistani governments. So he strongly opposed the nationalization of banks and favoured the status quo.<sup>372</sup>

Mufti Zafar Ali Numani, on the behalf of the opposition, forwarded the following amendment to the amending Bill from the government benches:



“That in Clause 9 of the Bill, in sub-clause (4), the following new paragraph be added as (1) and subsequent paragraphs re-numbered accordingly:-

‘(i) to formulate and make necessary arrangements for the abolition of *RIBA*’ from the banking system within a period of one year from the date of its constitution’,<sup>373</sup>

The amendment of the opposition was rejected.<sup>374</sup>

The Bill was passed by the Senate.<sup>375</sup>

#### **5.48 Opposition’s Views about General Budget, 1974-75**

Responding to the Finance Minister’s speech over the budget for 1974-75, Ghulam Faruque, from the opposition benches, said that economy of Pakistan was sliding rapidly towards the peace of the grave. According to the international opinion ‘Pakistan was a country overshadowed by a decadent feudal aristocracy, partnered by an upstart plutocracy, and carrying out business through the agency of a low rates technocracy’. He urged that the need of the hour was an over-all adjustment and solution which would put the country’s economy towards market forces becoming main factors in the regulation of prices. Notices appeared in the papers of the nationalized banks having provided a sum of Rs. 140 billion as debentures on an unspecified interest for an unmentioned period to a Complex of Mechanical Engineering concern, the total annual turnover of which was then short of Rs. 20 million. If the banks were charging a commercial rate of interest, then interest charges alone would amount to Rs. 15.5 million. That was also happening in the other nationalized and taken over industries. Overdraft galore in disregard of financial propriety, banks were borrowing short and being made to lend long on doubtful operations. That was a sure case of high bankruptcy. He further objected that the weekly

accounts of the schedule banks no longer appeared in the government gazette as accompaniments to the State Bank operations. So the exact state of affairs was not known. The stock exchange was tottering to its grave. The balance of the economy had been seriously upset. For a balanced economy there had to be a delicate relationship between  $M_1$  and  $M_3$ .<sup>376</sup> If  $M_3$  went high, then there set in a recession in the economy. There had always to be a certain minimum of cash as current account funds to keep up the cycle of expenditure and consumption.<sup>377</sup>

Ghulam Faruque forwarded the following specific points and suggestions to the consideration of the government:

1. The government should bring about a sustained balance of payment, improvement by a mobilization of all exportable commodities and unorthodox methods. An export of a million and half bales of cotton in the next twelve months, if necessary, even by causing threat to the international markets. The same method should be used to yarn and cloth.

2. The government, for the time-being, should not act the part of a world policeman, as a preventive agent for narcotics and the like- what you were allowing free in your country, you had no right to prevent from going out. Those concerned were fully competent to look after themselves. When for fifteen years, there was complete prohibition in America and boot-legging was the order of the day, Scotland was not asked to give up the manufacture of whisky. In that matter the government should follow the example of good friends, the Turks.

3. The government had to restore people's confidence in our money by fighting against inflation. It should finance its oil bill out of foreign loans even on commercial terms, and not burden its current balance of payment with that large expenditure.

4. The country was very delicately poised on the edge of a deep precipice. Its survival was at stake. The government should convince people that burdens were being shared equally.

5. The government was required to gear up production to the availability of local and foreign material resources and shift more to the use of indigenous material. That overfed white elephant; the industrial and scientific research was totally recumbent. The ordinary means of revenue were exhausted. The people were in the direst of strains and were unable to bear the smallest increase in the existing patterns of taxes, however justified such an increase might be. There was another source of revenue; immense but still little tapped which could be mobilized without causing a serious hardship and that was a tax on the higher agriculture income. Let the provincial governments channel that tax as the main source of their income.

6. Important of all was the spiraling government's expenditure on administration that was increasing by geometrical proportions and in total disregard for any relationship to expenditure on meaningful production. That expenditure should be cut down ruthlessly. After all in the past there have been examples of the Finance Ministry unyielding to new expenditure demands from the Presidents and the Prime Minister themselves.

7. Increased domestic saving was a basic requirement, if Pakistan was to have rapid sustainable growth. There must also be greater savings out of government enterprises. Exports had already calculated the gross external capital requirements (deficit on current account plus amortization) to be 8396 million and the estimated net foreign reserves at the end of year 1973-74 anticipated at the low level of 160-200 million dollars barely sufficient to finance only 1-2 months of imports. That needed a glaring red light for a substantial increase in exports and an exercise of great vigilance on imports.

8. With the economy down to the floor, and the need for an early recovery; especially in the private sector, the government should take advice to review the operations of its agencies such as the Security Control, the Monopoly Control and the Stock Exchange Control authorities.<sup>378</sup>

#### **5.49 The Karachi Port Trust (Amendment) Bill, 1974**

On behalf of the Minister for Law and Parliamentary Affairs, M. Rafi Raza moved the following Bill in the House:

“That the Bill further to amend the Karachi Port Trust Act, 1886 [The Karachi Port Trust (Amendment) Bill, 1974], as reported by the Standing Committee, be taken into consideration at once.”<sup>379</sup>

At the stage of discussion the Bill was not opposed by any member of the opposition but when it was presented for the amendments, Ghafoor Ahmad moved the following amendment to it:

“That in clause 3 of the Bill, as reported by the Standing Committee, in paragraph (a), in the proposed proviso, between the words “limit” and “as”, occurring in the third line, the words “being a limit of not more than rupees ten thousand” be inserted.”<sup>380</sup>

Explaining purpose of his amendment, Ghafoor Ahmad said that the Bill was introduced to amend the Karachi Port Trust Act, 1886. The Act had empowered the federal government to remit the dues levied by the Port Trust except the amount exceeded rupees five thousand. The amendment introduced by the federal government would empower it to remit the amount as much as it could wish. Therefore he suggested that the amount remissible by the federal government should not be more than rupees ten thousand otherwise the government could get a way for corruption and get all the dues remitted.<sup>381</sup>

The amendment was rejected by the NA of Pakistan.<sup>382</sup> The Bill was also passed by the NA.<sup>383</sup>

### **5.50 The State Bank of Pakistan (Amendment) Bill, 1975**

Choudhry Muhammad Hanif Khan introduced the following Bill in the NA:

“That the Bill further to amend the State Bank of Pakistan Act 1956 [The State Bank of Pakistan (Amendment) Bill, 1975], as reported by the Standing Committee, be taken into consideration at once.”<sup>384</sup>

Choudhry Muhammad Hanif Khan said that the intention of the Bill was to amend the State Bank of Pakistan Act 1956 with a view to authorize the State Bank of Pakistan to contract loans beyond a period of three months. The State Bank of Pakistan could contract loans for a period of six months and the loans which were of a longer maturity, the State Bank could not contract. The necessity had arisen, because the Central Bank of

Libya had granted a loan to the State Bank of Pakistan for the government of Pakistan to use it. Since the loan was of a long maturity, the State Bank of Pakistan could not contract that unless amendment under consideration was made.<sup>385</sup>

Ghafoor Ahmad said that any legislation was to be welcomed which was for the economic strength and prosperity of the nation. The amending Bill under consideration was to ruin the economy of Pakistan. The tenure of the loan contract was not extended but it would be terminated through the Bill. When a person in his private capacity took loan from somebody and could not return that in a specific time that meant he was a defaulter and totally ruined. The Bill was also introduced that the government was so weak economically that it could not return the loan in a proper duration. He suggested the government to take loan from outside for a specific period in which it could pay back the loan. The government should fix a period of twelve months for the return of the loan.<sup>386</sup>

The Bill was passed by the House without any change in its text.<sup>387</sup>

### **5.51 The Land Reforms (Amendment) Bill, 1975**

Malik Muhammad Akhtar introduced the following Bill in the NA:

“That the Bill further to amend the Land Reforms Regulation, 1972 [The Land Reforms (Amendment) Bill, 1975], as reported by the Standing Committee, be taken into consideration at once.”<sup>388</sup>

Explaining objectives of the Bill, Malik Muhammad Akhtar said that the total number of cases regarding land, declared in all the four Provinces, were 8,849. The inspection teams appointed by the government detected about 3,705 cases in which some further scrutiny was necessary. Accordingly, the powers under sub-Regulation No. 29 of the Land

Reforms Regulation were invoked and it had already been extended to facilitate the authorities to look into those cases. It was proposed that the cases which had already been examined by the Commission and the Chief Land Commissioner, those would also be examined by the Federal Commission. Since the federal government had not been able to finalize that task, it was proposed that the amendment through the Bill under consideration might be carried out and it was also proposed that the Chief Land Commissioner would be directed to finish all the cases by January 31, 1976, whereas the Federal Land Commissioner would be finalizing them by the extended time that was March 31, 1976. So far, the action had been taken *suo moto*. The Federal Land Commission had disposed of 57 cases and 92,819 acres of land had been resumed.<sup>389</sup>

Choudhry Zahur Ilahi declared the land reforms of the PPP government as a fraud to the poor strata of the society. The peasants were assured by the government to get benefits out of the land reforms but they got harmful results out of those reforms. As soon as the land reforms were issued by the government, the landlords debarred the peasants out of their lands. He claimed before the House that Leader of the House as well as some MNAs of the government had influenced the land reforms and had kept thousands acres of land with them which was not distributed amongst the poor peasants under those reforms.<sup>390</sup>

Ghafoor Ahmad said that the Land Reforms Regulation was introduced in March 1972. The said Regulation's objectives were coined as the equal distribution of wealth and economic development of the peasants in Pakistan. It was sad that single purpose was not fulfilled so far. The government extended the time for the implementation of the reforms up to four times. The Land Commission was interfered time and again by the government

through legislation in order to influence the land reforms for certain landlords. He suggested leaving the Provincial Land Commission to decide the cases according to the Land Reforms, already decided, and not to interfere in its implementation time and again.<sup>391</sup>

Sahibzada Safiullah pin pointed that Khyber Pakhtunkhwa was not having more than five per cent landlords of the total population. The federal government had seized the power through the Federal Land Commission in order to enforce the landlords of the Khyber Pakhtunkhwa to join the PPP. The landlords, who joined the PPP, got the lands through bribing. The lands confiscated from the political opponents by the government in the Khyber Pakhtunkhwa under the disguise of the Land Reforms were not handed over to the deserved peasants so far. The workers of the PPP occupied that land for themselves. The peasants had not been given the right to go to the court against those occupiers.<sup>392</sup>

The Bill was passed by the NA.<sup>393</sup>

### **5.52 The Land Reforms (Amendment) Bill, 1976**

Minister for Food and Agriculture, Cooperatives, Less Developed Areas and Agricultural Reforms, Sheikh Muhammad Rashid, moved the following Bill in to the House:

“That the Bill further to amend the Land Reforms Regulation 1972 [The Land Reforms (Amendment) Bill, 1976], as reported by the Standing Committee, be taken into consideration at once.”<sup>394</sup>

Explaining purpose of the Bill, Sheikh Muhammad Rashid said that the constitutional tenure of the *suo moto* powers of the Federal Land Commission was going to be ended at March 30, 1976 and it was to extend up to September 30, 1976. The Ordinance regarding



the Cooperative Farming and the Cooperative Societies was issued earlier. It had been decided by the government to exempt the Cooperative Societies as well as the Livestock of the Ordinance in order to form Cooperative Societies of Livestock. That was hit by the Regulation 1972. To exempt it, the clause of the Cooperative Farming Society and Livestock Farm was being introduced. There were restrictions in the Regulation concerning partition of evacuee and non-evacuee lands. That was to be permitted by the Bill. The tenants were given rights of pre-emption. The Regulation had provided a long procedure where the tenants could not go to a Civil Court for their rights. The Bill had empowered the Collectors and the Commissioners to hear the pre-emption suits of tenants.<sup>395</sup>

The opposition member, Ghafoor Ahmad raised two objections about the new provisions of the Bill. Firstly he pointed out the government wanted to extend the tenure of *suo moto* of the Federal Land Commission, which was doubtful on the part of the federal government. If the federal government was extending the tenure time and again then it should confiscate all the powers in one move. Secondly the government, defined by the Article (2) of sub-clause (3) of the Regulation 1972, meant in relation to the Islamabad Capital territory, the Central Government and, in relation to a Province, the Government of that Province. Livestock and the educational institutions could be exempted by the federal government. The educational institutions were under the jurisdiction of the Provinces in the Provincial List. The MLR 1972 had empowered the Provinces regarding the educational institutions as well as the livestock farms. The federal government wanted to curtail those powers of the Provinces. Therefore, the Minister In-Charge was

appealed to change the word “Federal Government” of the Bill with the word “Government” so that the Provincial Governments could also have the powers of exemption and the decision about extension in the tenure of *suo moto* should be cancelled too.<sup>396</sup> He introduced the following amendment to the Bill under consideration for the said purpose:

“That in clause 2 of the Bill, as reported by the Standing Committee, the word “Federal” appearing in the last line be omitted.”<sup>397</sup>

The amendment was accepted by the Minister, Sheikh Muhammad Rashid and adopted by the House.<sup>398</sup>

The Bill was adopted by the NA.<sup>399</sup>

### **5.53 The Opposition’s Stance over General Budget, 1976-77**

Debating over the General Budget, presented by the government in the NA, Mawlana Ghulam Ghous Hazarvi, from the opposition benches, criticized the government’s loss in budget for 1976-77. He appreciated increase in the production of wheat and sugar but condemned the price hike of wheat and sugar in the budget. It was appreciable that no new taxes were levied but the government had intentionally increased the rates of old taxes of different items in order to fulfill the deficit of nearly Rs. 3 billion for developmental projects in the budget. The said deficit in the developmental programs occurred after the inclusion of foreign aids and debts. The government could not term it as a prosperous budget. The income out of the resources was very regretful. He pin pointed that the government was proud of the countries to have confidence over Pakistani government but in fact the foreign aid of Rs. 13 billion in the budget was not a

confidence over Pakistan rather it was a curse for the economy of the country. He suggested the government improving the mechanism for exploring the natural resources for self-sufficiency in the economy. Mawlana Ghulam Ghous said that the government was inefficient to complete different developmental projects like Gomal Zam Scheme at Dera Ismail Khan, Sireen Canal Project at District Hazara. Both of the projects were for the irrigation purpose of thousands acres of land at Dera Ismail Khan and Hazara, respectively. He condemned the government officials to be involved in corruption at high level. He declared to present proofs against the government before the House for providing 2500 acres of land at District Mianwali to its dear ones through fake registrations. 6875 acres of land was allotted through fake ways to Abdur Rehman Qasab at Bandi Ghund. Mawlana also presented a document before the Speaker having signatures of workers of eight unions of Karachi which carried the details of thousands rupees per month corruption by the higher authorities at the Reservation Office Karachi. Mawlana highlighted that those kinds of corruptions led the government's budget to deficit. He proposed if those corruptions were stopped, the government could present tax-free and deficit-free budgets to the nation. He recommended the government to enforce *Shariah* in the country as it presented the best economic, political, social, cultural and military systems.<sup>400</sup>

Mawlana Abdul Mustafa Al-Azhari commented that the prices of fertilizers decreased by the government were not enough. He proposed to further decrease those prices. He asked the government to request the time tested friend, China, to provide the latest machinery and experts in order to dig out the petroleum reservoirs in Pakistan. He instructed the

government to increase the budget for oil exploration in Pakistan. He said that the Province of Baluchistan was full of various minerals; therefore he suggested developing ports at Gawadar and Pasni at Baluchistan so that its inhabitants might improve their economic conditions. He said that the beaches of Sindh were very suitable for the plantation of cocoanut-trees. He proposed to import the best quality seeds of cocoanut from abroad. In this way Pakistan could produce cocoanut for its self-sufficiency.<sup>401</sup>

#### **5.54 The Regulation of Mines and Oilfields and Mineral Development (Government Control Amendment) Bill, 1976**

The Minister for Fuel, Power and Natural Resources, Muhammad Yusuf Khattak from QML forwarded the following Bill before the NA:

“That the Bill further to amend the Regulation of Mines and Oilfields and Mineral Development (Government Control) Act, 1948 [The Regulation of Mines and Oilfields and Mineral Development (Government Control Amendment) Bill, 1976], as reported by the Standing Committee, be taken into consideration at once.”<sup>402</sup>

Mentioning purpose of the Bill, Muhammad Yusuf Khattak said that the Bill had introduced two new sections—section 3A and 3B— in the existing Regulation of Mines and Oilfields and Mineral Development (Government Control) Act, 1948. The oil exploration was a very capital intensive industry and the government had been, from time to time, taking steps to make the terms of exploration as attractive as possible for the foreign mining companies. The Act was going to introduce section 3A in the existing Act to give the government blanket authorization to enter into a production sharing agreement with any company, whether foreign or Pakistani, and the features of the agreement were

negotiable. The validity of that agreement would be for thirty years, including ten years for exploration, and the company was entitled to receive cost oil for the recovery of its pre-discovery cost. Cost oil was that, before a commercial discovery was made, the company which was exploring or mining had to invest a tremendous capital for exploration of oil. The government wanted to give through the Bill statutory power in that Act that the company should be entitled to receive the cost oil for the recovery of its pre-discovery cost, developing expenses and operation cost. Cost oil was fixed at an annual maximum of 40 per cent of crude oil produced for the purpose of recovery of the above mentioned three items of the cost. The remaining 60 per cent of profit oil was shared in the production of 65: 35. The government was entitled to receive 30 per cent and the company 21 per cent up to the point the cost was recovered. Once the pre-commercial discovery expenses had been recovered by the company which had been exploring, then after that, as it kept on recovering its cost, the share of the government would increase progressively and the split of 90 per cent would be 65: 35 between the government and the company. Ten per cent would be reserved for covering operating cost. The company would not be liable for payment of income-tax, royalty and duties. Those would be paid by the government out of its own share on behalf of the company. But section 3B gave statutory protection initially to those incentives which were already present in the Schedule, but it also gave statutory protection to profit sharing/production sharing with the foreign companies and those concessions could be improved upon subsequently after notifying in the Gazette of Pakistan. That meant those concessions

were flexible. That was entirely up to government whether those concessions could also be given to the existing concessionaires.<sup>403</sup>

Ghafoor Ahmad, on the behalf of opposition, said that as far as the efforts of the government for the exploration of oil and gas were concerned, nobody could deny its importance. He pin pointed that according to the survey of experts of a Canadian team, Pakistan had 36 billion barrels of oil and 140 billion cubic feet of gas. That was sufficient for Pakistan up to two hundred years. If those were explored, Pakistan could become member of Organization of Petroleum Exporting Countries (OPEC) within ten years.<sup>404</sup>

He presented two factors before the House which were responsible for lagging behind in the field of oil and gas exploration. Firstly the previous governments did not heed towards the issue in a proper way. Ninety wells were dug since 1950 which were not enough. Pakistan consumed only eight per cent out of its resources while ninety two per cent of the necessities were imported. Seventy percent oil out of the eight per cent was explored by the private companies and the remaining thirty per cent by the public sector. China got independence later than Pakistan and was not only self sufficient in the production of oil but exported it to America and Japan. Secondly internal and external conspiracies were hatched not to explore the oil and gas in Pakistan. The wells being dug in Campbellpur (now Attock) and Dera Ghazi Khan were stopped where huge reservoirs of oil and gas were reported in the newspapers. He assured the government the opposition's help in resolving the issue so that economic issues of Pakistan could be met with. He forwarded the following suggestions to the government benches in order to resolve the aforesaid issues:

1. He suggested the government diverting the resources from other fields to the exploration of oil and gas in Pakistan. One hundred and fifty million Dollars needed for the exploration of oil and gas, as reported by the Minister concerned, was not such a huge amount which could not be afforded by Pakistan.
2. He proposed to take help of the Chinese government instead of the USA, France, Australia, West Germany, England and Russia as China was very advanced in the field as well as our reliable and time tested friend.
3. He recommended undertaking ventures in the field of exploration with the oil exploring and wealthy Muslim countries on profit sharing bases in accordance with the contracts chalked out by the Government.
4. He pin pointed that Pakistan was possessing the best quality of natural gas as tested and reported by the government. High speed diesel and Gasoline could be extracted from the said natural gas which was used by us only as a fuel. He anticipated making the natural gas useful for the industrial development of Pakistan ultimately leading us towards the economic prosperity and well being.
5. He appealed the government to do away with the political tensions, created by the federal government during the last three and a half years, in the Province of Baluchistan which was reported as the best oil and gas exploring area. In such a way the stocks of oil and gas could be explored in abundance.<sup>405</sup>

Along with the proposals Ghafoor Ahmad also moved the following amendments to the Bill under consideration to make it better:

(i) "That in clause 2 of the Bill, as reported by the Standing Committee, in the proposed new section 3-A, in sub-section (1), after the word 'law' occurring in the second line, the words "or rules" be inserted."

(ii) "That in the proposed Schedule to the Bill, as reported by the Standing Committee, in Paragraph 1, after the word 'apply' occurring in the fifth line, the words 'to the extent of such inconsistency' be inserted."

(iii) "That in the proposed Schedule to the Bill, as reported by the Standing Committee, in paragraph 2, after the last word 'Act', the comma and words, "hereinafter referred to as the said Schedule" be added."

All of the above amendments forwarded to the Bill by Ghafoor Ahmad were accepted by the Minister concerned and adopted by the NA.<sup>406</sup>

The Bill was also adopted by the NA.<sup>407</sup>

### **5.55 The Cost and Industrial Accountants (Amendment) Bill, 1976**

The Minister for Finance, Planning and Development, Rana Muhammad Hanif Khan from QML moved the following Bill in the NA:

"That the Bill to amend the Cost and Industrial Accountants Act, 1966 [The Cost and Industrial Accountants (Amendment) Bill, 1976], as reported by the Standing Committee, be taken into consideration at once."<sup>408</sup>

Illuminating aims and objects of the Bill Rana Muhammad Hanif Khan said that the Pakistan Institute of Industrial Accountants was a statutory body and regulated profession of Cost and Industrial Accountants in Pakistan and its affairs were controlled by the Council which consisted of representatives of the people in the profession and some



nominees of the federal government. They had been using some nomenclature and designation which had been causing a lot of confusion as far as they were concerned, because the nomenclature and designation which was used by similar people in other parts of the world was different. The government was bringing the nomenclature in line with similar institutions in other parts of the world. So the Bill would change title of the Act from the Cost and Industrial Accountants Act to the Cost and Management Accountants Act, 1966. Another change would be the re-designation of its members as Cost and Management Accountants from Industrial Accountants. The third change would be the use of designation letters which would of course clarify the confusion which, they said, existed at the moment and they found it very difficult to explain it to other people, to the employers in other parts of the world, especially in the developing countries. The fourth change would be the nomenclature of the Institute itself from Pakistan Institute of Industrial Accountants to Institute of Cost and Management Accountants of Pakistan.<sup>409</sup>

Ghafoor Ahmad, on the behalf of opposition, agreed to the change of name of the institute as it reflected its activities in the real sense. He appreciated the Minister for Finance to inaugurate new building of the Institute of Bankers at Karachi on November 15, 1976. He said that those professional institutes played a remarkable role in the development of the country. Industries were established at the time of independence. At that time there was no tough competition in the industrial field. The time had come to utilize the manpower, time, raw material and machinery for the economic development of Pakistan. He suggested the government to strongly observe the cost effectiveness of all the financial institutions at the end of each budgetary year and struggle its best for the

betterment of those institutions. The government should utilize the modern machinery in the nationalized institutions and should create harmony and coordination between the Institute of Bankers and Institute of Chartered Accountants. Taxation would be beneficial in this way. He further suggested appointing qualified candidates at different commissions like Pay Commission and Wage Board out of those institutions. He proposed to produce more opportunities within Pakistan for qualified members of those institutes so that they could serve their nation in a better way avoiding brain drain to foreign countries.<sup>410</sup>

P. K. Shahani, a Member from the government benches, declared the point of view of the opposition member as a valid one. The Bill was adopted by the NA unanimously.<sup>411</sup>

### **5.56 The Establishment of the Federal Bank for Cooperatives and Regulation of Cooperative Banking Bill, 1976**

The Minister for Finance, Planning and Development, Rana Muhammad Hanif Khan moved the following Bill in to the House:

“That the Bill to provide for the Establishment of a Federal Bank for Cooperatives and Regulation of Cooperative Banking [The Establishment of the Federal Bank for Cooperatives and Regulation of Cooperative Banking Bill, 1976], as reported by the Standing Committee, be taken into consideration at once.”<sup>412</sup>

Explaining aims and objects of the Bill, Rana Muhammad Hanif Khan said that the Cooperative Banks were established to help the farmers in rural areas to avail the credit facilities for making their economic conditions better. The Federal Bank of Cooperatives would be a body corporate with an initial capital of Rs. 200 millions out of which Rs. 20

millions would be subscribed by the federal government, Rs. 30 millions by the Provincial governments and Rs. 150 millions by the State Bank of Pakistan. The Bank would establish its head office at Islamabad and one regional office in each Province. The management of the Bank would vest in its Board of Directors which would consist of the Directors of the Central Board of Directors of the State Bank of Pakistan, the Managing Director and two representatives, each one of whom would be a non-official, of the federal and provincial governments. The Governor State Bank of Pakistan would be the Chairman of the Board. There would be an Advisory Committee consisting of the Managing Director, one representative each of the Federal Ministries of Finance and Cooperatives, two representatives each of the provincial governments, one of whom would be a non-official Chief, Executive of each of the Provincial Cooperative Banks and the Executive Directors concerned with agricultural credit in the State Bank. It would advise the Board of Directors of the Bank on matters referred to it by the Board from time to time or on its own motion. The Bank would act as the principal financing institution at the national level the multi-unit cooperative societies in Pakistan. It would extend credit facilities to the cooperatives through the Provincial Cooperative Banks. The Federal Bank of Cooperatives would have the same regulatory powers over the officials of the cooperative banks as the State Bank had over other banks. Primarily the bank applied itself to the task of revitalizing the credit cooperatives so that they play their beneficial role in meeting the credit requirements of the farmers in the fields of agriculture and rural development. The bank also fostered the growth of adequate training facilities for the personnel of cooperatives and helped formulate development plans for

the growth and strengthening of the cooperatives so that they could play a vital role in developing rural economy and the well-being of the rural population.<sup>413</sup>

Mawlana Abdul Hakim, an opposition member, pin pointed that this system had failed because of the inherent corruption in cooperative banking. The influential political persons had become the Directors of those banks thus playing havoc with the system. Those facts were brought into the notice of the House by some of the persons who were connected with the cooperative banking and were also members of the House. They claimed that fraudulent transaction used to take place, people used to give loans to their drivers and their personal servants and then they would initiate legal proceedings against them and would ultimately show them as bankrupt. He argued that the Quran had ordered to provide loans to the poor, distressed and needy without any interest. He suggested the Finance Minister to amend the Bill in such a way as to avoid the wealthy persons get loans through corruption and utilize the banks for uplifting the economic conditions of the farmers and poor people in the rural areas.<sup>414</sup>

Ghafoor Ahmad, from the benches of the opposition, presented the following amendments to the Bill in order to make it better:

- (i) "That in clause 5 of the Bill, as reported by the Standing Committee, for the word "corporation" occurring in the third line the word "bank" be substituted."
- (ii) "That in clause 9 of the Bill, as reported by the Standing Committee, in sub-clause (1), in paragraph (e), after the word "directors", occurring in the first line, the words "from each Province", be inserted."

(iii) "That in clause 10 of the Bill, as reported by the Standing Committee, in sub-clause (4), for the word "qualified" occurring in the third line, the words "not disqualified" be substituted."

(iv) "That in clause 25 of the Bill, as reported by the Standing Committee, in sub-clause (1), for the words and comma "branches and offices, and its books and accounts", occurring in the last line the words and commas "branches and offices, and its books, accounts and documents" be substituted."

(v) "That in clause 37 of the Bill, as reported by the Standing Committee, in sub-clause (5) for the word "officer", occurring in the first line, the word "office" be substituted."

(vi) "That in clause 1 of the Bill, as reported by the Standing Committee, in sub-clause (3), after the words "at once" occurring at the end, the words "and shall be deemed to have taken effect on the 9<sup>th</sup> day of October, 1976", be added."

All of the above amendments forwarded by Ghafoor Ahmad were accepted by the Finance Minister and adopted by the House.<sup>415</sup>

The Bill was passed by the House along with the proposed and approved amendments of the opposition benches.<sup>416</sup>

Keeping in view the above study, it can be concluded that the opposition members mostly consisted of ulama and had formed religio-cum-political parties. They were seasoned in religious, social, economic and political issues of Pakistan as they were regularly involved in the deep studies of the Quran and Sunnah. So they had got an excellent knowledge of Islam and its characteristics. As Islam presents a complete code of life so, those ulama followed it more than other parliamentarians at that time. Whenever an

article of the constitution was under discussion at the floor of the House or an amendment from the government benches was forwarded, the opposition members would discuss it in detail in the light of the Quran and Sunnah and as such suggested hundreds of amendments to the 1973 Constitution of the Islamic Republic of Pakistan. This was made possible only with the struggle of the opposition parties' members that Islam was made the State religion; no law being made repugnant to the Quran and Sunnah; already existing laws are being brought in accordance with the Quran and Sunnah through the Council of Islamic Ideology. Opposition members forwarded amendments to bring various provisions of the constitution into Conformity with Islam. In order to familiarize the Muslim society of Pakistan with the teachings of the Quran and Sunnah, the opposition members forwarded various amendments and resolutions to the main body of the constitution. For example amendment against the usury, motion for the formation of the Council of Islamic Ideology, resolution for the Economic System to be based on Islamic Injunctions, fruitful amendments to the bill presented by the government in order to ensure publication of the text of the Quran free from errors of printing, resolution for banning of literature inimical to Muslim beliefs and the Ideology of Pakistan, resolution for banning obscene films in Pakistan and resolution for the dignity and uplift of *ulama* of *madaris* in the Pakistani society. It is, nowadays, the result of those efforts of the opposition of that era that the Ulama achieving the certificates of Shahadat-ul-'ama, Shahadat-ul-Khasa, Shahadat-ul-'aliyah and shahadat-ul-'alamiyah from the government's registered religious organizations are awarded the equivalency certificates of SSC, HSSC, Graduation and MA Islamiyat and Arabic respectively by the Inter Board

Committee of Chairmen and Higher Education Commission of Pakistan. The opposition worked for uplift of the social conditions of the poor and middle strata of the society in particular and the whole society in general. The opposition did not spare the government for price hike in commodities. Whenever the government presented the bill for the amelioration of the farmers and land-owners, the opposition moved amendments for the betterment of that bill. In order to facilitate the society the opposition forwarded amendments to the bills, presented by the government, like the evacuee property and displaced persons laws (Amendment) Bill, 1973, the newspaper employees (Condition of Service) Bill, 1973, the Pakistan National Council of the Arts Bill, 1973, the Service Tribunals Bill, 1973, the civil servants Bill, 1973, The employees' cost of living (Relief) Bill, 1973, the house building finance corporation (Amendment) Bill, 1973, the university grants commission Bill, 1973, the workers' welfare fund (Amendment) Bill, 1973, the passports Bill, 1974, the peoples open university Bill, 1974, the road transport workers (Amendment) Bill, 1974, the dowry and bridal gifts (Restriction) Bill, 1975, the education Bill, 1976 and the employees' old age benefits Bill, 1976. The opposition members also moved adjournment motions and brought resolutions before the House for the eradication of unsocial and immoral practices engorged in the society of that era and which could disrupt the society of Pakistan in the future. The opposition members also asked questions frequently in each and every session of the Assembly whenever a social issue raised its head anywhere in the Pakistani society. All the bills moved by the government in the National Assembly or Senate, which disturbed the political scenario and affected the political rights of the society or the opposition within the Parliament, the

opposition strongly rose against it and defended the political rights of the citizens. They argued for the betterment of the political rights of the citizens and most of the amendments forwarded by the opposition members to the bills of the government were passed and adjusted into the main body of the bills. In the economic sphere, the opposition suggested that the agriculture was the backbone of Pakistan and should be made stronger in order to boost up the rest of the economy. The opposition members did not remain silent spectators to the bills of the government like the chemical fertilizers (Development Surcharge) Bill, 1973, The Kasim port authority Bill, 1973, the land reforms (Amendment) Bill, 1973, the Finance (Supplementary) Bill, 1973, the Pakistan maritime shipping (Regulation and Control) Bill, 1974, the banks (Nationalization) Bill, 1974, the State Bank of Pakistan (Amendment) Bill, 1975, the land reforms (Amendment) Bill, 1975, the land reforms (Amendment) Bill, 1976, the regulation of mines and oilfields and mineral development (Government control Amendment) Bill, 1976, the cost and industrial accountants (Amendment) Bill, 1976 and the last but not the least the establishment of the federal bank for cooperatives and regulation of cooperative banking Bill, 1976. No bill was there which was not discussed by the opposition members except those where they walked out as an agitation because of the rigid and annoying behaviour of the government. In each and every religious, political, social and economic issue, when introduced in the House, the opposition presented amendments adeptly and suggested some additions or subtractions for the betterment of the bills in order to have the best constitution for Pakistan.



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<sup>223</sup> Ibid., 274.  
<sup>224</sup> *NA (Legislature) Debates*, Official Report, Volume III, No. 12 (June 7, 1973), 691-93.  
<sup>225</sup> *NA (Legislature) Debates*, Official Report, Volume III, No. 15 (June 12, 1973), 895.  
<sup>226</sup> *NA (Legislature) Debates*, Official Report, Volume III, No. 28 (June 27, 1973), 2095.  
<sup>227</sup> *NA Debates*, Official Report, Vol. II, No. 23 (March 19, 1973), 1528-33.  
<sup>228</sup> Ibid., 1536.  
<sup>229</sup> *NA Debates*, Official Report, Vol. II, No. 24 (March 20, 1973), 1617.  
<sup>230</sup> Ibid., 1640.  
<sup>231</sup> Ibid., 1649-50.  
<sup>232</sup> *NA Debates*, Official Report, Vol. II, No. 26 (March 22, 1973), 1820.  
<sup>233</sup> Ibid., 1811.  
<sup>234</sup> Ibid., 1832.  
<sup>235</sup> *NA (Legislature) Debates*, Official Report, Volume III, No. 2 (May 25, 1973), pp. 83-4.  
<sup>236</sup> Speaker of the NA of Pakistan gave notice of the adjournment motion by Sardar Inayatullah Rahman Khan Abbasi regarding the news published in daily Nawa-i-Waqt Rawalpindi of September 10, 1972 and the daily Jang, which were based on reports of London Times that the Government of Pakistan is in contact with the visit abroad of Abdul Wali Khan, Ataulah Mengal, Ahmad Nawaz Bugti, Akbar Bugti, Malik Ghulam Jilani, Yusuf Haroon, Mahmood Haroon and Zafar Ali Shah gathered in London to formulate the plan called the London Plan, with a view to disintegrating West Pakistan into four

independent States, to be linked in the shape of a Confederation which would include Bangladesh also. (See *NA (Legislature) Debates*, Official Report, Volume I, No. 22 (September 12, 1972), 1244-55.

- <sup>237</sup> *NA (Legislature) Debates*, Official Report, Volume III, No. 2 (May 25, 1973), 84-7.
- <sup>238</sup> *Ibid.*, 103-06.
- <sup>239</sup> *Ibid.*, 108.
- <sup>240</sup> *NA (Legislature) Debates*, Official Report, Volume III, No. 3 (May 26, 1973), 164.
- <sup>241</sup> *NA (Legislature) Debates*, Official Report, Volume VI, No. 4 (November 29, 1973), 237.
- <sup>242</sup> *Ibid.*, 238-48.
- <sup>243</sup> *NA (Legislature) Debates*, Official Report, Volume III, No. 9 (June 4, 1973), 484-5.
- <sup>244</sup> *NA (Legislature) Debates*, Official Report, Volume III, No. 11 (June 6, 1973), 634-35.
- <sup>245</sup> *Ibid.*, 637-38.
- <sup>246</sup> *Ibid.*, 645.
- <sup>247</sup> *NA (Legislature) Debates*, Official Report, Volume IV, No. 4 (August 4, 1973), 213.
- <sup>248</sup> *NA (Legislature) Debates*, Official Report, Volume IV, No. 7 (August 8, 1973), 313.
- <sup>249</sup> *Ibid.*, 321-24.
- <sup>250</sup> *Ibid.*, 324-50.
- <sup>251</sup> *NA (Legislature) Debates*, Official Report, Volume IV, No. 8 (August 9, 1973), 419.
- <sup>252</sup> *Ibid.*, 420-21.
- <sup>253</sup> *Ibid.*, 455.
- <sup>254</sup> *NA (Legislature) Debates*, Official Report, Volume IV, No. 9 (August 10, 1973), 474.
- <sup>255</sup> *Ibid.*, 474-76.
- <sup>256</sup> *Ibid.*, 483.
- <sup>257</sup> *Ibid.*, 502.
- <sup>258</sup> *NA (Legislature) Debates*, Official Report, Volume V, No. 6 (September 14, 1973), 290.
- <sup>259</sup> *Ibid.*, 291.
- <sup>260</sup> *Ibid.*, 291-92.
- <sup>261</sup> *Ibid.*, 293-94.
- <sup>262</sup> *Ibid.*, 302.
- <sup>263</sup> *NA (Legislature) Debates*, Official Report, Volume IV, No. 8 (August 9, 1973), 351.
- <sup>264</sup> *Ibid.*, 356-57.
- <sup>265</sup> *NA (Legislature) Debates*, Official Report, Volume IV, No. 10 (August 11, 1973), 540.
- <sup>266</sup> *Ibid.*, 540-41.
- <sup>267</sup> *NA (Legislature) Debates*, Official Report, Volume I, No. 1, Joint sitting of the Parliament (August 10, 1973), 22-3.
- <sup>268</sup> *Ibid.*, 25-6.
- <sup>269</sup> *NA (Legislature) Debates*, Official Report, Volume I, No. 1 (August 12, 1973), 3-4.
- <sup>270</sup> *Ibid.*, 7-8.
- <sup>271</sup> *Ibid.*, 8-10.
- <sup>272</sup> *NA (Legislature) Debates*, Official Report, Volume VI, No. 8 (December 5, 1973), 146.
- <sup>273</sup> *Ibid.*, 147-48.
- <sup>274</sup> *Ibid.*, 148-92.
- <sup>275</sup> *NA (Legislature) Debates*, Official Report, Volume VI, No. 10 (December 7, 1973), 300.
- <sup>276</sup> *Ibid.*, 302-03.
- <sup>277</sup> *Ibid.*, 316.
- <sup>278</sup> *NA (Legislature) Debates*, Official Report, Volume VI, No. 11 (December 10, 1973), 371.
- <sup>279</sup> *Ibid.*, 394.
- <sup>280</sup> *Ibid.*, 395.
- <sup>281</sup> *Ibid.*, 399.
- <sup>282</sup> *NA (Legislature) Debates*, Official Report, Volume VI, No. 15 (December 14, 1973), 714.
- <sup>283</sup> *Ibid.*, 716-18.
- <sup>284</sup> *Ibid.*, 719.
- <sup>285</sup> *Ibid.*, 724-26.

- <sup>286</sup> Ibid., 729-33.
- <sup>287</sup> *NA (Legislature) Debates*, Official Report, Volume VI, No. 16 (December 17, 1973), 798-804.
- <sup>288</sup> Ibid., 810-18.
- <sup>289</sup> *NA (Legislature) Debates*, Official Report, Volume VI, No. 17 (December 19, 1973), 86-71.
- <sup>290</sup> *NA (Legislature) Debates*, Official Report, Volume VI, No. 19 (December 22, 1973), 993-1002.
- <sup>291</sup> *NA (Legislature) Debates*, Official Report, Volume VI, No. 20 (December 24, 1973), 1028-29.
- <sup>292</sup> Ibid., 1033.
- <sup>293</sup> Ibid., 1045.
- <sup>294</sup> Ibid., 1054.
- <sup>295</sup> Ibid., 1058.
- <sup>296</sup> Ibid., 1059.
- <sup>297</sup> Ibid., 1074.
- <sup>298</sup> *The Senate of Pakistan Debates*, Official Report, Volume I, No. 1 (January 16, 1974), 29-37.
- <sup>299</sup> *The Senate of Pakistan Debates*, Official Report, Volume I, No. 5 (January 21, 1974), 211.
- <sup>300</sup> *NA (Legislature) Debates*, Official Report, Volume II, No. 2 (March 26, 1974), 85.
- <sup>301</sup> Ibid., 85-89.
- <sup>302</sup> Ibid., 89-92.
- <sup>303</sup> Ibid., 104.
- <sup>304</sup> *NA (Legislature) Debates*, Official Report, Volume II, No. 19 (March 28, 1975), 343.
- <sup>305</sup> Ibid., 343.
- <sup>306</sup> Ibid., 343-47.
- <sup>307</sup> *NA (Legislature) Debates*, Official Report, Volume IX, No. 13 (November 22, 1976), 496.
- <sup>308</sup> Ibid., 497-98.
- <sup>309</sup> Ibid., 499-507.
- <sup>310</sup> Ibid., 509.
- <sup>311</sup> *NA (Legislature) Debates*, Official Report, Volume X, No. 15 (November 24, 1976), 152.
- <sup>312</sup> *NA (Legislature) Debates*, Official Report, Volume X, No. 15 (November 24, 1976), 152-53.
- <sup>313</sup> Ibid., 154-71.
- <sup>314</sup> *NA (Legislature) Debates*, Official Report, Volume X, No. 16 (November 25, 1976), 212-18.
- <sup>315</sup> Ibid., 219-23.
- <sup>316</sup> *NA (Legislature) Debates*, Official Report, Volume X, No. 17 (November 26, 1976), 303.
- <sup>317</sup> *Senate of Pakistan Debates*, Official Report, Vol. IX, No. 16 (December 15, 1976), 208-09.
- <sup>318</sup> Ibid., 208.
- <sup>319</sup> Ibid., 209.
- <sup>320</sup> Ibid., 224.
- <sup>321</sup> Ibid., 226-28.
- <sup>322</sup> *NA (Legislature) Debates*, Official Report, Volume III, No. 9 (June 4, 1973), 493.
- <sup>323</sup> Ibid., 493-95.
- <sup>324</sup> Ibid., 495-6.
- <sup>325</sup> *NA (Legislature) Debates*, Official Report, Volume III, No. 10 (June 5, 1973), 582-83.
- <sup>326</sup> *NA (Legislature) Debates*, Official Report, Volume III, No. 11 (June 6, 1973), 646.
- <sup>327</sup> Ibid., 648-49.
- <sup>328</sup> Ibid., 652.
- <sup>329</sup> Ibid., 654.
- <sup>330</sup> Ibid., 673.
- <sup>331</sup> *NA (Legislature) Debates*, Official Report, Volume III, No. 17 (June 14, 1973), 1131-40.
- <sup>332</sup> *NA (Legislature) Debates*, Official Report, Volume III, No. 19 (June 16, 1973), 1302-06.
- <sup>333</sup> *NA (Legislature) Debates*, Official Report, Volume III, No. 20 (June 18, 1973), 1400-10.
- <sup>334</sup> *NA (Legislature) Debates*, Official Report, Volume III, No. 21 (June 19, 1973), 1482-83.
- <sup>335</sup> *NA (Legislature) Debates*, Official Report, Vol. IV, No. 9 (August 10, 1973), 507.
- <sup>336</sup> Ibid., 508.
- <sup>337</sup> Ibid., 513-15.

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- <sup>338</sup> *NA (Legislature) Debates*, Official Report, Vol. IV, No. 10 (August 11, 1973), 578-82.  
<sup>339</sup> *Ibid.*, 593-95.  
<sup>340</sup> *Ibid.*, 608.  
<sup>341</sup> *Ibid.*, 610.  
<sup>342</sup> *Ibid.*, 613.  
<sup>343</sup> *Ibid.*, 624.  
<sup>344</sup> *NA (Legislature) Debates*, Official Report, Volume VI, No. 13 (December 12, 1973), 522.  
<sup>345</sup> *Ibid.*, 522.  
<sup>346</sup> *Ibid.*, 523-24.  
<sup>347</sup> *Ibid.*, 525-31.  
<sup>348</sup> *Ibid.*, 705.  
<sup>349</sup> *Ibid.*, 714.  
<sup>350</sup> *NA (Legislature) Debates*, Official Report, Volume I, No. 13 (February 5, 1974), 38.  
<sup>351</sup> *Ibid.*, 39.  
<sup>352</sup> *Ibid.*, 39-45.  
<sup>353</sup> *Ibid.*, 88-9.  
<sup>354</sup> *Ibid.*, 90.  
<sup>355</sup> *Ibid.*, 95.  
<sup>356</sup> *Ibid.*, 120.  
<sup>357</sup> *The Senate of Pakistan Debates*, Official Report, Volume I, No. 14 (February 9, 1974), 458.  
<sup>358</sup> *The Senate of Pakistan Debates*, Official Report, Volume I, No. 16 (February 13, 1974), 534-38.  
<sup>359</sup> *NA (Legislature) Debates*, Official Report, Volume I, No. 14 (February 6, 1974), 121.  
<sup>360</sup> *Ibid.*, 124-25.  
<sup>361</sup> *NA (Legislature) Debates*, Official Report, Volume I, No. 16 (February 8, 1974), 214-23.  
<sup>362</sup> *NA (Legislature) Debates*, Official Report, Volume I, No. 17 (February 9, 1974), 278-83.  
<sup>363</sup> *Ibid.*, 286-88.  
<sup>364</sup> *Ibid.*, 295-302.  
<sup>365</sup> *NA (Legislature) Debates*, Official Report, Volume I, No. 18 (February 11, 1974), 394.  
<sup>366</sup> *Ibid.*, 399.  
<sup>367</sup> *Ibid.*, 400.  
<sup>368</sup> *Ibid.*, 405.  
<sup>369</sup> *Ibid.*, 417 & 421.  
<sup>370</sup> *Ibid.*, p. 461.  
<sup>371</sup> *The Senate of Pakistan Debates*, Official Report, Volume I, No. 17 (February 14, 1974), 539-42.  
<sup>372</sup> *Ibid.*, 544-47.  
<sup>373</sup> *The Senate of Pakistan Debates*, Official Report, Volume I, No. 18 (February 15, 1974), 636.  
<sup>374</sup> *Ibid.*, 638.  
<sup>375</sup> *The Senate of Pakistan Debates*, Official Report, Volume I, No. 19 (February 16, 1974), 658.  
<sup>376</sup>  $M_1$  is cash and current deposits in the banks while  $M_2$  is cash, current and fixed deposit in the banks  
 (see *NA (Legislature) Debates*, Official Report, Volume III, No. 12 (June 13, 1974), 641.  
<sup>377</sup> *NA (Legislature) Debates*, Official Report, Volume III, No. 12 (June 13, 1974), 632-41.  
<sup>378</sup> *Ibid.*, 646-48.  
<sup>379</sup> *NA (Legislature) Debates*, Official Report, Volume V, No. 27 (July 15, 1974), 65.  
<sup>380</sup> *Ibid.*, 65.  
<sup>381</sup> *Ibid.*, 66-7.  
<sup>382</sup> *Ibid.*, 67.  
<sup>383</sup> *Ibid.*, 72.  
<sup>384</sup> *NA (Legislature) Debates*, Official Report, Volume II, No. 11 (February 4, 1975), 34.  
<sup>385</sup> *Ibid.*, 34.  
<sup>386</sup> *Ibid.*, 35-6.  
<sup>387</sup> *Ibid.*, 38.  
<sup>388</sup> *NA (Legislature) Debates*, Official Report, Volume VI, No. 4 (November 3, 1975), 183.



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- <sup>389</sup> Ibid., 183.  
<sup>390</sup> Ibid., 184-88.  
<sup>391</sup> Ibid., 193-96.  
<sup>392</sup> Ibid., 199-202.  
<sup>393</sup> *NA (Legislature) Debates*, Official Report, Volume VI, No. 5 (November 4, 1975), 296.  
<sup>394</sup> *NA (Legislature) Debates*, Official Report, Volume IV, No. 3 (June 2, 1976), 52.  
<sup>395</sup> Ibid., 53-4.  
<sup>396</sup> Ibid., 55-6.  
<sup>397</sup> Ibid., 79.  
<sup>398</sup> Ibid., 80.  
<sup>399</sup> Ibid., 83.  
<sup>400</sup> *NA (Legislature) Debates*, Official Report, Volume V, No. 14 (June 15, 1976), 175-84.  
<sup>401</sup> Ibid., 201-15.  
<sup>402</sup> *NA (Legislature) Debates*, Official Report, Volume IX, No. 8 (November 15, 1976), 241.  
<sup>403</sup> Ibid., 242-3.  
<sup>404</sup> Ibid., 243-44.  
<sup>405</sup> Ibid., 244-47.  
<sup>406</sup> Ibid., 259-60.  
<sup>407</sup> Ibid., 261.  
<sup>408</sup> *NA (Legislature) Debates*, Official Report, Volume IX, No. 9 (November 16, 1976), 284.  
<sup>409</sup> Ibid., 284-85.  
<sup>410</sup> Ibid., 285-86.  
<sup>411</sup> Ibid., 286-89.  
<sup>412</sup> Ibid., 295.  
<sup>413</sup> Ibid., 297-99.  
<sup>414</sup> *NA (Legislature) Debates*, Official Report, Volume IX, No. 10 (November 17, 1976), 345-49.  
<sup>415</sup> Ibid., 358-68.  
<sup>416</sup> Ibid., 369.

## CONCLUSION

The enthusiastic entry of opposition into parliamentary politics after the 1970 election brought in a change in the parliamentary and constitutional history of the country. They rejected the traditional parliamentarianism and boldly fought against the undemocratic and unparliamentary spirit and dictatorial mind of Bhutto. The opposition members epitomized the strength of opposition in and outside the Parliament; always advocating democracy and all that was normally decent in politics and bitterly opposing all kinds of dictatorships.

Most of the opposition members struggled for Islamizing the constitution of Pakistan. It was mainly due to their effort that the definition of a 'Muslim' was included, for the first time in the constitutional history of Pakistan, in the 1973 Constitution. Apart from this the opposition was strong enough incorporating other Islamic provisions into the structure of the 1973 Constitution.

The entire opposition members collectively proposed thousands of amendments to the 1973 Constitution during the era under study, although most of their amendments were rejected by majority of the House. They unanimously struggled for the enforcement of Nizam-e-Mustafa, supremacy of Constitution and Parliament.

Most of the opposition members had strong convincing power. They convinced Prime Minister, Zulfikar Ali Bhutto (1973-77) and other contemporary parliamentarians to pass the bill prepared by them against the Qadianis to declare them as out of the pale of Islam.

At one stage they were offered amounts by the Qadianis to withdraw their bill against them but they stood by their principled stand of not compromising on the issue.

The opposition members had the basic knowledge about legislation and the constitution. During their parliamentary debates they showed the awareness of domestic constitutional provisions and legal framework. They demonstrated the knowledge of domestic, foreign and international law cases. They sharply responded the public matters and public opinions at the floor of the House.

They worked to safeguard the fundamental rights of the citizens and also suggested a number of amendments to the constitution for their employment opportunities. All the black laws like preventive detention were opposed by them at the floor of the parliament. Education is the backbone of any society. The opposition stressed the government to impart free education to the citizens of Pakistan. The opposition loved the democratic norms and forwarded many suggestions for smooth democratic system in the country. They not only cared for the citizens but also for the rights of parliamentarians. Quran and Sunnah were the favorite values of the opposition members. They used the parliament as a base to enact the principles of Islam in the lives of the people of Pakistan.

The opposition members actively participated as members of different parliamentary committees when assigned to them by the Parliament. Records of the committee reports and parliamentary debates show that they attended the meetings regularly and participated in the discussions actively. They posed questions and sought explanations from ministers concerned during parliamentary debates regarding the functioning and performance of their ministries. They took up issues related to corruption,

mismanagement and human rights violations by authorities that media and civil society organizations brought to their notice. They showed interest in issues related to poverty, health and education in parliamentary debates and legislative business.

The opposition members never accepted any post from the government side. Their goal was not to achieve the power. They struggled only and only for the enforcement of a true and righteous system of parliamentary democracy during the Bhutto regime. The opposition members' attitude towards each and every constitutional issue was positive.

Judiciary is the third organ of state and the people of a country are satisfied and prosperous when the judiciary is independent. Whenever there was any parliamentary debate or amendment regarding the judiciary, the opposition, as a whole, actively participated in those and made some good proposals. If there was any step against the judicial set up, they boldly pin pointed the flaws on the floor of the parliament and warned the government to remove the flaws before amending the clauses.

The opposition members were fair and tough parliamentarian. They gave a tough time to the amendments forwarded by the government benches in the 1973 Constitution and distorters of the parliamentary democracy in Pakistan.

The opposition leaders had never permitted their party workers to encourage sectarianism or to patronize violence. They remained committed to a democratic Pakistan and wanted it to be a welfare state. They were seen as a unifying figure amongst various opposition parties of Pakistan into a single alternative political force. Uniting the different rightist parties into a single force of the United Democratic Front was a glaring example of it.

The opposition members not only struggled for true democracy within the parliament but also kept their mission alive outside the parliament. Systems are always changed constitutionally and legally which are called glorious revolutions like the one happened in England in 1688. But such changes need majority parliamentarians' consensus or majority party's government. Unfortunately both of the opportunities did not happen in the sincere and honest opposition members' lives within the entire history of Pakistan at the Central level. The era under study show that most of the oppositions' struggle in and outside the parliament and their sincerity as good parliamentarians wanted Pakistan as a real Islamic state, just like that of Madinah, established by the Prophet Muhammad (PBUH) in his lifetime. We never come across such members like those opposition members in the history of Pakistan as parliamentarians who fought against different odds just for the sake of success of system. Exceptions are always there and those opposition members were the persons who confronted the dictatorial mind like Bhutto and leadership of the then government not for the sake of posts but for the sake of a true Islamic and democratic set up constitutionally and legally.

Ulama are the descendents of the Prophet Muhammad (PBUH). The opposition members also cared for the ulama' welfare and moved resolutions to give them their right place in the society. Their degrees and certificates from the religious institutions were declared equal to the degrees and certificates of the colleges and universities in Pakistan. In that way the ulama were encouraged to serve the nation.

Amendments to the Constitution of 1973 were never for the change of system, rather those were for the personal interests of the political leadership. The opposition openly

opposed those amendments to the constitution and forwarded positive suggestions in order to make them in favor of citizens. They brought the bad intentions of the Bhutto government to light and informed the public about the flaws of the said amendments during different gatherings. They compelled the government to follow the right path and never backed down on it.

One can see that the dreams of the opposition to Islamize the Constitution of the Islamic Republic of Pakistan, as a whole, were not fulfilled but a track, through the sincere efforts of the opposition members during the Bhutto regime, was built towards those aims and goals. Later on, during the General Zia-ul-Haq's struggle for the Islamization of Pakistan, some better amendments were made to the Constitution in order to inculcate the true spirit of Islam into the lives of the Pakistani citizens.

To conclude, the oppositions' political life was a struggle and fight for parliamentary democracy and constitutionalism which they continued till the end of the Bhutto government in July 1977.

The opposition has been on the back footing since 1977 till the existing era. The personal trends and interests of the opposition members, in the modern times, have made it easier to make them prey to the bargaining of the treasury benches. Most of the present parliamentarians with westernised and modern thoughts are not interested in the implementation of Islamic laws as conceived by the small number of religio-political parliamentary opposition within and outside the parliament. We can easily determine that the forefathers of the present religio-political leaders were more sincere and devoted in the implementation of Islamic laws through constitutional and political means.

# **APPENDIX-A** **LIST OF NAMES OF THE OPPOSITION MEMBERS ELECTED TO** **THE NA OF PAKISTAN IN 1970 ELECTIONS**

| Constituency No.         | MNA Name                      | Party                       |
|--------------------------|-------------------------------|-----------------------------|
| NW-2 (Peshawar-II)       | Ghulam Faruque                | National Awami Party        |
| NW-3 (Peshawar-III)      | Abdul Wali Khan               | National Awami Party        |
| NW-4 (Peshawar-IV)       | Mawlana Abdul Haq             | Jam'iyyat-i-Ulama-i-Islam   |
| NW-5 (Hazara-I)          | Mawlana Abdul Hakim           | Jam'iyyat-i-Ulama-i-Islam   |
| NW-6 (Hazara-II)         | Mawlana Ghulam Ghaus          | Jam'iyyat-i-Ulama-i-Islam   |
| NW-10 (Mardan-II)        | Amirzada Khan                 | National Awami Party        |
| NW-12 (Kohat)            | Mawlawi Niamatullah           | Jam'iyyat-i-Ulama-i-Islam   |
| NW-13 (D.I.Khan)         | Mufti Mahmud                  | Jam'iyyat-i-Ulama-i-Islam   |
| NW-14 (Bannu)            | Mawlana Sadarushahid          | Jam'iyyat-i-Ulama-i-Islam   |
| NW-18 (Dir)              | Sahibzada Safiullah           | Jama'at-i-Islami            |
| NW-30 (Campbellpur-I)    | Sardar Shaukat Hayat Khan     | Council Muslim League       |
| NW-31 (Campbellpur-II)   | Pir Syed Safi-ud-Din          | Council Muslim League       |
| NW-35 (Gujrat-I)         | Choudhry Zahur Ilahi          | Council Muslim League       |
| NW-42 (Sargodha-IV)      | Karam Baksh Awan              | Council Muslim League       |
| NW-43 (Sargodha-V)       | Nawabzada Mian Muhammad Zakir | Council Muslim League       |
| NW-45 (Mianwali-II)      | Ghulam Hassan Khan            | Convention Muslim League    |
| NW-46 (Jhang-I)          | Mehr Ghulam Haider            | Jam'iyyat 'Ulama-i-Pakistan |
| NW-47 (Jhang-II)         | Mawlana Muhammad Zakir        | Jam'iyyat 'Ulama-i-Pakistan |
| NW-48 (Jhang-III)        | Sahibzada Muhammad Nazir      | Jam'iyyat 'Ulama-i-Pakistan |
| NW-84 (Multan-VI)        | Mian Mumtaz Muhammad          | Council Muslim League       |
| NW-88 (D.G. Khan-I)      | Dr. Nazir Ahmad               | Jama'at-i-Islami            |
| NW-92 (Muzaffargarh-III) | Mian Muhammad Ibrahim         | Jam'iyyat 'Ulama-i-Pakistan |
| NW-100 (Bahawalpur-I)    | Nizam-ud-din Haider           | Council Muslim League       |
| NW-105 (Rahimyar)        | Khawaja Jamal Muhammad        | Convention Muslim League    |

|                              |                                 |                            |  |
|------------------------------|---------------------------------|----------------------------|--|
| Khan-I)                      | Koreja                          |                            |  |
| NW-118 (Hyderabad-I)         | Mawlana Syed Muhammad Ali       | Jam'iyat 'Ulama-i-Pakistan |  |
| NW-128 (Karachi-I)           | Mawlana Abdul Mustafa Al-Azhari | Jam'iyat 'Ulama-i-Pakistan |  |
| NW-131 (Karachi-IV)          | Mahmud Azam Farooqi             | Jama'at-i-Islami           |  |
| NW-132 (Karachi-V)           | Ghafoor Ahmad                   | Jama'at-i-Islami           |  |
| NW-134 (Karachi-VII)         | Mawlana Shah Ahmad Noorani      | Jam'iyat 'Ulama-i-Pakistan |  |
| NW-135 (Quetta-I)            | Mawlavi Abdul Haq               | Jam'iyat-i-Ulama-i-Islam   |  |
| NW-136 (Quetta-II)           | Sardar Khair Bakhsh Khan Mami   | National Awami Party       |  |
| NW-137 (Kalat-I)             | Abdul Hayee Baluch              | National Awami Party       |  |
| NW-138 (Kalat-II)            | Mir Ghaus Bakhsh Khan Bazanjo   | National Awami Party       |  |
| NW-144 Women Constituency-VI | Jennifer Jehanzeba Qazi Musa    | National Awami Party       |  |

Source: National Assembly of Pakistan Debates, Official Report, April 14, 1972.



## APPENDIX- B

## Committee consisting of Twenty-Five Members for preparing draft of the

## Constitution of Pakistan

Ghulam Mustafa Khan Jatoi, Minister for Political Affairs, moved the resolution to appoint the Committee consisting of Mahmud Ali Kasuri as its Chairman and the following as its members, in order to prepare a draft of the Constitution of Pakistan not later than the first day of August 1972, for submission to the Assembly.

1. Muntaz Ali Bhutto,
2. Ghulam Mustafa Khan Jatoi,
3. Abdul Hafeez Pirzada,
4. Syed Qaim Ali Shah Jilani,
5. Dr. Ashraf Khatoon,
6. Ghulam Mustafa Khar,
7. Dr. Ghulam Hussain,
8. Begum Nasim Jahan,
9. Dr. Mubashir Hassan,
10. Malik Mohammad Akhtar,
11. Malik Miraj Khalid,
12. Mawjana Kausar Niazi,
13. Khurshid Hasan Meer,

14. Sheikh Muhammed Rashid,
15. Mufti Mahmud,
16. Mir Ghous Bakhsh Khan Bazanjio,
17. Amirzada Khan,
18. Abdul Qayyum Khan,
19. Mohammad Hanif Khan,
20. Ghafoor Ahmad,
21. Mawlana Shah Ahmad Noorani,
22. Niamutullah Khan Shinwari,
23. Sardar Shaukat Hayat Khan,
24. Mian Mumtaz Mohammad Khan Daulatana.

## APPENDIX-C

ELECTIONS TO VARIOUS STANDING COMMITTEES- ALL OF THEM  
ELECTED UNOPPOSEDNo. 1- Standing Committee on Cabinet, Establishment, National Affairs and  
Overseas Pakistanis

1. Makhdum Muhammad Zaman Talibulmoula (PPP)
2. Mawlana Shah Ahmad Noorani (JUP)
3. Nawabzada Mian Mohammad Zakir (Cou ML)
4. M. Hashim Khan (PPP)
5. Syed Nasir Ali Shah Rizvi (PPP)
6. Miss Zahida Sultana (Women Seat)
7. Mawlawi Niamatullah (JUI)
8. Mir Darya Khan Khoso (PPP)

## No. 2- Standing Committee on Political Affairs and Communications

1. Sardar Inayatullah Rehman Khan Abbasi (QML)
2. Noor M. Khan Lund (PPP)
3. Ghulam Nabi Choudhry (PPP)
4. Mohammad Khan Choudhry (PPP)
5. Makhdum Noor Mohammad (IND/PPP)
6. Nizam-ud-Din Haider (Cou ML)
7. Mian Shahadat Khan (PPP)
8. Sardar Khair Bakhsh Khan Marri (NAP)

No. 3- Standing Committee on Defence and Defence Production (including Civil  
Aviation)

1. Colonel (R) Habib Ahmad (PPP)
2. Mian Mohammad Attaullah (PPP)
3. Major Abdul Nabi Khan Kanjoo (PPP)
4. Sahibzada Farooq Ali (PPP)

5. Sahibzada Mohammad Nazier Sultan (JUP)
6. Major Ghulam Haider Cheema (PPP)
7. Mawlana Sadru Shahid (JUI)
8. Ataliq Jafar Ali Shah (QML)

#### **No. 4- Standing Committee on Education and Provincial Coordination**

1. Mrs. Jennifer Jehanzeba Qazi Musa (Women Seat)
2. Syed Abbas Hussain Gardezi (PPP)
3. Meher Manzoor Hussain (PPP)
4. Mawlana Abdul Mustafa-al-Azhari (JUP)
5. Pir Syed Abdul Kadir Shah Jeelani (PPP)
6. Mawlana Abdul Haq (JUI)
7. Malik Jahangir Khan (Independent)
8. Abdul Sattar Gabol (PPP)

#### **No. 5- Standing Committee on Finance**

1. Dr. Ashraf Khatoon (Women Seat)
2. Muhammad Amir Khan (PPP)
3. Mahmud Azam Farooqi (JI)
4. Choudhry Muhammad Aslam (PPP)
5. Malik Muzafar Khan (Independent)
6. Mian Mumtaz Muhammad Khan Daulatana (Cou ML)
7. Abdul Hayee Baluch (NAP)
8. Rais Alta Mohammad Khan Marti (QML)

#### **No. 6- Standing Committee on Food and Agriculture and Under-Developed areas, Works and Rehabilitation**

1. Mian Muhammad Ibrahim Burg (JUP)
2. Ghulam Hassan Khan Dhandla (Con ML)
3. Abdul Hamid Jatoi (PPP)
4. Rai Shahdat Ali Khan (PPP)
5. Mohammad Bashir Ahmad (PPP)

6. Mawlana Ghulam Ghaus Hazarvi (JUI)
7. Abdul Malik Khan (Independent)
8. Rana Taj Ahmed Noon (PPP)

#### **No. 7- Standing Committee on Foreign Affairs**

1. Sardar Abdul Aleem (PPP)
2. Pir Syed Safi-ud-Din (Cou ML)
3. Malik Anwar Ali Noon (PPP)
4. Mir Ali Ahmad Khan Talpur (PPP)
5. Sardar Sher Baz Khan Mazari (Independent)
6. Abdul Wali Khan (NAP)
7. Malik Sikander Khan (PPP)
8. Choudhry Nasrullah Khan (PPP)

#### **No. 8- Standing Committee on Industrial and Fuel, Power and Natural Resources**

1. Mian Manzoor-i-Hasan (PPP)
2. Ghulam Rasool Tarar (PPP)
3. Karam Baksh Awan (Cou ML)
4. Sardar Mawla Baksh Soomro (Independent)
5. Malik Mohammad Sadiq (PPP)
6. Mir Ghous Baksh Khan Bazanjo (NAP)
7. Akbar Khan Mohamand (Independent)
8. Syed Rafiq Mohammad Shah (QML)

#### **and Family Planning**

#### **No. 9- Standing Committee on Labour and Local Bodies, Health and Social Welfare**

1. Dr. S. Mahmud Abbas Bokhari (PPP)
2. Choudhry Muhammad Aslam (PPP)
3. Hafeezullah Cheema (PPP)
4. Malik Mohammad Akhtar (PPP)
5. Mir Ali Bux Khan (PPP)
6. Malik Mohammad Sulaiman (PPP)

### No. 10-Standing Committee on Information and Broadcasting, Aung and Haj

1. Makhdoom Muhammad Zaman Talibulmoula (PPP)
2. Mawiana Syed Mohammad Ali (JUP)
3. Hafeezullah Cheema (PPP)
4. Malik Sikander Khan (PPP)
5. Pir Ghulam Rasool Shah Jilani (PPP)
6. Mawiana Abdul Hakim (JUI)
7. Mohammad Hanif Khan (QML)
8. Khawaja Jamal Mohammad Koreja (Con ML)

### No. 11-Standing Committee on Interior, Kashmir Affairs and States and Frontier Regions

1. Amirzada Khan (NAP)
2. Ishaad Ahmad Khan (PPP)
3. Mian Muhammad Hassan Khan (PPP)
4. Haji Mohammad Sadig (PPP)
5. Sahibzada Safiullah (JI)
6. Rao Khurshid Ali Khan (PPP)
7. Major General (R) Jamal Dar (Independent)
8. Zulfiqar Ali Bajwa (PPP)

### No. 12-Standing Committee on Law and Parliamentary Affairs

1. Mohammad Zafar Ahmad Ansari (Independent)
2. Abdul Aziz Bhatti (PPP)
3. Malik Mohammad Jafar (PPP)
4. M. Hashim Khan (PPP)
5. Mufti Mahmud (JUI)
6. Amirzada Khan (NAP)
7. Abdul Khaliq Khan (PPP)

8. Mohammad Harif Khan (QML)

**No. 13- Standing Committee on Planning and Development and Economic  
Coordination and External Assistance**

1. Begum Nasim Jahan (Women Seat)
2. Dr. Ghulam Hussain (PPP)
3. Choudhry Mumtaz Ahmad (PPP)
4. Makhdum Muhammad Amin (PPP)
5. Ali Hassan (Independent)
6. Shahzada Saeed-ur-Rashid Abbasi (Independent)
7. Mehr Ghulam Haider Bhawana (JUP)
8. Ghulam Faruque (NAP)

**No. 14- Standing Committee on Production and Presidential Affairs and Commerce**

1. Choudhry Jahangir Ali (PPP)
2. Mian Masud Ahmad (PPP)
3. M. Muhammad Rafiq (PPP)
4. Dr. Mohammad Shafi (PPP)
5. Nargis Naeem Sandhu (Women Seat)
6. Mawlawi Abdul Haq (JUI)
7. Zafarullah Khan Choudhry (IND/PPP)
8. Aijaz Ali Talpur (PPP)

**No. 15- Standing Committee on Science and Technology**

1. Malik Miraj Khalid (PPP)
2. Choudhry Mohammad Anwar Ali Khan (PPP)
3. Choudhry Manzoor Hussain Dudhra (PPP)
4. Sahibzada Ahmad Raza Khan Qasuri (PPP)
5. Choudhry Zahur Ilahi (Cou ML)
6. Abdul Subhan Khan (Independent)
7. Mian Gul Aurangzeb (QML)
8. Nawabzada Sadig Hussain Qureshi (PPP)

#### No. 16-Standing Committee on Public Accounts

1. Rai Hafizullah Khan (PPP)
2. Choudhry Shafaat Khan Chohan (PPP)
3. Mian Hamid Yasin (PPP)
4. Hakim Ali Zardari (PPP)
5. Choudhry Mohammad Iqbal (PPP)
6. Ghafoor Ahmad (JI)
7. Syed Qaim Ali Shah Jillani (PPP)
8. Niamatullah Khan Shinwari (Independent)
9. Mumtaz Ali Bhutto (PPP)
10. Sardar Shaukat Hayat Khan (Cou ML)

#### No. 17-Standing Committee on Rules of Procedure and Privileges

1. Ghous Bakhsh Khan Bazanjo (NAP)
2. Mir Ali Bux Khan (PPP)
3. Ahsanul Haque (PPP)
4. Choudhry Barkatullah (PPP)
5. Choudhry Nasrullah Khan (PPP)
6. Choudhry Sultan Ahmad Cheema (PPP)
7. Mohammad Afzal Randhawa (PPP)
8. Sardar Shaukat Hayat Khan (Cou ML)
9. Haji Saleh Khan (Independent)
10. Mawlana Shah Ahmad Noorani (JUP)

Source: The National Assembly of Pakistan (Legislature) Debates, Official Report, August 18, 1972.



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