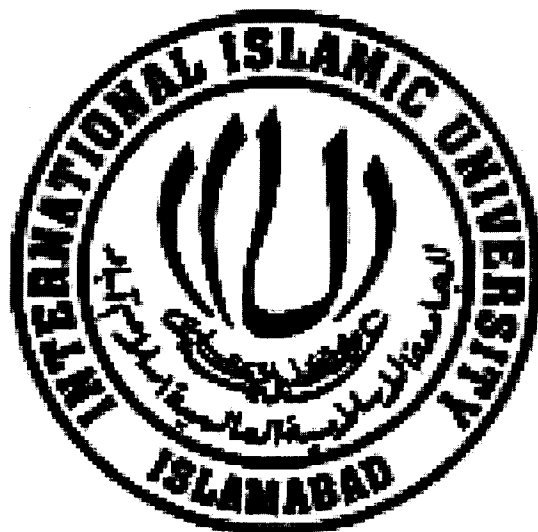


**QAZI HUSSAIN AHMAD AS A PARLIAMENTARIAN,  
1986-2007**



Submitted by

**SAIMA AZHAR**

**MS-PAKISTAN STUDIES  
REGD. NO. 03-FSS/MSPSDE/S16**

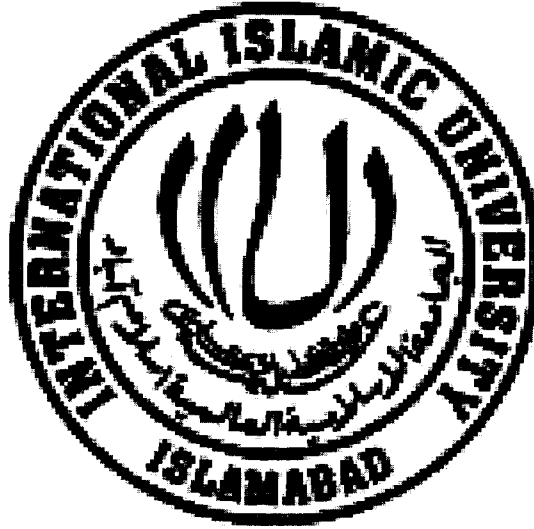
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1986-2007**



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**MS-PAKISTAN STUDIES  
REGD. NO. 03-FSS/MSPSDE/S16**

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in the Discipline of Pakistan Studies at the Faculty of Social Sciences, International Islamic  
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**DEPARTMENT OF HISTORY & PAKISTAN STUDIES  
FACULTY OF SOCIAL SCIENCES  
INTERNATIONAL ISLAMIC UNIVERSITY  
ISLAMABAD**

**2019**



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

**DEDICATED**

To

*My Affectionate Son (Muhammad Ayan)*

*And*

*My Worthy Parents*

## DECLARATION

I, MS. SAIMA AZHAR, hereby declare that this Dissertation has been put in writing by me in its entirety on the basis of my research work under the guidance of my supervisor- Assistant Professor ABDUL ZAHOOR KHAN (Doctor of Philosophy), Department of History & Pakistan Studies (MC)-Faculty of Social Sciences, International Islamic University Islamabad. No portion of this Dissertation has been copied from any source. Thumbs down part of the research, presented in this Dissertation, has been submitted before for any degree or qualification in this or any other university or educational institution.

  
SAIMA AZHAR

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## FORWARDING SHEET

The Dissertation; entitled “QAZI HUSSAIN AHMAD AS A PARLIAMENTARIAN, 1986-2007” put forward by MS. SAIMA AZHAR, Registration No. 03-FSS/MSPSDE/S16 in partial fulfillment for the award of the Degree of *Master Studies (MS)* in Pakistan Studies, has been successfully completed under my supervision.

I am satisfied with the excellence of scholar’s research work and she is now allowed to get this Dissertation in its present formation/configuration submitted for the finishing point of go forward course of action as per modus operandi of International Islamic University, Islamabad so that she may be awarded the Degree of Master Studies (MS) in Pakistan Studies.

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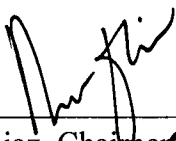
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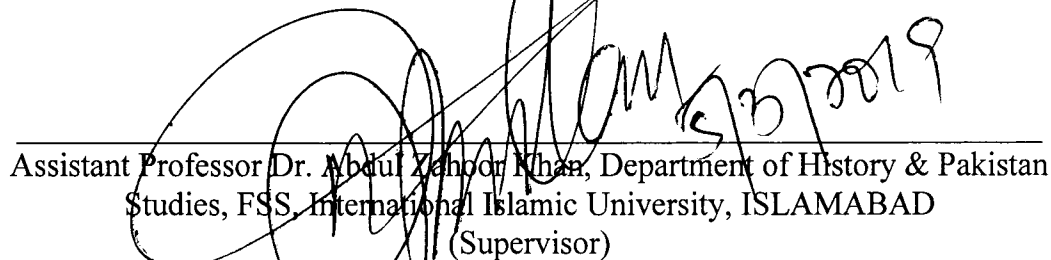
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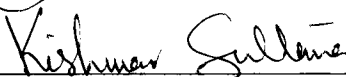
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## LIST OF ABBREVIATIONS

AL	Awami League
APC	ALL Parties Conference
ARD	Alliance for the Restoration of Democracy
ANP	Awami National Party
CIA	Central Investigation Agency
CMLA	Chief Martial Law Administrator
COP	Combine Opposition Party
COAS	Chief of Army Staff
CEC	Central Action Commission
FATA	Federal Administrated Tribal Area
FOP	Federation of Pakistan
GOP	Government of Pakistan
Govt.	Government
Gen.	General
HOB	Hudood Ordinance Bill
JI	Jamat –e- Islami
JUI	Jamiat –e- Ulema –Islam
JUP	Jamiat –Ulema –e- Pakistan
JUI-F	Jamiat –e- Ulema –Islam (Fazal)
IJI	Islami Jamhori Ittihad
ISI	Inter Service Intelligence
KP	Khyber Paktunkhwa
KPK	Khyber Paktunkhwa
LFO	Legal Frame Work Order

MMA	Muttahida Majlis-e-Amal
MQM	Muttahida Qaumi Movement
MRD	Movement for the Restoration of Democracy
PMA	Member Provincial Assembly
PPP	Pakistan People's Party
NGO	Non Governmental Organization
NWFP	North West Frontier Province
NSC	National Security Council
PBUH	Peace Be Upon Him
PIF	Pakistan Islamic Front
PML	Pakistan Muslim League
PPP	Pakistan People's Party
PML-N	Pakistan Muslim League (Nawaz)
PML-Q	Pakistan Muslim League (Quaid-i- Azam)
SDPI	Sustainable Development Policy Institute
US	United States
USA	United States of America
USSR	Union of Soviet Socialist Republics

## INTRODUCTION

Pakistan got independence from British Rule in 1947. Soon after its independence efforts from different sections of Pakistani society started to make Pakistan a truly Islamic state. This aim of establishing a modern democratic and Islamic state was clearly laid down by the founding fathers in their speeches and statements at different stages of Pakistan Movement. For example Muhammad Ali Jinnah in his speech stated that Pakistan's constitution would be framed, keeping in view the aspirations of the people and the trend that dominated the struggle of the Muslims for achieving a separate homeland. This was what provided solace to the people as it provided them with the hope of implementing Islamic system in a democratic way. In his letter to Muhammad Ali Jinnah dated May 28, 1937, Allama Muhammad Iqbal expressed his thoughts about a sovereign Muslim state in these words, <sup>1</sup>

“After a long time and careful study of the Islamic Law, I have come to the conclusion that if the system of Law is properly understood and applied, at least the right to subsistence is secured to everybody. But the enforcement and the development of the Shariat of Islam are impossible in this country without a free Muslim state or states<sup>2</sup>.”

Liaquat Ali Khan also took notice of the situation and speaking in Peshawar on January 14, 1948, he remarked,

“Pakistan is our laboratory and we will demonstrate to the world that how useful the thirteen centuries old principles are<sup>3</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 subject to dismissal on political grounds (as distinct from removal by impeachment) by that assembly. The concept itself has its origin in the nineteenth century, when the notion of democracy became allied with a parliamentary form of government.

Presidential government is a system which gives a strong role to the head of the state who participates fully in its actual decision-making process. So in this system a head of state, bearing the title president may carry a wide variety of powers. Usually there are two kinds of legislatures

in the Parliamentary governments, bicameral or unicameral. Bicameral legislature has two houses or chambers while the uni-cameralism consists of one house. In the prevailing parliamentary system of Pakistan there is bicameralism, one house being the National Assembly, the lower house and the other as Senate, the upper house.

National Assembly is composed of the representatives of a nation and usually constituting a legislative body or a constituent assembly. Representatives to the National Assembly are elected through adult franchise. Adult franchise is the right to vote; universal adult franchise or the principle of "one man, one vote" is the means by which people exercise their political sovereignty in general election to elect their legislative and executive authorities. The National Assembly is having two main benches, one being the Government and the other as opposition. The term 'government' is a general one which is used to describe both the body that is having power in a given unit-whether national, regional or local-and the whole constitutional system. An opposition is a political grouping, party or loose association of individuals who wish to change the government and its policies. Senate is the second chamber of a legislature or an assembly or council usually possessing high deliberative and legislative functions. In Pakistan, senators are elected by the provincial assemblies through proportional representation. Proportional representation is a method of election which seeks to ensure that minorities as well as majorities and pluralities are adequately represented in the legislature and which distributes states or units of legislative 'representation' in accordance with the proportion of the vote recorded in the whole electoral division. Senates are frequently used in federal systems or federalism. Federalism is used to describe such a form of government, in which power is constitutionally divided between different authorities in such a way that each exercises responsibility for a particular set of functions and maintains its own institutions to discharge those functions.

In this struggle for Islamization of Pakistan a number of religious scholars, politicians and political parties have contributed and scores of them are still striving to achieve this goal. These forces of Islamization are struggling in a variety of ways. Some of them are directly participating

in political system. While a number of these forces are indirectly involved in influencing the efforts for Islamization. In this regard the role of religious scholars turned politicians is of considerable importance. From the very beginning of the creation of Pakistan they either directly or indirectly strived for it. A respectable number of religious scholars and politicians not only contributed in their individual capacities but also even organized political parties to achieve this goal of Islamization.

Jamaat-e-Islami is an Islamic political organization and social conservative movement founded in 1941 in British India by the Islamist theologian and socio-political philosopher, Syed Abul A'la Maududi Chishti.<sup>4</sup> Jamaat-e-Islami was one of the original and most influential Islamist organizations and the first of its kind to develop "an ideology based on the modern revolutionary conception of Islam". Maududi created the party to influence the leadership of the Muslim community, dominated by the Muslim League, who sought a separate, independent state for Muslims (to be called Pakistan) following the withdrawal of the British from India. The Muslim League wanted to prevent domination of Muslims by the majority Hindus, but expressed no interest in an Islamic state, i.e. ruling the state according to *Sharia* law, the traditional injunctions of the Quran and Sunnah. These included abolition of interest-charged on loans, sexual separation and veiling of women, had penalties such as flogging and amputation for alcohol consumption, theft, fornication, and other crimes. The promotion of Islamic state by Maududi and Jamaat-e-Islami had broad popular support. Maududi believed politics was "an integral, inseparable part of the Islamic faith". Islamic ideology and non-Islamic ideologies (such as capitalism and socialism, liberalism or secularism) were mutually exclusive. The creation of an Islamic state would not only be an act of piety but would be a cure for all of the many (seemingly non-religious) social and economic problems that Muslims faced. Those working for an Islamic state would not stop at India or Pakistan level but would affect a sweeping revolution among mankind, and control all aspects of the world's life.

Leaders and workers of this religious party started contributing to the process of Islamization in a number of ways. It had the services of some such leaders who remained active on the political scene of Pakistan for a number of years like Qazi Hussain Ahmad (1970-2013). This personality like the leaders of their own factions remained active political figure for a number of years, where the politics were mainly dominated by one point agenda i.e. Islamization of Pakistani society.

Qazi Hussain Ahmad was first elected as member of the Senate of Pakistan in 1986 for a term of six years. He was re-elected in March 1992, but resigned as a Senator in 1996 as a protest against the “corrupt” political system. He was elected as a Member of National Assembly in 2002 general elections from his native town.<sup>5</sup> He served as the parliamentary leader of the opposition Muttahida Majlis-e-Amal, an alliance of religio-political parties.

Within the country, Qazi Hussain Ahmad remained continuously in movement undertaking tireless campaign of mass awareness, mobilization and party organization. He was Secretary General of the Muttahida Shariat Mahaz (1986), a movement for introducing Shariat (Islamic code of life) in Pakistan during military rule of General Muhammad Zia-ul- Haq.<sup>6</sup>

Qazi Hussain Ahmad was an undisputed figure among the religious circles and struggled hard to bring the widely divided religious groups on one platform. For this purpose he played a vital role in the formation of Muttahida Majlis-e-Amal, an alliance of six religio-political parties. The alliance later participated in the 2002 parliamentary elections and gained considerable representation in the National Assembly as well as the North West Frontier Province (now Khyber Pakhtunkhwa) and Balochistan provincial assemblies and ruled the former province.

### **1.1- Statement of the Problem**

Pakistan has experienced different kinds of governments, parliamentary, presidential and Martial law regimes. A constitution is the reflection of a country’s administrative set up, judicial system and arrangement of politics and political institutions. Parliamentary democracy in Pakistan has never been provided opportunities to flourish. There are many reasons for it, the main being the

absence of sincere leadership. But it does not mean that all the leaders are dishonest. There were and still are many devoted leaders who could lead the nation according to its basic ideology but they are not given a chance by the society and system of our country.

Qazi Hussain Ahmad was such a tremendous and sincere personality in the parliamentary politics of Pakistan. Qazi Hussain Ahmad raised his voice as a parliamentarian at his end against those who were the enemies and distorters of the Constitution and parliamentary democracy of our beloved country. Even he did not spare the military dictators like General Pervaiz Musharraf over his Legal Framework Order which was declared by Qazi Hussain Ahmad as illegal framework and illegal order. So it is important to search out the role of Qazi Hussain Ahmad as a parliamentarian both in the National Assembly and the Senate of Pakistan (1986-2007).

## **1.2- Scope and Significance of the Study/Research**

There are scores of books written about politicians and religious scholars including Qazi Hussain Ahmad. But there has not been done a research work on Qazi Hussain Ahmad's contributions as a parliamentarian. As he remained a member of both the upper and lower houses of Pakistani Parliament so he was part of the proceedings. There is need to study his role as parliamentarian to find out that to what extent he succeeded in his mission to establish an Islamic organism in Pakistan. This study will be an effort to answer the research questions set in the study.

It will also be a sector of interest for other intellectuals, who have great passion for knowledge and have interest in politics and historical studies. It will provide them an analytical study not only about Pakistani politics but also about the process of Islamization in Pakistan. The significance of the research lies in the fact that no research work has so far been carried out on the subject.

## 2- Review of the Literature

*Qazi Hussain Ahmad's Memorable leadership* written By Anwer Sumra Published: January 10, 2013 Blogs the EXPRESS Tribune was presented effectively. This discuss the memorable events of Qazi Hussain Ahmad. I remember that emotive slogan, and the zeal which surrounded Qazi sahib's leadership.<sup>7</sup>The sudden demise of two towering personalities, Professor Ghafoor Ahmed and Qazi Hussain Ahmad, are irreparable losses for the Jamaat-e-Islami (JI.) Both figures served on key slots in the party<sup>8</sup>. However, this discussion lacks the Political role of Qazi Hussain Ahmad.

*Frontier Star*, incumbent government extension of Pervez Musharraf regime: Qazi Hussain Ahmad Lahore, June 30, 2009 A PML-Q delegation led by president Chaudhry Shujaat Hussain and central leader Chaudhry Pervez Elahi visited Jamaat-e-Islami (JI) headquarters Mansoorah to express condolence over the death of former JI Amir Mian Tufail Mohammad with his sons and former JI Amir Qazi Hussain Ahmad.<sup>9</sup> Talking to media men after offering condolence, former chief minister Punjab Chaudhry Pervez Elahi said JI had always played its due role in the stability of Pakistan. Chaudhry Shujaat Hussain said he supported ongoing operation against the terrorists but he was opposed to killing of innocent people. About trial of former President Pervez Musharraf he said former president was outside the country, therefore what he should say against him<sup>10</sup>.

We have come here to express condolence over the demise of Mian Tufail Muhammad, he added. Former JI Amir Qazi Hussain Ahmad said JI was opposed to martial law and former president Pervez Musharraf. The incumbent government was also extension of Pervez Musharraf regime. The ongoing military operation was what General Pervez Musharraf had launched, he remarked. General Pervez Musharraf was front line partner of US and the present rulers were also ruling under the subjugation of US, he alleged. It was very clear that innocent people were being killed in the military operation and funeral and wedding processions were being targeted in the drone attacks, he charged. Thousands of people were dying, he added. US war had been

imposed on us, he reiterated who was the responsible for the troops being killed in the operation, he questioned. We are not supportive of terrorism. But the problem would not stand resolved through displacement of people, he cautioned. Operation was against the people and it was fuelling hatred, he charged. However, there is missing discussion of Senate about this issue in this discussion.

After outlining the historical events that prompted the formation of the Jamaat on August 31, 2006, he made a number of important comments which includes the following:(i) the Jamaat did not oppose the Quaid-e-Azam on the creation of Pakistan, an Interview with Qazi Hussain Ahmad *Posted* on September 27, 2013 by admin in Articles. The Amir of the Jamaat-e-Islami, Qazi Hussain Ahmad, gave a three-hour interview to *Criterion's* Navid Zafar. Pakistan. On the contrary, it played a significant role in the outcome of the NWFP referendum. Differences with the Muslim League arose over the enforcement of Shariat after independence as the League appeared to be more at ease with British laws; (ii) the Jamaat's 1953-54 anti-Qadianis agitation was a reaction to the latter's declaration that those who did not consider Mirza Ghulam Ahmad a prophet were non-Muslims; (iii) the attitude of the West towards Islam was "neo-imperialist" as was evident in Iraq and Afghanistan. The presence of foreign troops in these two countries is unacceptable; <sup>11</sup>(iv) the freedom movements in Kashmir and Palestine should not be equated with terrorist acts in Europe and the US; (v) the original quest for a Jewish homeland would have been acceptable to the Muslims of the Middle East, but the establishment of a sovereign state had changed the perimeters; (vi) the Jamaat feels that an attack on Iran would be a prelude to an attack on Pakistan<sup>12</sup>; and (vii) if women's rights organizations only understood the special status accorded to women in Islam, they would be less apprehensive. Yet, this discussion could not be given value in future and no any benefit will be taken from this interview.

Urdu columns of Qazi Hussain Ahmad Published in Jang, 2012 on various topics are very important. These columns briefly discuss the life and personality of Qazi Hussain Ahmad in details.<sup>13</sup>

Qazi Hussain Ahmad: *Politician who opposed US policy in Afghanistan* Wednesday, January 9, 2013. The politician and religious leader Qazi Hussain Ahmad, who died in Islamabad on January 6, 2013 at the age of 74 following a heart attack, was an advocate of Islamic democracy who transformed the right-wing Jamaat-e-Islami party into a populist outfit. He was a strong critic of the US's counter-terrorism policies, and was widely known for his opposition to the involvement of the US and its allies in Afghanistan<sup>6</sup>. In 2002 he had been tipped to become prime minister as head of a coalition of six religious parties, the Muttahida Majlis-e-Amal (MMA),<sup>14</sup> which scored spectacular successes in the polls in the absence, in exile, of country's two leading politicians, Benazir Bhutto and Nawaz Sharif. However, this book has flaws as original debates discussion in National Assembly has not discussed by the writer.

Jamal Abdullah Usman wrote *Aziz-e- Jahan*, 2014 on Qazi Hussain Ahmad. This book has compromised on various articles relating the personality of Qazi Hussain Ahmad and political role in National Assembly as well as Senate.<sup>15</sup>

In 1993 election, Qazi Hussain Ahmad has decided to introduce third political party named as Pakistan Islamic Front (PIF) against the Pakistan people's party and Muslim League (N). From this competition it was slogan on every one's tongue '*zalamo Qazi aa raha hai*' (O wicked people, Qazi is coming)<sup>8</sup>. In this book, writer has tried to discuss all aspects of Qazi Hussain Ahmad but all articles have written in such a way which do not fulfill the need of researcher.

Religious and Political services of Qazi Hussain Ahmad by Kamran Rajpoot, 2005 on Qazi Hussain Ahmad. This book has compromised on various articles relating the personality of Qazi Hussain Ahmad and his religious and political services. This book consists on Qazi Hussain Ahmad's politics and his different visits throughout Pakistan, Kashmir issue, Qazi Hussain Ahmad and Afghanistan, Qazi Hussain Ahmad Gulf and Iraq, International visits and Qazi Hussain Ahmad's Ideas. This book has various aspects of Religious and Political services of Qazi Hussain but lacking area of this book "having no discussion on Qazi Hussain Ahmad's role as a parliamentarian".

*Qazi Hussain Ahmad's dore ammarat key sang e meel (urdu) written by Dr Samia Raheel Qazi*  
*Published: Oct, 2007.* In this book writer has written about oath taking ceremony of Qazi Hussain Ahmad as a ameer of Jammat-e-Islami. It has details of oath ceremonies but no any discussion about his political role is there in this book.

In short, different writers of books, columns, blogs and articles have written different points of discussion having strength and weaknesses, but the gaps those have been witnessed to see in these books, columns, blogs and articles are the absence of the Role of Qazi Hussain Ahmad as a parliamentarian both in the National assembly and in the senate debates.

## **2.1- Objectives of the Study/Research**

The study is based on the following objectives which may cover all concerning fields of research on this topic.

1. To explore the contributions of Qazi Hussain Ahmad in both houses as a parliamentarian (1986-2007).
2. To investigate his efforts for legislation regarding Islamization in Pakistan.
3. To discover his contributions towards political awareness of the masses in his debates in the parliament.
4. To examine his influence on the executive organ of the government through his debates in the parliament.

## **2.2- Research Questions**

Qazi Hussain Ahmad remained one of the key politicians amongst the religious groups for quite a long time. The present study is aimed at studying his role as a parliamentarian to answers the questions like;

1. What is the role of Qazi Hussain Ahmad as a parliamentarian (1986-2007)?
2. What are his efforts for the legislation a propos Islamization in Pakistan?
3. How has he contributed towards political awareness among the masses all the way through his debates in the parliament?

4. How has he influenced the executive organ of the government in the course of his debates in the parliament?

### **3- Research Methodology**

The methodology pursued for the specific study is analytical as well as descriptive. The study is focused on the parliamentary career of Qazi Hussain Ahmad stretching from 1986 to 2007 and applies the concept of Parliamentary Democracy as an analytical tool to evaluate the study under discussion. The study is descriptive as the original debates of Qazi Hussain Ahmad in the Parliament have been analyzed.

The literature which has been consulted for studying the parliamentary career of Qazi Hussain Ahmad, 1986-2007 is comprised of the primary and secondary sources. Primary sources include the National Assembly Debates and the Senate Debates. The secondary sources are press clippings of the Press Information Department Islamabad, research articles, interviews and books.

### **4- Organization of the Study/Research**

Excluding introduction and conclusion, the present study is divided into three chapters,.

First Chapter concentrates on the early life of Qazi Hussain Ahmad since 1938. It also highlights his entry into parliamentary politics of Pakistan. It further discusses the original debates of Qazi Hussain Ahmad in the Senate, 1986-1990. Second Chapter includes his role in the Senate of Pakistan, 1990-1996. This chapter gives an insight of his activities as a parliamentarian. His role in the Senate is discussed in details. His debates over the different bills, presented by the government, are explained analytically. This chapter has also highlighted Qazi's check over the executive branch of government in the Senate. His efforts for the welfare of the society within the parliament are discussed in details. Qazi's struggle for Islamization of the society is also brought to light. Third Chapter highlights his efforts inside the National Assembly, 2002-2008. His role as an MNA has discussed in detail. This chapter highlights his struggle for the

protection of the fundamental rights of the people. The alliance made against the undemocratic rulers, to which he is a part has also presented in this chapter. His role in Pakistani politics outside the parliament is highlighted in this chapter so that this real picture as a parliamentarian is traced.

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## CHAPTER- 1

### QAZI HUSSAIN AHMAD: EARLY LIFE AND POLITICAL CAREER, 1938-1990

#### 1.1- Early life of Qazi Hussain Ahmad

Qazi Hussain Ahmad was born on January 12, 1938 in Ziarat Kaka Sahib in District Nowshera North West frontier (NWFP).<sup>1</sup> He was the child of Qazi Muhammad Abdul Rab, who was a religious illuminating presence and an agriculturist by calling, who not only excelled in religious knowledge but also was active in politics and the President of NWFP Jamiat Ulema-i-Hind. Qazi Hussain Ahmad was the youngest among his ten sibling, he finished his initial training at home from his senior sibling Qazi Abdul Qadus and his father, after that Qazi studied in Islamia School Peshawar and got his Master degree in Geography from the University of Peshawar. He rendered his services as lecturer for three years, educating at graduate level in Jehanzeb College Swat, NWFP. Inclined more towards business, he didn't continue teaching and instead owned business at 34-Suekarno Chowk, Peshawar. He marked his presence in this field and was elected as vice president (VP) of the NWFP (Provincial) Chamber of commerce and Industry. He died in the age of 74 with the cardiovascular issue (heart attack) January 6, 2013 in Islamabad.<sup>2</sup>

#### 1.1.1: Family Life

Qazi Hussain Ahmad had two sons (Asif Luqman Qazi and Anas Farhan Qazi) and two daughters. His wife and children all are Jamaat-e-Islami activists. He lived in a two bed room flat which speaks volumes of the facts that how simple a life he leads likes any party worker. He spoke Urdu, English, Arabic and Persian, in addition to his native tongue Pushto.<sup>3</sup> He was a great admirer of the poet Allama Muhammad Iqbal and employed quotes from both Iqbal's Urdu and Persian poetry in his speeches and conversation. His books include:

1. Hum Pakistan Kaisay Banaian Gay<sup>4</sup>
2. Hadayaat Urdu Islamic Book.<sup>5</sup>

## **1.2- Political Activities of Qazi Hussain Ahmad**

Qazi Hussain Ahmad started his political career in his school days with the Islamic Movement and he joined Islamia Jamiat-e- Talba Pakistan, whipped up his zeal to work the vanguard of Islamic Movement. Therefore, he acquired the membership of Jamaat-e- Islami and went on to head the organization in Peshawar City, then District Peshawar and the President ship of the NWFP chapter of the party fell to his lot. He became member of Jamaat-e-Islami in 1970 and was elected to the office of President its Peshawar Branch. He served Jamaat-e-Islami as secretary and then after Ameer of its Khyber-Pakhtunkhwa Provincial Branch. After the resignation of Maulana Naeem Siddiqui, he was promoted to the office of Secretary General, Jamaat-e-Islami Pakistan in 1978 and then elected as Ameer of Jamaat-e-Islami Pakistan in 1987, continued in that capacity getting re-elected four more times (1992,1994,1999 and 2003).<sup>6</sup> In 2008, Syed Munawar Hasan was elected to lead Jamaat-e-Islami, when Qazi Hussain Ahmad chose not to run for the office. Qazi Hussain Ahmad remained Head of Jamaat-e-Islami for near 22 years.

Within Country Qazi Hussain Ahmad remains continuously in movement undertaking ceaseless campaign of mass awareness, mobilization and party organization. His patronage of organizations like Pasban and subsequently the formation of Shabab-e-Milli is an open expression of his deep concern for the poor and the oppressed. Qazi Hussain Ahmad has widely traveled abroad to represent Jamaat at the international forums, leading goodwill missions as well as in his personal capacity to mediate in issues concerning Muslim Ummah. His services during Iran-Iraq and the Persian Gulf War, the Bulkan (Bosnia) crisis and the post-Soviet power struggle in Afghanistan, have been widely commended and appreciated. Even before the Soviet Union invaded Afghanistan, Qazi Hussain Ahmad was in close contact

with Afghan mujahedeen and had personal terms with top Afghan leaders. He played pivotal role in introducing Afghan jihad to foreign world and gaining countrywide favor for the movement. He was a staunch supporter of the Kashmiri insurgency against India and the initiator of the Kashmir Solidarity Day. He was Secretary General of the Muttahida Shariat Mahaz (1986). He is also the Central President of seized Muttahida Majlis-e-Amal.

### **1.2.1- Solidarity of Ummah the Fundamental Concern**

Qazi Hussain Ahmad has always taken pride as a follower of Last Holy Prophet Muhammad (Peace be upon him) and therefore unity of the followers of the Prophet of Islam has always been his chief concern and to get this objective, he has striven hard to forge unity amongst various factions of Islamic Parties and that especially of the components of MMA Alliance (Muthida Majlas-e-Amal) was materialization of his dream. Due to his selflessness, he was unanimously elected President of the Alliance after the sad demise, of Maulana Shah Ahmed Noorani. Earlier, when the fire of hatred of dissent and division between Shias and Sunnis, was flamed, he formed National Solidarity Council (Milli Yakjehti Council) which effectively extinguished the sectarian fire. Thereafter he was instrumental in the formation of IJI (Islami Jamhoori Ittehad) an alliance of right wing of political Parties.

When lingual bias in Karachi was enflamed Qazi Sahib led a procession of brotherhood love and peace (Karwan-e- Dawat-o- Muhabbat), all the way from Peshawar to Karachi and back which enkindled the candle of love throughout country in general, and peace was restored in Karachi, in particular. It may be recalled that he dauntlessly, led Tahrik-e-Nazam-e-Mustafa(Enforcement of Sharia) in the province of NWFP as its provincial chief and bore the brunt of imprisonment. His efforts to bring about unity among Ummah were not confined to the territories of Pakistan alone; rather, they were worldwide in scope and nature<sup>7</sup>.

When Mujahedeen battling the then USSR, fell apart, Qazi Hussain Ahmed collected notables and leaders from around the Muslim world, to iron out the differences among various Afghan

Mujahedeen Groups, unfortunately, the enemy neutralized all such efforts. Again seeds of dissent were sown among Muslim Freedom Fighters in Kashmir; he again brought about peace between the parties<sup>8</sup>. In any case, the Global and provincial connivances baffled peace endeavors, in any case, he let not the distinctions transform into a conflict.

Be it, Iraq, Kuwait or issue of Palestine, Qazi Hussain Ahmad was not less concerned. Plight of the Muslims in Bosnia ,Kosovo and Chechnya, agonized him beyond description, last but not least repression of the Muslims in Burma and Eretria equally pained him, therefore he tried his best to find out a just solution to the aforementioned problems under the aegis of united forum Of Muslim Ummah.

### **1.2.2- Qazi Hussain Ahmad and Expansion of JI Membership**

Right after assuming the leadership of Jamaat-e-Islami Pakistan, Qazi Hussain Ahmad paid special attention to the propagation of the manifesto of the party by taking out countrywide procession, extending invitation to study the program of the party to the notables from every walk of life and in this connection, he formed various National Committees, a hectic membership campaign was launched throughout country , as a result thereof, over 4.5 million of people, espoused the cause of Jamaat-e-Islami.<sup>9</sup>

### **1.2.3- Detainments**

Qazi Hussain Ahmad was arrested on many occasions for his commitment to the cause of his party. He was first arrested during Tahrik-e-Nizam-e-Mustafa in 1977 again he was imprisoned when he took out a protest procession against American aggression in Afghanistan. Once more he protested over publication of blasphemous cartoons of the Prophet (PBUH) in Danish Paper, thus he was jailed during his detention, he penned down number of articles which were later published in a book form, which are eight in number. Qazi Hussain Ahmad was represented to the Jamaat at various universal forums. He has

arbitrated on various issues concerning the Muslim Ummah by driving various missions to numerous nations. He has assumed a functioning part in assembly and association of the gathering. In 1997 he propelled an across the nation campaign to extend the gathering registration. Because of his open participation campaign million of new individuals were added to the Jamaat.

#### **1.2.4- The Revolutions of Qazi Hussain Ahmad**

Former Ameer Qazi Hussain Ahmad has left an imprint on JI current and future politics during his twenty two years at the party's helm. He can be rightly credited with JI's existing shape and political philosophy. When he became Ameer of JI. The party was faced two main challenges: On one side, the party was to move from a pro-establishment to a more populist politico-religious group, while on the other side the JI was challenging by the new ethnic political force Muttahida Qaumi Movement in Karachi. Despite occasional fiddling with the establishment, the JI managed to gain some popular support. In the meantime, the party compensated for the loss of Karachi by establishing itself in rural KPK (Khyber Pakhtunkhwa). In 1990s, Qazi attracted the youth and poor class of Pakistan. Although it proved to be a difficult task to shed the legacy of supporting the government of General Zia. Qazi Hussain Ahmad's party joined the Islami Jamhoori Ittehad, which was later revealed that it was the plan of establishment to keep away Pakistan People's Party from power. However he was successful to some extent on both counts. Qazi Hussain Ahmad understood and was aware of the new challenges posed to the traditional politics. He established the Islamic Front and built a new organization with a youth wing named Pasban. The basic aims of Pasban were to promote human rights and to work against the social, political and economic inequalities in the country. Pasban was not worked for a long time due to some internal issue, later on it was replaced by new organization called Shabab-e- Milli for the youth representation. In 1999, under his leadership mass campaign was launched across the country, as a result nearly 4.5

million of people joined the party. JI was led by an Ameer (leader) and comprised of the consultative Assembly and the members of the party. The party members was to be virtuous Muslims, with a high moral character even non-members are divided into different groups based on their closeness with party ideology. With a very rigid membership criterion, JI was restricted to the educated people or Ulema; it means that common people were not able to join the party. Since 1941, the party membership was not open to the public and there was a strict criterion for membership and it was restricted to the educated or to religious scholars (Ulemas). This meant that more than eighty percent of common people, which were illiterate at the time, were unable to be part of the JI workforce. When Qazi Hussain Ahmad became Amir of the party, he changed this approach in 1993 and opened the party to political and social groups due to the widening gap between these groups, which was a great transformation in JI policy. By adopting this policy mean the open door policy, initiated by Qazi Hussain Ahmad for the entire country helped this movement to become a modern political party. It was badly needed to adopt an open door policy for all supporters around the country. After all these efforts the JI adopted to somewhat a new political structure. During Qazi's era, JI adopted policies against injustices in the society. The policy of JI initiated by Qazi mostly recruited people from the new urbanized lower classes which dominated the party. Due to this policy shifted the support of JI from urban middle class to lower middle class. Before Qazi Hussain Ahmad, JI influence was limited to young urbanized educated class. His appeal has been observed as more near the Pakistani electorate than towards the rank and file of the party. Qazi Hussain Ahmad generally used keywords in his speeches such as Feudal, class, masses, and liberation. He mainly targeted ruling class, feudal during election campaign. By adopting public tone he attracted the lower middle class. In 1990s, JI was facing the two powerful political parties and leaders. Nawaz Sharif the leader of Pakistan Muslim League and Benazir Bhutto the leader of Pakistan People Party. Soon after 1990 election JI left the alliance of IJI. In 1993 election, the party went for election with new

experience with name of Pakistan Islamic Front. But they were failed to defeat the two powerful parties of that time. Qazi understood the ground reality of Pakistan politics. Whatever the religious parties contesting separate election, they could not compete the secular forces. Due to division of Islamists vote the other political parties would take advantage. According to professor Ibrahim before 1993 election, we metwith JUI (F) Ameer Maulana Fazl u Rehman for alliance, but JUI (F) already made coalition with Pakistan people party. Finally, Qazi Hussain Ahmad succeeded in his plane in 2002 election. MMA become the 2nd largest party of the parliament. Since 1987, JI for the first time secured five seats in Karachi. The party recovered its old strong to some extent. During Qazi's era, JI boycotted the 1997 and 2008 general elections. In 1997 general election, the party leadership demanded the implantation of 62 and 63 articles of the constitution. By this way they wanted to keep away corrupt" elements from entering parliament. Qazi Hussain Ahmad had given justification about election boycott, that it was not an emotional decision, but took the decision after long consultation. We knew, it was beneficial for Islamic movement to boycott form the election rather than participation. Whatever, Islamic movement could be strong through election, must be participate in election. It was harmful for us to take part in the election. We were struggling to bring reforms in the system, so it was not changed. Due to which feudal, industrialists and corrupts people again came into power. These 5 percent people has been destroyed the country since 1947. It was a worse decision taken by JI leadership; however it was compensated in 2002 election. Again the boycott of 2008 election was poor decision taken by JI. After a long time the party recovered its vote in Karachi. Due to this decision the electoral field left vacant for other political parties of the country. The ethnic parties which are threatening JI in electoral politics such as MQM and ANP were given chances to increase its electoral power in their specific areas. Finally and foremost, the MMA came to an end. According to Samia Rahila Qazi, it was the decision of the Shura (central consultative body)

Qazi Hussain Ahmad did not agree with this decision. The ex- Amir Mian Tufail and majority members mainly from Baluchistan and Sindh were against contesting election.

### **1.3- Entry of Qazi Hussain Ahmad into parliamentary politics in Pakistan**

Qazi Hussain Ahmad started his parliamentary career from the platform of Islami Jamiat-e-Talaba in 1970. He remained an active member of the IJT in Peshawar. He was appointed as Ameer of Peshawar and then the Amir of the whole province. He participated in the activities of Sarhad Chamber of Commerce and Industry actively and served as a President of the chamber. He was appointed as a General Secretary of JI in 1978 and served till 1987. In JI an Ameer is always selected by the independent voting of the members. The Central Shurah has been nominating three names to help the members for voting, but members are not bound to these names. They can vote for anyone, who is more suitable for them. There is no candidate, no heir-ship, no convincing or will in JI with the grace of Allah. Leadership is always selected according to the actual democratic rules of Islam. The leadership is changed in a pleasant atmosphere. May Allah always keep us on the right path? On the occasion of the selection of the Ameer in 1987, three names were suggested. Qazi Hussain Ahmad, Maulana Jan Mohammad Abbasi and Khursheed Ahmad were included in the list. Khursheed Ahmad was in Cape Town at that time because of the case of Khatam-e-Nabuwat. Khursheed Ahmad was praying continuously for the success of Qazi Sahib. He thanked to Allah Almighty when Qazi was selected as the Ameer of JI in 1987 at the age of 49. He was against the status quo of Pakistan's political and social structure. Hence, he was not part of bureaucratic and military establishment. That is why; he focused on political, social and economic justice in the country. These efforts of Qazi Hussain Ahmad transformed the party from a social movement into a modern political party. He was openly against the dictatorial rule and was of the opinion that neither the Afghan war and nor the Islamization justified the abrogation of democracy. He affirmed that Islamization measures under the Zia regime paid lip service to Islam and did not Islamized the intuitions of the state. Pakistan's political dilemma could be

solved through restoration of democracy and by ending martial law. He struggled for many years to bring all the religious factions closer to each other. Ultimately he succeeded in the formation of MMA (Muthida Majlas-e-Amal). After the death of Maulana Shah Ahmed Noorani, he was unanimously elected the president. When sectarian conflicts increased between Shia and Sunni. He shaped National Solidarity Council (Milli Yakjehti Council) which switched off the sectarian violence. He was influential factor in the formation of IJI, the right wing alliance against Pakistan people party, also. He was inventor of Dharna politics (set in protest) in Pakistan He served JI with great devotion. The movement that was started by Maulana Maududi and promoted by Mian Mohammad Tufail, was flourishing under him.

Qazi Sahib was a devoted Muslim, obedient to Allah Almighty, faithful to the Holy Prophet, well-wisher of Muslim Ummah, a sincere worker of Islamic movement, an untiring Mujahid and a real defender of Pakistan. He not only adopted the message of Allah as his mission in his boyhood but also made it a part of his life in his youth. He spent all his energy on this mission at every stage of his life. He faced every challenge for his mission. He sacrificed a lot for this purpose. He served Islamic movement and Ummah till the end of his life.

#### **1.4- Movement for the Restoration of Democracy and General Elections of 1985**

During 1981, the Martial Law regime relaxed the situation and the political parties desired for the restoration of the democracy. PPP was on the top of these parties. Other parties were Tehreek e Islami (TI), PDP, JUI, and JUP and later on in JI also joined the Movement for the Restoration of the Democracy (MRD).<sup>10</sup> Qazi Hussain Ahmad was of the opinion that only those parties could be favored which were free of socialist tendency.<sup>11</sup> On March 29<sup>th</sup>, 1981, the JUP and PML (Pagara Group) issued a joint communiqué, through which the alliance was named “Tahrik-i-Tahaffuz-i-Pakistan”. These two parties were out of the MRD. But their aim was to struggle for the enforcement of the Nizam-i-Mustafa in its true sense. The Tahrik-i-

Tahaffuz-i-Pakistan also aimed at the restoration of the democracy in the country. Qazi Hussain Ahmad wants to bring the country on the democratic track. Although, his efforts could not get the required results, but towered against the Martial Law regime.<sup>12</sup> He said that his party had always been in the forefront for the restoration of democracy and also favored the parties, which were struggling for the rule of law and democracy.<sup>13</sup> The government accepted these conditions and General Muhammad Zia Ul Haq declared that the general election would be held as soon as possible. He announced to hold referendum over the question of imposing the 'Islamic System' in the country.<sup>14</sup> The 70-95 percent Muslims of the country favored the questions in yes, for the imposition of the 'Islamic System' in Pakistan. In this way General Muhammad Zia Ul Haq legalized his president-ship for further five years. Thus he secures his position for the next election.<sup>15</sup>

President General Muhammad Zia Ul Haq declared that the elections would take place on February 25, 1985, on non-party basis.<sup>16</sup> In response to the government declaration, the MRD announced it would not participate in the election. The MRD leadership further said that the government should hold the elections according to the 1973 constitution and should create an atmosphere of fair and impartial elections. The prominent leader of the MRD Malik Muhammad Qasim warned those who contested the elections on non-party basis would be expelled automatically from their parties (Parties including in MRD).<sup>17</sup> Jamaat-e-Islami was the main political party that was permitted to work all things considered. General Muhammad Zia Ul Haq introduced a different electorate system whereby Muslim voters elected Muslim candidates and non-Muslims voted in favor of non-Muslim candidates. Election rules were changed and seven more seats were added to the National Assembly three designated to Sindh and four to Baluchistan. Candidates were now required to be 'devout Muslims' and various capability conditions in such manner were added to the law. Another layer of decision officers, area returning officers, was presented and a Deputy Commissioners were selected on these posts. The general elections were held peacefully, with a massive public participation.

The opposition parties, under the banner of Movement for the Restoration of Democracy, boycotted the elections as their demands for party-based elections and the restoration of the 1973 Constitution were not met. The voter turnout for the National Assembly was 53.69%. In the provincial assemblies elections, where the constituencies were smaller and the contest harder, the turnout of the voters was even better. It was 57.37% nationwide<sup>18</sup>.

The newly elected National Assembly was to replace the Majlis-e-Shoora and was to have legislative powers as well. Muhammad Khan Junejo was appointed as the prime minister and subsequently formed the government. It was this newly elected assembly that set the tone for later years by incorporating the controversial 8th constitutional amendment<sup>19</sup>. Public meetings and processions were strictly disallowed. No person was allowed to contest elections from more than one seat of the same assembly. Seven candidates won National Assembly seats without facing any competition. No one from the Ahmadi community filed nominations for one seat reserved for them. Largely seen as a right-wing party, the Jamaat-i-Islami is the oldest religio-political party in Pakistan. It has a huge following among the country's religious segments and is one of the few parties that hold intra-party elections every three years. The Martial Law was lifted from the country on December 30<sup>th</sup>, 1985, but the country was still far from the democracy. We saw the exhibition of this power on May 29<sup>th</sup>, 1988 when Junejo government was dissolved. Open gatherings and processions were entirely prohibited. To a great extent observed as a right wing party, the Jamaat-e-Islami is the most seasoned religio-political party in Pakistan. It had huge following among the country's religions segments and is one of few parties that hold intra-party election every three years.

### **1.5- The Eighth Amendment Bill November 11, 1985**

The general elections of 1985 were non-party. Parliament had to pass the eighth amendment, which was mandatory for its own survival. A review of constitutional amendments revealed that the first amendment in the 1973 constitution was introduced on May 8, 1974, which reviewed 14 articles of the constitution including, 1, 8, 17, 61, 101, 127, 193, 199, 200, 209, 212, 259, 260 and 270, and the First Schedule were amended<sup>20</sup>. Under these amendments, curbs were imposed on political parties, and they were barred from indulging in activities against national interest, besides making it mandatory on them to declare their source of income. It appears that to declare the source of income was sensible.

Though the President was to act on the advice of the Prime Minister, he had the power to be informed about the decisions relating to the administrative affairs of the federation and proposals of legislation. The President could ask the Prime Minister to get a vote of confidence from the Assembly, issue ordinances, set dates for the elections for the National Assembly and appoint caretaker government. The President had the power of appointing service chiefs and other important federal officers. He could also call a referendum on an issue of great national importance. However, the most controversial power awarded to the office of the President was under the Article 58(2) b, which was the power of dissolution of the National Assembly at his own discretion.<sup>21</sup> According to the proponents of this clause, post-constitutional deadlocks in the country had shown the necessity to vest authority in the President so that in case of a political crisis, the Assembly could be dissolved and new elections could be held and Martial Law could be avoided. The Article 58(2) b changed the entire complexion of the Constitution. The Constitution was transformed from a Parliamentary System into a Presidential one. This Amendment was like the proverbial Sword of Damocles for the successive governments. After the passing of Article 58(2) b, the National Assemblies were dissolved on four occasions using its powers. The dissolution of

the Assembly by President Muhammad Zia Ul Haq in 1988, President Ghulam Ishaq Khan in 1990 and in 1993, and President Farooq Ahmad Khan Leghari in 1996<sup>22</sup> are subject to a lot of speculation. Other clauses amended by the Eight Amendment dealt with the office of the Prime Minister, Senate, and Governors. Article 51 increased the number of the National Assembly seats from 200 to 207. The number of the Senate seats was increased from 63 to 87 under Article 59. The Eight Amendment also indemnified the entire President's Orders, Ordinances, Martial Law Regulations and Martial Law Orders, including the Referendum Orders made between July 5, 1977 and September 13<sup>th</sup>, 1985.

Qazi Hussain Ahmad said that the Eighth Amendment was estimated as a milestone in the constitutional history of Pakistan. It not just modified the specific type of the Constitution from simply Parliamentary to Semi-Presidential; it was rather the mixture of the two systems, with some features of parliamentary government and some characteristics of presidential system. In fact, keeping in view the discretionary as quasi-presidential system.<sup>23</sup> The National Assembly of Pakistan passed the Eighth Amendment Bill. According to this Bill, Martial Law was protected. The president could dissolve the National Assembly whenever he desired so.<sup>24</sup> The Martial Law was lifted from the country on December 30<sup>th</sup>, 1988 when Junejo government was dissolved until Zia's death in plane crash he was all in all.<sup>25</sup>

## **1.6- Qazi's discussion on Pakistan Culture and Tourism bill**

Minister for cultural and tourism moved a bill:

“Privilege Motion: The question raised was that the government arranged a musical function in the wake of the passage of the Constitution (ninth amendment) bill, to celebrate its passage: the President and the Prime Minister had declared the passage of the bill as a great achievement towards Islamization of the country's laws but by arranging a musical function the culture division of the government had ridiculed Islamic values and belittled the importance of this achievement: this according to the mover had breached the privilege of the house: opposing the motion the culture Minister contended that he failed to understand how a function fixed months before the passage of the bill could have infringed the privilege of the house and how a musical programme which aimed at depicting Pakistan Regional Culture could be regarded as conflicting with Islamic values: he denied that function was held to celebrate the passage of the bill: the bill was passed on 7th July, while the function was held on 9th July, and its date was fixed months before the passage of the bill: ruling out the motion the Chairman held that it was a moot point whether music as part of our culture was against the Principles of Islam: there is a school of thought in Islam which believes in but that aside, it strains common sense of an ordinary person like me to understand how the

allegation made in the motion could even remotely constitute a breach of privilege of the house: moreover, The passage of the bill and the holding of the function took place on different dates and they had no connection with each other even though the time of the passage of the bill and the holding of the musical function might have been close together: as the motion did not raise any specific question of breach of privilege conferred on the house or any honourable member by law of by Constitution it was ruled out of order.”<sup>26</sup>

On July 13, 1986 Senator Qazi Hussain Ahmad sought leave of the House to raise a question of breach of privilege arising out of the Culture and Tourism Division’s holding a musical function, to celebrate the passage of the Constitution (Ninth Amendment) Bill. Explaining his motion the Senator stated that the President and the Prime Minister regarded the passage of the Bill as a great achievement which would usher in an era of “Islamization” in the country. But by holding the musical function on the night of July 15<sup>th</sup>, 1986, just two days after the passage of the Bill, the Culture and Tourism Division had ridiculed Islamic values and belittled the importance of the passage of the Bill.

Opposing the motion the Minister for Culture and Tourism Division stated that the Cultural troupe (whose function it was) had been founded years before to depict and project Pakistan regional culture and civilization. This troupe had been giving performances in foreign countries and presently it was visiting Canada. The date for the performance of the function at Karachi. Which is the headquarter of the troupe, was fixed months before the passage of the Bill. It had no connection whatsoever with the passage of the Bill nor was it intended to celebrate the passage of the Bill. The Minister explained that the function had been arranged at his instance as he wanted to judge for himself how far the troupe genuinely depicted the cultural and social norms of Pakistan civilization and to see whether there was anything objectionable in their performance. He invited the Honorable Members of the Senate and National Assembly to see such functions and advise the Division on improving the performance of the troupe and removing from it what might be found objectionable from the social and cultural point of view. Concluding he said that he failed to understand how a musical function aiming to depict Pakistan’s culture and civilization through performing arts could constitute a breach of any

privilege of the House. Ruling the motion out of order the Chairman, Mr. Ghulam Ishaq Khan, held:

“Firstly, the honorable Minister has explained that while the Bill was passed two days earlier than the function, the function itself was fixed months earlier. There was thus no connection between the two. Secondly, it is a moot point and there are differences of opinion, whether music does or does not constitute our culture and whether it is against the principles of Islam. There is a school of thought which believes in ‘& U’ ” but let us not go into that. Personally, it strains common sense of a man like me to understand how the allegations made in the motion could even remotely constitute a breach of privilege of the House, even though the time of passage of the Constitution (Ninth Amendment) Bill and the holding of the musical function by the Ministry of Culture and Tourism, may have been, (though not coinciding) close together. The motion hardly raises any specific question of breach of privilege conferred on the House or on an individual honourable member of this House, by law or by Constitution and I rule it out of Order”.<sup>27</sup>

Qazi Hussain Ahmad strongly condemned the government benches on the presentation of the Pakistan Culture and Tourism bill, 1986. He argued that culture and tourism holding a musical function to celebrate the passage of the constitution ((Ninth Amendment) Bill. The Senator stated that the President and the Prime Minister regarded the passage of the Bill as a great achievement which would usher in an era of “Islamization” in the country. The Culture and Tourism Division had ridiculed Islamic values and belittled the importance of the passage of the Bill. Qazi asked to the minister concerned to explain whether the European culture and civilization would be developed or Islamic ones? Therefore Qazi Hussain Ahmad moved a motion in order to keep in view the Islamic injunctions regarding the said bill. The minister answered that the function had been arranged at his instance as he wanted to judge for himself how far the troupe genuinely depicted the cultural and social norms of Pakistan civilization and

to see whether there was anything objectionable in their performance. He invited the Honorable Members of the Senate and National Assembly to see such functions and advise the Division on improving the performance of the troupe and removing from it what might be found objectionable from the social and cultural point of view. Qazi opposed that a musical function in Pakistan's culture and civilization against the principles of Islam. If we make any Law or establish a cultural function constitutionally, we should keep the Islamic injunctions in view.<sup>28</sup>

### **1.7- Afghan Crisis and Qazi Hussain Ahmad**

Qazi Hussain Ahmad moved an Adjournment Motion in the floor of Senate:

“Seeking leave to discuss a matter regarding the diplomatic representative of Afghanistan's lobbying in the UNO, against Pakistan Government's actions in the Khyber Agency: Minister concerned opposed the motion: Held, matters which are not within the competence of Minister, over which Government of Pakistan had no control could hardly become befitting subject matter of an Adjournment Motion: Such matters could be discussed under a policy discussion or some other method or procedure could be adopted to bring them under discussion. On 10th February, 1986, Senator Qazi Hussain Ahmad sought leave to discuss a matter regarding lobbying by the diplomatic representative of Afghanistan Government in the UNO, against Pakistan Government's activities in the Khyber Agency. Opposing the Motion, Mr. Zain Noorani, Minister of State for Foreign Affairs made a short statement on the facts of the matter. He, however, urged that the matter was of a recurring nature and that the Government of Pakistan had no control over the normal diplomatic activities carried on by a representative of another country. Ruling out the motion the Chairman, Mr. Ghulam Ishaq Khan, observed that matters which are not within the administrative competence of the Minister or over which the Government of Pakistan had no control, could hardly form a befitting subject for discussion through an adjournment motion. Such matters could however be discussed in the course of a debate on policy or by resort to some other procedure or method under the Rules.”<sup>29</sup>

Qazi said that the massive soviet intervention in Afghanistan six years ago counter-produced a powerful popular conflict movement: and, the country has not seen a moment of peace since then. The Afghans have fought the superpower in a manner, and for a length of time, which excites admiration of friends and foes. Of course, in the process they have suffered grievous losses at the hands of the Russians and pro-Russians, Taraki, Amin and Babrak Karmal. Nobody exactly knows how many have been killed or wounded. But, there must be very large. What is known is that huge populated areas have been abandoned: and, from these areas have moved out to neighboring Pakistan and Iran no less than 4 million men, women and children.<sup>30</sup> In Pakistan alone there were 3 million Afghans refugees. Sizeable colonies of Afghans have

sprung up in Turkey, Saudi Arabia, West Germany, USA, Italy and some other countries. This large migration of Afghans into Pakistan in a short span of six years is unparalleled and could not but has generated many human and economic problems for the host country, as well as, the migrants. In an age of materialistic socio-political philosophies which divide human beings on the bases of language, race and territory, the very idea of three million Afghans having been receive and sheltered in Pakistan defies comprehension. This nevertheless, has happened call it a phenomenon or, a miracle of Islam.<sup>31</sup> Muslim history offers many instances of people having emigrated from one country to another country under economic, political or military constraints. The local populations to which these transfer took place, did not resent or oppose them. Instead, they took concerned interest in the therapy and wellbeing of their uprooted brethren. This obviously happened because of a certain way of thinking peculiar to Islamic societies of which the Pakistani people are a part. It originates from the world view of the Muslims that Muslims 'all over' are a particular group by themselves, the Millat-e-Islamia.<sup>32</sup> and, that a Muslim irrespective of his geographic, racial or lingual association enjoy a positive advantages to go to and be living among fellow Muslims, anywhere, on his God's superior Earth. Having killed, named and mutilated a great many Afghans and pushed a larger number out of their ancient hearths and homes, the soviets now wish that the Afghan Mohajireen in Pakistan and Iran find no quarters to regroup. They want to reject them 'local sympathy' in Pakistan and Iran, and understanding at a wider international level.<sup>33</sup>

The predatory colonial powers, even as the Soviet Union is in Afghanistan, have always striven that the victim of their violence are afforded no help, sympathy or help. That, they calculated, would help break resistance and induce the aggression upon to accept defeat. To achieve this colonialists add psychological weapons, and make use of them in combination with economic inducements. The Russians, as 'rebels', reactionaries' or, 'mercenaries'. They fabricated all

types of monstrous lies and attribute them to a body of entirely dedicated men and women, such as are the Mujahedeen in Afghanistan.

### **1.7.1- US Afghan Policy**

Afghanistan is land-locked by four countries, Russia (former Soviet Union), China, Iran, and Pakistan. Soviet Union, one of the hegemonic powers, involved in the war between anti-communist rebel forces and Afghan government. The number of Soviet troops in the quantity of Soviet troops in Afghanistan reached 100,000 by early 1980.<sup>34</sup> Anti-communist guerrilla forces, jointly called the (Islamic warriors), actively fought both the Soviet troops and the pro-Soviet Afghan government, led by President Babrak Karmal. As the huge numbers of Soviet Union troops were actively involved in Afghanistan that was a best way for any country to weaken the Soviets military powers. United States did not miss the opportunity and sought ways to back the anti-Soviet forces.

United States of America dined its remote strategy in Afghanistan after 1979, attack of Soviet troops into Afghanistan, as they felt threat of a Soviet-controlled Afghanistan spoke to an assume control of Afghanistan would mean a toehold in the Center East alongside access and potential control over the oil fields in the Persian Inlet. Furthermore, the Soviets could control development through key conduits in the district through which the majority of the world's oil needed to pass. In light of these threats and definitely mindful of an inactive Soviet attack of Afghanistan, the US organization had started to give incognito help to the Afghan. United States of America lunched its foreign policy in Afghanistan after 1979, invasion of Soviet troops into Afghanistan, as they felt danger of a Soviet-controlled Afghanistan represented. A take-over of Afghanistan would mean a foothold in the Middle East along with access and potential control over the oil fields in the Persian Gulf. Additionally, the Soviets could possibly control movement through key waterways in the region through which most of the world's oil had to

pass. With these dangers in mind and keenly aware of a potential Soviet invasion of Afghanistan, the US administration had begun to provide covert assistance to the Afghan.

### 1.7.2- Qazi's Support to the Mujahidin through Pakistan

Qazi Hussain Ahmad sought to leave to raise a question in the Senate about the press statement of the president of the Islamic republic of Afghanistan:

Privilege Motion: Press statement of a head of a foreign country, visiting Pakistan, alleging that the mover made millions of Dollars in Afghan Jihad: contention that it forms part of government campaign of vilification against the mover and constitutes breach of privilege: held inadmissible on the ground that such statements of a foreign dignitary could not be made the subject matter of a Privilege Motion: Senator Qazi Hussain Ahmad sought leave to raise a question of breach of his Parliamentary privilege arising out of the press statement of the President of the Islamic Republic of Afghanistan Prof. Sibghatullah Mujadadi, made on 28th May in Frontier House, Peshawar in which he alleged that Qazi Hussain Ahmad made millions of dollars in Afghan Jihad. These allegations he submitted were repeated by Mr. Muhammad Siddique Khan Kanju, the Minister of State for Foreign Affairs, Sardar Assef Ahmed Ali, Minister of State for Planning and Mian Abdul Sattar Laleka, the Federal Minister for Information and Broadcasting in their statements appearing in the press. This, he contended, forms part of government campaign of vilification against him. These allegations, the mover contends, have breached his Parliamentary privilege as Member of this House. In fact, he maintains, it has adversely affected the Jihad in Kashmir. I asked the member to speak on the admissibility of the motion leaving out the allegations against the President of Afghanistan as it was not proper to discuss the conduct of a foreign Head of State of friendly country in the House. However, he could refer to the statement of Ministers. Qazi Hussain Ahmad replied that he had made the statement of the Ministers as the basis of his motion and would continue his arguments on admissibility to them alone. Raja Muhammad Afzal Khan rising on a point of order objected to the procedure adopted by me saying that unless the Minister opposed the motion the member could not be heard on the admissibility. If the motion is not opposed it should straightway, be referred to the Privileges Committee for consideration. I then, remarked, it is for me to judge whether the motion is admissible or not irrespective of the fact whether or not it is opposed by the Minister. Speaking on admissibility of the motion the mover submitted that he had himself declined to make comments on the allegations made by Prof. Mujadadi who was on a state visit to the country, but fundamental issue is that prior to that Prime Minister Mian Muhammad Nawaz Sharif after Jamat- e-Islami quitted the IJI accused him in a press conference that he would inform the Majlis-e-Shura of Jamat-e-Islami about his black deeds. The mover stated that after reading the Prime Minister's allegations he invited the Prime Minister to address the Majlis-e-Shura and make whatever disclosures he wanted to about him in the Majlis-e-Shura. Thereafter, he submitted, Sardar Assef Ahmed Ali the State Minister for Economic Planning made a statement that the President of Afghanistan possessed proof of the allegations that the mover had made crores of rupees in Afghan Jihad and that enquiry would be made against Jamat-e-Islami. The mover maintained that leveling of personal allegations would not come within the purview of a political statement. The accusation of embezzlement is a serious reflection on his character and insisted that the motion be referred to the Committee where he would have an opportunity to further clarify his position. Taking the floor Senator Prof. Khurshid Ahmed contended that under the law and the Constitution the personal capacity as a political worker and as a member of the Parliament were not distinguishable in such matters on certain occasions. Senator Yahya Bakhtiar submitted that in the instant case, it is not a question of a political statement. Political statement can be of hundreds of types but when somebody attacks a member's integrity it is a different thing and honest."<sup>35</sup>

In a move that marked a turning point in the relentless war, in 1985, President Ronald Wilson Reagan made a secret decision to escalate covert support to the Mujahidin through Pakistan; a country at the time that was working closely with Washington. American-trained Pakistani

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officers were sent to Afghanistan to set up a secret Mujahidin stinger training facility, which was completed with a U.S made electronic simulator. They also began to supply an extensive array of intelligence military expertise and advanced weapons to the, Muslim rebel forces, which included satellite reconnaissance data of Soviet targets in Afghanistan; Soviet plans for military operations based on satellite intelligence and intercept of Soviet communications; covert communication technology for the rebels; detonating devices for tons of C-4 explosives for urban targets; long-range sniper rifles; a targeting system linked to a U.S. Navy satellite; and wire-guided anti-tank missiles.

Years 1979-88, the war between Mujahedin (Islamic soldiers), backed by the United States, and the government of Afghanistan, supported by Soviet Union, kept which resulted in assassination of over 1 million Afghan civilians and combatants (as well as 5.5 million were displaced). At the same time the Soviet Union also faced a big loss to their military troops that were operating inside Afghanistan.<sup>36</sup> As a result the Soviet President Mikhail Sergeyevich Gorbachev announced the withdrawal of Soviet troops in 1988. After the Soviet withdrawal in 1989, the U.S. stopped its arms supply to the Mujahidin. Shortly thereafter, U.S. interest in the situation waned, and “due to security concerns it closed its embassy that same year. In its wake, the U.S. left a large, highly trained force of radical Muslims in a state of anarchy. With the Soviets out of the picture, however, Mujahidin focused next on fighting the Afghan government headed by Mohammad Najibullah Ahmadzai. Mujahidin finally captured Kabul in 1992, but the revolutionary factions proved unable to unite, and began another arduous power struggle amongst themselves. Afghanistan thus became a fragmented country of several independent zones, each ruled by different warlords. These political divisions exacerbated the schism already present between many tribal and ethnic groups that reside in the country.

Qazi Hussain Ahmad was a strong critic of the US's counter-terrorism policies, and was widely known for his opposition to the involvement of the US and its allies in Afghanistan. He

organized an international conference in Islamabad which was attended by leading Islamic scholars and was also at the forefront of the Defa-e-Pakistan Council, a block of right-wing parties opposed to the war in Afghanistan.<sup>37</sup>

### 1.7.3- Qazi Hussain Ahmad and USSR

Qazi Hussain Ahmad sought to leave a discussion in the senate session about the American Military Aid:

“Adjournment Motion: Based on a press report about misappropriation of American Military Aid worth 470 million dollars to Afghan Mujahedeen’s while in pipeline in Pakistan for Mujahedeen’s: Evidence of alleged misappropriation available from Quetta, Peshawar and Islamabad: Also misappropriation and pilferage of ration for Afghan Refugees on the basis of wrong statistics about refugees in Pakistan: Does not relate substantially to one definite issue or a single specific matter: Press reports or an article in newspaper or an editorial comment do not form basis for an Adjournment Motion unless contents thereof are admitted by Government as authoritative: Motion inadmissible under Rule 71 (d) if seeking to revive discussion on a matter already discussed in the same session in the Senate or the National Assembly within last six months: On 2nd February, 1986, Senator Maulana Kausar Niazi and Qazi Hussain Ahmad sought leave to move an adjournment motion on the ground that in the ‘Time’ magazine of 9th December 1985, an article has appeared according to which in the previous year, the American Government gave military aid to Afghan Mujahedeen’s to the extent of 470 million dollars through Pakistan but a major portion of this aid had been misappropriated in the pipeline in Pakistan. The report has also stated that evidence is available from Quetta, Peshawar and Islamabad that 50% of the arms were sodden route’ and the Reagan administration accepts this pilferage, which it estimates at 20% although the Federation of American Afghan Action thinks it is 70%. The report further states that the estimated number of Afghan refugees is said to be 2.7 million but a United Nations Organization puts the number at 1.9 million. Thus according to the United Nations Organization which arranges rations for the Afghan refugees, out of the total rations supplied rations equivalent to 8 Lac persons are sold on the black market. Opposing the motion Mr. Zian Noorani, the Minister of State for Foreign Affairs, contended that the matter is no longer urgent as the article forming basis of the motion appeared in the magazine of the 5th December whereas the notice of the motion was given as late as the 2nd January. Secondly, it is well settled, supported by various authorities, both of foreign Parliaments and Pakistan, that an adjournment motion cannot be moved on the basis of newspapers reports, editorial comments or articles. The present motion is based on an article published in a magazine. He referred in this connection to the House of Commons Debate 1920, page 135, Column 2118 to 2226. He also cited the National Assembly Ruling No. 59 dated 16th December, 1974 which laid down that an adjournment motion cannot be moved on the basis of articles and comments in the columns of newspapers. Thirdly, the motion does not relate to one single subject but to three or four different issues like leakage of arms in the pipeline, exact number of refugees, selling of arms in the black market and the selling of rations meant for Afghan refugees in the black market. He, however, made a lengthy statement disputing the various allegations made in the article in question and reiterated the Government stand that it has never acted as a conduit for supply of arms to Afghan Mujahedeen’s fighting in Afghanistan nor does Pakistan permit its territory to be used for acts of interference in Afghanistan. The Pakistan Government, he said is justly proud of its record in providing food and shelter to the Afghan refugees who had to flee in terror from their homeland following intrusion of foreign forces”.<sup>38</sup>

Qazi Hussain Ahmad has a long-standing interest in the Afghan Affairs, he said that the Soviet Union is an ideological state and that ideology gets its inspiration from the ideas of Marx and Lenin. Every new idea or ideology wants world-wide recognition and supremacy. So do the Russian communists. They believe that any advance, conquest or victory of Soviet Union is an advance, conquest and victory of communism itself. In this purposive progress, or process, the

red army is no more, or no less, than an agent and instrument of its own type. The Soviets have an aim, both ideological and nationalistic, to expand, expand southwards,<sup>39</sup> eastward and ultimately to dominate and conquer the universe. We in Pakistan have only one admirable and sensible course, or Policy Avenue open to us to follow towards the Afghan Refugees. It is to help and maintain them to the best to our capacity. We could not have prevented their access into our country.<sup>40</sup> They were in suffering; they were our fellow Muslim brethren; and, we could not have sealed our borders on them, without much callousness, cowardice and unnecessary bloodshed. In their capacity as citizens of another country, Afghan national cannot lawfully purchase immovable property in the Pakistan. But, how many of the refugees could have the means to make sizeable purchases here? Not very many, in any case.<sup>41</sup> As for those who brought trucks and trailers; they are becoming useful and not proving a load on our national economy. This is a theoretical question in that the Afghan refugees have not settled down permanently in Baluchistan, or any part of Pakistan. They look forward to go back to their beloved country one day in peace and honor. In the meantime, the people of Pakistan are playing host to their Afghan brethren. In this, they are impelled by religious sentiments and feelings of brotherhood.<sup>42</sup> The people of Baluchistan are also aware of the treatment meted out to the Baluch tribes in Afghanistan. They realize that Afghan resistance to Russia expansionism is in fact an impediment in the way of further Russia advance southwards. Qandahar is not much far off from Quetta or Kalat and for that matter; the Pakistani Baluch do not want to suffer the fate of the Baluch of Afghanistan. Qazi said that the Afghans had been opposing Pakistan since the very first day it applied to the United Nations for membership. The truth is that there are two kinds of Afghans:

- a. Afghans who have historically divergent Pakistan, and
- b. Afghans who have not opposed Pakistan or Afghans who have supported Pakistan.

We must differentiate between our friends and foes and not fall victim to the propaganda of the common enemies of Pakistan and Afghanistan.<sup>43</sup> This is an entirely preposterous question. Perhaps, the questioner is not aware that before admission to refugee's settlement the refugees are properly screened. Likewise, they are lodged in camps in groups of families, sub tribes and tribes. Their affiliations, tribal and ideological, are recorded. Their hardly remains a chance for an outsider to penetrate a refugee camp for subversion purposes.

### **1.7- JI Afghanistan and MMA**

Afghanistan and politico-religious forces in Pakistan, particularly in K-P, have historically been intertwined. During the "Afghan Jihad" against Soviet forces in the 1980's,<sup>44</sup> Qazi Hussain Ahmad remained a close ally of Gulbuddin Hikmatyar's Hizb-e-Islami. Due to Hikmatyar's dominance among the Afghan resistance groups, the JI was able to exercise substantial influence in Afghan affairs. JI's clout in Afghanistan started to erode, however, due to the increasing strife among various Afghan warlords and resistance groups following the departures of the Soviets. With the emergence of the Taliban in Afghanistan, JI's influence in the country was replaced by that of its rival Jamiat Ulema-e-Islam Fazl (JUI-F).<sup>45</sup> After the US invaded Afghanistan, the traditional rivals formed an alliance along with other right-wing groups in the country under the moniker Muttahida Majlis-e-Amal (MMA). The alliance outperformed mainstream political parties in K-P, forming a government in the province, and was able to grab a sizable number of seats in both Baluchistan and National assemblies. MMA's role in national politics triggered renewed suspicion of a "mullah-military nexus".<sup>46</sup> Qazi said we regarded the arrival of the Russian forces in Afghanistan as something which was absolutely wrong. We considered that the Jihad of Afghanistan was the need of the hour. We have deliberation that the success of Russia in Afghanistan was dangerous for our independence. The Russia forces should go back. We should sustain the Afghan completely.

### **1.9- 10<sup>th</sup> Amendment in the Constitution 1973**

An Act to additionally revise the Constitution of the Islamic Republic of Pakistan (Gazette of Pakistan, Remarkable, Part I, 29th March, 1987). The after Demonstration of Majlis-e-Shoora

(Parliament) got the consent of the President on the 25<sup>th</sup> March, 1987, and is therefore distributed for general information:-

While it is practical further to change the Constitution of the Islamic Republic of Pakistan for the reasons in this in the wake of showing up:

It is hereby approved as follow:-

1. Short title and commencement.

- i. This Act may be called the Constitution (Tenth amendment) Act, 1987.
- ii. It shall come into force at once.

2. Amendment of Article 54 of the Constitution.

In the Constitution of the Islamic Republic of Pakistan, hereinafter referred to as the Constitution, in Article 54, in clause (2) , in the proviso, for the word "sixty" the word "thirty" shall be substituted .

3. Amendment of Article 61 of the Constitution.

In the Constitution, in Article 61, for the words "one hundred and sixty" the words "one hundred and thirty" shall be substituted.

The 10<sup>th</sup> constitutional amendment became effective on March 29, 1987. It amended the article 54 and the 61 of the constitution by changing the duration of internal period between session of the National Assembly and the Senate from 160 days to 130 days.<sup>47</sup>Qazi Hussain Ahmad as an opposition leader in the senate to accept this amendment.

## 1.10- Qazi over Hudood Ordinances Bill- 1989

Minister of Law and Justice moved the Hudood Ordinance bill 1979 (amendment 1989), that the bill, the Hudood Ordinances are laws in Pakistan that were established in 1977 as a feature of the military ruler Zia-ul-Haq's "Sharisation or "Islamisation" process.<sup>48</sup>

"Privilege Motion: Contention that the statement by Syed Iftikhar Hussain Gilani, Minister for law and justice declaring that the hadood Ordinances being violation of the humanitarian principles would be repealed, constituted breach of privilege of the Senate: held that in a democratic order a citizen could not be denied the Constitutional right to express freely his opinion on the status of any law: ruled out of order : On July 8<sup>th</sup>, 1989, Qazi Abdul Latif sought leave to raise a question of breach of privilege of the House arising out of the alleged statement made by Syed Iftikhar Hussain Gilani, Minister for Law and Justice, appearing in daily "Nawa-i-Waqt", Rawalpindi dated 29th May, 1989, declaring that the Hadood Ordinances, being violation of the humanitarian principles, would be repealed. The mover contended that the statement of the Minister is against the Islamic Injunctions which the Constitution of Pakistan duly protects and safeguards. He, further contended that the Minister, by attacking the Hadood Ordinances had insulted both the State religion and the Constitution of the country. The Senate, he argued, was the custodian of the Constitution of Pakistan and the very basis for the establishment of Pakistan was the commitment to ensure and protect the Islamic values. Maulana Sami-ul-Haq, Qazi Hussain Ahmed and Prof. Khurshid Ahmed, lending support to the contention raised by the mover urged that Islam was the State religion and protected by the Constitution through the Objectives Resolution which is a part of the Constitution itself. Any insult to the religious laws, having Constitutional safeguards was a breach of privilege of the Senate as the Senate was one of the guardians of the Constitution.<sup>49</sup>

Opposing the motion, Mr. Javed Jabbar, Minister of State for Information and Broadcasting, Syed Iftikhar Hussain Gilani, Minister for Law & Justice and Begum Shehnaz Wazir Ali, Minister of State for Education urged that the statement of Syed Iftikhar Hussain Gilani was only a reflection of his personal view-point though expressed in public. They further contended that the Hadood Ordinances, regardless of their intrinsic and inherent respect, value and authenticity, since were promulgated by a Martial Law regime, lacked the support of the elected representatives and the voice of the public. In addition, the social status and equal rights of women, having been sanctified by the Constitution of the country, any attempt to interfere with them was a clear violation of the Constitution. Finally, that all the citizens had a right to express their opinion on any subject. Mr. Iftikhar Gilani, the Minister for Law and Justice made a detailed statement in the House categorically denying that he had any intention to insult or ridicule the Hadood Laws, adding also, that each citizen of the country had an inalienable right under the Constitution to criticize. The Hadood Laws were promulgated and enforced during Martial Law period when the elected Assemblies were dissolved. Several religious scholars, political bodies and legal experts had expressed their views on the status of Hadood Ordinances. There had been a discussion as to what exactly are the requirements of Islam in such matters. Dealing with the admissibility of the motion, Mr. Wasim Sajjad, the Chairman recalled an earlier ruling reported at page 146-47 of the "Decisions of the Chair" (1985-87) in which the then Chairman had ruled out of order a Privilege Motion jointly moved by Senators Maulana Sami-ul-Haq and Qazi Abdul Latif on February 13, 1986 on the ground inter alia that every citizen had a right to express within the context of law and reason his opinion for and against any legislative proposal pending in the House in the form of a Bill without which it was not possible to reach a correct conclusion as to which law or laws should be made. These observations, he held, were equally applicable to any existing law as the laws made by the Parliament were never final. Their examination, evaluation and revision was a continuous process. The Chairman also referred to another ruling reported at page 272-276 of the "Decisions of the Chair" (1985-87) in which the then Chairman had observed that speeches or writings containing vague charges against members or criticism of their Parliamentary conduct in a strong language particularly in the heat of public controversy without imputing any mala fides could not be treated as a contempt or breach of privilege. It had also been observed therein that it was considered inconsistent with the dignity of the House to take any serious notice or action in the case of every defamatory statement which might even technically constitute a breach of privilege. References made and views expressed by the political leaders at a public rally judged in this light did not amount to a breach of privilege. The Chairman observed that in a democratic order where everyone was free to express his opinion on any existing law, a citizen,

whether he be an ordinary citizen or a holder of public office, could not be denied a right guaranteed by the Constitution to express freely his opinion on the status of any law. If this liberty was denied the laws once passed by Parliament would stay permanently in the Statute Book and the role of Parliament to amend, revise, annul or repeal existing laws would be negated in to.

Ruling the motion out of order, the Chairman observed: "Thus, in the present case, what the Minister said and subsequently explained in the House, considered in the context in which it was made, does not, appear to constitute a breach of the Parliamentary privilege of this House. This would be so even if there are some persons who do not agree with his views on the subject. For these reasons, I hold that the motion does not appear to raise an arguable question of breach of Parliamentary privilege of the Senate and, accordingly, I rule this motion out of order under rule 62(iii)."<sup>50</sup>

It supplanted parts of the British-time Pakistan Penal Code, including new criminal offenses of infidelity and sex, and new disciplines of whipping, removal, and stoning to death. After much discussion and feedback parts of the law were widely changed in 2006 by the Women's Protection Bill.<sup>51</sup> The Hudood Law was wanted to actualize Sharia law or bring Pakistani law into "similarity with the directives of Islam", by implementing disciplines said in the Quran and Sunnah for *ina* (extramarital sex), *qazf* (bogus allegation of *zina*), burglary, and utilization of liquor.<sup>52</sup> The framework accommodated two sorts of offenses *hadd* and *tazir* with various disciplines to run with them. *Hadd* offenses (settled discipline) require a higher standard of evidence than *tazir* (optional discipline) and their punishments are more serious. The *zina* arrangements of the law were especially disputable and commentators charged that there were "several occurrences where a lady subjected to rape, or even gang rape,<sup>53</sup> was in the end blamed for *zina*" and incarcerated.<sup>54</sup> Supporters safeguarded the Ordinances' disciplines as appointed by God and the law as the casualty of "to a great degree shameful publicity" in the media. Hundreds of female supporters of Pakistan's biggest Islamic gathering challenged government revisions to controversial rape laws.<sup>55</sup> About 800 ladies, numerous wearing shrouds, went to the rally in a downtown locale of the capital, Islamabad.<sup>56</sup> They were supporters *Jamaat-e-Islami*, an activist connected Islamic charity. Parliament's lower house passed the Protection of Women Bill to revise provisions in the 1979 Hudood Ordinance, a move that angered hard-line Islamic lawmakers. "Un-Islamic laws are inadmissible in an

Islamic nation, Jamaat-e-Islami head, government official Qazi Hussain Ahmad, told dissenters the corrections will make a "free-sex environment" in Pakistan.<sup>57</sup>

The new law, which is required to be supported by the government controlled Senate, drops capital punishment for sex outside marriage and engages a judge to attempt a rape case under the country's criminal laws.<sup>58</sup> Under the Hudood Ordinance, rape cases were attempted by Islamic courts where casualties needed to deliver four observers to the claimed wrongdoing. The Shoorā, which was in session since November 4<sup>th</sup>, 1979 passed resolutions on revisions to the Hudood laws. JI Amir Qazi Hussain Ahmad led the session. The determination on the Hudood laws watched that different revisions to the Women Protection Bill were being made in accordance with the US direct posted on the state division site.<sup>59</sup> The gathering condemned the reception of select board of trustees endorsed charge for voting in the National Assembly, while the Ulema panel had proposed eight amendments to it. Featuring statement sense imperfections in the select board of trustees' adaptation of the bill, the JI determination watched that even no non-Muslims living in Pakistan could embrace the adjustments in the bill. The Shoorā despised reclamation of revoked arrangements of 1979 Pakistan Penal Code to ensure the offenders, engaged with the offenses likes snatching and so forth in the women's bill meeting opined that the Hudood Ordinance-1979 was not repulsive to the Holy Qur'aan and the Sunnah, consequently, every devoted ought to prepare every accessible asset to ensure it. The Shoorā completely kept up that whole ladies' bill was in struggle with the lessons of the Holy Qur'aan. The Shoorā proposed religious and political parties, human rights and social welfare establishments to assume dynamic part for the evacuation of the women's bill. Towards determination to fortify Pakistan's Islamic roots, the MMA squeezed for the incorporation of more Ulemaas in the Federal Shariat Court in order to guarantee the strict execution of the CII orders. Despite the fact that Musharraf never surrendered to the MMA weights, he made no endeavors to undermine the political saliency of the universal religious gatherings either. Careful about global repugnance towards the Talibanization and being even sufficiently minded

to comprehend the significance of clutching power, the MMA at one phase endeavored to downsize its Islamic talk. In December 29<sup>th</sup>, 2002, it, for example, composed a tradition for ladies<sup>60</sup> to disperse fears of burden of Taliban style Islamic code.

### **1.11- Qazi's Stance on Shariah Bill in 1988 and 1991**

Qazi Hussain Ahmad was opposed the Shariah bill:

Privilege Motion: "Leave was sought to raise a question of breach of privilege arising out of a public statement made by a leader of a political party threatening members of the Parliament with violence and intimidation if they opposed the passage of the Shariat Bill in Parliament and a statement by another leader of the same party, on the same occasion, that all those opposing passage of the Shariat bill were associated with dacoities, robberies and corruption and that they would be 'gheraoed' and not allowed to return to their constituencies: the statements alleged to have been made by the two leaders were held to constitute a prima facie attempt at interfering with the discharge by members of the Senate, without any let or hindrance from any quarter, of their duties as such members: accordingly the motion was held in order and referred to the Privileges Committee for consideration. Senator Mr. Javed Jabbar sought leave to raise a question of the breach of privilege of the House arising out of the statement of the leader of a political party (Jamaat-e-Islami) threatening members of Parliament with violence and intimidation if they opposed the passage of the Shariat Bill in Parliament and a similar statement by another leader of the same party on the same occasion that all those opposing the passage of the Shariat Bill were associated with dacoits, robberies and corruption and that they would be "gheraoed" and not allowed to return to their constituencies. These threats, the Member contended, constituted prima facie a direct attack on the independence, integrity and dignity of the Senate as the Senate was already seized of the consideration of the Shariat Bill. This also amounted to an attempt to interfere with the working of the Senate and with due performance by the Senators of their duties as such Senators without any let and hindrance from any quarter. The Senator also moved that the question of the breach of privilege and contempt of the House be referred to the Privileges Committee for consideration and report. The motion was supported by Senator Nawab Rahat Saeed Chattari."<sup>61</sup>

Qazi Hussain Ahmad contended that reliance should not be placed on a newspaper's report. According to him, this particular newspaper had on a number of occasions, in the past published distorted statements of political leaders in an attempt to mobilize or build public opinion against the passage of the Shariat Bill. Moreover, the word 'gherao' alleged to have been used in the statement should not be interpreted (as the paper had done) as a threat or intimidation; rather it was a form of accountability (Muhasba) of the conduct of a Parliamentarian by his electors, which was part of the normal democratic process. Senator, Hasan A. Shaikh, remarked that since the press report in question (attributing the impugned statements to the two leaders) had not been contradicted its authenticity could not be questioned at that stage. Senator, Mr. Wasim Sajjad, stated that privileges were intended 'to ensure that members of Parliament are able to effectively discharge their duties as such members' and 'the most important privilege is that which permits a member to discuss matters of national concern without fear and without any intimidation from any outside quarter'. Thus an attempt to intimidate members with a view to influencing them in their Parliamentary conduct was a breach of privilege. He also underlined the need for an effective law to deal with breach of privilege of this kind. Mr. Iqbal Ahmad Khan, Minister for Justice and Parliamentary

Affairs observed that while he believed in the freedom of speech and expression but when somebody warns “that all those members of Parliament would be ‘gheraoed’ and would not be allowed to return to their constituencies” the last phrase negating the interpretation which was being placed on the word ‘gherao’ by Senator Qazi Hussain Ahmad it amounted, under the Constitution and law to a clear breach of privilege of the House. He accordingly advised that the motion may be admitted.<sup>62</sup>

After the removal of Junejo government on May 29<sup>th</sup>, 1988 President Gen. Zia-ul- Haq became politically alienated. In order to win public support and in an effort to show his commitment for implementing Shariah he managed to enforce his own Shariah Bill on June 15<sup>th</sup>, 1988.<sup>63</sup> The Jamaat opposed the Bill. Its stance was that the Bill did not envisage Shariah as the supreme law. It just called Shariah as source of law. Jamaat was of the view that the Bill did not state the Government accountable for its functioning. Thus the JI turned into opposition of Gen. Zia. This was continuity of Qazi’s personal stance within JI against party’s support of referendum.<sup>64</sup> Qazi also turned JI’s decades old policy of opposition to PPP and as a whelming sign vehemently appreciated Z. A. Bhutto’s contribution to foreign policy of Pakistan<sup>65</sup>. Qazi might expand relations with PPP but it eliminated the Shariah bill when it came to power after Zia’s death. PPP’s successor IJI Government, which was allied with the JI also, adopted Fabien policy to enforce Shariah in the country. Government accepted the Shariah Bill in November 1991 due to pressure of religious circles. The Bill familiar the Shariah as supreme law of the state. Even then JI was not satisfied with the Bill. It was of the view that Shariah, according to the bill, could not cover the political, economic and family matters. Despite JI’s critical view about the Shariah, the legislators of the JI voted for the Bill due to assurance from the Government that it would introduce an amendment in the Bill which would mention Islam the official religion of Pakistan and according to which Shariah would be the supreme law. Though after the passing of the Shariah Bill, it was not amended.

## 1.12- The Criminal Law Amendment Bill, 1989

Aitzaz Ahsan presented the bill before the house, that the bill

“To provide for the appointment of the judges (The criminal Law amendment bill, 1989), as reported by the standing committee, be taken into consideration at once. On December 16, 1989, the President and Prime Minister mutually agreed a detailed appointment procedure of Supreme Court and High Court judges, which involved recommendations from the Chief Justice of a High Court or the Supreme Court, and from the Law and Justice Minister, the Prime Minister and the President, as well as background checks conducted by the intelligence and law enforcement agencies. The general tenor of the agreement is that judicial appointments are to be agreed by the judiciary, the President and the Prime Minister. However, as one experienced respondent pointed out to the delegation, the intelligence reports are sent to the Prime Minister and the President, not to the Chief Justice. The reports are about the ‘moral character’ of the candidate. This may have an adverse impact on candidates who drink alcohol, or on women candidates against whom sexual allegations have been made (which apparently occurs frequently). This exacerbates gender bias already present in the system and contributes to a conservative Islamization of the legal system. The Agreement on Judicial Appointments is significant in that it appears from the interviews conducted in the course of the Ibhari mission that its procedures continue to govern the appointment of judges to the higher judiciary, even though this procedure is not required by the Constitution. The Agreement is reproduced as under: Appointment of Judges of the High Court’s:-1.1. On his own initiative or on receipt of information from the law and Justice Division verbal or written a panel of three names against each vacancy is forwarded by the Chief Justice of the concerned High Court to the Governor of the province. Copy of this communication is sent to the Federal Law Ministry. 1.2. From the Governor the file goes to the Chief Minister of the Province. The Chief Minister through the office file makes recommendations or his comments on each nominee of the Chief Justice to the Governor. 1.3. The Governor sends a D.O. Letter to the Federal Law Secretary containing his opinion on each nominee in the Chief Justice’s panel based on the recommendations/comments of the Chief Minister. 1.4. Copies of the D.O. Letters of the Provincial Chief Justice and the Governor are sent by the Federal Law Secretary to the Chief Justice of Pakistan for his comments. 1.5. Based on the recommendation/comments/opinions of the Provincial Chief Justice, Governor of the Province and the Chief Justice of Pakistan, the Law and Justice Division submits a summary to the Prime Minister together with recommendations of Chief Justice and Governors. The Law and Justice Minister approve the submission of the Summary. 1.6. On receipt of the Summary, the Prime Minister calls for report from the DI. B and DG ISI. 1.7. After completion of above formalities, the Prime Minister and President hold consultations in the light of the recommendations, comments, opinions and Intelligence reports etc. 1.8. Based on such consultations and as agreed in one or in more than one meeting the Prime Minister tenders advice on the Summary to the president reflecting the agreement reached which is approved accordingly.”<sup>66</sup>

Qazi Hussain Ahmad brought all the flaws of the bill to the light and all the bad intentions of the government benches were highlighted. The federal government could choose the judges among the judge of the high court to sit at a place determined by the federal government of the high court. So the judges would be out of the building of the high court and would sit a place where the federal government would be happy. The federal government would choose three judges of the high court to sit in the special bench of the high court. This was an open challenge to the discretionary powers of the chief justice of the high court.

### **1.13- Qazi Hussain Ahmad Condolence on the Death of General Muhammad Zia Ul Haq**

On August 17<sup>th</sup>, 1988 General Muhammad Zia Ul Haq, who had ruled Pakistan for over eleven years, was killed in an airplane crash along with several other generals and U.S ambassadors.<sup>67</sup> It came as a shock to the whole nation; Benazir Bhutto called it one of those 'Movements in life so stunning' so unexpected, that they are difficult to absorb.<sup>68</sup> Qazi Hussain Ahmad addressing Majlis e Shoora meeting in December 20<sup>th</sup>, 1988, he said that the death of General Muhammad Zia Ul Haq shaped judicial space but army could not do best and made law in work. He said the policies of the General Zia were according to the Islamic principles.

Qazi said the policy of the General Muhammad Zia Ul Haq's comes at a crucial time for Pakistan, both in-terms of the Nation's domestic, political situation and of development in the region. The ruler of Pakistan from 1977 until his death in 1988 Zia had also been called the person most responsible for turning Pakistan into a global center for political Islam.<sup>69</sup> Qazi said that the Zia's Foreign policy, which was based in strong support for the Afghan guerrillas and for the United States, would not change. Zia ruled played a major role in the 1979-1989 Soviet Afghan war. The Pakistan army under Zia's rule had trained Afghan "Mujahedeen" to fight against the Soviet occupation throughout the 1980's that culminated in the Soviet Union's withdrawal in 1989. Qazi said, the United States used Gen Zia to defeat Soviet forces in Afghanistan and then had him killed because the general was planning to establish a regional bloc constituting Pakistan and the newly liberated states for the Soviet Union. He said that the 'Islamization' and 'Sharization' was the primary policy or centerpiece of the government of Gen Zia but whatever steps were taken by Zia for the Islamic system were based on the bad intention. If he had done all in a fair sense, he would be appreciated in every field of life. The people, at the initial stages appreciated him as he used and exploited the name of Islam and presented himself as a true Muslim. Gen Zia could do anything he wanted but he did nothing for Islam. Allah had granted him great opportunity but he harmed Islam instead of serving it.

### **1.14- Politics of Islami Jamhuri Ittihad (IJI) and Qazi Hussain Ahmad**

In the Zia regime, the military elite let the public rule return. The top brass under General Aslam Baig, the new army chief, decided to affect the politics of country with remote control. The parliamentary elections arranged by President Ghulam Ishaq Khan on November 16, 1988, were supported by army<sup>70</sup> but army was not ready to leave the affairs of the country for the politicians or Benazir Bhutto, the chairperson of Pakistan Peoples' Party. It appeared that Benazir Bhutto would win the election with heavy mandate. In order to stop smooth sailing of PPP, an anti PPP coalition was managed by the Inter-Service Intelligence (ISI).<sup>71</sup>

Qazi Hussain Ahmad wanted to show that he was leader of common man. For this reason he wanted to make coalition with PPP and refused to join IJI. He was of the view that interests of his party, which would be substitute to the PPP, should be to serve democracy in country. The ISI head told him that membership in the IJI was mandatory; otherwise, Jamaat's role in Afghanistan and jihad in future would be in danger.<sup>72</sup> When the opposition of PPP became an essential for JI, Qazi Hussain Ahmad shifted his early admiration for Bhutto and declared in the conference of the Central Majlis-i- Shura of the JI, apprehended from June 10<sup>th</sup> to 13<sup>th</sup>, 1988, "PPP is a secular party and Benazir is a western type of women. Therefore, it does not even arise a single question that we should unite with the PPP, and we cannot think even to run any movement under Benazir's supervision or her leadership."<sup>73</sup>

Now the leaders of IJI including Malik Qasim, Sher Baz Mezari and Nawaz Sharif visited Mansora and conversed to Qazi Hussain. Thus Jamaat's old ideological rivalry with the PPP, JI's old connections with General Muhammad Zia Ul Haq and Jamaat's desire to continue its important role in Afghanistan under the patronage of army made JI decide to join Islami Jamhuri Ittihad (Islamic Democratic Front) IJI. Prof. Ghafoor, JI's nominee was elected as the Alliance's Secretary General.<sup>74</sup> Ultimately JI contested November 1988 elections from the platform of IJI. Due to the formation of the IJI, the PPP could not get clear majority. It bagged 93 of 205 seats. The IJI got 54 seats and emerged as second largest political party. Within IJI

the Jamaat got 8 of 26 contested seats.<sup>75</sup>

### **1.15- Qazi's Voice against Mismanagement and Human rights violations**

Senator Qazi Hussain Ahmed sought leave to discuss a matter regarding the fundamental rights;

"Privilege Motion: A question of breach of privilege of the House was raised on the ground that the Senate as part of the federal Parliament is the custodian of the fundamental rights and these rights stood infringed by the federal information Ministry's action to suspend the placement of government advertisements in a local English daily "the Muslim": as government advertisements were publicly funded a restriction discriminately imposed on one particular newspaper in order to pressurize it to change its independent policy also impinged upon freedom of the press and thereby lowered the credibility of the Parliament which is charged with the duty to preserve and protect the fundamental rights guaranteed under the Constitution: it was held that the impugned action did not in any way impinge upon the independence, sovereignty, dignity or status of this House, nor did it have any nexus with the working of the House or was in any way connected with or arose out of the functions or duties of the honorable members who had raised the question: as regards the contention that the action has hurt the credibility of the Parliament which is charged with the duty to protect and preserve the fundamental rights it was held that the fundamental rights as enshrined in Article 19 (2) are subject to law and several other conditions laid down in the Article itself: besides, Article 199 (c) entrusts this particular duty of protection of the fundamental rights not to the Senate or the Parliament but to the courts: this is not something for the Senate to determine and to adjudicate: it is entirely for the courts and if somebody is aggrieved by the impugned order he can take it to the court under Article 199 (c) of the Constitution. On 12th March, 1987, Senators Mr. Javed Jabbar, Maulana Kausar Niazi, Qazi Hussain Ahmad and Mr. Mohammad Tariq Chaudhry in separate but identical motions sought leave to raise a question of breach of privilege of the House as the custodian of fundamental rights, arising out of the breach of these rights by the alleged restrictions imposed by the Federal Ministry of Information on the placement of Government advertisements in a local English daily, "The Muslim". It was contended that such discriminatory restrictions imposed on a newspaper with a view to pressurizing it to change its independent policy and the use of Government controlled advertisements as a lever to control dissent represented a direct attack on the independence and freedom of the Press and lowered the credibility of Parliament which has been assured time and again that Government policy was to uphold the freedom of the Press and which also had the responsibility of preserving and protecting the fundamental rights. The action also it was alleged tended to impede and obstruct the Parliament in the performance of its functions. Opposing the motion Kazi Abdul Majid Abid, Minister for Information and Broadcasting denied the allegation and observed that the Federal Government had issued no instructions and put no restrictions on the issuance of Government advertisements to the local English daily, "The Muslim". He reiterated that it was the policy of the present Government to protect and fully uphold the freedom of the Press as enshrined in the Constitution. But as provided in the Constitution itself the freedom was subject to law and Government could not allow activities damaging to the national interest and harmful to the integrity of the country. Further, a newspaper could not claim advertisements whose frequency was also subject to seasonal variation as a matter of right or privilege. He expressed the view that an unwarranted campaign had been launched against the Government on the question of advertisements to this newspaper for the last few days. Such tactics did not help to create a healthy atmosphere. Rather it could prejudice the case of the newspaper itself. Senator Mr. Hasan A. Shaikh observed that he failed to understand how the alleged action amounted to a breach of privilege of the Senate or a member of the House. The Senate cannot be considered to be the custodian of fundamental rights. Redress of grievances arising out of alleged violation of fundamental rights could only be sought from the courts of law."

Qazi Hussain Ahmad had pledged to fight constitutionally against the cruel laws and exploitation of the people. He stressed that each citizen was equal before law. Justice should be provided to the citizens at their doorsteps. Qazi Hussain Ahmad was of the opinion that the nation would be prosperous and satisfy if they were granted the fundamental rights in a smooth and a proper way without any restriction and delay. He struggle for the basic rights of the citizens at the floor of the Senate and even became a stumbling block before the mismanagement and human rights violations by the government.

Qazi Hussain Ahmad completed his six years period of the senate successfully. He played a vital role in the amendments of the constitution in order to Islamize it. He, at the floor of the senate of Pakistan, legally and openly fought against the Martial law regulation inserted by the then Government in the constitution. He functioned as a parliamentarian for the solidarity of Ummah with a Fundamental Concern of his life. In that interest, in 1995 this incredible pioneer Qazi Hussain Ahmad approached Iranian President before join all the Islamist gatherings to end sectarianism. Furthermore that particularly of the segment of MMA Alliance (Muttahida Majlis-e-Amal) was appearance dream. Be it, Iraq, Kuwait or issue of Palestine, Qazi Hussain Ahmad stayed especially concerned. He has given careful consideration to the engendering of the proclamation of the JI. He worked unselfishly through Movement for Restoration of Democracy for the General Election of 1985. In 1986, He took a shot at Pakistan Culture and Tourism Bill. Qazi rolled out a huge commitment to improvement JI's viewpoint. He started Caravan-e-Dawat-o-Mohabat (walk towards adoration and welcome) to advance the Jamaat and it demonstrated JI's authoritative power on the issue of the implementation of the Sharia Ordinance 1988, Qazi saw through Zia's expectations who announced Sharia wellspring of law not the incomparable law. At the point when IJI was shaped with clear religio-political purposes Qazi consented to go along with it subsequent to setting out specific conditions. In 1991, Qazi bolstered Saddam Hussain in the Gulf War. At the point when Nawaz Sharif indicated faltering in the implementation of Sharia in the nation, Qazi betrayed him. Under Qazi, Jamaat's participation measure was loose. The arrangement of Pakistan Islamic Front (PIF) was a noteworthy advance forward with respect to Qazi's administration as it was the need of great importance to return to the political system. Qazi spearheaded Dharna (sit-in) politics to assault against debasement and nepotism and JI even boycotted the elections of 1997, on the grounds of defilement. On the Kargil issue, Qazi upheld the military's position of the control of the Kargil statures. Qazi respected Musharraf's military upset as a panacea for defilement.

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- <sup>18</sup> Abdul Rashid Moten, *Revolution to Revolution: Jamaat-i-Islami of Pakistan* (Karachi: Royal Book Company, 2003), 99-100.
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<sup>27</sup>*SP Debates*, July 13, 1986, 15.

<sup>28</sup>*SP Debates*, July 13, 1986, 12.

<sup>29</sup>*SP Debat*, February 10<sup>th</sup>, 1986. 711-716.

<sup>30</sup>Rashid Taliban, Rashid writes More than 1600 serious incident were recorded between 1987 and 1997, 487 persons were killed and some 2300 were injured. The year 1997 was the worst in which serious incident were recorded claiming over 200 lives and 1998, which started was another year of world sectarian violence and religious fanaticism. 194-196.

<sup>31</sup>Rias, *Afghanistan and the Regional Powers*, 907.

<sup>32</sup>Qazi Hussain Ahmad, *Pakistan and the Afghan Crises: (Institute of Policy Studies)*, Islamabad, 1986. 11.

<sup>33</sup>Crisis of Impurity: *The role of Pakistan, Russian and Iran in fueling the civil war" in Afghanistan: journal of Human Rights*, Vol 31 no 3 (July 2001), 20-26.

<sup>34</sup>Goodson, *Afghanistan's Endless War*, 74.

<sup>35</sup>*SP Debates*, 1987, 16.

<sup>36</sup>Rogers T, The invasion of Afghanistan created resentment among Afghan people. This made the central Government in Kabul unpopular and the Soviet Troops as well and which faced reality. They were unable to penetrate. 1992, 32-33.

<sup>37</sup>Bibli Miller, R (1989). *Afghanistan and soviet Alliance: In Saikhmal Malley, W. The Soviet withdrawal from Afghanistan*. New York: press Syndicate of the University of Cambridge, 109.

<sup>38</sup>Senate Debate, 2nd February, 1986, 368-379.

<sup>39</sup>*SP Debates*, December 24, 1985, 4.

<sup>40</sup>*Ibid*, 6-7.

<sup>41</sup>*Ibid*, 7-9.

<sup>42</sup>*Ibid*, 10.

<sup>43</sup>*Ibid*, 30-32.

<sup>44</sup>*SP Debates*, December 25, 1985, 40.

<sup>45</sup>*The Express Tribune*, January 12, 2013.

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<sup>47</sup>S. A. Rabbani, Amendment in the constitution of Pakistan 1973, Additional secretary, National Assembly of Pakistan, [http://members.tripod.com/national\\_assembly/amended.htm](http://members.tripod.com/national_assembly/amended.htm): January 5, 1999.

<sup>48</sup>Shahid Javed Bukhari, *Pakistan under the Military: Eleven years of Zia-ul-Haq*, Describing Zia-UL-Haq's (Islamic revision to Pakistan Law). 36-38,

<sup>49</sup> SP Debates, 1989, 111-125.

<sup>50</sup> SP Debates, 1989, 1245-1246.

<sup>51</sup> Offence against Prophet(Enforcement of Hudood) Ordinance (1979)(Pak).(Prohibited theft); prohibited (Enforcement of Hadd) order(1979)(Pak)(prohibited the consumption of intoxicants);Offence of Zina a(Enforcement of Hudood) Ordinance (1979)(Pak)(prohibiting false allegations of adultery). For these ordinances, see Punjab police, law and rules, <http://www.punjabpolice.gov.pk>.

<sup>52</sup>The provision of this ordinance shall have effect notwithstanding anything contained in any law for the time being in force, stating the necessity of modification of the law relating to Zina to bring it into conformity with Islam.

<sup>53</sup> Strong feelings over Pakistan rape law: *BBC News*, November 15, 2006.

<sup>54</sup> Offence of Zina (enforcement of Hudood) ordinance 4,5(1),5(2)(a), 8(b)(1979)(pak) published the offence of adultery.

<sup>55</sup> UnderHudood, consent will amount to Zina and lead to punishment of victim. Quoting Jahangir and Jiani, 88.

<sup>56</sup>*The Dawn* (Newspaper), Islamabad September 5, 2003.

<sup>57</sup>Analyzing the Zina ordinance and concluding that the definition of the term 'adult' was discriminatory between men and women.

<sup>58</sup> Hudood ordinance, *The crime and the punishment for Zina*: [amnest.org](http://amnest.org).

<sup>59</sup> Kadri Sadakat, (2012). *Heaven on Earth: A Journey Through Sharia Law from the desert of Ancient Arabia*, Macmillan. 226-227.

<sup>60</sup>In the resolution Qazi Hussain Ahmad said that the gathering would give measure up to chances to ladies, revoke terrible laws and cancel respect killings and so forth.

<sup>61</sup>SP Debates, May 28<sup>th</sup>, 1988, 110-112.

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<sup>64</sup> Meer, *Qazi Sahib! Ap Humesha Zinda Rahein Ge*, 183.

<sup>65</sup> Kennedy, *Judicial Activism*, 214.

<sup>66</sup> SP Debates, December 16<sup>th</sup>, 1989, 222-225.

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<sup>67</sup> There is also still a lot of controversy on whom or what actually lies buried in Zia's supposed grave. Some people claim only his jawbone was found and identified, and is buried there; whilst other claim that bits and piece of a number of the air crash victim were put in together. See Shah Rizvi in his article in "The Pakistan observer "Islamabad, August 27, 1988.

<sup>68</sup> Benazir Bhutto, *Daughter of Destiny*: Simon and Schuster, 1988,377.

<sup>69</sup> Nadeem F. Paracha, March 28, 2013 *Times of the vital signs*: Dawn News, Nadeem F. Paracha, archived from the original on April 2, 2013 retrieved April 3.2014."This was a time when the wily Gen Zia was reigning supreme....even though the country, at the time was covered by a...façade of strict conservatism and ...moralistic pretence....ironically it...also propelled the gradual expansion of the country's urban middle and lower middle...classes and it is the youth cultures that emerged term these classes that launched the first shots of the kind of pop cultural, scene and music we now call modern Pakistan pop".(Madrassa Expansion).

<sup>70</sup> *The Nation*, August 18, 1988.

<sup>71</sup> It is an open secret in Pakistan that the IJI was put together by the Military's Inter Services Intelligence, which brokered a deal between arrays of right of center Islamic Parties to prevent PPP sweep at the polls. In ISI's coalitional arrangement, the Muslim League party was the chief component and a few smaller parties, including the MQM, ANP, JUP (Niazi Group) were its partners see Hussain Haqqani, *Pakistan Between Mosque and Military* (Islamabad: Vanguard Books, 2005), 1; also see Syed Vali Raza Nasr, "Democracy and the Crisis of Governability in Pakistan", *Asian Survey*, 32, No.6, 1992, 523.

<sup>72</sup> Haqqani, *Pakistan Between Mosque and Military*,202.

<sup>73</sup> Qazi Hussain Ahmad, *Hikmat-i-Amli Ka Tasalsul*: Metro Printers: Lahore, 2007, 32-33.

<sup>74</sup> Syed Vali Raza Nasr, *The Vanguard of Islamic Revolutions: Jamaat-i-Islami Pakistan* (London: I.B. Tauris Publishers, 1994),209.

<sup>75</sup> Moten, *Revolution to Revolution*,54.

## CHAPTER- 2

### QAZI HUSSAIN AHMAD IN THE SENATE OF PAKISTAN, 1990-1996

As already mention in the previous chapter, Qazi Hussain Ahmad was chosen as a senator in the first time in 1986-1990, in his first period he did not complete his 6 year tenure as a senator due to parliament was dissolve in 1990. He selected as a senator again in 1990-1996. He completed his tenure as a senator and resigned in 1996 against the corruption of the government of PPP. After the resignation Qazi started movement against the corrupt political system in Pakistan. According to Main Tufail, Qazi Hussain Ahmad was a very competent parliamentarian. He played a vital role in the first period of the senate to made legislation and gave a lot of work as a senator in the favor of Islamization. He did not hesitate presenting the motive of his party (Islamization). He opposed those bills which were presented before the House just to hurt the fundamental rights of the citizens or restricted the Nizam-i-Mustafa in the country. This is clear from the debates of Qazi Hussain Ahmad in the Senate of Pakistan.

#### 2.1- Kashmir Issue and Qazi Hussain Ahmad

Qazi Hussain Ahmad sought to raise a discussion about Kashmiri people and Kashmirian rights:

Point of order: We have all forgotten Kashmiri people and we are all silent about Kashmir issue. Before me Jatoi Sahib said that Kashmiri people have made example three months before to boycott Indian parliament but Pakistani media remained silent. when various newspapers from Sarinagar and videos made various agencies came here in Pakistan then we knew "Fire in Kashmir" and blood is everywhere in beautiful vale. After that, I informed foreign minister but no vain and even our prime minster did not like to talk. Rajiv Gandhi said in front of him that there is no need of census and election in Kashmir. But our prime minister didn't say any word. It has cleared that kashmirian people did not participated in elections; it shows that they want to join us. Therefore we want justice there. Their demand and their objective is so clear that in any court of world hear this case then decision will in favor of Kashmir people. UNO role and SAARC countries have to play their role and for this our country has to take steps. It is our moral duty to cooperate with Kashmirian people. Jamaat-i-Islami (JI) Amir Qazi Hussain Ahmad warned on against any compromise on the Kashmir issue".

Qazi Hussain Ahmad said that the people of Kashmir had been fighting for freedom from British rule, and with their struggle about to bear fruit they were not willing to let the princes fill the vacuum<sup>1</sup>. Although many princes wanted to be "independent" (which would have meant hereditary monarchies and no hope for democracy) they had to succumb to their people's protests which turned violent in many provinces. Kashmir could choose to join either India or Pakistan. Most of

the populations of the Kashmir are Muslim and they want to join the Pakistan. India and Pakistan have fought three wars over Kashmir, Wars of 1948 and 1965, as well as the Kargil War of 1999.<sup>2</sup> Pakistan is accused of spreading anti-India sentiment among the people of Kashmir and, according to India, most regions of Pakistani Kashmir, especially northern areas; continue to suffer from lack of political recognition, economic development and basic fundamental rights.<sup>3</sup> But Pakistan suggests according to the two-nation theory Kashmir should have been with Pakistan, because it has a Muslim majority. India has shown disregard to the resolutions of the UN Security Council, Pakistan claims, and the United Nations Commission in India and Pakistan, by failing to hold a plebiscite. Pakistan rejects Indian claims to Kashmir and claims that the Maharaja handed over control of Jammu and Kashmir under duress, thus invalidating the legitimacy of the claims.

Qazi Hussain Ahmad discussed that we have all forgotten Kashmiri people and we are all silent about Kashmir issue. Jatoi Shaib said that Kashmiri people have made example three months before to boycott Indian parliament but Pakistani media remained silent. When various newspapers from Srinagar and videos made various agencies came here in Pakistan then we knew "Fire in Kashmir" and blood is everywhere in beautiful valley. After that, I informed foreign minister but no vain and even our prime minister did not like to talk. Rajiv Gandhi said in front of him that there is no need of census and election in Kashmir. But our prime minister didn't say any word. It has cleared that Kashmiri people did not participated in elections; it shows that they want to join us. Therefore we want justice there. Their demand and their objective is so clear that in any court of world hear this case then decision will in favor of Kashmir people. UNO role and SAARC countries have to play their role and for this our country has to take steps. It is our moral duty to cooperate with Kashmiri people. Jamaat-e-Islami (JI) Amir Qazi Hussain Ahmad warned on against any compromise on the Kashmir issue and in this session Qazi Hussain Ahmad summarized the opinions of India, Pakistan, and Kashmiris as follows:

### **2.1.1- Indian View**

India claims that as the Maharaja Hari Singh signed the Instrument of Accession in October 1947, handing control of the Kingdom of Jammu and Kashmir over to India, the region is theirs, having been validated by the Indian Independence Act and the departing British Empire.

- India claims that the UN Resolution 1172 in 1948 accepted India's stand regarding all outstanding issues between India and Pakistan.
- India claims that Pakistan has not removed its military forces, which India views as one of the first steps in implementing a resolution.
- India accused Pakistan of funding military groups in the region to create instability, and accuses Pakistan of waging a proxy war.
- India accuses Pakistan of spreading anti-India sentiment among the people of Kashmir, through the media, to alter Kashmiri opinion.
- According to India, most regions of Pakistani Kashmir, especially northern areas, continue to suffer from lack of political recognition, economic development and basic fundamental rights.

### **2.1.2- Pakistani View**

- Pakistan claims that according to the two-nation theory Kashmir should have been with Pakistan, because it has a Muslim majority.<sup>4</sup>
- Pakistan argues that India has shown disregard to the resolutions of the UN Security Council, and the United Nations Commission in India and Pakistan, by failing to hold a plebiscite.
- Pakistan rejects Indian claims to Kashmir, centering on the Instrument of Accession. Pakistan insists that the Maharaja did not have the support of most Kashmir's. Pakistan also claims that the Maharaja handed over control of Jammu and Kashmir under duress, thus invalidating the legitimacy of the claims.

- Pakistan claims that India violated the Standstill Agreement and that Indian troops were already in Kashmir before the Instrument of Accession was signed.
- Pakistan claims that between 1990-1999 the Indian Armed Forces, its paramilitary groups, and counter-insurgent militias have been responsible for the deaths of 4,501 Kashmiri civilians. Also from 1990 to 1999, there are records of 4,242 women between the ages of 7-70 that have been raped. Similar allegations were also made by some human rights organizations.
- Pakistan claims that the Kashmiri uprising demonstrates that the people of Kashmir no longer wish to remain part of India. Pakistan suggests that this means that either Kashmir wants to be with Pakistan or independent.

### **2.1.3- Kashmiri View**

- It is difficult to assess Kashmiri public opinion, and the region contains supporters of various different solutions to the conflict. Alongside those who align more closely to either the Pakistani or Indian government views, there are also those who favor independence for Kashmir. According to one survey of Kashmiri public opinion:
  - 43% of the total adult population wants complete independence for Kashmir.
  - 1% of Azad Kashmir (in Pakistan-administered Kashmir) wants to join India compared to 28% in Jammu and Kashmir (in Indian-administered Kashmir).
  - 45% of Azad Kashmir wants to join Pakistan compared to 2% in Jammu and Kashmir.
  - 11% of the total population wants to make the Line of Control a permanent border.
- The All Parties Hurriyat Conference<sup>5</sup> represents the main separatist movement in Kashmir. However, it has multiple branches, each holding differing views on how Kashmir should proceed independently, which is indicative of the vast array of opinions that exist across the territory.

- Whether it is due to religion or region, Kashmir is not a unified voice on the matter of its future. Apart from the unending call for democracy and human rights standards, Kashmiri's differ in their opinions all over the territory, and this must be taken into account when discussing solutions.

Qazi Hussain Ahmad, acting president of the Pakistani religious alliance Muttahida Majlis-e-Amal and chief of the Jamiat-e-Islami, is a hardliner who openly supports the Hizbul Mujahideen, a terrorist outfit operating in Jammu and Kashmir. The MMA, which is in power in two districts in Pakistan, faces an internal crisis after its secretary general Maulana Fazlur Rehman endorsed President General Pervez Musharraf's attempt to become Pakistan's constitutional head. This could affect the MMA adversely; the party won in the elections because of its religious appeal and its anti-America plank. Qazi, however, refuses to acknowledge Musharraf as president. He also organized demonstrations against India's Prime Minister Atal Bihari Vajpayee. This time too, Qazi tells Sheela Bhatt, he is not in favor of the peace initiatives between India and Pakistan.

On January 3, 1990 Qazi Hussain Ahmad moved a resolution in senate session that the, next Jamiat-e-Islami will celebrate Kashmir day<sup>6</sup> on February 5<sup>th</sup>, 1990 after then Prime minister of Benazir Bhutto announce to practice it in National level, so that we show integrity with Kashmiri people.<sup>7</sup> Qazi Hussain Ahmad said that present government is using such policy which is not good for Pakistan and Kashmir but movements of Kashmir want freedom from Indian I wish that all political parties should favor Kashmir movements. Qazi Hussain Ahmad wrote various Islamic states head to raise Kashmir issue in the world and said to call Islamic conference. Indian army should leave Kashmir to give peace. Qazi Hussain Ahmad stressed on Pakistan government to revise their foreign policies and also further said to government that he should steeds on Indian government to stop such events like "Saniha Chrar Shreff .

## **2.2- In Opposition to Benazir Government (First Term)**

During the 20 months' period of Benazir Bhutto as Prime Minister from December 1988 to July 1990 Qazi Hussain Ahmad and his Jamaat opposed Benazir Bhutto<sup>8</sup> and launched a movement against her considering her ignorant about basic knowledge about Islamic values. Jamaat launched a large scale propaganda campaign against Benazir. The Jamaat's behavior softened only when it found that PML-N was negotiating with the MQM, the rival party of Jamaat, in order to destabilize Benazir's Government.<sup>9</sup> Qazi Hussain Ahmad said that finishing PPP government due to huge personalization, corruption and horse trading in their government. In this situation, there was a need of Islamic unity and peace. He demanded proportional representation in the coming election.

### **2.2.1- Law and Order situation in Sindh and Qazi Hussain Ahmad**

Law and order situation of Sindh was without fail, a crisis for all the governments. The ethnic divide got intense that the MQM (A) workers insisted on the separate province. The MQM (A) leadership explicated that it was sentiments of the people which got hold of the wrong end of the stick by the leaders. The MQM (A) leaders and all cited that the claim for separate province was constitutional and if Mohajirs would be treated like second-grade citizen then no other option would be left except separate province. In Sindh the felonies vis a vis; dacoits, abduction and assassinations were pervasive. The government went for the extension of army stay in Sindh till June 1994 in an attempt to root out the reasons of trouble. Nawaz reckoned Operation Clean-up as a conspiracy hatched by the PPP opposed to the MQM (A) and the army.<sup>10</sup> Nawaz Sharif recommended the army to roll back the operation as before long. The dialogues held between leadership of the PPP and the MQM (A) but just by reason of disagreement over two portfolios no reasonable upshot floated up. Nawaz Sharif tried his hardest to blight the credibility of the government and to incite the nation against the government.

The incorporation of MQM (A) in Sindh administration was not pondered of note by the Benazir since she was of perception that Nawaz had former tendered provincial authority to the MQM (A) with the optimism that it would get harmony in the province however the effect was contrary. She supposed that each time in the government of the MQM (A) the infiltration of Indian elements and crimes bumped up. She alleged that the MQM (A) had joined the Indian elements against the stability of the province. The absentia of the MQM (A) in the Sindh government meant no representation of the urban Sindh. Sindh had assorted cultures and communities and their unity was a key for good law and order which could only come to pass through their participation in the political system.<sup>11</sup> If the MQM (A) were incorporated in the government then responsibility of the affairs of Sindh would be mutual and two big community's i.e; Sindhis and Mohajirs were tolerant towards each other. The panacea of Sindh's tribulations was utmost provincial autonomy. The Operation Clean-up was in effect since June 1992 however operations did not endow Sindh with the normalcy. The MQM (A) dismayed at the operation in Sindh and contemplates disorderly. The appalling situation in Sindh prevailed due to difference of views between the PPP and the MQM (A) over the settlement of Sindh issue. The government was not in the position to break off the operation for strong judiciary, police system and civil administration were awfully needed in post-operational Sindh and they were not there. In such circumstances the pull out of the army was detrimental for broken law and order and could render more obstinate elements.

In such circumstances a political solution could be the only cure-all of the predicaments. The army operation in Sindh did not led countenance to democracy and made the political system dubious. The settlement between the PPP and the MQM (A) was not viable option when army set off the intense dire action against the leadership and workers of the MQM (A) and its leaders were goaled. The MQM (A) insisted on immediate withdrawal of cases opposed to its leadership which was not conceded by the ruling party. The operation put the existence of the MQM (A) on the line. The PPP ticked off the MQM (A) through

denunciation of Altaf Hussain for confrontation and stirring trouble whereas the MQM (A) had reproof the PPP for pushing it up the creek. The government and army did not trust the organization (MQM) (A) an inch given that it had massive automatic weapons with them. The government declined the allegation regarding the registration of fake case against the MQM (A).<sup>12</sup> Benazir confirmed that if Altaf sought homecoming then he would have to appear before the court. Benazir ruled out the likelihood that to instigate a dialogue with Altaf Hussain. She insisted on minus Altaf talks. Altaf judgment on the Sindh situation was that if the MQM (A) invariable curbed and wronged then the provincial government could not handle the issues of Karachi and Hyderabad in the context of unattended ethnic divide and some kind of mayhem would inevitably result. The environment devoid of confidence of political parties over each other had exacerbated the situation and confirmed that political leadership was not susceptible of getting normalcy back in Sindh. Latter the operation in Sindh extended till the December of 1994 as chief minister had implicated prospect that by that time the civil government would be in the position to implement its complete authority for of normalcy as a consequence of the army's efforts. The unsound law and order in Sindh had a repulsive effect on the popularity of Benazir. The premeditated visit of Benazir to the Sindh University campus Jamshoro had put the district and university administration into dire trouble. The news of Benazir visit exasperated the students and they warned that stage protest would be happened if she paid a visit to the campus. It was also reported that teachers' support was with students. The law and order got despicable not only in Sindh but all in other parts such as in Malakand division where fundamental Islamic movements created disturbance in northern tribal areas.

Ultimately the operation was terminated formally on December 2<sup>nd</sup>, 1994 with the anticipation that Sindh administration would attend to the situation in an appropriate manner. The military withdrawal transpired at the time when average rate of assassinations went above the average rate of killing per day in the Second World War. In total 408 persons had been killed since the November 1993 in Karachi division and subsequently the

wrapping up of operation proved further detrimental to the security and safety of the public. The government was gone at find out of the political solution but the pace of dialogues between the MQM (A) and the government pertinent to Karachi issue was slow. Leghari himself wanted that Sindh situation should be thrashed out with all the political forces in order that suitable solution could come up. Post to the resumption of talks between the MQM (A) and the PPP just in the course of four days July 11<sup>th</sup>, 1995 and July 14<sup>th</sup>, 1995 following misfortunes happened with the MQM (A) such as such; the MQM (A) leader Saeed was abducted and later on assassinated plus the MQM (A) workers were regularly raided by police, two workers and three adherents of the MQM (A) were killed, the MQM (A) worker Ikram Ahmad Farooqi was apprehended and afterwards killed, the members of All Pakistan Mohajir Student Organization (APMO) were seized and police and rangers had arrested 18 MQM (A) workers. Several rounds of parleys came to pass between the MQM (A) and the PPP but no effective approach unearthed owing to the fact of stubbornness and lack of trust. The problems of Karachi were thorny and multi-dimensional. It had political, economic, social and ethnic issues which were not probable to resolve without the active partake of the MQM (A) in the affairs of the province. It could only be achieved through happening of earlier local bodies' elections but the government was not prepared to bring it. The matters of Karachi needed to run a tight ship but the repugnance between the leadership of both the parties did not let the political solution to arise.

Benazir expounded that the putrid situation in Karachi subsisted since 1985 and it did not get well again on account of the fact that there was no demarcation between terrorism and politics. Benazir referred to the immeasurably killings in Karachi as massively done by the MQM (A). In these circumstances the atmosphere of mutual trust and respect was not viable. The frequent impasses between both the parties latter palpable that government hungered for do away with the Altaf group from the political arena. Benazir did not prudently make do with the Karachi issue as Sindh government was technically present but in fact the political power over the law and order situation in Karachi was in control of

federal government. With the dawn of year 1996 the law and order get further ghastly and rate of killings ascended. In the erstwhile year about 2000 deaths happened in Karachi.<sup>13</sup> The snatching of vehicles and assassination were frequent incidences. The elements of lawlessness proliferated. The federal and Sindh governments did nothing except to lay blame on the MQM (A) for the killings and the MQM (A) all the time asked for the withdrawal of cases against its leadership. The parties were more inclined to cash the situation for their gain. The Karachi issue was in fact utilized by both the parties to score a point against each other. The endeavors of police and rangers to normalize the situation were all of no consequence.

Senate session was held on April 6<sup>th</sup>, 1989 to discuss present situation of public and PPP government desired Dictatorship. In this condition, Islamic unity and peace is compulsory. It was decided to help Sindh people and continuously contact will be needed. In Sindh ethno-nationalism was one of the momentous reasons of appalling law and order and collisions between the political parties. The governments did not manage to bring normalcy in Sindh owing to political blackmailing by the coalition partners. Working relationship between Centre and Sindh were badly affected which also bring political instability at the Centre level. The direct involvement of the Centre in the Sindh matters were palpable and against notion of provincial autonomy. The good law and order could transpire by means of understanding rather than military operations. The military operations were disastrous for its own reputation as time and again few political parties alleged them of being devotee in the course of conduct of operations. The military asked for more powers to attend to the situation in Sindh and whenever the Centre declined its demand the antagonism came to pass between them. Qazi Hussain Ahmad reflected on criticism on PPP Government. That it is not following limits which are made for laws. Corruption is its peak and setting prime minister and her husband is involved that shows their immoral values and we will fight against all social evils.

Qazi Hussain Ahmad remarks on the PPP Government that the Law and order situation was worst in Karachi. The Terrorist activities were at its peak. The corruption and dishonesty are the order of the day. The Karachi administration has totally failed in controlling the law and order situation. Foreign Policy has also been failed. On December 27, 1995, Benazir Bhutto blamed Altaf Group was helped by India. Forty camps were established in India to train the terrorists. On January 1, 1996, the President, Farooq Leghari called for a high level meeting at Karachi in order to have Deliberations over the Law and Order situation in Karachi.

### **2.3- Election Campaign 1990**

Qazi Hussain Ahmad went away for election campaign on October 11, 1990, 1st program was planned on Lala Musa. In his speech, Qazi Hussain Ahmad said that last Government was ineffective due to which mistakes if revises newly Government yet again those mistakes, it will not stay alive. Consequently it is essential to make a decision most excellent for nation. He said that USA is main obstacle in Islamic setup. People are in dilemma so presently there is much requirement of Islamic unity. And near evening, he started his journey for Rawalpindi, on Murree road he also spoke about Kashmir, Philistine, and Afghanistan domestic circumstances. He also addressed in Lahore and Karachi .In summing election movement, Qazi Hussain Ahmad said that Islamic democratic unity showed people of Pakistan has refused foreign powers and secularism.

#### **2.3.1- Qazi Hussain Ahmad from IJI in the Elections of 1990**

Jamaat contested elections 1990 from the platform of IJI. The Jamaat was predictable for victory at polls and preferred to contest from the platform of IJI on 26 seats. Though, the IJI leadership, uncertain about JJ's electoral performance, permitted JJ to contest over 18 seats. In the elections PPP could bag only 44 seats and IJI rose as majority party with 106.<sup>14</sup> The Jamaat once more got eight seats out of eighteen contested seats. IJI's biggest component

PML-N's head Nawaz Sharif assumed the premiership on November 6<sup>th</sup>, 1990. Jamaat was unnoticed in entire government-making process.<sup>15</sup> According to Khurram Jah Murad, no key leader of IJI invited JI to join government and it was altogether ignored while the party preferred to take important Finance and foreign ministries. An additional reason of displeasure of Jamaat with the government of its ally was the rising relations of the government with MQM that was top political opponent of JI. Furthermore Nawaz Sharif denied being fundamentalist and Jamaat became more angry with such secular posture of Nawaz Sharif. This led to more stressed relations with PML-N.

The Nawaz Government's posture on the promulgation of Shariat bill was not completely in line with Jamaat's stance. Nawaz government got the bill passed but Jamaat considered it was not important practically as there was only a promise to make a commissions regarding social, economic, administrative and educational institutions.<sup>16</sup> Notwithstanding Jamaat's opposition to the Sahria Bill, its legislators in National Assembly as well as Senate voted for it. The help of Jamaat's officials to the Bill raised a contention inside Jamaat as Mian Tufail Muhammad condemned those lawmakers on the ground that they additionally acted in insubordination of Allah Almighty and that they likewise contravened Sharia. The justification spoken by Qazi-led legislators was that they supported the Bill as government had guaranteed them that it would revise second provision of the constitution that would envisage Islam as religion of state and Sharia as supreme law of the state. This justification did not show realistic thing because the government did not act according to this.<sup>17</sup>

### **2.3.2- Islamic Democratic Unity and Qazi Hussain Ahmad**

Qazi Hussain Ahmad talked about that Islamic democratic unity is established to provide having good character and honest leadership for nation so that national hopes will be satisfied. Islamic welfare nation will be given name and high-quality society will make to establish best for nation. Leaders have not fulfilled their promises so our views will be presented again and again. In 1990 election, Qazi Hussain Ahmad and Jamiat- e -Islami

stressed IJI successful efforts but after that Nawaz Sharif became Prime minister and did not prove his promise to launch Islamic values and unity. As a result Qazi Hussain Ahmad stressed on Islamic unity plan. To see irregularity and inconsideration attitude towards spreading Islamic values, Qazi Hussain Ahmad became separate from Government in 1992.

#### **2.3.4- Criticism of IJI on Government**

The Islami Jamhoori Ittehad (Islamic Democratic Alliance) was a right-wing conservative alliance formed in September 1988 to oppose the democratic socialist Pakistan People's Party in elections that year. The alliance comprised on nine parties, of which the major components were the Pakistan Muslim League (PML), National People's Party(NPP), Jamaat-e-Islami (JI), with PML accounting for 80% of the IJI's electoral candidates. The Inter-Services Intelligence (ISI) agency, under director Hamid Gul, had a major role in forming the center-of-right political alliance. Care had been taken to ensure that the alliance comprised nine parties to generate comparison with the nine-party Pakistan National Alliance (PNA) that had campaigned against PPP in 1977. Nawaz Sharif emerged from the 1988 elections as the most powerful politician outside the PPP. In December 1988, he succeeded in forming an IJI administration in Punjab and became the province's chief minister. In 1990 elections, the electorate surprised observers. Neither the IJI nor the PPP was expected to come up with a firm mandate to rule. IJI received a strong mandate to govern, winning 105 seats versus forty-five seats for the Pakistan Democratic Alliance (PDA), of which the PPP was the main component in the National Assembly. Opposition groups alleged large scale selective rigging of seats to not just ensure an IJI victory but also prevent those opposed to Military influence from being elected. In the 1993 national elections, the IJI coalition no longer existed to bring together all the anti-PPP forces. The religious parties expended most of their energies trying to form a workable electoral alliance rather than bolstering the candidacy of Nawaz Sharif, the only person capable of challenging Benazir Bhutto. Qazi Hussain Ahmad said that country's law and order

situation was dwindling day by day. Bad situation of Sindh has entered in Punjab. We resultantly reached at that India is major source behind on this. Internal and external pressure is to stop to become atomic power. Harsh and cruel condition is in Kashmir. Pakistan gives its own view. We presented objectives of IJI that atomic power should not control foreign powers. People have to unite and do co-cooperative work in all phases.

#### **2.4- Qazi's Efforts for Public Awareness**

Qazi was aware to the people when Moscow began losing its hold once again Afghanistan and the Russian and Afghan powers had formally surrendered in the deliberately vital Khost territory. Following the surrender, an assignment of the Jamaat-e-Islami (JI) drove by the then Ameer Qazi Hussain Ahmad went to Khost to meet the Hizb-e-Islami Afghanistan's (HIA) boss Gulbadin Hekmatyar. It was after quite a while that Islamabad-based writers got a chance to arrive in Afghanistan when the Soviet Union was secured a pitched fight with the Afghan Mujahideen. It was a remarkable trip to be sure in the organization of Qazi Hussain Ahmad amid which the JI delegation and columnists remained at a few surrenders previously achieving the Khost province. These hollows filled in as the central command of Hizb-e-Islami Afghanistan from where Muhajideen would assault the Russian occupation powers crosswise over Afghanistan. The HIA warriors had shot down a Russian helicopter daily before the entry of the delegation. No sooner had the news of the landing of the appointment fanned crosswise over Khost than Soviet gunship helicopters surfaced in the skies provoking the Mujahideen to shroud the guests in trenches burrowed close to the Khost River. Qazi Hussain Ahmad remained outside and opened a burst of flame towards the capital Kabul with a Kalashnikov. The gunship helicopters shelled the street prompting Khost. The street was strewn with many bodies including those of Russian and Afghan troops. A short time later, Qazi said the Almighty had spared him for a unique reason which was the solidarity everything being equal and their strength over the globe. Qazi established the frameworks of his gathering on the standards of solidarity among Muslims and the

Russian attack of Afghanistan cemented his position. He had assumed a key part in the development of a seven-party organization together to suit the Afghan refugees in Pakistan. Qazi said that he didn't separate between the Jamaat-e-Islami and Hizb-e-Islami. His part in the arrangement of Muttahida Majlis-e-Amal was likewise praiseworthy. In spite of the fact that he couldn't accomplish every one of his goals amid his 21-year initiative of Jamaat-e-Islami, he prevailing with regards to opening the entryways of his party to one and all, making ready for an upheaval.

## **2.5: The Persian Gulf War 1991 and Qazi Hussain Ahmad**

Persian Gulf War began in 1991; the conflict within Jamaat was quite famous. The statements of Mian Tufail, Qazi Asad Gillani and Senator Professor Khurshid, leaders of Jamaat issued on the occasion were opposed to one another. The stance of Majlis-Shura of Jamaat and that of Qazi Hussain Ahmad also appeared different to each other. Shura opposed Iraq's invasion of Kuwait. They called it a barbarian activity of Saddam Hussain and condemning it demanded Iraq to vacate Kuwait following Saudi Arabia's demand. In the consecutive meetings of Shura, Jamaat's legislators too supported Pakistan's sending its troops against Iraq. Historically the JI had always supported the Raabta Alam-e-Islami and Saudi Arabia but due to stance of Qazi it appeared as if party was supporting secular minded Sadam Hussain. Qazi Hussain Ahmad, in contrary to the policy of government of Pakistan and JI's Shura, praised the actions of Iraqi government and called the conflict as war between the Muslims and the Jews . On Qazi's headings the JI constrained government to remove U.S diplomat in challenge annihilation of Iraqi Muslims by America-drove troops in Iraq.<sup>18</sup> On Qazi's requests the JI prearranged fifty seven Jihad revitalizes and two dozen "Coffin clad" revives to accentuate that its workers were prepared for suffering in the Jihad against the counter Islamic powers of the west. Jamiat-i-Tulba, the student's wing of the JI, sorted out 338 revitalizes and open gatherings all through the different urban communities and towns of Pakistan.<sup>19</sup>

The Government and Mian Tufail Muhammad condemned these approaches of Qazi Hussain Ahmad. Nawaz Government asserted that these arrangements misused the circumstance to destabilize Government. Mian Tufail, in his meetings, distributed in JI's magazines, seen that Qazi in consistence with General Baig needed that Pakistan may work for Iraqi interests.<sup>20</sup> At the point when MianTufail found that his perspectives were not gone to by the administration he surrendered from Jamaat'sShura in protest.<sup>21</sup> Similarly the relations amongst Jamaat and IJI too came to at limit. The issue of discussion was the arrangement of Afghanistan's administration after the fall of Najibullah Government. JI wanted that a coalition legislature of two gatherings of Afghan Mujahideen, Jamiat-i-Islami and Hizb-e-Islami be framed. Nawaz Sharif dropped the possibility of Qazi that there would be disorder in the event that Gulbadin of Hizb-e-Islami and Rabbani of Jamiat-e-Islami were overlooked in the development of government. Nawaz government, in as opposed to the perspectives of Qazi Hussain Ahmad, perceived the administration of Mujaddadi. These advancements in Afghanistan influenced Jamaat to crush with IJI on May 5, 1992.<sup>22</sup>

## **2.6- Pakistan Islamic Front (PIF) and the Elections of 1993**

The IJI Government could not complete their five years term. It was third elected government that could not compete its tenure since 1985. Care taker government announced the new election, which was scheduled on 6 and 9 October 1993 for the national and provincial Assembly respectively. The previous alliances got dissolved, because the coalition parties either left or lost interest in them. PPP made political arrangement with PML-J under the title of Pakistan Democratic front. PML (N) decided to contest election independently. JUI (F) and JUP (N) agreed to support each other under the banner of Islami Jamhoori Mahaaz. Muttahida Deeni Mahaaz was another alliance which was the collection of 24 right-wing and Islamic political parties led by Mulana Sami Ul Haq. JI under the leadership of Qazi Hussain Ahmad established a new political organization named Pakistan Islamic Front. During the election, JI declared PPP and PML (N) as equal evil. The party tried to rise as a third force in the election. Qazi Hussain Ahmad has

increased enthusiasm in his workers in the election campaign. He wanted to win the election like sudden rise of the Islamic Salvation Front in Algiers in 1991. But it was defeated badly by both parties; even it lost their previous voter bank. JI won only 3 seats in the national assembly and received total 650,000 votes. PPP emerged as the single largest party by winning 86 seats in the national Assembly and formed the government. PML (N) got secured 73 seats become the second largest party of the parliament. JI continued its performance as real opponent of non-Islamic rulers, while seizing power-sharing chances. Pakistan Islamic Front was a unique experiment in past. It did not achieve its objective, however it can be modified. According to Professor Khurshid Ahmad Pakistan Islamic Front was a new experiment in the electoral politics of JI. It was our (Khurshid & Khuram Murad) idea and the leading role was played by Qazi Hussain Ahmad. He recognized that the alliance could not achieve its target due to insufficient home work. However, the initiative we had started in 90s, adopted by other Islamic movements in next three decades and now it become a model for change. Soon after the election, meeting had been called of the central consultative body. JI senior's leaders were not happy on the bitter experience of Pakistan Islamic Front. So heated debate started among the main decision making body, leading to the resignation of the Ameer. Election was held for the new Ameer, but Qazi Hussain Ahmad was elected again for the next five years.

President Ghulam Ishaq Khan dismissed Prime Minister Nawaz Sharif and dissolved the parliament on April 18<sup>th</sup>, 1993 on the charge of mismanagement and corruption. Supreme Court did not validate the act of president and called it unconstitutional. In the end military chief had to brake a deal between Nawaz Sharif and Ghulam Ishaq Khan to end the conflict between them. The conflict, though, led to the mid-term elections in October 1993.<sup>23</sup> In the election no major political alliance came into existence unlike former elections. There was straight contest between two main leaders Benazir Bhutto and Nawaz Sharif. During this time Qazi Hussain Ahmad became convinced that both major leaders were not credible because of alleged corruption and mismanagement. He challenged both of these political

forces and claimed that JI was third and alternative choice for the election. Therefore Qazi left his plans of making electoral alliance with either PML-N or PPP and led to form Pakistan Islamic Front (PIF) as an electoral arm of JI.<sup>24</sup>

In order to win public support in elections where JI was contesting as a single party, Qazi Hussain Ahmad brought a fundamental change in the organization of JI. He relaxed criteria for membership of JI that formerly could accommodate only those who performed their religious rites, refrained from every kind of sins and were ready to serve Islam.<sup>25</sup> Mian Tufail criticized that act of relaxation in the membership. When Qazi unsuccessful to relax the membership criteria of JI an idea to form Pakistan Islamic Front, a parallel body, was floated. In beginning Shura did not endorse it but afterward it was approved.<sup>26</sup> Now Mian Tufail criticized that Qazi Hussain Ahmad ruined Jamaat's structure. He was critical to PIF on the grounds that its way of getting popularity was not different from that of PML-N and PPP.<sup>27</sup> Qazi, however, justified the formation of PIF calling it necessary revolutionary change according to the need of time. He said that Maulana Maududi also changed JI's point of view after emergence of Pakistan. He reminded that Maududi was also criticized by many members in meeting at Machi Goth. Qazi asked, "If there was a need to change the Jamaat just after seventeen years of its creation, is it not essential to change it after fifty years." He affirmed that with the change of the strategy he had not changed the principles and objectives of Jamaat. He said that as leader of the Jamaat he was responsible to derive new ways for its development.<sup>28</sup> To Khurram Jan Murad, Qazi's decision for making PIF was unique as since the experience of 1970, JI had always contested elections through alliances with other parties and did not contest under its own name, symbol and manifesto. Qazi brought revolutionary change in JI by making PIF that was different from Jamaat in two ways. First, instead of JI's strict criteria regarding membership any believer of Islamic laws and sincere to Pakistan could join PIF as a member. Second, instead of some special persons from leadership of Jamaat every worker also got the opportunity to participate in the decision making.<sup>29</sup> The PIF manifesto was revolutionary in nature. The PIF promised a

new labor policy to get better living standard of laborers. The manifesto of PIF also promised a society without exploitation and with equal opportunities for every citizen and where the rights of minorities would be preserved.<sup>30</sup> Qazi also departed from JI's conservative ideas about the rights of women as well as minorities. The manifesto of PIF put a new proposal for reservation of some seats for parties in proportion with votes bagged in general elections.<sup>31</sup> For elections the PIF gave tickets to 103 candidates for the National Assembly and 237 for four Provincial Assemblies. In order to contest the elections PIF did not have independent election machinery. On the contrary PIF's election campaign was run by JI and IJT. Along with other ways of attracting the voters Jamaat also used musical songs and poems for the sake of draw the public attention. Music is forbidden in most of religious circles.<sup>32</sup> PIF's crusade made energy in the majority however some senior pioneers of party believed that Qazi had gone to a long way from the order given by the Shura and executive council. Senior headship was become afraid of the attitude of Qazi Hussain Ahmad. Two popular religious magazines which had sympathy with Jamaat Takbir and Zindagi were serious of the PIF's election campaign. Mian Tufail was critical of the selection campaign of PIF on unethical and immoral grounds. He observed that Qazi's ideas were evocative of the ideas of Bhutto and Mujibur Rehman.<sup>33</sup>

### **2.6.1- Benazir's Second Term and Qazi Hussain Ahmad**

Benazir, in her second term after victory in the elections of 1993, tried to have good relations with religious parties<sup>34</sup> but ruling PPP's clashes with Judiciary persuaded JI to launch a movement to overthrow the government. Qazi demanded the resignation of Benazir Bhutto. An interim set up under judiciary was proposed. It created links with PML-N and both parties gave a call for strike in Karachi. The opposition was swarmed to fourteen political parties, one of which was also MQM.<sup>35</sup> JI organized the meeting of fourteen parties of opposition in on August 10<sup>th</sup>, 1996 at Lahore. The parties in the meeting decided to start a movement against the government of Benazir Bhutto named 'Save Pakistan Movement'.<sup>36</sup> Dispute between president and prime minister arouse day by day at peak level. Qazi Hussain Ahmad

said that it is the condition due to foreign powers whose don't want internal peace in Pakistan. USA is one of them. Qazi Hussain Ahmad opposed decision of president to dissolve assemblies and also opposed PPP involvement in temporary Government set up. Jamait-e-Islami will give platform to its nation so that honest, fair and best people will come forward and join Government setup. PPP and Muslim league are same such like two sides of coin. Qazi Hussain Ahmad raised his voice against that Benazir and Nawaz Sharif is non-Pakistani to help Indian nation. He stressed on PPP Government that people have become hopeless from corrupted and immoral leadership. Peace in Sindh does not fulfill without coordination of PPP and MQM.

After this situation of PPP government, Qazi Hussain Ahmad (JI) announced Dharna (sit-in) at front of parliament against Bhutto Government on the basis of corruption. Which thousands of JI workers were expected to march toward capital? The government released the order for the twin-cities police to control the routes in an attempt to stop the march. Despite all-out effort, the JI march reached to Islamabad. The protest was being led by Qazi Hussain Ahmad along with JI senior members and other political parties leaders such Shah Ahmad Noorani (JUP), Sheikh Rashid Ahmad and Muhammad Hanif Chaudhry of PML(N). Qazi Hussain Ahmad delivered speech that they were struggle for the establishment of Islamic system in the state as well as put allegations on the government. The first week of November 1996, President Farooq Ahmad Leghari dismissed the Benazir Bhutto government on charges of corruption, extra judicial killing, mismanagement, and disappointment of law and order.

## **2.7- Discussion on Sales of Goods Act (1930) on September 22, 1994**

The law related to sales of goods is contained in the sale of goods act 1930. This law came into force in July 1<sup>st</sup>, 1930. The act contains 66 sections and extends to the whole of Pakistan.

“Since it is federal law, therefore it is followed in all parts of Pakistan. It relates to moveable goods, such as, fan, book, table, chair, car etc. All goods, which are moveable, can be carried out from one place to another. Where the transfer of goods takes place in a way of sale, there the Sale of Goods Act, 1930, applies. There are many ways whereby contract of sale can be made. They may either be verbal, written, or implied. Purchase of pen for Rs. 50/- is a verbal contract. Everything is not written. If a person gives me Rs. 50/- and takes my pen and I accept price of pen, is called implied

contract. I purchase a book, take it to home, open and find some papers missing or binding is out of order I may return it to get my money back or replace it. Merchantable quality must contain its commercial value. Perished items have no commercial value like perish milk. Seller and buyers are bound to follow rights and obligations, which are provided in contract. Rights and duties either provided or not in any contract, the Sale of Goods Act, 1930, applies in all circumstances. Contract of pledge may take place verbally and if breach of contract is committed, it can be sued. Pawnee has right to sell the goods of pawner in order to recover his credit and expenses for the proceeding of sale. This right even is not provided in contract but Contract Act, which is a statute, gives him such right. Formation of sale of goods contract has two kinds, i.e., contract of sale and agreement to sell. Where a sale proceeds happens immediately and goods are delivered at once that is called contract of sale. Where transfer of goods takes place in future time, which is subject matter, is called agreement to sell. After compliance, agreement to sell is converted into contract of sale.”<sup>37</sup>

Qazi Hussain Ahmad commented on bill of Sales of Goods Act (1930). I am so happy that they have concern about Shariat and Islam and want to abide Islamic principles. But on the other side, verses of Holy Quran are present which need for our economy to do better. The worst thing in our economy is to take payment on the behalf of interest .Islam opposed on it clearly. Economic system of Islam has so many benefits but unfortunately we could not analyze till now. Not only religious leaders but also our economists can play their role. Richer is become richer and poor is becoming poorer day by day. Our Government should stop this because it is recommendations of our ideological council. We become the members in name of Islam but behave against Islamic principles. The main thing is matter of interest. Government should bring full bill for discussion not impartial to discuss so that we will support this bill happily and with proud.

## **2.8- National Integrity Council and Qazi Hussain Ahmad**

All sects of Pakistani religious scholars established National Integrity council which has objectives of to remove religious disturbance and to face all challenges of Islamic world. The central president was Shah Ahmad Noorani. Several meetings were held of this council at various times in which Qazi Hussain Ahmad told that religious madariss are running by itself. Govt. should help them and not to close them, we will not accept this Govt. policy and appeal of National Integrity council that it will country wide strike on May 27<sup>th</sup>, 1995.

On September 12, 1995 Qazi Hussain Ahmad criticized the government in the senate session and informed that government has totally become failure and corruption is at its

high peak. Unemployment is increasing day by day and country is becoming towards distraction. I don't believe on PPP Govt. because it has connection with Indian Govt. PPP and MQM are not serious in solving Karachi issue so Nawaz Sharif is only a way to save our country. Qazi Hussain Ahmad visited countrywide and informed public these negative activities. PPP and Muslim league (N) are not good for our nation. Our members are not behaving well for normal public. On June 12, 1995 Nawaz Shraif came to Mansoor for meeting with Qazi Hussain Ahmad. Meeting remained for 1 hour to discuss issue of Karachi. Qazi Hussain Ahmad said in conference after that I want to solve Karachi issue soon. Karachi issue is basically political issue, it should be solve politically but Government attitude is different

## **2.9- Qazi's Verdicts against Government**

In December 1995 all religious parties decided to take movement against government and said on December 29<sup>th</sup>, 1995 will be day of protest and December 30, 1995 will be "piya jam hartal". Qazi Hussain Ahmad said that law and order situation is very bad in whole country. Peaceful situation has become our dream. Public arousal is an only way to set the Government. Qazi Hussain Ahmad said that this strike will be public referendum. Qazi Hussain Ahmad visited three days Sindh and spoke at different public places and to aware the public that we are slaves of American government due to our government useless policies. USA is itself terrorist in the world. We are fighting for our rights. Qazi Hussain Ahmad decided "DHARNA" against Benazir Government on June 24, 1996. Government took their steps to stop this act but people were with Qazi Hussain Ahmad. People and police were in conflicts on Murree road. Police started shelling but in leadership of Qazi Hussain Ahmad people were united to proceed further and this continued for 1 hour. Qazi Hussain Ahmad took dharna in front of Prime minister house.

After that, Jamat-e-Islami and Muslim League (N) became united informally. They also participated in these strikes. Qazi Hussain Ahmad called for March on October 24, 1996

against Government and Dharna will be on October 27, 1996. On July 20, 1996, Qazi Hussain Ahmad reported to begin challenges the legislature claiming corruption. Qazi Hussain surrendered from the Senate on September 27<sup>th</sup>, 1996 and declared to begin a long march against the Benazir government. Challenges began on October 27<sup>th</sup>, 1996 by Jamaat-e-Islami and the opposition parties, the efforts of Qazi Hussain Ahmad brought fruit and on November 5<sup>th</sup>, 1996 President Farooq Ahmed Laghari break down the government of Benazir government, fundamentally due to corruption.

On January, 1997 Qazi Hussain Ahmad met President Farooq Ahmad Laghari and demanded election which president refused to do that. Qazi Hussain Ahmad said that we will not take part in coming election because it is fraud because those members are taking parts which are involved in corruption affairs. We are boycotting this election. Present timely setup Government is becoming deceiving to public in shape of election.

## **2.10- Qazi's Discussions in Senate**

Qazi Hussain Ahmad remained in touch to every matter for benefits of common man especially for the matter of health and education. He raised some questions in senate sessions on December 7<sup>th</sup>, 1994 like education, water, rulings, social welfare, financial assistance and trading confrontation. Qazi Hussain Ahmad: will the minister for education pleased to state that the number of public schools and colleges for the last three years. 1991-92, 1992-93, and 1993-1994 respectively, the amount of grant given by the government to these institutions and the income from other grants, indicating also the expenditure: and the number of students and teachers, indicating also the examination results with grades obtained? Khurshid Ahmad Shah has given reply that no public schools and colleges are functioning under the control of the ministry of education. The further discussion on this question and the answer was the minister of education which school and colleges are under the federation (Islamabad), we will grant that schools and colleges and which colleges was

in other province, we will not grant that colleges and also not given the grant of private schools.

On September 26, 1994 in 53<sup>rd</sup> session, Qazi Hussain Ahmad raised some points, will the minister for social welfare and special education be pleased to state: that the amount of direct and indirect financial assistance in foreign as well as local currency given to all NGOs and similar organizations/associations etc. in Pakistan and outside Pakistan since 1985, with year-wise break-up in each case: the criteria for funding any NGO or organization: and the details of NGOs and organizations whose applications for financial assistance were declined during the same period? In view of above issue, Dr Sher Afgan Niazi clarify that an amount of Rs.1838.103 million has been given as financial assistance to the NGOs in local currency by the social welfare and special education division. So far as financial assistance indirectly funded by the economic affairs division to NGOs. The criteria for funding NGOs or organizations are as follow: transferred from the Ministry of Finance, Revenue and Economic Affairs and property of the Muslim minority in India. Pakistan had called for an emergency meeting of the OIC member state in New York which condemned the demolition of the mosque. A joint OIC delegation including the Pakistan representative called on the U.N secretary general to express the OIC's concern. Pakistan delegation at the U.N made a strong statement at the plenary session of the U.N general assembly in December 1992. The national assembly also adopted a strong resolution in condemnation of the act.

Qazi Hussain Ahmad highlights some point related to Ministry for Foreign Affairs, Whether it is a fact that a ceremony with regard to independence day was held on August 14, 1994 at the residence of Pakistan ambassador to Switzerland and it is also a fact that ceremony started with a dressed show for which model girls were brought from Pakistan and after dances of women on the musical tunes, the guests were served with kababs and wines? Sardar Asif Ahmad Ali response to the question our mission in Switzerland was

asked to clarify the position by fax. Their reply has since been received which is as follows, a reception was hosted at the Ambassador's residence to celebrate the Independence Day on August 14, 1994. Over 250 guests representing a wide spectrum of people from Switzerland attended the reception. There were high official from the Swiss foreign office, ambassadors accredited to Berne, Pakistan's ambassador in Geneva, Swiss businessmen, academics and media. He asked some questions to the Minister for Education that the education qualification required for the recruitment of trained under graduate teachers in federal directorate of education, whether it is a fact that while making appointment the federal directorate of education Islamabad did not follow the required standard after June, 1992. If not the procedure followed by the Directorate while making appointment against the posts of PST and TGT. Syed Fakhar Imam replied that the minimum required qualification for the recruitment of trained under graduate teachers in federal directorate of education Islamabad is F.A/F.SC, with C.T. according to recruitment rules. No. it is not a fact. The federal directorate of education followed the required standard while making the recruitment of PST and TUGT. The relaxation in profession qualification for under developed areas of Sindh (R), FATA/NA and Baluchistan were given in accordance with the rules.

Qazi Hussain Ahmad was selected first time in 1986-1990 and the second time he was re-elected for that position in March 1992 for the tenure period of 1992 to 1996. He completed his tenure as a senator and resigned in 1996 against the corruption of the government of PPP, chaired by Benazir Bhutto. Major charges against Benazir were horse trading confrontation with Provinces, civil disturbances in Sindh, use of derogatory statements against senate and failure to convene meetings of National Finance Commission and Council of Common Interests. The Services of Qazi Hussain Ahmad as a member of Senate of Pakistan in 1990-1996 have been argued. It has been discussed as a Member Senate, In Opposition to Benazir Government, as elected as a Prime Minister of Pakistan for the First Term. The Kashmir Issue in the membership period of Qazi Hussain Ahmad and his very

services for the Kashmir burning issue has been the concern of the discussion. Likewise the Law and Order Situation in Sindh, Mohajirs' Issue over there, the demands of MQM, relations of the ruling Party PPP with the MQM have been discussed. His very important and memorable services for the need for Islamic unity and peace have been the issue of this Chapter. His role and efforts for the nation of Pakistan in Election of 1990, in conjunction with participation of IJI in Elections of 1990 with a manifesto of Islamic Democratic Unity has been argued. In that pursuit, the Conflicts with Nawaz Sharif and Criticism of IJI on Government and practical proof of his personality as a Man of Gallantry and Courage has been reflected. His service for foreign relations and criticism on Government's foreign Policy including his actions on the Persian Gulf War of 1991 has been also discussed.

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- <sup>4</sup> Yoginder Sikand, *For Islam and Kashmir: The Prison Diaries of Sayyed Ali Gilani of Jamaat-e-Islami of Jammu and Kashmir*: *Journal of Muslim Minority Affairs* 18, no.2 (1998), 242.
- <sup>5</sup> Mirwaiz Umar Farooq, Chairman of Jammu and Kashmir Awami Action committee, on December 27, 1992, called a meeting of the representative of various religious, social and political organizations at Mirwaiz Manzil, Srinagar to consider ways and means to meet the growing oppression by the security forces. A meeting was conducted which was presided over by Mirwaiz. The suggestions made in the meeting were referred for examination to Screening Committee. After considering the report of Screening Committee, the Assembly of Representative on March 8 took the decision to have common platform under the name of All Parties Hurriyat Conference (APHC). It represents Awami Action Committee, Jamaat-e-Islami, Jammu and Kashmir Muslims Conference, Muslim Conference, Jammu and Kashmir Liberation Front (Malik), People's League, Ittihad-ul Muslimeen, All Jammu and Kashmir Employee's Federation, Employees and Workers Confederation, Anjuman-e-Tablig-ul-Islam, Liberation Council, Jamaat-e-Ahle Hadith, Kashmir Bazmeh Twaheed, Jamiat-e-Hamdania, Kashmir Bar Association, Political Conference, Tehreekh Huriyati Kashmiri, Jamiate Ulama-e-Islam, Anjamani Auqafi Jamia Masjid, Ummat-e-Islami, Shahedd-i-Millat Youth Forum, Muslim Khawateen Markaz, Jammu and Kashmir Human Rights Committee, Jammu and Kashmir People's Basic Rights (Protection) Committee, Employees and Workers Confederation (Arsawi Group), Students Islamic League, Islamic Study Circle, Auqaf Jama Masjid. Indicates the membership in the executive council, the highest decision making body.
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- <sup>8</sup> Qazi, *Hikmat-i-Amlī Ka Tasalsul*, 38.
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- <sup>16</sup> Khurram Murad, *Defect in the 1993 Elections: Reason and Aspects*: *Jasarat*, November 5, 1993, 24-25

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- <sup>31</sup> Abdul Rashid Moten, *Revolution to Revolution*, 111.
- <sup>32</sup> Rudad Jamaat-i-Islami (Lahore: Shubah-e-Nashr-o-Ishaat-e-Islam, 1996), Vol. 1, 50-51.
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## CHAPTER- 3

### QAZI HUSSAIN AHMAD AS A MEMBER OF NATIONAL ASSEMBLY, 2002-2007

Already mentioned in the previous chapter, in 1996 Qazi Hussain Ahmad resigned from his seat in the senate, and in 2002 he was elected as a national assembly member from his native town Nowshera N-A 5. It is vital to mention here that Qazi Hussain Ahmad was elected as the Vice President while Maulana Shah Ahmed Noorani of Jamiat-e-Ulma-e-Pakistan is the President of Muttahida Majlis-e-Amal. He contested the October election as a candidate of the Muttahida Majlis-e-Amal (MMA) from three constituencies and won all the three NA seats. The Mutahid Majlis-e-Amal (MMA) came into being with the constant efforts of Former JI Ameer Qazi and nominated the president of MMA, after the death of Shah Ahmed Noorani. He had also served as the parliamentary leader of MMA in National assembly.

Qazi Hussain Ahmad and his alliance MMA were the Opposition party (NA) at that time. He goes over instead of joining the government he reminiscent to work for the restoration of the constitution, supremacy of the parliament and the strengthening of democracy in Pakistan. The Muttahida Majlis-e-Amal religious alliance won an absolute majority in October 2001 regional elections, after which it ruled the North West Frontier Province and Baluchistan. On 25 November 2002, the Muttahida Majlis-e-Amal formed the government in the North-West Frontier Province (NWFP), after the alliance's huge success in the province, at both the provincial and national level. In December 2002 the parliament in NWFP approved legislation to make Sharia, or Islamic teachings, the governing law in the region. Since taking control of the province, the ruling Islamic alliance banned music on public transport, medical examinations of women by male doctors, male coaches for women athletes and male journalists from covering women's sports.

Qazi Hussain Ahmad also paved a vital role in the lower house of Pakistan's Parliament. He did not hesitate to presenting the motive of his party. He opposed those bills violently which were presented before the house just to hurt the fundamental rights of the citizens or limited the ways of Nizam-i-Mustafa in the country. This is clear from the debates of Qazi Hussain Ahmad in the National assembly.<sup>1</sup>

### **3.1- Establishment of MMA and the Elections of 2002**

On 27 June, 2001 in Islamabad six largest Islamic parties head were set combine in which all decided to make platform in shape of "MMA" with their motto as:

*"We will do justice with public and provide true leadership so that real Sharia will be implemented. All types of bad evils are present; we have to erase them from our society."*

Qazi Hussain Ahmad did lot efforts to establish MMA and in future MMA has got huge success. The coalition included having a place with various factions with changed systems in Islam yet sharing basic interests: Jamaat-i-Islam (JI), Jamiat Ulema-e-Pakistan (JUP), Jamiat Ulema-e-Islam (JUI-S) led by Samiul Haq, Jamiat Ulema-e-Islam (JUI-F) led by Fazlur Rehman, Islami Tehrik Pakistan (ITP) and Jamiat Ahl-e-Hadith (JAH). Qazi Hussain Ahmad demanded all parties' conference in Mansoorah on September 16<sup>th</sup>, 2001 because of air and naval ports have given to USA Government. From all parties' conference, it was combined In December 28<sup>th</sup>, 2001 all religious parties decided to take movement against Government and said December 29<sup>th</sup> will be day of protest and December 30<sup>th</sup> will be "piya jam hartal". He said that law and order situation is very bad in whole country. Peaceful situation has become our dream. Public arousal is an only way to set the Government and this strike will be public referendum. He visited Sindh and spoke at different public places and informed public that we are slaves of USA. USA is itself terrorist in the world. We are fighting for our rights. On May 13<sup>th</sup>, 2002 MMA meeting was organized in which it was decided that we will take part in election with same sign, same Manshoor, and same laws and we will stand common member of all parties. On September 10, 2002 MMA released their manifesto for the election it

proclaimed, to implement Islamic system in Pakistan based on Quran and Sunnah, to protect ideological and geographical boundaries of the Islamic republic of Pakistan, to eliminate linguistic, ethnic and regional hatred and establish a peaceful society based on Muslim brotherhood, to promote democratic values and protect Constitution of Pakistan, to have autonomous judiciary and the supremacy of the rule of law, eradicate corruption, provincial autonomy, protection of minorities, remove feudalism, provide rights to women in accordance with Quran and Sunnah, ensure freedom of press and freedom, effort for economic progress.

### **3.1.1- Success in 2002 Elections**

In October 10, 2002 Elections, MMA first time became successful in Pakistan history. At this success, western countries became tense. Then MMA leadership managed party for foreign ambassadors to brief their point of views. All leaders told their opinion about Pakistani politics. Qazi Hussain Ahmad also explained against co-education to German ambassadors. He further elaborate that we are on real thinking so we will be in government or on opposition bench does not matter. After election, MMA established their Government in NWFP Province. They took many steps to stop illegal work. In Punjab province, MMA set them as an opposition. In Baluchistan province, MMA united with Muslim league (Q) for Government.

### **3.2- Qazi's Efforts towards Islamization of Pakistan**

Holding an absolute majority, the MMA president Qazi Hussain Ahmad moved quickly to implement its Islamic agenda in the NWFP province. At first step, it got up an assembly resolution calling on the provincial government to ban bank interest and reinstate Friday as a weekly holiday. It then set up a stacked committee which duly recommended the enforcement of Islamic hudood punishments, including stoning and the amputation of limbs, and the introduction of the death penalty for blasphemy and the consumption of liquor.<sup>2</sup> The next step was a bill passed on to implement Sharia in the NWFP province. This was followed by directives to bureaucrats to pray five times a day and follow Sharia law, curbs on the sale of

music and videos, the destruction of posters featuring women and advertising Western products, and the imposition of a complete ban on alcohol. Meanwhile, the MMA's madrasah educated cadres were encouraged by the government to help police the new laws through vigilantism and violence. Thus religious leaders in the Bajaur agency threatened to raise a Lashkar (soldier) to wipe out elements spreading obscenity and un-Islamic culture. Finally the MMA government strengthened the clout of the Sharia court by appointing Ulama aligned to the party to it.

By way of the accomplishment of the MMA, under the flagship of Qazi Hussain Ahmad, in national and common congregations, the examiners have started to conjecture its effect on popularity based qualities, opportunity of articulation and minority rights incorporating ladies in Pakistan. The Islamic plan of the MMA absolutely not only fit in with equitable standards and qualities as it looks to control minority rights as well as implements a fundamentalist lifestyle in which opportunity of articulation has insignificant space. From these point of view, the approach of MMA as a political power can't be viewed as a positive advancement for Pakistan's vote based battle. The 15-point elections declaration discharged in the 2002 elections said that the MMA would make Pakistan a genuine Islamic welfare state to guarantee equity to individuals and kill defilement whatsoever', 'make an autonomous, just and compassionate monetary framework where nationals will be given chances to employments, business and ventures secure privileges of ladies ensured by Islam and reclamation of their respect and notoriety.<sup>3</sup> The pronouncement, it must be underscored on numerous checks gave a moderate impression and its dialect might be purposely kept delicate to avoid negative open responses. Unexpectedly, the gathering was concurred a 'book' as its election image and the pioneers utilized each event to display it as the 'sacred Quran' amid election encourages and battles.<sup>4</sup>

### **3.2.1- Recommendations of Council of Islamic Ideology (CII)**

Qazi Hussain Ahmad sought to raise a question in the Session of National Assembly: “against the obscenity and vulgarity being broadcast on the electronic media. They requested the regulatory body to make policy guidelines barring TV channels from broadcasting vulgarity. A statement issued by PEMRA said that the meeting also concluded that “any content which is unacceptable while viewing with the family transpires obscenity” and recommended formulating a committee to screen out unwanted content from television advertisements as well as regulating the rating of television channels. He said that this matter refer to the Council of Islamic Ideology (CII) and Parliament.”

Qazi Hussain Ahmad said according to the law, TV channels are barred from telecasting ‘obscene material’; however there are no set parameters to what can be classified as obscene. The word obscenity used to define in different countries with different terminologies, connotations and expression. Qazi Hussain Ahmad said that Pakistan was created in the name of Islam and its Constitution clearly envisages that there can be nothing against the Holy Quran, Sunnah and Shariah. He specifically criticized news channels for spreading vulgarity in the guise of entertainment news particularly showing vulgar dances and songs in every headline. The re-enactment and dramatization of crimes was also severely criticized by the participants as they said that this form of disgust in the garb of investigative journalism should not be tolerated by PEMRA.<sup>5</sup>

Resolved to reinforce Pakistan's Islamic roots, the Qazi Hussain Ahmad squeezed for the incorporation of more Ulmas in the Federal Shariat Court in order to guarantee the strict execution of the CII orders. In spite of the fact that Musharraf never capitulated to the Qazi Hussain Ahmad weights, he made no endeavors to undermine the political saliency of the standard religious gatherings either. Careful about universal revolution towards the Talibanisation and being moderate sufficiently minded to comprehend the significance of clutching power, the Qazi Hussain Ahmad at one phase attempted to downsize its Islamic talk. On December 12, 2002 for example, composed a tradition for ladies to scatter fears of burden of Taliban style Islamic code.<sup>6</sup>

### **3.3- MMA Parliamentary Vote of Confidence to Prime Minister Mir Zafarullah Khan Jamali**

Prime Minister Mir Zafarullah Khan Jamali<sup>7</sup> was programmed to meet up Muttahida Majlis-i-Amal Vice-President Qazi Hussain Ahmad in an unmarked attempt to convince the alliance to support him at the time of the vote of confidence. However, there was little opportunity of the prime minister or the chief minister succeeding in their mission. The MMA is ready to offer support to the prime minister. "Meeting of the parliamentary party leader, Chaudhry Shujaat Hussain, Punjab Chief Minister Chaudhry Pervaiz Elahi with MMA parliamentary party leader Qazi Hussain Ahmad at Mansoor. Qazi Hussain Ahmad was assisted by MMA MNAs Liaquat Baloch, Hafiz Salman Butt, Farid Paracha and other JI leaders. The leaders of both parties decided that the PML-Q and the MMA should again hold talks to build unity and brotherhood in the country on December 21, 2002.<sup>8</sup> Prime Minister Mir Zafarullah Khan Jamali<sup>9</sup> was detailed to talk with Qazi Hussain Ahmad to investigate the opportunity of the alliance's protract to his government at the moment of vote of confidence. To date, the MMA has confirmed its unwillingness to take a stand on the legal framework and the president's position, and explained that unless its conditions are fulfilled, it will not extend to the Jamali government. Jamali will struggle to persuade the MMA not to join the Alliance for the Restoration of Democracy. The MMA has not yet made any decision in this regard. After confirmation by the ruling alliance that the Prime Minister will seek confidence from the National Assembly on December 30, 2002 the center of political activity has been turned back to Lahore, where the parliamentary leader of PML-Q Chaudhry Shujaat Hussain has also concentrated himself there.

After a meeting in Peshawar, the MMA president Qazi Hussain Ahmad had decisive not to sustain the prime minister throughout the vote of confidence. The MMA is ready to put forward support to the prime minister, but in exchange for the difficult circumstances for Mr. Jamali. On the other hand, Alliances restoration of democracy (ARD)<sup>10</sup> President Nawabzada

Nasrullah Khan was by means of his power to go on the MMA left from the PML-Q. He was successful at keeping MMA on his side even when efforts were being made to make the Federal Government. The MMA have been offered position of deputy prime minister, and speaker and deputy speaker of the National Assembly. However, the talks collapsed as the MMA was focusing on issues related to the Constitution. The theme was implicit to have come under conversation at a gathering between Maulana Fazlur Rehman and Nawabzada Nasrullah. Speaking to correspondents, Maulana Fazal said there could be a unified opposition in the National Assembly, but the MMA has not yet made any conclusion on the issue. He said that the MMA was submitting a request for an NA session to talk about why the Superior Court judges had not yet been sworn in under the 1973 Constitution; the FBI operations in Pakistan and the impending US attack on Iraq.

Prime Minister Mir Zafarullah Khan Jamali won a vote of confidence in the Parliament and pledged to try to improve relations with nuclear rival India.<sup>11</sup> Qazi Hussain Ahmad congratulated Mr. Jamali on his success, but said he would walk out of Parliament if Mr. Jamali's government approved Mr. Musharraf's amendments.<sup>12</sup> On this occasion Qazi Hussain Ahmad asserted his stance that: "Musharraf had no right to amend the Constitution," as well as he urged other legislators to join him in his efforts "to get rid of a military president."<sup>13</sup> Qazi Hussain Ahmad's comments in the National assembly 3rd session held on December 30, 2002 he said that we congratulated Mr. Jamali on his success, but I had assumed that how with the present condition of the peoples trust in the government; Mr. Jamali must understand and know the difficulty of the commitments. Qazi said this thing was in front of all that our country had faced 3 years dictatorship and now it's moving towards the democracy. This way of democracy was very slow because the election was held in October 10<sup>th</sup> but still after the 2months and 20 days, they did not elect the senate members through election. Constitution did not work accurately and the superior courts had worked with the PCO, and the superior court put application that gave the permission to superior courts to take pledged through constitution. For

this reason, they properly not re-establish the fundamental rights and the journey of the democracy. That is the reason, Mr. Jamali took the vote of confidence but still he was not in that position to clear the future policies of the country (democracy) and he had not spirit to fulfill the commitments of the people. After took the vote of confidence he was worked in his same limitation, and he said its work not complete in one night but completed gradually. Qazi said, Mr. Jamli said to the people the dictatorship period had been over and now the democracy period was started.<sup>14</sup>

### **3.4- Protection and Empowerment of Women Bill, 2003**

In 2004, Ms. Sherry Rehman also moved a Bill on addressing the issue of 'honour' killings. President Muttahida Majlis-e-Amal (MMA) and Amir Jamaat-e-Islami (JI) Qazi Hussain Ahmad vindicated tearing copies of the Women Protection Bill, saying the bill were practically same as to making a contempt of the directions of the Holy Qur'an and Sunnah. We will repeat the act like tearing copies of the bill on the floor of the National Assembly if such attempts are made against teachings of the Holy Quran and Sunnah.<sup>15</sup>

#### **3.4.1- Qazi's Stance on the Bill**

Qazi Hussain Ahmad said that “ *The Protection and Empowerment of Women Bill, 2003*” about the performance of MMA parliamentarians, He further elaborate that changes in the Hudood Ordinance in the name of protection of women's rights amounts to revolt against the Holy Quran. The government wants to promote obscenity in the garb of women protection, he assumed that the JI leader said they did not want to recall any differences or bitter experience with the Pakistan People's Party or its chairperson when the whole opposition was united against the “dictatorship” of General Pervez Musharraf. We are united on one-point agenda and do not want any differences with the PPP or Benazir at this stage. Qazi Hussain Ahmad, chairman of the Muttahida Majlis-i-Amall, said Islam provided protection and respect for women, while on behalf of the Women's Protection Bill, it became unsafe. He gave his assent:

The bill is not for rights of women but for promotion of obscenity and the next target would be blasphemy law. Addressing a gathering of women in Karachi at Idara Noor-i-Haq through phone, Qazi Hussain Ahmad pointed out that renowned Ulema had opposed the bill while the Ulema of Islamic Ideology Council had discarded it and now Ulema had initiated a movement for safety of Hudood-Allah. He request to women that they should form delegations and contact effective sections of society, inform them of the threats alarming large and convince them to join the movement in order to save the country and the nation. The Jamaat-e-Islami (JI) has term the Women Protection Bill (WPB) an anti-religion endorsement aimed at conciliatory the US and wanted its immediate withdrawal.

The resolution on the Hudood laws observed that different modification to the Women Protection Bill were being prepared in line with the US dictates posted on the State department website. The meeting criticizes the approval of a bill approved by the committee to vote in the National Assembly, while the Ulema committee proposed eight amendments. The JI resolution highlighted flaws in the drafting of the bill's chosen committee, and noted that even non-Muslims living in Pakistan could support changes to the bill. The Shoora disapprove of renovation of repealed provisions of 1979 Pakistan Penal Code to protect the criminals, involved in the offence likes abduction etc in the women's bill. The meeting opined that the Hudood Ordinance 1979 was not repulsive to the Holy Quran and the Sunnah, therefore, every realistic should assemble all available resources to protect it. The Shoora firmly maintained that entire women's bill was in conflict with the teachings of the Holy Qur'an. The Shoora demand religious and political parties, human rights and social welfare institutions to play active role for the withdrawal of the women's bill.

Qazi Hussain Ahmad was against the women protection and empowerment bill, therefore Qazi's remarks were following: As a matter of fact, I have a gripe against the bill, the bill is un-Islamic. We spoke of providing universal literacy, and the members of National Assembly

thought that indirectly we are against education. We said we will make primary education mandatory for all men and women and for girls particularly, we will try and offer free education. We have said we will not restrict women from working. In fact, we have promised to protect working women and to generate the right environment for this. We even make available rifle training for our women. It is part of our agenda to provide whatever women are permitted within the Shariah and Hudood nursing, first aid, rifle training, etc.

We have affirmed we will ban honor killings and in wata- sata situations, we will ensure unless the girls concerned give their approval, these (marriages) will not be allowed they are unIslamic. We have issued a charter for women in which we have unconditionally declared we will accord them respect. We will not implement any cruel policy against women. Social changes are brought about through education, learning and example. They cannot be implemented through the law. Fifty years ago the situation in the bazaars was very different to what it is today but nobody had legally enforced veil (purdah) at that time. Actually, I object to the word segregation when used in reference to sorting out the genders. In the west it is an insulting term. It was used for dividing people along racial lines. The fact is that a combine of the sexes is not part of our culture. In all honorable families, even today, men and women are separate. If you consider, at any function whether it's a funeral or a Friday congregation at the mosque men and women are separate. In homes, when male guests come, women do not sit with them. In every home there are separate zenana and zenani (male, female) quarters. No man likes to have an outside male interfere on his privacy, or sit among his womenfolk. A cultural attack has been launched against us; we are being forced to change our culture.

### 3.5- Legal Framework Order

Qazi Hussain Ahmad rising on a point of order expressed his concern in respect of the Speaker's comments regarding the status of Legal Framework order:

"On November 21, 2002, Qazi Hussain Ahmad and Mr. Liaqat Baloch, MNA rising on a point of order expressed his concern in respect of the Speaker's comments regarding the status of Legal Framework Order (LFO). He stated that in a press conference the Speaker termed the LFO a valid law and amendments made through it formed part of the Constitution. In his view, the Speaker's comments were premature and would affect the supremacy of Parliament and would prejudice the privilege of the House as it was the right of the House to make amendments in the Constitution in accordance with the laid down procedure. Mr. Liaqat Baloch, while elaborating his point of view explained that at the time of taking oath by the members-elect on the 16th November 2002, many members categorically pointed out that they would take oath only under the Constitution of 1973 and on the assurance of Mr. Illahi Bux Soomro, then Speaker of the Assembly, who was presiding the sitting, that the oath would be under the 1973 Constitution, the members took oath. Mr. Liaqat Baloch emphasized that the Speaker should review his stand on LFO in order to maintain his impartiality. M/s Makhdoom Muhammad Javed Hashmi, Makhdoom Amin Fahim, Mr. Muhammad Ejaz-ul-Haq and Maulana Fazal-ur-Rehman, MNAs also spoke on the issue and supported the views expressed by Mr. Liaqat Baloch<sup>16</sup>."

After hearing the honorable members, ruling was reserved. On Saturday, the 14th June 2003, the Honorable Speaker Ch. Amir Hussain gave the following ruling in the House:

"The Supreme Court vide its Judgment in Syed Zafar Ali Shah's case reported in PLD 2000 at Page No. 869 held that the Chief Executive is entitled to perform all such acts and promulgate all legislative measures as enumerated below namely: - (a) All acts and legislative measures, which are in accordance with or could have been made under 1973 Constitution including the power to amend it. The Chief Executive, taking into consideration various compelling facts and after lengthy debates, promulgated LFO. It is significant to note that all the major parties have contested the general election 2002, under the Conduct of General Election Order, 2002, Chief Executive's Order No. 7 of 2002 and none of them filed a petition before the Supreme Court to assail any provision of the legal Framework Order (LFO). Now after the election, the National and Provincial Assemblies and the Senate have been constituted and they are holding their sessions regularly. Many provisions of the LFO have thus been implemented and acted upon. I may like to mention here that in almost identical situation, General Muhammad Zia-ul-Haq made amendments in the 1973 Constitution of Pakistan through different Presidential Orders. During the proceedings of the Assembly in 1985, Mr. Mumtaz Ahmed Tarar, the then MNA, raised a question of privilege that amendment made by General Muhammad Zia-ul-Haq in the Constitution outside the Parliament breached the privilege of the House as only the House was competent to make amendments in the Constitution, in accordance with the procedure laid down in the 1973 Constitution. He further stated that in case the amendments were inevitable and were in the national interest, those should have been placed before the Parliament for validation. After hearing the learned member and the Minister for Law, Justice and Parliamentary Affairs, Mr. Iqbal Ahmed Khan (late), Mr. Speaker, Syed Fakhar Imam, ruled the privilege motion out of order, by observing that: 'They can be amended by this House and this House is competent to take up these amendments afresh and amend them. This House is competent to make law, to re-amend it, if it wants to, or amend any other clause or Article of the Constitution. Therefore, the Privilege Motion is ruled out of order'. Now, my ruling, which I am giving today, after this background, I, in response to a question, in Press conference stated that the amendments made through LFO are part of the Constitution, by way of the powers given to the Chief Executive of Pakistan to make amendments in the Constitution by the Supreme Court of Pakistan. The learned members have failed to convince me that the amendments made through LFO 2002, were invalid or otherwise in violation of the decision made by the Supreme Court of Pakistan. I, therefore, still hold the same view that the Constitution was rightly amended through the LFO on the basis of the decision of the Supreme Court and the amendments made through it in the Constitution, are valid. Further, the amendments made in the Constitution through LFO, 2002, remain within the parameters laid down by the Supreme Court and do not violate any of the salient features identified by the apex court and I hold that LFO is part of the Constitution of the Islamic Republic of Pakistan 1973, and therefore, I rule out the point of order raised on the 21st of November 2002, by the honorable members<sup>17</sup>".

General Pervez Musharraf propagates the Legal Framework Order (LFO)<sup>18</sup> which made changes in 29 articles of the Constitution. These incorporated, restoration of the system of joint electorates along with reserved seats for non-Muslims in NA and PAs; restoration and enhancement of seats for women in NA and PAs, as well as, in the Senate for the first time; lowering the voting age to 18; and increase in the size of legislatures. The LFO also included some highly controversial provisions e.g. validation of all acts and decrees of the Musharraf government, including a five-year extension in his presidential term; unrestricted powers to the President to dissolve the NA and similar powers to Governors with regard to PAs; and the establishment of a National Security Council. The opposition parties, along with the MMA, furnished General Musharraf a very tough time in the National Assembly and the slogans of “No LFO”, “go General Musharraf go” turned out to be a consistent story.<sup>19</sup>

The LFO also made numerous changes in articles concerning disqualification and defection. Only hours before the election, the LFO was amended to rise the retiring age of superior court judges by three years. The same order, through another amendment tolerable independent candidate to join any party within three days of the notice of the elections results. The LFO was challenged in the Supreme Court on the grounds that only the Parliament had the authorization to modify the Constitution,<sup>20</sup> however, the Supreme Court observed that the NA would be the proper forum to examine the issue. Both Mohtrama Benazir Bhutto and Mr. Nawaz Sharif were in ‘exile’ at the time of the general elections 2002. Political developments after 2002 Elections are on the way to a political settlement in parliament. The main cause for the political deadlock was the disagreement over the legal framework order (LFO) between the government and the opposition parties. LFO designed to legalize all steps taken by the Chief Executive of Pakistan since October 12, 1999. Validations of “a man” instead of parliament were the central issue among the opposition and General Musharraf. The opposition parties similar to MMA, PPP and PML (N) have been operational and follower for the re-establishment of 1973 Constitution and had been opposite the modification completed by General Musharraf. The government required

having discussion on LFO with two ordinary parties, Pakistan People's Party Parliamentarians (PPP) and Pakistan Muslim League, Nawaz Group (PML-N), but it is useless to take them to the dialogues. The government convinced MMA and found him ready for negotiations. Both sides decided to settle on several issues that included the President's uniform, unlimited powers over the National Assembly, the formation of the National Security Council (NSC), the power of the 2002 Presidential Referendum and the expansion of the judges' retirement age. As a result, MMA and the ruling party, PML (Q), created a committee at the level of the National Assembly to comply with LFO.<sup>21</sup>

General Musharraf had integrated 29 amendments into the constitution under LFO. The negotiation teams of both sides arranged out seven controversial points out of 29 constitutional amendments introduced by LFO.<sup>22</sup> These were, Article 41(7) which was about the election of the president and holding two offices, Article 58 (2)(b) and Article 112 related to the powers of the president and governors to dissolve national and provincial assemblies. Article 152-A was about National Security Council and powers of the president to make appointments of high rank office holders. Article 268 and 6th schedule were concerned with provincial assemblies which bounded them to amend certain laws with the approval of the president. Article 179 & 195 discussed the extension in the age of retirement of superior judges and article 270-AA legitimized the Presidential Referendum 2002 along with all other amendments made by General Musharraf after 12 October 1999.<sup>23</sup> MMA was arguing that LFO should be recognized as invalid and all provisions of it be presented in the parliament and get passed in it. He said the religious parties' alliance was ready to collaborate with the government for return of the country to a full constitutional rule and help General Pervez Musharraf become a constitutional president after resigning as the Army Chief. We are ready to show flexibility in our attitude but not to the extent that we are deviated from our stance.

The government again sent a request to MMA for talks which also showed some flexibility on the issue of uniform. MMA leaders did not agree with the key issues like LFO and Article 58(2)(b) of the constitution which had bestowed the power to the president to dissolve the assemblies. MMA rejected to acknowledge the proposed National Security Council (NSC) and General Musharraf's extension of presidency for another five years. MMA had been demanding the resignation of General Musharraf from the post of COAS and confirmed the holding of the office by him as contrary to the principles of democracy. MMA wanted to wipe up the LFO which gave flexible powers to the president over the elected parliament. The government had been in conflict that the members of parliament, elected on the basis of LFO, cannot challenge it but there may be some discussion to resolve the differences on LFO. The MMA negotiating team generally criticizes and mocks the Presidential Referendum 2002. MMA leadership also had reservations on system of joint electorate and high indirect proportion of women in the parliament. The government started to force the religious alliance during the talks on LFO. Firstly, Jamaat-e-Islami, the second largest constituent party of MMA, was suspected for having a linkage with Al-Qaeda. After the alleged arrests of four main Al-Qaeda activists, including Khalid Sheikh Mohammed (KSM), a direct linkage between Jamaat-e-Islami and Al-Qaeda was sought to declare Jamaat-e-Islami as a terrorist outfit. The federal government issued a statement that Jamaat-e-Islami had suspected links with Al Qaeda.

There is no dissimilarity among the Muttahida Majlis-i-Amal and the Alliance for the Restoration of Democracy on the Legal Framework Order as mutually alliances are stressed for the Parliament's supremacy as well as trying to put democracy on Constitutional track. This was stated by Muttahida Majlis-i-Amal's (MMA) vice-president Qazi Hussain Ahmad. Qazi Hussain Ahmad said the MMA was holding negotiations with the government to settle the LFO issue cordially despite knowing that members of the government's negotiating team were powerless so far as reaching an agreement was concerned. Highlighting MMA's flexibility, Qazi Hussain Ahmad asserted that despite the alliance's desire to steer the country out of the

current political imbroglio, it would not compromise on its principles, adding that LFO had no legality until it was endorsed by the Parliament with a two-third majority. Cautioning against the packing of assemblies and opposing the imposition of martial law, The MMA leader said that the country would be faced with a worse political crisis if the LFO was not presented before the Parliament. Vice President of Muttahida Majlis-i-Amal, Qazi Hussain Ahmad, described the legal framework order (LFO) as a potential threat to the country's safety and said that the LFO had hampered the application of Shariat in the country.<sup>24</sup> He said that the MMA was opposed to the LFO because it was an obstacle to restoring the constitution, democratic institutions and the rule of parliament in the country.

At present, he said that four parallel governments operating in the country, including the Musharraf government, the United States government that imposed its policies on General Musharraf, the central government headed by Prime Minister Jamali and district governments. He said that these four governments had no program but to create more out of the law and protect their own interests. Qazi Hussain Ahmad said that we will take oath under the constitution not under the LFO. They said the LFO and the amendments are all part of the constitution. We rejected this. We say there is only one constitution that which was suspended on October 12, 2002 and all the amendments have been introduced are illegal. However, we adopted a pragmatic approach if we had not participated in the elections, we would not have been where we are today and I believe that in the process of the transfer of power we will have to show flexibility and so will them military regime. We will follow whatever procedure is compulsory to attain the restoration of democracy, supremacy of the constitution and sovereignty of parliament but we will not waiver from our principles stand.<sup>25</sup>

The MMA opposed the Legal Framework Order (LFO) because General Pervez Musharraf has determined all powers in him, he said and added that in order to build up democracy and for the lead of the parliament, the present government should support MMA's point of view on the

LFO issue. Qazi Hussain Ahmad was of the view that the addition of illegal amendments in the constitution was a serious blow to the provincial autonomy, as the provincial governments feel helpless in resolving domestic issues after the issuance of the LFO. He said that although the MMA had held talks with Chaudhry Shujaat Hussain and others, the alliance remain firm on the LFO issue. He said the deadlock was “due to the rigid attitude of General Musharraf.

### **3.6- Poll Mechanism**

Some high-level politicians in the country, both from the government and from the opposition, approved on the required for a free, fair and crystal clear electoral scheme, but they disagreed in their method. Some of them named for the selection of a chief election commissioner throughout the permission of all the parties, while others persisted on the substitute of the government administer by the military with a provisional system to carry out unbiased elections. The observations were expressed at a two-day seminar on Regional Dialogue, Free Fair and Credible Election Challenges and the way forward arranged by a non-governmental organization. The participants had common consensus on the selection of an independent election commission, but they assert that free, fair and credible elections cannot be guaranteed until the government targets them. President of Pakistan Muslim League Chaudhry Shujaat Hussain has dismissed a question about Musharraf's return to his promise to drop his military uniform on time and said it was not part of the MMA government and the government contract. He disagreed that General Musharraf had been elected legal president in accordance with amendment 17<sup>th</sup> of the constitution and that the government of the alliance was ready to work together with all the political parties in the parliament through administrative dealings to assurance free and fair elections. He said that the election of the Independent CEC <sup>26</sup>without help was not a guarantee of transparent elections but that the government's goal was to make the election process realistic. He gave the example of a former CEC Sajjad Ahmed Jan who had prepared to accept on the second day of the rigged polls in 1977 saying he had done his best to make the process fair but in vain. However, his argument about Justice Jan's resignation was

contested by a participant who claims that in fact the former CEC had gone to Poland for medical check-up and had not resigned.

Qazi Hussain Ahmad, president of the MMA, said two main opposition parties, ARD and MMA, was in harmony, although the constitution under General Musharraf was unconstitutional and must be removed with the help of a passive mass movement. He said the opposition parties have agreed to three points: the dismissal of General Musharraf as president and the COAS, the restoration of the 1973 constitution as on October 12<sup>th</sup>, 1999 with mutually agreed amendments, and the appointment of the Independent Central Election Commission (CEC). He regretted a statement by Federal Information Minister Sheikh Rashid Ahmad, who had said the LFO was part of the Constitution. "This is duplicity," Qazi Hussain Ahmad charged. How can talks resume in such a situation.

Freedom of the judiciary was also established as a precondition for the completion of free and fair elections to govern any pre-election and post-election support. Sherry Rahman of the Pakistan People's Party (PPP) asked the MMA chairman to reverse his role in passing the 17<sup>th</sup> Amendment to permit the joint opposition to advance on its agenda with the aim of removing General Musharraf from power. But Qazi Hussain Ahmad said that before we lament our role in passing the 17<sup>th</sup> Amendment,<sup>27</sup> the entire political parties must regret their participation in the elections in 2002, when all of them should have initiated a movement to get free of military rule at the time.

### **3.7- Qazi Hussain Ahmad and Musharraf US Afghan Policy**

Qazi Hussain Ahmad rejected US Afghan Policy behalf of the opposition member (MMA) of the lower house:

"The National Assembly passed a resolution, categorically and unanimously rejecting the unacceptable targeting of Pakistan by US President Donald Trump, terming his policy hostile and threatening. "The National Assembly unanimously rejects the unacceptable targeting of Pakistan by US President Trump and also rejects claims of General Nicholson, NATO Commander in Afghanistan, regarding existence of Taliban shuras in Quetta and Peshawar," says the unanimous resolution signed by the leaders of all the government and opposition parties. The resolution, moved by Defense Minister Khawaja Muhammad Asif on behalf of members of the Lower House, also condemned the Indian state-inflicted repression on the people of Indian Held Kashmir and reiterated Pakistan's

continued diplomatic, political and moral support for their struggle for self-determination. The National Assembly acknowledged the sacrifices of security forces in their counter-terrorism operation and expressed full support to the counter-terrorism operation being conducted by the armed forces of Pakistan along with the Rangers and law enforcement agencies. The House reiterated that as a responsible nuclear weapons state, Pakistan has in place a robust and credible command and control system, which has been universally recognized. The National Assembly regarded President Trump's and General Nicholson's statement on Pakistan as hostile and threatening, and called upon the Government of Pakistan to express the determination of the people of Pakistan to protect Pakistan's sovereignty and territorial integrity and considered postponement of any visits by US delegation to Pakistan or by Pakistani delegation and officials to the USA, and also consider suspension of cooperation with the US, particularly the provision of Ground and Air Lines of Communication (GLOCs/AALOCs) through Pakistan. The House called upon the government to draw up and inform the US and the Afghan government of a blueprint for the return of all Afghan refugees in a dignified but specified timeframe. The House maintained that the government should formulate economic policies to deal with any situation arising out of the absence of US assistance and commence a diplomatic initiative, particularly with friendly countries in the region, to inform the international community of Pakistan's counter-terrorism strategy and successes and the repercussions on the region of the failed US Afghan policy<sup>28</sup>."

Qazi Hussain Ahmad, in the session of National Assembly on October 10, 2002 talked about the US Military action in Afghanistan that he would be against US military action if his party formed part of a coalition government after October polls. He also said that religious parties would not rule out forming an alliance with secular parties after the general election, which is supposed to return the country to civilian rule. The decisions of the government that are against the wishes of the people like giving Pakistani air bases to the United States or allowing US planes to use Pakistani space for attacks on Afghanistan we will continue to oppose these decisions. "We will withdraw this support," The Muttahida Majlis-i-Amal alliance of six Islamic groups, including Qazi Hussain's already opposed the decision by President Pervez Musharraf to back the US military campaign against the get rid of Afghan Taliban regime and Al Qaeda network. But its opposition could become more awkward for Gen Musharraf if the alliance was to form part of a coalition government after the election. Hard-line Islamic groups had conventionally been allies of military rulers,<sup>29</sup> who had ruled the country for more than half of its 53 year history. But they felt out with Gen Musharraf over his Afghan policy in the wake of last year's September 11 attacks on the United States. Pakistan had fractured down on Islamic militant groups, further infuriating relations with religious conservatives. Qazi said he would support reforms undertaken by Gen Musharraf which enjoy the support of the people of Pakistan. Qazi services Iran-Iraq and the Persian Gulf war, post-soviet power in Afghanistan had been broadly commended and cherished even before the soviet union

attack on Afghanistan, he was get in touch with Afghan mujahedeen and have personal terms with senior Afghan leaders. He said that after the September 9/11 attacks,<sup>30</sup> the US ambassador in Islamabad used to meet regularly with JI leaders to gain their belief and hold. As the representative of the JI in Islamabad, he also convenes with Ambassador Nancy Powell at the US Embassy to present commiseration for the September 9/11 assail. At this meeting, Qazi said Ahmad was an aide to other senior party officials, including the head of international affairs in JI, Chief Abdul Ghafoor Aziz.<sup>31</sup> During the meeting, Powell asked for the support of JI for peace and the elimination of terrorism. He said the messenger had pushed the Islamic Group to support America's decision and not to retaliate. But Qazi Hussain Ahmad told the ambassador clearly that America would only have the support of the JI if it did not attack Afghanistan. "In the event of an attack on Afghanistan, Ahmed warns that the JI will stand against America.

In addition, Qazi Hussian Ahmad was trying to explain to the ambassador how the attack would not benefit America, Pakistan or Afghanistan. He told the ambassador that the whole Muslim community would also return to such an attack. However, Qazi declare, the ambassador did not collect the news well and the meeting finished with a bitter note. Qazi explained that the ambassador was too superficial to observe the delegation correctly and left the sight to the Jammat-e-Islami leaders. After coming up for a long time, Jammat-e-Islami leaders asked embassy staff to call their cars so they could depart. After this incident, Qazi stated that the ambassador had not met any of the JI leaders for nearly a decade.

### **3.8- WANA Operation**

Muttahida Majlis-i-Amal performing president Qazi Hussain Ahmad raised a question in the NA Debate the Wana operation was under US pressure. He said that the Pakistani army was being not in favor of his people in Wana. He has insisted to stop immediately the continuing operation in Wana, South Waziristan. Qazi Hussain Ahmad remarks on this: "People in the tribal

areas are our loyal colleagues and defenders of the country. The government should restrain itself from playing the game of enemy, who want to pit the army against tribal people.”<sup>32</sup> He further said that the foreign elements in Wana were the people, who were invited by the Pakistan government and western powers to wage struggle against Russian intervention in Afghanistan. The army is playing a dangerous game and should desist from playing in the hands of the enemy. They are freedom loving people who fought against Russian intervention.

Qazi said that the operation against Osama Bin Laden, Mulla Omar and other Mujahideen was not an easy task, as they were the heroes of 95 per cent people of Pakistan. The MMA leader said after the operation of Waziristan, the next target of western powers would be the nuclear program of Pakistan. In these circumstances, the MMA would not remain silent spectator and would not leave the nation alone and would raise the voice for the sovereignty of the country from every platform. He said that the MMA leaders had decided to hold its general council session and deliberate on the prevailing situation in the country. We stand by the nation and would not hesitate to give any sacrifice for the sovereignty and solidarity of the country," he remarked. The JI chief said that the slogan of General Musharraf -Pakistan comes first- was beyond comprehension of anyone and asked if it means extending cooperation to the US against Islamic countries like Afghanistan, abandoning freedom struggle of Kashmiris, humiliating nuclear scientists and surrendering before India. Mr. Qazi said that the policy of Gen Musharraf could appease the US and India, but it was not in the interest of Pakistan. About the leader of opposition in the Parliament, he said that the MMA was the single largest party in the parliament; therefore, it was MMA's right claim over the office of leader of the opposition in the National Assembly and the Senate.

### **3.9- Qazi Hussain Ahmad and the Rights of Tribal people**

Qazi Hussain Ahmad raised a question in the National Assembly about the rights of the tribal people:

"Qazi Hussain Ahmad sought to raise the question, which the article 15, 16, 17 and 19 of the constitution are about the rights of the people like as Freedom of movement, freedom of association and freedom of assembly. Wrote in the article 19 of the constitution, that every citizen shall have the right to remain in and subject to any reasonable restriction imposed by law, reasonable restriction impose through government. But nobody tell about the person to reasonable restriction. It is mandatory duty of the government to tell the people about the reasonable restriction of his expression and movement within the country".

Qazi Hussain Ahmad has guaranteed the tribal senior leaders that Muttahida Majlis-i-Amal would raise its voice for providing fundamental rights to the people of Federally Administered Tribal Areas (Fata). The JI leader said that MMA would carry on effort for the rights of tribal areas' people.<sup>33</sup> He informs to the people of Tribal area of that their problems would be move up in the parliament and JI would also launch activities to create social and political consciousness between the tribesmen. Qazi Hussain Ahmad also said we demanded education institutions, health care centers and start on community welfare activities in tribal region, especially in Khyber Agency. They grumbled that the political powers that be were misusing funds and proposed that JI should set up special complaint cell at Al Markaz-i-Islami where the tribesmen would lodge their complaints against political administration. In the meantime, Qazi Hussain Ahmad condemns the government for examined unilateral ceasefire on Line of Control and Line of Actual Contact in Siachen, saying that the decision amounted to compromise on freedom struggle in the occupied Kashmir and snow- covered Siachen region. He said that India was also pressure the Government to give up its stand on the occupied Kashmir, Siachen and withdraw support to freedom fighters before holding mutual talks.

### **3.10- Government-MMA Agreement & the 17th Amendment**

The government and MMA aimed at reaching some sort of understanding over LFO. Realizing the centre's administrative & financial powers and fear of its intervening in NWFP and Baluchistan, MMA agreed to compromise on LFO.<sup>34</sup> The second apprehension was the disqualification of 65 MPs on the basis of seminary degrees which also forced MMA to

compromise. MMA agreed to accept General Musharraf as president till December 31, 2004 to provide him 'safe passage'. The alliance also agreed to help the government in amending the constitutional provisions, relating to the president's Electoral College, under which he took the vote of confidence instead of going for presidential elections. MMA decided not to cast a vote in favor of General Musharraf as it had been opposing his economic, interior and foreign policies and his policy to 'secularize the society'.

The 12<sup>th</sup> NA passed 50 bills (42 bills and 8 ordinances); only 38 bills became Acts (33 bills & 5 ordinances). Of these Acts, the 17<sup>th</sup> Constitutional Amendment Bill, 2003, was debated by the House for four days (16 hours), the highest number of days allocated for debate to any piece of legislation. The Anti-Terrorism (Amendment) Bill, 2003, was passed in 5 minutes; the National Security Council Bill, 2004, and the Defamation (Amendment) Bill, 2004, both were passed in 35 minutes; the Political Parties (Amendment) Bill, 2004, in three hours; and the Pakistan Electronic Media Regulatory Authority (Amendment) Bill, 2004,<sup>35</sup> was passed in 30 minutes. MA President Qazi Hussain Ahmad on Friday turned down calls for the religious alliance to apologize to the nation for its role in the adoption of the 17th constitutional Amendment, a condition set by the ARD for cooperation with the six-party coalition in a movement against President Musharraf. Qazi said the MMA had made no mistake by facilitating the approval of an amendment which in his words had steered the country out a crisis and brought President Musharraf under an obligation to step down as army chief. Therefore, no regrets and no apologies", he said emphatically. He admitted that there were flaws in the controversial amendment and the MMA had accepted some of the provisions only reluctantly. Without identifying such articles, he said on its own or with help from the ARD, the MMA would strike down such provisions whenever it was in a position to do so. Asked about the justification for the MMA to stay in coalition with the PML in Baluchistan after the ruling party's campaign in favor of Gen Musharraf's uniform, the MMA chief said if the religious alliance parted ways the provincial government would collapse, leaving no option for the rulers except imposing

governor's rule. Such a step would worsen the situation, he said about the likely fate of the MMA's government in the NWFP in case the religious parties launched a movement against President Musharraf, the Qazi said if some action was taken against it, the Baluchistan coalition would also come down. According to Qazi Hussain Ahmad, the MMA would not be a loser even if the NWFP government was sacked as in the case of fresh elections in the province, the MMA would return with a still greater majority. He said, implying that there would be no rationale for retaliation by the federal government despite MMA's movement against the president: We are the real representatives of the people of the NWFP. Except for us, nobody has a right to rule the province.

The Qazi said as a matter of fact PML leaders had linked their political destiny to the uniform of President Musharraf and in case he took it off, they would be left with no feet to stand on. Just back after a meeting with the exiled former Prime Minister Mian Nawaz Sharif in Jeddah, the MMA president said Nawaz Sharif had set up a three-man committee for coordination and cooperation with the religious alliance. Raja Zafarul Haq, Chaudhry Nisar Ali Khan and Khwaja Saad Rafiq would be given necessary instructions by the exiled leader. He expressed satisfaction over the outcome of the meeting, at which PML-N President Mian Shahbaz Sharif was also present. Whether it would be possible for the MMA to launch an effective campaign in case the ARD ultimately decided not to cooperate, the Qazi said: "We are not depending upon anyone for our planned struggle. Movements are always launched by people, not parties, and in the present situation anyone representing people's aspirations would get their support. About the purpose of the MMA's movement, the religious alliance would tell the electorate that by refusing to step down as army chief by the set date Gen Musharraf had subverted the Constitution and had lost the right to stay even as the head of state. The Qazi ridiculed argument that Gen Pervez Musharraf could be allowed to retain both offices by amending the relevant law with a majority vote from the bicameral legislature. In his opinion what the ruling party planned to do would have disastrous consequences as it would make it

eligible for a serving army chief to become a member of the National Assembly. Nowhere in the world, he said, such precedent existed and the PML should also desist from setting one. He warned that if the PML went ahead with its plan, it would be giving the future army chiefs the right to become parliament members. He made it clear that the MMA would not hold talks with the ruling party on the issue of uniform. Questioned if Gen Musharraf's plan to stay in uniform enjoyed the support of the army as an institution, the MMA president said by backing its boss on an unconstitutional issue the army would not be doing any service to itself, he stressed:

"If a person dictates the army simply because he happens to be its head, and the institution cannot prevent him from violating the Constitution and the Army Act, it doesn't bode well for the institution, and such an organization can't be called disciplined".<sup>36</sup>

The supreme council of the MMA to discuss the prevailing political situation, the controversy over Gen Musharraf's uniform in particular raids on religious seminaries, arrest of various Ulema, MMA's performance in the National Assembly and the Senate and working of the NWFP and Baluchistan governments would also come under discussion. The participants would also discuss the MMA's working relationship with other opposition parties. Qazi Hussain Ahmad's faltering stand on different issues and its help to General Musharraf's tyrant diagram has obviously undermined the drive to reestablish real majority rules system in Pakistan. General Musharraf's 'guided majority rule government' requires a more strident test than has been endeavored or maybe is conceivable by a formally belittled Qazi Hussain Ahmad. This can be viewed as the 'basic analysis' for the gathering. This would have a significant bearing on the MMA under the direction of Qazi Hussain Ahmad prospects in the 2007 elections. May be, Qazi Hussain Ahmad understands that whoever (MMA under the direction of Qazi Hussain Ahmad or General Musharraf) steps up with regards to remove itself from alternate, stands to acquire in the following general elections.

Qazi Hussain Ahmad has come to fill the political vacuum without a lively PPP and PML-N and keeps on applying some weight on the foundation on different issues. The 'million man

walks' in spite of the fact that have neglected to establish the coveted connection, yet the message that road control remains a successful political instrument with Qazi Hussain Ahmad, has not been altogether lost. Qazi Hussain Ahmad could be viewed as a bane for the eventual fate of majority rule government in the light of its Islamization drive. Relentless Islamization of Pakistan represents a risk to majority rules system, and makes the earth in which radicalism, narrow mindedness and viciousness flourish. Musharraf-MMA partnership demonstrates the inconsistency between the estimations of innovation with its premise in secularism, equity, resilience and ensured established rights from one perspective and the expanding Islamic pattern with its premise in revivalism, bigotry and hostile to current belief systems then again that overwhelms Pakistan. In the event that the MMA under the direction of Qazi Hussain Ahmad neglects to draw a line among Islamization and Talibanization, it might confront the rage of the national government and lose a portion of its help also. General Musharraf has effectively communicated his dismay on the Hisbah bill, and with steady US weight, he may well depend on correctional measures against the MMA under the direction of Qazi Hussain Ahmad.

Qazi Hussain Ahmad has looked to consolidate the necessities of genuine politic with its Islamization drive. It hosts pushed the get-together's plan up to the degree that it doesn't welcome a reaction from the Center. It has been sensible on its part to have consented to the four-point arrangement with government over the enrollment of non-natives in FATA, and undertaking a less radical picture of the gathering. Additionally, the NWFP government's choice to begin enlisting the madaris in the area depicted the MMA under the direction of Qazi Hussain Ahmad as a law-abiding element. The MMA under the direction of Qazi Hussain Ahmad, with its critical nearness in the National Assembly, can muddle Gen. Musharraf's 'guided popular government' particularly on the off chance that he is constrained by the US to take a harder position towards the Islamic powers. In such a circumstance the ARD may look for its help for more liberated appointive majority rules system. In any case, it is likewise a

reality that parties like the JI have been agreeable in the past with military administrations that are ideal to the Islamic gatherings. The Islamic developments that Qazi Hussain Ahmad includes and which keep on developing in partnership with the military administration don't foreshadow well for the eventual fate of vote based system and modernization of Pakistan.

Qazi Hussain Ahmad's faltering stand on different issues and its help to General Musharraf's tyrant diagram has obviously undermined the drive to reestablish real majority rules system in Pakistan. General Musharraf's 'guided majority rule government' requires a more strident test than has been endeavored or maybe is conceivable by a formally belittled Qazi Hussain Ahmad. This can be viewed as the 'basic analysis' for the gathering. This would have a significant bearing on the MMA under the direction of Qazi Hussain Ahmad prospects in the 2007 elections. Maybe, Qazi Hussain Ahmad understands that whoever (MMA under the direction of Qazi Hussain Ahmad or General Musharraf) steps up with regards to remove itself from alternate, stands to acquire in the following general elections. Qazi Hussain Ahmad has come to fill the political vacuum without a lively and PPP, PML-N and keeps on applying some weight on the foundation on different issues. The 'million man walks' in spite of the fact that have neglected to establish the coveted connection, yet the message that road control remains a successful political instrument with Qazi Hussain Ahmad, has not been altogether lost. Qazi Hussain Ahmad could be viewed as a bane for the eventual fate of majority rule government in the light of its Islamization drive. Relentless Islamization of Pakistan represents a risk to majority rules system, and makes the earth in which radicalism, narrow mindedness and viciousness flourish. The Musharraf-MMA partnership demonstrates the inconsistency between the estimations of innovation with its premise in secularism, equity, resilience and ensured established rights from one perspective and the expanding Islamic pattern with its premise in revivalism, bigotry and hostile to current belief systems then again that overwhelms Pakistan. In the event that the MMA under the direction of Qazi Hussain Ahmad neglects to draw a line among Islamization and Talibanisation, it might confront the rage of the national government

and lose a portion of its help also. General Musharraf has effectively communicated his dismay on the Hisbah bill, and with steady US weight, he may well depend on correctional measures against the MMA under the direction of Qazi Hussain Ahmad. In the course of recent years the Qazi Hussain Ahmad has looked to consolidate the necessities of genuine politic with its Islamization drive. It hosts pushed the get-together's plan up to the degree that it doesn't welcome a reaction from the Center. It has been sensible on its part to have consented to the four-point arrangement with government over the enrollment of non natives in FATA, and undertaking a less radical picture of the gathering. Additionally, the NWFP government's choice to begin enlisting the madaris in the area depicted the MMA under the direction of Qazi Hussain Ahmad as a law abiding element. The MMA under the direction of Qazi Hussain Ahmad, with its critical nearness in the National Assembly, can muddle Gen. Musharraf's 'guided popular government' particularly on the off chance that he is constrained by the US to take a harder position towards the Islamic powers. In such a circumstance the ARD may look for its help for more liberated appointive majority rules system. In any case, it is likewise a reality that parties like the JI have been agreeable in the past with military administrations that are ideal to the Islamic gatherings. The Islamic developments that Qazi Hussain Ahmad includes and which keep on developing in partnership with the military administration don't foreshadow well for the eventual fate of vote based system and modernization of Pakistan.

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## CONCLUSION

Qazi Hussain Ahmad changed the parliamentary politics as well as religious politics when he entered into the parliament for the first time as a result of the election held in 1985. He rejected the traditionally parliamentarianism and boldly fought against the undemocratic and non-parliamentarian spirit of the General Zia-ul-Haq and General Pervez Musharraf, although some other leaders of his party were a little bit accommodative towards the dictators. It has been the problems of all the rightists that they have left a window open for the dictators but Qazi Hussain Ahmad was not of the kind. He never joined hands with the dictators. He epitomized the spirit of dissent in and outside the parliament, advocating democracy and all that was normally decent in politics and bitterly opposing all kinds of dictatorships, military or civilian.

When Qazi Hussain Ahmad safeguarded the parliamentary democracy. He demanded the constitution for Pakistan totally based on the Islamic Shariah. Qazi Hussain Ahmad raised lot of question in the parliament, but some of the questions were rejected, but it reflected society's need and the interest of the marginalized. He had struggled throughout his life for the enforcement of the Nizam-e-Mustafa, supremacy of constitution and parliament. He had a strong convinced power. He convinced the Prime Minister and the other contemporary parliamentarian to reject the Hudood Ordinance bill because it was out of Islam. He had the basic knowledge of the Islam and constitution. During his parliamentary debates he showed the awareness of domestic constitutional provisions and legal framework. He demonstrated the knowledge of domestic, foreign and international case law. He sharply responded the public matters and public opinions at the floor of the Houses.

He protects the fundamental rights of the citizens and also forwarded amendments to the constitution for their employment opportunities. All the black laws like preventive detention were opposed by him at the floor of the parliament. Education is the backbone of any society. Qazi stressed the government to impart the free and quality education to the citizens of Pakistan.

Qazi loved the democratic norms and forwarded many suggestions for smooth democratic system in the country. He not only cared for the citizens but also right for the parliamentarians. Quran and Sunnah were the favorite values of Qazi Hussain Ahmad. He followed its principles by head and heart. He used the parliament as a source to enact the principle of Islam in the lives of people of our country

Qazi Hussain Ahmad actively participated as member of parliamentary committees when assigned to him by the parliament. Record of the committee reports and parliamentary debates shows that he attended the meetings regularly and participated in its discussions actively. He posed questions to and sought explanations from ministers concerned during parliamentary debated regarding the functioning and performance of their ministers. He took up issue related corruption, mismanagement and human right violation by executive authorities that media and civil society organizations brought to his notice. He showed interest in issued related poverty, health and education in parliamentary debates.

Qazi Hussain Ahmad never expected or accepted any post from the dictators. His goal was not to achieve the power. He struggled only and only for the enforcement of Nizam-e-Mustafa during his whole parliamentary career. He was very popular among his parliamentary colleagues. They mostly liked him because of his positive attitude towards his goal. He avoided negative parliamentarianism. Qazi was a fair and tough parliamentarian. He gave a tough time to the dictators of the 2002 and parliamentary democracy in Pakistan. Qazi had never permitted his party to encourage sectarianism or to patronize violence. He remained committed to a democratic Pakistan and wanted it to be a welfare state. He was seen as a uniting figure amongst various Islamic religious parties of Pakistan into a single force of the MMA was a clear precedent of it. Recognizing his services for the elimination of the sectarianism in the country, he was made the chairman of the MMA. Qazi not only struggling foe a true democracy within the parliament but also kept his mission alive outside the parliament. He remained an active participant of different alliances outside the parliament for the restoration of democracy.

Participating Pakistan National alliance, Movement for restoration of Democracy, Islamic democratic front, Mili Yakjihti Council by Qazi Hussain Ahmad were clear proofs to this reality.

Systems are always changed constitutionally and legally which are called glorious revolutions like one happened in England in 1688. But such changes need majority parliamentary consensus or majority party's government. Unfortunately both of the opportunities did not face Qazi. His struggle for his cause in and out of the parliament and his sincerity as a good parliamentarian show that he wanted Pakistan as a real Islamic state, just like that of Madinah, established by the Prophet Muhammad (PBUH). We never come across in the history of Pakistan such a personality as a parliamentarian who fought against odds just for the sake of a system. Exceptions are always there and Qazi was the person who confronts the dictators and leadership of the different governments not for the sake of post but for the sake of a true Islamic and democratic set up.

He emphasizes that the Ulama are the descendents of the Last Holy Prophet Muhammad (PBUH). Qazi also cared for their welfare and moved resolutions to give them their right place in the society. Their degrees and certificates from the religious institutions were made equal to the degrees and certificates of the colleges and universities in Pakistan. In such a way the Ulama were encouraged to serve the nation. Qazi openly opposed those amendments to the constitution and forwarded positive suggestions in order to make them good in favor of the citizen. He brought the bad intentions of the government to light and made the public aware of the flaws of the said amendments during different gathering. He compelled the government to make their path right and never compromised over his principles.

Shortly he crossed the threshold and in the parliament fighting for the Islam, people rights and even till he breathed his last in 2013, he worked for safeguarding up-to maximum what he determined to do and for the parliamentary democracy.

## APPENDIX- A

### QAZI HUSSAIN AHMAD RAISED DIFFERENT QUESTION IN SENATE

Qazi Hussain Ahmad raised different question in senate:

1: Qazi Hussain Ahmad moved a Privilege Motion about the insulting and illegal manner of arrest the member of opposition group in Sindh Assembly:

The mover sought leave to raise a question of breach of privilege arising out of the insulting and illegal manner of arrest of members of certain opposition groups in the Sindh Assembly from within the precincts of the Assembly in violation of the Constitutional provision: many members spoke for and against the admissibility of the motions: Minister concerned opposed the motions and stated that the incident in question did not in any way impede the functioning of the House or any member: he further stated that each House had its own rules dealing with the question of privileges and the Sindh Assembly being guardian of its own privileges was already seized of the question of alleged breach of the privilege of its members: the Chairman ruled the motion out of order and observed that a common point in all these motions raised was that the Senate, as the "supreme legislature" of the federation and as a body having special relationship with the provincial legislatures which constitute its electoral college had a duty and a special responsibility to take cognizance of Constitutional violations at provincial level and to protect and preserve their rights and privileges: the Chairman held this line of thinking to be fallacious: the perception of the Senate being the supreme legislative body was incorrect: no House- could claim any supremacy over another, except in matters of legislation: the so-called special relation with the provinces also did not give any right to the Senate to interfere in the proceedings of a provincial Assembly: each House was supreme as far as its own proceedings were concerned: privileges also belonged to each House individually and each House was the sole authority to adjudge and punish any infringement of its own privileges: the Chairman further observed that under the rules the motions in hand were not even remotely connected with the privileges of the Senate and as the matter was already subjudice before the Sindh Assembly, intervention of the Senate would prejudice the proceedings of that Assembly and would also be in gross violation of provincial autonomy and the sovereign jurisdiction of the provincial Assembly of Sindh."

#### **Ruling**

On January 22, 1987, Senators Qazi Hussain Ahmad and Maulana Kausar Niazi sought leave to raise a question of breach of privilege arising out of the alleged illegal arrest and manhandling of the members of opposition in the Sind Assembly. Senator, Mr. Javed Jabbar had also given notice of a Privilege Motion on the same subject but he was not present when these two motions were taken up. Qazi Hussain Ahmad contended that members of the Jamaat-e-Islami and other opposition groups in the Provincial Assembly of Sind were manhandled and forcibly thrown out of the Assembly Hall by the members of the Government Party and were later arrested by the police from within the precincts of the Assembly and taken to some unknown place. According to the mover this illegal, insulting and unceremonious manner of arrest had engendered a sense of insecurity among the opposition members in the Senate generally and in the mover particularly, as he was also the Secretary General of Jamaat-e-Islami, and had thus caused a breach of his privilege as a Senator. Maulana Kausar Niazi contended that the arrest of twelve members of the Provincial

Assembly of Sindh from within the precincts of the Assembly in violation of the Constitutional provision had caused a breach of privilege of the Senate as under Article 148 of the Constitution it was the duty of the Federation to protect the country from internal disturbances as also, adding later in elaboration, to take cognizance of any breach of Constitutional provisions by a Provincial Assembly.

Mr. Javed Jabbar in his motion had stated that the privilege of the House had been breached by the violation of the Parliamentary traditions committed through the arrest of members of the Provincial Assembly from the precincts of the Assembly without the prior knowledge and consent of the Speaker of that Assembly, in contravention of the Sind Assembly Members' Privileges Act. Prof. Khurshid Ahmed, Maulana Samiul Haq, Mr. Abdur Rahim Mir Dad Khel, Qazi Abdul Latif and Mr. Mohammad Tariq Chaudhry also spoke on the admissibility of the motions and supported the contention raised by the movers. Stress was generally laid on the Constitutional role which the Senate as a representative body of the provinces at the Federal level was expected to play to protect the rights and interests of provinces and to take cognizance's of Constitutional violation in the provinces and of all such acts as tended to prepare the ground for derailing the train of Parliamentary democracy yet again. However, the consideration of the motions was deferred till the next sitting on the request of Mr. Mohammad Aslam Khan Khattak, Minister for Interior who wanted to apprise the House of the real facts after obtaining a report from the concerned Provincial Government.

On February 2, 1987, the motions were taken up again for consideration. Maulana Kausar Niazi was present whereas Qazi Hussain Ahmad and Mr. Javed Jabbar were absent. Besides, Maulana Kausar Niazi, Mr. Ahmad Mian Soomro, Mr. Abdur Rahim Mir Dad Khel, Maulana Samiul Haq and Mr. Mohammad Tariq Chaudhry also supported the motions while\* Mr. Hasan A. Shaikh, Mr. Rahat Saeed Chhatari, Mr. Shad Mohammad Khan, Mr. Asghar Ali Shah and Sheikh Ali Mohammad opposed them. Those opposing the motions, while describing the incident generally deplorable were of the view that it was a matter within the purview of the Sind Provincial Assembly and that Assembly was competent and powerful enough to protect its own rights and privileges and to enforce its own writ, without there being need or justification for the Senate to intervene.

Mr. Wasim Sajjad, the Justice Minister opposing the motion contended that 'privilege' was a right and prerogative which was conferred on members so that they might be able to perform their duties inside the House without any let or hindrance and without any impediment, adding that the said incident had not, in any way, impeded the functioning of the Senate or prevented any member from participating in the proceedings of the Senate. He referred to Rule 57 of the Rules of Procedure and Conduct of Business in the Senate, 1973, and stated that a member with the consent of the Chairman could raise a question involving a breach of privilege either of a member of the Senate or of a Committee thereof. The National Assembly and for that matter, each Provincial Assembly have their own rules under which they could competently deal with the breach of privilege of its own members. Each House also being the guardian of its own privileges, the Sind Assembly according to him was fully competent to deal with the question raised by the movers and since the matter had already been raised in that Assembly and stood referred to the Privileges Committee where it was presently subjudice, any interference by this House would prejudice the proceedings of that Assembly.

Ruling the motion out of order the Chairman, Mr. Ghulam Ishaq Khan, after summarizing the substance of these motions observed:—

“The one common argument implied or explicitly expressed underlying all the three motions, as has been brought out in the discussion on admissibility, appears to be that the Senate is a body elected by members of the Provincial and this special relationship gives the Senate a specific responsibility, transcending the ‘pretext’ of provincial autonomy or the sovereign jurisdiction of the Provincial Assembly so that, to repeat the words of one of the movers ‘this supreme legislative body of the federation is not prevented from taking cognizance of this breach of Parliamentary norms and laws or to discuss this matter with a view to determining the mode of intervention by the Senate in order to protect and preserve Parliamentary traditions and democratic principles’. In other words, intervention of the Senate is sought in a Provincial Assembly’s affair in order to protect and preserve, not the privileges of this House but general Parliamentary traditions and democratic principles. Now Parliamentary privilege has been defined as applicable to certain peculiar rights and immunities enjoyed by each House of Parliament collectively, and by members of each House individually, without which it is considered it would not be possible for either House to maintain its freedom and independence of action or the authority and dignity of its position or for members to effectively discharge the function entrusted to them. The point to be noted here is that the privileges belong to each House individually and each House exercises its own privileges independently of the other. Each House is also the guardian of its own privileges and is the sole authority to adjudge and punish any infringement of those privileges. It is for these considerations that neither the Constitution nor our own rules of Procedure and Conduct of Business framed there under treat Parliamentary privileges generically. Article 66 of the Constitution deals separately with the powers, immunities and privileges of the two Houses of the Federal Parliament and Article 127 with those of the Provincial Assemblies. Even though these immunities and privileges both of the Federal Parliament and of the Provincial legislatures have been described in identical terms, the same provisions also make each House of the Federation and each Provincial Assembly, to quote Erskine May’s Parliamentary Practices on this point “supreme as far as its own proceedings are concerned”. It is for these reasons that one House cannot hold the Members of another House guilty of breach of its privilege for anything said or done by him in the course of proceedings of the House of which he is a Member. Nor can, for the same reason, one House whatever its status, encroach on the powers and privileges which the Constitution makes the exclusive responsibility and concern of another House. The right of each House to control and regulate its own proceedings and also to determine any matter other than an outright criminal act or indictable offence arising within its walls is so complete that what is said or done within the four walls of a House cannot be enquired into even by a Court of Law. As a corollary to this principle a Member is also not answerable elsewhere for anything said or done in connection with the proceedings of the House of which he is a Member.

It is, therefore, in my opinion fallacious to argue that either by virtue of the fact that we are, according to the perception of one of the movers, the supreme legislative body of the Federation (let me make it clear that we cannot claim any such supremacy; if there is a supremacy of one House over another, it is in the matter of legislation but not otherwise ) we should interfere, or again for the reason of the so-called special relationship that we have with Provincial Assemblies as our Electoral College we have the right and should, therefore, interfere, in this matter. The latter

argument on which a great deal of emphasis was laid in the discussion on admissibility would be valid only, if the Rules of Procedure and Conduct of Business in legislatures of this country were to treat the infringement of the rights of the hundreds and thousands of voters in a general constituency as the infringement of the privilege of the Member himself who is elected by those voters to represent them, which as you all know is not the case.

Under Rule 57 and Rule 59(3), the subject matter of the three motions is not even remotely connected with the privileges of this House and no Member has the locus standing to raise such a question. The breach if any occurred of the Members of the Sind Assembly and that Assembly has the exclusive jurisdiction to deal with it. According to Press reports confirmed by the honorable Minister, the Speaker of the Sind Assembly has already held the question in order and the matter is now subjudice before the Assembly. The intervention of the Senate in the matter would be in gross violation of Provincial autonomy and the sovereign jurisdiction of the Sind Provincial Assembly in these matters, which contrary to what one of the Movers says are not pretexts but political and Constitutional realities which the country can ignore only at its peril. At any rate with our claim to Constitutional rectitude we cannot deliberately encroach upon the exclusive jurisdiction conferred by the Constitution on another House, no matter what our feelings on a particular issue might be.

Privilege Motion: Two questions of breach of privilege were raised one regarding the arrest and detention of the mayor of Karachi metropolitan corporation, Mr. Abdus Sattar Afghani, and 99 councilors while they were Marching in a peaceful procession, on the ground of having violated Section 144 CRPC Which was in force in Karachi at the relevant time; and the other relating to the supersession of K.M.C. By the government of Sindh under Section 51(12) of the Sindh local government Ordinance, 1979 as a sequel to violation by the K.M.C. Of Clause (d) and (e) of Sub Section (10) of Section 51 of the Sindh local government Ordinance, 1979: it was held that the term Parliamentary privilege means the sum total of particular rights enjoyed by each House of Parliament collectively and by members of each House individually without which it would not be possible for either House to maintain its freedom and independence of action or the authority and dignity of its position or for members to effectively discharge the functions entrusted to them: neither the Constitution nor the rules of procedure and conduct of business framed there under treat parliamentary privilege generically and as such it is not possible to pick up an issue essentially pertaining to the affairs of a province and base thereon a question of breach of privilege for the only reason that the Senate is an elected and democratic institution and is regarded as the supreme legislative body of the federation, or that it has special relationship with the provincial assemblies, the latter being the electoral college for the members of the Senate and by virtue of this so-called special relation it has a right to interfere in any matter taking place within any province: it should be borne in mind that Pakistan has a federal structure, has a federal Constitution, a Federal Government and a number of constituent units with their own government and that the Constitution gives a considerable degree of autonomy to the provincial governments in a large number of matters: apart from the subjects in the federal and the concurrent legislative lists all other matters including what were called "Residuary Powers" in pre-Independence Days vest in the provinces: in such a situation it is not correct to consider the infringement of any right or so called privilege anywhere in any province to be a breach of privilege of this House: it is true that the Constitution does guarantee by its Article 19 the right to freedom of speech and expression but that right is not absolute and unqualified: it is subject to reasonable restrictions imposed by law in the interest of the glory of Islam, or the integrity, security or defense of the country or any part thereof, friendly relations with foreign states, public order, decency or morality or in relation to

contempt of court, commission of or incitement to an offence: this right has been further circumscribed in case of councilors or members of local bodies under the laws pertaining to local bodies: Section 51(10) of the Sind local bodies Ordinance, 1979, requires that no member shall be liable to any proceeding in any court in respect of anything said or any vote given by him in the meeting of the councilors or a committee thereto so long as such action does not undermine the ideology, security, integrity and solidarity of Pakistan; seek to create or incite feelings of enmity, ill will or hatred between different communities, sects, classes, or sections of the citizens; or violates any of the other conditions enumerated in sub Section 10 of Section 51 of the Ordinance, the more important and relevant of which are: "tend directly or indirectly to bring into hatred or contempt the government established by law and amount to propagation of any political opinion or indulges in any political activity\*1 and "a council which passes a Resolution or acts in contravention of the provisions of sub Section 10 or propagates any political opinion or indulges in any other political activity may forthwith be suspended etc. .:" The councilors allegedly passed a Resolution which was beyond the scope of the Sindh local government Ordinance and in violation of the other conditions enumerated in sub Section (10) of Section 51 and as such the Sindh government in exercise of its power under Sub-Section (12) of Section 51 ordered supersession of K.M.C. With immediate effect: if the mayor and the councilors concerned feel that the impugned action of the government in arresting them or in unseating them from membership is illegal or that it has infringed their fundamental right of speech and expression guaranteed by Article 19 of the Constitution they have every right to question the same in the high court under the writ jurisdiction given by Article 199 of the Constitution; therefore, the Constitutionality and legality of a government action taken ostensibly under a valid law cannot be questioned, agitated, construed or determined in the forum of the Senate because this constitutes the prerogative of the judiciary under the Constitution and as a legislative body this House cannot interfere with their jurisdiction as they have no right to interfere with this House jurisdiction as far as it relates to matters which arise within the House itself: Section 144 was in force in Karachi at the relevant time: the mayor and the councilors who took out a procession despite imposition of Section 144 have been proceeded against under law: from that point onwards the entire affair has become subjudice and it is now for the courts to decide whether Section 144 was indeed violated, in which case, if the court comes to that judgment, the violation would be punishable under Section 188 of the penal code. Accordingly, both motions were ruled out of order.

2: Privilege Motion: "On 15th February, 1987, Senator Qazi Hussain Ahmad and Prof. Khurshid Ahmed sought leave to raise questions of breach of privilege, the one by Senator Qazi Hussain Ahmad arising out of the arrest and detention by police of Mayor, Abdul Sattar Afghani and 99 Councilors of the Karachi Metropolitan Corporation when they were Marching in a peaceful procession towards the Sind Assembly building to voice their grievances; and the other sought to be raised by Senator Prof. Khurshid Ahmed with whom Senator Qazi Hussain Ahmad joined as co-mover, arising from the illegal and arbitrary supersession of the KMC by the Government of Sind, ostensibly under the Sind Local Government Ordinance. These actions according to the movers had infringed their privilege and the privilege of the Senate."<sup>i</sup>

Explaining his motion Senator Qazi Hussain Ahmad stated that at the relevant time, the Mayor was leading a procession along with 99 Councilors. They were Marching in a peaceful manner in groups of two, to avoid violation of Section 144 CRPC (which was then in force in the town) but the Police intercepted them while they were on their way to the Sind Assembly building. They were tear-gassed, lathi charged and manhandled. Later, they were arrested. This action the mover

contended could not have been taken by the Provincial Government all on its own without the Federal Government involvement or consultation in the matter. The Senate, he said, is a democratically elected institution and was looked up to as the custodian of democracy. As the Upper House of Parliament it was its duty to take effective (preventive) steps when democratic institutions in the country such as the Karachi Metropolitan Corporation were being destroyed. He, therefore, urged that this issue should be looked at beyond and above the legal wrangling and technical niceties of admissibility. Prof. Khurshid Ahmed (with whom Senator Qazi Hussain Ahmad joined as a co-mover) had submitted in his motion that the supersession of the KMC by the Government of Sind had given rise to apprehensions that the future of all democratic institutions in the country was in jeopardy. The fear had gained ground that as had happened in Karachi, by resort to the might-is-right brands of laws any democratically elected and representative institution in the country could be wound up at any time, making their continued existence doubtful and uncertain. The action of the Government of Sind, the movers maintained had infringed their individual privilege as well as the collective privilege of the Senate.

Explaining his motion, Prof. Khurshid Ahmed submitted that the central point of his motion was that the KMC which is one of the country's important democratic institutions (representing, according to his co-mover, the interests of 8 million inhabitants of Karachi) should not have been "dissolved" on the basis of lame excuses in order to secure certain personal ends and achieve some specific political objectives. This action, he contended, signaled a danger for the entire Parliamentary and Constitutional set-up in the country. Urging a dispassionate examination of the question he said that it involved important considerations both from the legal and political angle and was also concerned with the application of the law of privileges. He extensively quoted various authorities to explain the law of privileges, its genesis, scope and application in different contexts and situations and submitted that according to these authorities "Parliamentary privilege denotes merely lawful rights of each House and individual members of the House which are necessary for the effective functioning of the legislative body" or again that "the privileges are certain rights belonging to each House of the Parliament collectively and some other belonging to members individually without which it would be impossible for either House to maintain its independence, authority or the dignity of its position or for the members to discharge their functions". The privilege of the Parliament is thus intended to safeguard the freedom, authority and dignity of the Parliament. The law of privileges he further submitted, grew in England out of conflict of authority between the executive on the one hand and the legislative organ of the Government on the other and the Parliament secured this set of rights from the executive with a view to assert itself and to discharge its functions effectively. History, he asserted, appeared to be repeating itself and the executive (in this country) was once again attempting in a variety of ways to encroach on the privileges of democratically elected institutions and his motion should be seen in that light. On these premises he also emphasized, reminding the members of the Senate of their oath of office under the Constitution that it was the primary responsibility of every member to preserve and protect the Constitution which among others includes the provision in its Article 32 that 'the state shall encourage local Government institutions composed of elected representatives of the areas concerned etc.,' Karachi, he said, was in the grip of a crisis since November last. Recurring disturbances were taking a heavy toll of human lives. Arson and destruction of properties was order of the day and the entire city was in a state of turmoil rendering the executive machinery totally ineffective. The Provincial Government and the Chief Minister of Sind had shown criminal neglect in handling the situation and had singularly failed in the discharge of their duties and obligations. In these circumstances it was inevitable indeed it was incumbent on the

Karachi Metropolitan Corporation to take note of this state of affairs and for its Councilors as the elected representatives of Karachi to give expression to their feelings and to register their protest against it together with agitating their long standing demand for restoration to the Corporation of the Vehicles Tax, as was the case elsewhere in the country, and also an adequate share of other taxes in the form of certain Resolutions unanimously adopted under the Chairmanship of the Mayor. The Councilors and the Mayor were, however, charged with passing "political Resolutions" and this was one of the grounds, among others, for the Sind Government to justify the suspension of the KMC. It was as a follow up of these Resolutions, the Senator proceeded to say, that the Councilors with the Mayor at their head took out a procession marching in groups of twos and threes, because of Section 144 in the city but instead of engaging them in a dialogue the Government resorted to brute force to disperse them. At this stage when the Senator started giving graphic details of the use of force the Chairman, Mr. Ghulam Ishaq Khan, intervened to point out that those facts had no bearing on or relevance to the question of admissibility of the motion and counseled the Senator to confine his submissions to the ground of admissibility only. Thanking the Chairman for his advice, the Senator submitted that all he wanted to point out was the type of treatment which was meted out to the elected representatives of KMC in the discharge of their duties which was against all democratic norms and which as the inevitable next step culminated in the arrest and detention of the Mayor and his supporting Councilors and the arbitrary "dissolution" of the Corporation by the

Provincial Government of Sindh. This action on the part of the Government he urged, had affected the entire spectrum of democratically elected institutions in the country and this was the basis on which he wanted to present his case of breach of privilege. The Member proceeded to conclude that the country did not have a codified law of privileges, and the absence of such a law, whatever might be its disadvantages had the distinct advantage of widening the discretion of the Parliament, providing this House with a "number of options" and "unlimited opportunities" to interfere in matters affecting privilege which might not have been possible if privileges were codified, The House could enlarge the scope of breaches of privilege by looking at them in a wider perspective in the light of emerging trends and changing circumstances instead of interpreting them in the narrow traditional technical sense. A political tragedy has occurred in Karachi; elected representatives of the city have been subjected to untold excesses reminiscent of happening in a police state the condonation of which would be tantamount to endangering the whole future of democracy in the country and of its elected institutions set up under the Constitution. The happenings in Karachi were thus in dear violation of the Constitution and since it was the duty of the House to uphold the Constitution and safeguard the democratic institutions it amounted to breach of the collective privilege or contempt of the House itself. There was, therefore, every justification for the House to take cognizance of and interfere in the matter and for the members to espouse their cause, and under the terms of oath of their office as defenders of the Constitution, to take measures to save these institutions. Senators Ahmed Mian Soomro, Hamzo Khan Palejo and Hasan A. Shaikh also participated in the debate on admissibility, the former contending that the arrest of the elected Councilors including the first citizen of Karachi, that is. the Mayor of Karachi Marching in a peaceful procession towards the Sind Assembly was in violation of the Constitution and the motion provided this House with the means to assess for itself the objective situation obtaining in Karachi and the latter two opposing it both on factual grounds contending that the facts on which the motion was based were not correctly stated and for legal reasons, the matter being the exclusive concern of the Sind Provincial Assembly and having nothing to do with the privilege of the House or any of its members.

Opposing the motion Minister for Local Bodies, Mr. Anwar Aziz Chaudhary, submitted that the Mayor and the Councilors had taken out a procession in violation of Section 144 of the CRPC their arrest and detention by the Provincial Government was, therefore, perfectly justified under law. He refuted the charge against the Government of Sind that it was a "killer" of democracy. For full two years the Government had fully cooperated with the Corporation and had extended it every facility and concession. Certain elements there, however, did not want peace to prevail in Karachi; with political ends in view they wanted the Provincial Government to fall on one pretext or the other. The Minister also opposed the motion on technical grounds, and submitted that under the Constitution; 'Local Government' was entirely a Provincial subject. Secondly, the action to dissolve the Corporation was not an arbitrary act; it was legal action taken under Section 51(12) of the Sind Local Government Ordinance, according to which "a Council which passes a Resolution or acts in contravention of the provisions of sub-Section 10 (of the said section) may forthwith be superseded for a period not exceeding six months and on such supersession, the provisions of sub Section 2 and Sub-Section 3 of Section 5 shall apply". Concluding the Minister said that the doors of courts were open to all. There was no emergency in the country. If the Mayor or anyone else felt aggrieved by the action of the Sind Government he could have recourse to law for the redress of his grievances. In such a situation, the Minister concluded there could not arise any question of breach of privilege of the movers or of this House and urged that the motion be ruled out of order.

Ruling the motion out of order the Chairman, Mr. Ghulam Ishaq Khan, recalled that only a few days back on the 2nd of February as per record he had given a Ruling in which he had perhaps for the third time tried to explain at some length what in his opinion was meant by 'Parliament privilege', how it arose, what constituted its breach and how a breach if established was vindicated. Listening, however, to the arguments advanced during the debate on the motion a great deal of misconception about the scope, application and conditions for admissibility of questions of privilege continue to persist making it a case of obliging me once again to bring to the attention of the House the salient points of that Ruling. I had said in that Ruling that "the term 'Parliamentary privilege' has been defined as the sum of the particular rights enjoyed by each House of Parliament collectively and by members of each House individually without which, it is thought, it would not be possible for either House to maintain its freedom and independence of action or the authority and dignity of its position or for members to effectively discharge the functions entrusted to them". The essential point that arises for consideration and decision in all such motions is whether the impugned action on which a motion is based does in fact impinge in any way on these particular rights or reflects on the freedom of action and dignity of the House amounting to (what is called) contempt of the House, If it does not, no question of breach of any privilege arises. It was for these considerations that I had also said in that Ruling that neither the Constitution nor the Rules of Procedure and Conduct of-Business framed there under treat Parliamentary privileges 'generically'. The word 'generically' was not correctly understood in some quarters, but what I wanted to convey was that since Parliamentary privileges have not been defined generically the Senate cannot pick up just any issue and say that since this has happened in so and so place, in such and such circumstances to a democratically elected institution, it automatically applies to the Senate also because the Senate too is an elected and democratic institution: I had added in conclusion of the Ruling "that it is fallacious to argue that either by virtue of the fact that the Senate, according to the movers, is the supreme legislative body of the Federation (an argument which has been advanced today also) or for the reason of so-called special relationship that the Senate has with Provincial Assemblies as its electoral college, we (the Senate or its Members) have a right to interfere in this matter. Now the later argument on which a great deal of emphasis

was laid during the debate (on the previous motion) would be valid only, if the Rules of Procedure and Conduct of Business in legislatures of this country were to treat infringement of the rights of the hundreds and thousands of voters in a general constituency as the infringement of the privilege of the member himself, which again is not the position". Finally, I had, on that occasion also drawn attention to the structure of the Constitution of the country and said that "it is a Federal Constitution, we have a federal structure, there is a Federal Government and there are the constituent units with their own Government; there is a degree of autonomy', in fact considerable autonomy, in a large number of matters entrusted by the Constitution to the Provincial Governments. Apart from the concurrent and the Federal legislative lists, all other matters, including what was known in pre-partition India as "residuary powers", the Constitution now entrusts to the Provinces". In such a situation and this being the position we cannot claim or arrogate to ourselves the right that we should take the infringement of any right or any alleged breach of privilege which may have occurred anywhere in any province as a breach of privilege of this House. Now coming to the specific motions, there are a number of interesting facts to which attention must be drawn. In his first motion, Senator Qazi Hussain Ahmad refers to the arrest of Mr. Afghani, the Mayor of Karachi Metropolitan Corporation together with 99 Councilors, to the repeated lathi charge and gas shelling by the provincial police of the so-called peaceful procession led by Mr. Afghani and to the injuries caused as a result to Mr. Afghani and a number of other Councilors, and he considers that all this was done and this is the gravamen of the motion with a view to denying the elected representatives of the people their right to freedom of speech and expression, which, under the Constitution, is the fundamental right of every citizen of Pakistan. Significantly, in that motion the mover does not claim any breach of his own privilege as a member of this House, nor of the privilege of this House as such. The breach of privilege of the House can in certain circumstances, Prof. Khurshid was quite right in saying, 'become contempt of the House' that is what in fact is meant by breach of the privilege of the House itself but in the first motion there is no mention, whatever, either of the breach of privilege of an individual member or of the House collectively. Now, it is true that the Constitution does guarantee by its Article 19, the right of freedom of speech and expression but that right, as I have said on previous occasions is not absolute and unqualified. It is "subject to any reasonable restrictions imposed by law in the interests of the glory of Islam, or the integrity, security or defense of Pakistan or any part thereof, friendly relations with foreign States, public order,, decency or morality or in relation to contempt of court, commission of or incitement to an offence". In the case of members of the local bodies this right (of freedom of speech) has been further circumscribed and I would like to refer to the provisions of the relevant law in this connection. Section 51, Sub-Section 10 of the Local Bodies Ordinance says:

"No member shall be liable to any proceeding in any court in respect of anything said or any vote given by him in the meeting of the Council or a Committee thereof so long as such action does not and this is important :

- a. Undermine the ideology, security, integrity and solidarity of Pakistan;
- b. Seek to create or incite feelings of enmity, ill will or hatred between different communities, sects, classes, or Sections of the citizens;
- c. Contains any indecent, obscene, scurrilous or ironical expression or defamatory remarks against or seeks to defame any person, and relate to any matter basically not relevant to or beyond the scope of the Ordinance;

d. Tend directly or indirectly to bring into hatred—now this again is important—or contempt the Government established by law, and amount to propagation of any political opinion or indulges in any political activity”.

Now these are the conditions by which in any local body in Sind, to which the Sind Local Bodies Ordinance, from which I was quoting applies, the right of freedom of expression and freedom of speech is circumscribed. Apart from these conditions that I have read out the law further provides that:

“a member who acts in contravention of Sub-Section 10 shall without prejudice to any other action against him be disqualified and removed from membership forthwith

And finally, what the Minister for Local Government, Mr. Anwar Aziz quoted:

“A Council which passes a Resolution or acts in contravention of the provisions of Sub-Section 10 or propagates any political opinions or indulges in any other political activity shall forthwith be suspended”.

This Clause, I note, has been amended and instead of “shall”, it is now “may forthwith be suspended for a period not exceeding six months and on such supersession the provision of Sub-Section 2 of Section 3 of Section 58 shall apply”

Now it was in these circumstances, according to the Press Note (which was published in newspapers after the incident) that the Sind Government acted. The Press Note specifically says that:

“Whereas the above action and Resolution of Karachi Metropolitan Corporation are clearly beyond the scope of Sind Local Government Ordinance 1979 and tend to bring into hatred and contempt the Government of Sind in flagrant violation of Clauses (d) and (e) of Sub-Section 10 of Section 51 of the Sind Local Government Ordinance 1979, now, therefore, the Government of Sind in exercise of its powers under Sub-Section 12 of Section 51 hereby orders the supersession of Karachi Metropolitan Corporation with immediate effect.....etc.! The Ordinance, it may be noted, also provides for a right of appeal. It says in its Section 108 that “a member disqualified may within sixty days of the notification make a representation to Government for review of the order of his disqualification and the Government may after giving him an opportunity of being heard make such order as it deems fit”.

This then is what the first motion relates to. With regard to the second motion, it is still more interesting than the first one. It says: And in support of this, a number of Articles of the Constitution were quoted pertaining, for example, to freedom of expression, (Article 19), to promotion of local Government institutions, (Article 32) and even Article 63 (1) pertaining to disqualifications for membership, by Mr. Ahmad Mian Soomro, which I had to hold was not particularly relevant. Now the question is, whether the action of the Sind Government is indeed According to the Press Note and what I have been able to judge from the reports and accounts that have appeared in the press so far is that some individuals wanted to take the law into their own hands, and the authorities, as a reaction to that, tried to prevent them from doing so. Now, you can judge for yourself where and to which side the charge of and applies. I have no hesitation in coming to the view that if action is taken under law against those who have taken or who attempt to take the law into their own hands, it, not only, does not amount to but quite the reverse of it, it

amounts to establishing the rule of law and to demonstrating that no matter how powerful or whatever the status of an individual is, he is not above law. We in this House are supposed to be the "paragon of rectitude", the "custodians of democratic principles". Is it not then for this House to establish the principle that whoever breaks the law it is a different matter that the law may be a bad law, it may be a tyrannical law but as long as it is there and we let it stay on the statute book it is a law that we must follow, and we should also hold that whoever breaks it must be taken to task for it? The oath that we have taken, to which Prof. Khurshid Ahmed referred, that we will defend the Constitution defending the Constitution also means defending the laws framed under the Constitution. It is in fact by defending those laws that you can defend the Constitution. But if we ourselves violate those laws on the pretext that no matter if something was being done for a "good cause" a good cause of our own perception law or no law, we should endorse it then I think this would be the end of democracy, of democratic principles and democratic institutions in this country. In the second Privilege Motion which was jointly moved by Prof. Khurshid Ahmad and Qazi Hussain Ahmad, it is also said: This is a mere inference, a simple conjecture and pure speculation, and no matter how skillfully and artfully drawn or conceived it cannot provide a legitimate basis for a Privilege Motion. If the rights, truly and legitimately vesting in the House, are ever in danger, I have no doubt that this House is competent to assert and vindicate those rights in modes and manners known to law.

Finally, the essential points are:

That there was Section 144 in force in Karachi and some people prima facie (I am not saying whether they actually did or did not) tried to act in violation of that law and action was taken against them. Now from that point onwards it becomes a subjudice affair. It becomes a matter then for the courts to decide whether Section 144 was indeed violated in which case, if the court comes to that judgment, the violation would be punishable under Section 188 of the Penal Code. The other point is with regard to the dissolution of the Corporation and the disqualification of its members. If the Mayor and the Councilors concerned feel that the action of the Government in arresting them or in unseating them from membership was not warranted by law or that their fundamental right of speech and expression guaranteed by Article 19 of the Constitution has been infringed in any way they have every right to question the same under the Writ Jurisdiction of the High Court under Article 199 of the Constitution. Another point on which I have expressed my views on a number of previous occasions also but which I think will bear repetition is that the Constitutionality and legality of a Government action taken ostensibly under a valid law (good, bad or indifferent) cannot be questioned, agitated, construed or determined in the forum of the Senate because the determination of such a question constitutes the prerogative of the judiciary under the Constitution and as a legislative body we cannot interfere with their jurisdiction as they have no right to interfere with ours, in relation to matters which arise within the House.

So for these reasons, I am sorry, I have to rule the motion out".

**3: Qazi Hussain Ahmad mimed sought leave to raise a question of breach of Privilege arising out of the holding of by-elections to two vacant seats in the Senate from the N.W.F.P. of two different dates instead of one date:**

Privilege Motion: "Holding of election to two seats in the Senate from N.W.F.P. On two separate dates instead of one date: fixation of date for election within the exclusive jurisdiction of election commission which was an independent body: motion involved interpretation of the Constitution:

ruled out of order: On January 17<sup>th</sup>, 1989, Prof. Khurshid Ahmed and Qazi Hussain Ahmad mimed sought leave to raise a question of breach of Privilege arising out of the holding of by-elections to two vacant seats in the Senate from the N.W.F.P of two different dates instead of one date. Prof. Khurshid Ahmed pointed out that the notice of motion was given on December 15, 1988, and as the by-elections had since already been held, the motion had rather become in-fructuous. However, the issue raised was important and of standing nature; it needed to be decided as a policy matter for the future.”

He explained that the system of election to Senate on proportionate representation had been provided in the Constitution to ensure representation of various political parties in a province. Any measure to defeat this principle would be against the Constitution. He asserted that if elections to both seats had been held simultaneously on the basis of proportionate representation as required under Article 59(2) of the Constitution, the political complexion of the Provincial Assembly of NWFP would have been more appropriately reflected in the Senate.

Qazi Hussain Ahmad too pleaded that if the elections had been held on the same date, one seat could have gone to the party in Government and the other seat could have gone to the party in opposition. Syed Iftikhar Hussain Gilani, Minister for Justice, relying on Article 219(b) of the Constitution, stated that the fixation of date for election was a matter exclusively within the jurisdiction of the Election Commission of Pakistan which was an independent body. He further stated that the two seats fell vacant on separate dates and, therefore, keeping in view requirements of Article 224(5) it was not possible to hold the two elections on the same date.

The Chairman, Mr. Wasim Sajjad ruling the motion out of order observed:

“I have considered the arguments of both sides. In my opinion the question involved in these motions is a question of interpretation of the Constitution and more appropriately interpretation of Article 224(5) which is a matter exclusively within the jurisdiction of the superior courts of Pakistan. To the extent that any interpretation concerns the procedure and proceeding of this House, it is within my jurisdiction but otherwise this would be exclusively within the jurisdiction of the superior courts of Pakistan. Accordingly I find that this is not a matter which requires the intervention of the Senate and I rule out this motion under rule 62(iii) of the Rules of Procedure of this House.”

**4: Qazi Hussain Ahmad sought leave to raise a question of breach of privilege of the House arising out of the alleged statement made by Syed Iftikhar Hussain Gilani, Minister for Law and Justice**

5. Privilege Motion: “Contention that the statement by Syed Iftikhar Hussain Gilani, Minister for law and justice declaring that the hudood Ordinances being violate of the humanitarian principles would be repealed, constituted breach of privilege of the Senate: held that in a democratic order a citizen could not be denied the Constitutional right to express freely his opinion on the status of any law: ruled out of order”

On July 8, 1989, Qazi Abdul Latif and Qazi Hussain Ahmad sought leave to raise a question of breach of privilege of the House arising out of the alleged statement made by Syed Iftikhar Hussain Gilani, Minister for Law and Justice, appearing in daily “Nawa-i-Waqt”, Rawalpindi dated 29th May, 1989, declaring that the Hadood Ordinances, being violative of the humanitarian principles, would be repealed. The mover contended that the statement of the Minister is against

the Islamic Injunctions which the Constitution of Pakistan duly protects and safeguards. He, further contended that the Minister, by attacking the Hadood Ordinances had insulted both the State religion and the Constitution of the country. The Senate, he argued, was the custodian of the Constitution of Pakistan and the very basis for the establishment of Pakistan was the commitment to ensure and protect the Islamic values. Maulana Sami-ul-Haq, Qazi Hussain Ahmed and Prof. Khurshid Ahmed, lending support to the contention raised by the mover urged that Islam was the State religion and protected by the Constitution through the Objectives Resolution which is a part of the Constitution itself. Any insult to the religious laws, having Constitutional safeguards was a breach of privilege of the Senate as the Senate was one of the guardians of the Constitution.

Opposing the motion, Mr. Javed Jabbar, Minister of State for Information and Broadcasting, Syed Iftikhar Hussain Gilani, Minister for Law & Justice and Begum Shehnaz Wazir Ali, Minister of State for Education urged that the statement of Syed Iftikhar Hussain Gilani was only a reflection of his personal view-point though expressed in public. They further contended that the Hadood Ordinances, regardless of their intrinsic and inherent respect, value and authenticity, since were promulgated by a Martial Law regime, lacked the support of the elected representatives and the voice of the public. In addition, the social status and equal rights of women, having been sanctified by the Constitution of the country, any attempt to interfere with them was a clear violation of the Constitution. Finally, that all the citizens had a right to express their opinion on any subject.

Mr. Iftikhar Gilani, the Minister for Law and Justice made a detailed statement in the House categorically denying that he had any intention to insult or ridicule the Hadood Laws, adding also, that each citizen of the country had an inalienable right under the Constitution to criticize. The Hadood Laws were promulgated and enforced during Martial Law period when the elected Assemblies were dissolved. Several religious scholars, political bodies and legal experts had expressed their views on the status of Hadood Ordinances. There had been a discussion as to what exactly are the requirements of Islam in such matters. Dealing with the admissibility of the motion, Mr. Wasim Sajjad, the Chairman recalled an earlier ruling reported at page 146-47 of the "Decisions of the Chair" (1985-87) in which the then Chairman had ruled out of order a Privilege Motion jointly moved by Senators Maulana Sami-ul-Haq and Qazi Abdul Latif on the ground inter alia that every citizen had a right to express within the context of law and reason his opinion for and against any legislative proposal pending in the House in the form of a Bill without which it was not possible to reach a correct conclusion as to which law or laws should be made. These observations, he held, were equally applicable to any existing law as the laws made by the Parliament were never final. Their examination, evaluation and revision were a continuous process. The Chairman also referred to another ruling reported at page 272-276 of the "Decisions of the Chair" (1985-87) in which the then Chairman had observed that speeches or writings containing vague charges against members or criticism of their Parliamentary conduct in a strong language particularly in the heat of public controversy without imputing any mala fides could not be treated as a contempt or breach of privilege. It had also been observed therein that it was considered inconsistent with the dignity of the House to take any serious notice or action in the case of every defamatory statement which might even technically constitute a breach of privilege. References made and views expressed by the political leaders at a public rally judged in this light did not amount to a breach of privilege.

The Chairman observed that in a democratic order where everyone was free to express his opinion on any existing law, a citizen, whether he be an ordinary citizen or a holder of public office, could

not be denied a right guaranteed by the Constitution to express freely his opinion on the status of any law. If this liberty was denied the laws once passed by Parliament would stay permanently in the Statute Book and the role of Parliament to amend, revise, annul or repeal existing laws would be negated in to.

Ruling the motion out of order, the Chairman observed:

“Thus, in the present case, what the Minister said and subsequently explained in the House, considered in the context in which it was made, does not, appear to constitute a breach of the Parliamentary privilege of this House. This would be so even if there are some persons who do not agree with his views on the subject. For these reasons, I hold that the motion does not appear to raise an arguable question of breach of Parliamentary privilege of the Senate and, accordingly, I rule this motion out of order under rule 62(iii).”

## APPENDIX- B

### PRIVILEGE MOTION

**Privilege Motion: Seeking leave to raise a question of breach of privilege arising out of the absence of the Minister for Religious Affairs and Minorities Affairs from the House during discussion on the report of the Council of Islamic Ideology: It was contended that the absence of the Minister concerned was derogatory to the dignity of the House and amounted to breach of its privilege: Minister concerned opposed the motion on the grounds that the question was neither specific nor raised at the earliest opportunity: The Chairman ruled the motion out of order on the ground that the absence of one Minister though deemed to be intended discourtesy did not constitute a breach of the privilege of the House or the members as Ministers worked on the principle of collective responsibility to parliament: The Chairman observed that while it was certainly desirable and also expected that Minister particularly those who were concerned with the business of the day before the House be present during its proceedings there was no rule which made it obligatory for the Ministers to be present: Similarly neither in die constitution nor in the rules for the conduct of business of the House, there was any provision which gave the presiding officer power to enforce the presence of any particular Minister in the House: The Chairman, further observed that while Ministers were expected to be present in the House or at least to inform the House why they were not in a position to attend a particular sitting, the absence of a Minister did not amount to constituting a breach of privilege of the House or its members.**

Rulings of The Chair Privilege Motion

Ruling

On 12th February, 1986, Prof. Khurshid Ahmed, Maulana Kausar Niazi, Qazi Hussain Ahmed and Mir Nabi Bakhsh Zehri co-movers sought leave to discuss a matter regarding the absence from the House of the Minister for Religious Affairs and Minorities Affairs during discussion on the report of the Council of Islamic Ideology. Explaining the motion Maulana Kausar Niazi stated that in all democratic Parliaments of the world it was an established practice that when an issue was raised in Parliament, the concerned Minister remained present during the debate. "He takes notes of the points raised during the discussion, replies to the points where necessary, and when he finds that Government could benefit by the points made re-formulates or changes Government policy on that basis". His observation however was that on many such occasions, the Ministers remained absent from the House. Referring to the specific instance he further stated that ever since the discussion on the Report of the Council of Islamic Ideology even the officers of the Religious Ministry, except on a few occasions, had been absent from the House. "In fact, the report concerns the Education, Finance and Justice Divisions and as such Ministers Incharge of all these Divisions should have been attending the House during discussion on the report. This situation according to the Member has caused a breach of privilege of the House.

Opposing the motion, the Justice Minister explained that it was a gross mis-statement of facts that he had been assigned with the other (absent) Ministers, although he remained present in the House throughout and never once absented himself, particularly during discussion on the report of the Council of Islamic Ideology. This fact, he urged, must be taken notice of when considering the motion. Prof. Khurshid Ahmed made a lengthy statement explaining the concept, scope and

implication of 'privilege'. He cited several instances of Indian and British Parliaments to press home the point that Members of the Parliament and Ministers are under obligation to attend proceedings and actually participate in the business of the House, because without the active participation, of Minister and members, individually and collectively, the business of the House cannot be conducted properly and efficiently. Their absence from the House intentionally or otherwise is in a sense therefore derogatory to the prestige of the House and may even constitute a breach of its privilege.

After hearing the Minister and while ruling out the motion the Chairman, Mr. Ghulam Ishaq Khan, observed: "While it is certainly desirable and also expected that Ministers particularly those who are concerned with the business of the day before the House, be present during its proceedings, we have no rule which makes it obligatory for the Ministers to be present. That is the first point to be noted. Similarly, neither in Constitution nor in the rules for the conduct of business in the House, is there any provision which empowers the Presiding Officer (and this is another point to be noted) to enforce the presence of any particular Minister in the House, and this is not something which is peculiar to the Senate of Pakistan but is the universal position obtaining in all Parliaments. Yet another point in this connection worth remembering is that under the Constitution the Cabinet is collectively responsible to Parliament and as is provided in the Rules of Procedure and Conduct of Business in the House, any one Minister or Minister of State can stand for answering question or participate in a debate on behalf of any of his colleagues. Now, in this sense and purely from the technical point of view of rules, Government can be deemed to be adequately represented in the House even if only one Minister is present and as I said earlier almost invariably more than one Minister has been present. In these circumstances, and this is my conclusion, when we have no rule which provides that Ministers must be present in the House throughout a sitting, when the Presiding Officer has no power to enforce the presence of Ministers, when all of them are not even members of this House, and when the Cabinet and individual Ministers work on the principle of collective responsibility, the absence of a Minister during a debate may amount to 'un-intended' discourtesy — in the same sense as the absence of honourable members at crucial times during a debate which results in lack of quorum and therefore interruption of the debate, can be deemed to be similar discourtesy to those members of the House who are present in the House — but it is not a matter which in my opinion constitutes a question involving the breach of privilege, either, of the House or of its members. The Minister has already said and I agree with him that no indignity, insult or contempt was intended or has been offered to the House. While for these reasons, I have to rule the motion out of order I would like once again to reiterate what I said on an earlier occasion—that Ministers are ordinarily expected to be present in the House and if for some reason they cannot do so, to at least inform the House, as one or two Ministers have done even today as to why they would not be able to attend a particular sitting".

Senate Debate, 12th February, 1986, p. 797—825.

## **ARREST OF QAZI HUSSAIN AHMAD**

**Privilege Motion: Arrest of Senator Qazi Hussain Ahmad at a time when the Senate was in session prevented him from performing his Parliamentary duties: also immediate intimation about the arrest was not sent to the Chairman: clear case of breach of privilege of the Senator and of the whole House: Minister's statement justifying the arrest of Senator not appreciated: held in order and referred to the Privileges Committee:**

On August 15, 1993, Senators Hafiz Hussain Ahmad, Mir Abdul Jabbar, Syed Abdullah Shah and Syed Faseih Iqbal sought leave to raise a question involving breach of privilege of the Senate arising out of the arrest of Senator Qazi Hussain Ahmad at the time when the Senate was in session. After the movers had read out their motions, the Acting Chairperson, Dr. Noor Jehan Panezai, informed the House that she had just received the fax-message from the Government of the Punjab that Senator Qazi Hussain Ahmad had since been released. The movers asserted that by arresting him, the executive had prevented Senator Qazi Hussain Ahmad from attending the session and thus from performing his Parliamentary duties in the House leading to the breach of not only of his privilege but of the entire House. Also, that the failure on the part of the authorities to send an immediate intimation regarding his arrest to the Chairman, had led to the contempt of the House. All of them pleaded for holding the motion in order for reference to the Privileges Committee. Mr. F. K. Bandiyal, Minister for Interior, made a statement giving Government point of view. According to this version the Senator along with his followers was as already announced by him in newspapers, proceeding to village Baseen on the Independence Day to restore twelve families, the lands and Houses allegedly to have taken over by ex-MPA Akram Dheela. The Senator along-with his followers some of which were carrying arms was to pass in front of the House of the ex-MPA who had also collected armed persons on the roof top of his House. The administration having failed to persuade the Senator to adopt some other route.

### **Rulings of The Chair Privilege Motion**

Fearing bloody clash had no option but to arrest the Senator and others under Section 107/49 of the Criminal Procedure Code. Cases were also registered against him and those accompanying him under Section 16 of MPO, Section 188 of the CPC and under the Loud Speaker Ordinance. The movers did not appreciate the statement and argued that even if there was justification for the arrest of the Senator, an immediate intimation about his arrest should have been sent to the Chairman Senate. This failure on the part of the authorities in itself was sufficient ground for holding the motion in order and for referring it to the Privileges Committee. After hearing both the sides, Dr. Noor Jehan Panezai, Acting Chairperson, held the motion in order and referred it to the Privileges Committee.

**PRIVILEGE MOTION: Press statement of a head of a foreign country, visiting Pakistan, alleging that the mover made millions of Dollars in Afghan Jihad: contention that it forms part of government campaign of vilification against the mover and constitutes breach of privilege: held inadmissible on the ground that such statements of a foreign dignitary could not be made the subject matter of a Privilege Motion:**

Ruling

Senator Qazi Hussain Ahmad sought leave to raise a question of breach of his Parliamentary privilege arising out of the press statement of the President of the Islamic Republic of Afghanistan Prof. Sibghatullah Mujadadi, made on 28th May in Frontier House, Peshawar in which he alleged that Qazi Hussain Ahmad made millions of dollars in Afghan Jihad. These allegations he submitted were repeated by Mr. Muhammad Siddique Khan Kanju, the Minister of State for Foreign Affairs, Sardar Assef Ahmed Ali, Minister of State for Planning and Mian Abdul Sattar Laleka, the Federal Minister for Information and Broadcasting in their statements appearing in the press. This, he contended, forms part of government campaign of vilification against him. These allegations, the mover contends, have breached his Parliamentary privilege as Member of this House. In fact, he maintains, it has adversely affected the Jihad in Kashmir.

I asked the member to speak on the admissibility of the motion leaving out the

Rulings of The Chair Privilege Motion

Allegations against the President of Afghanistan as it were not proper to discuss the conduct of a foreign Head of State of friendly country in the House. However, he could refer to the statement of Ministers. Qazi Hussain Ahmad replied that he had made the statement of the Ministers as the basis of his motion and would continue his arguments on admissibility to them alone. Raja Muhammad Afzal Khan rising on a point of order objected to the procedure adopted by me saying that unless the Minister opposed the motion the member could not be heard on the admissibility. If the motion is not opposed it should straightway, be referred to the Privileges Committee for consideration. I then, remarked, it is for me to judge whether the motion is admissible or not irrespective of the fact whether or not it is opposed by the Minister.

Speaking on admissibility of the motion the mover submitted that he had himself declined to make comments on the allegations made by Prof. Mujadadi who was on a state visit to the country, but fundamental issue is that prior to that Prime Minister Mian Muhammad Nawaz Sharif after Jamat-e-Islami quitted the IJI accused him in a press conference that he would inform the Majlis-e-Shura of Jamat-e-Islami about his black deeds. The mover stated that after reading the Prime Minister's allegations he invited the Prime Minister to address the Majlis-e-Shura and make whatever disclosures he wanted to about him in the Majlis-e-Shura. Thereafter, he submitted, Sardar Assef Ahmed Ali the State Minister for Economic Planning made a statement that the President of Afghanistan possessed proof of the allegations that the mover had made crores of rupees in Afghan Jihad and that enquiry would be made against Jamat-e-Islami. The Minister had thus tried to create doubts and suspicions about his (mover's) honesty and credibility. He then referred to the statement of the Minister of State for Foreign Affairs datelined Lodhron in which he said that Prof. Mujadadi's allegations could not be lightly ignored. Alongside there was a statement of the Minister for information and Broadcasting making similar comments.

Intervening I observed that there are two aspects of the issue raised in the motion. First, there were accusations of personal nature against the mover who is also a member of this House. In that capacity, he had a right to clarify his position and he had availed an ample opportunity to do so. Second, the motion had some technical aspects based on principles and precedents. Then I observed: Firstly, a Privilege Motion is not admissible if it is based on political statements. The move was at liberty to make a counter statement to neutralize the effects of allegations made against him. It is an open fight in the political arena and should be waged on that front generally. The second principle governing a Privilege Motion is that breach takes place when the impugned statements wherever they may be emanating from, have caused obstruction in or prevented the member in the discharge of his duties and functions as a member of this House.

### Rulings of The Chair Privilege Motion

The mover maintained that leveling of personal allegations would not come within the purview of a political statement. The accusation of embezzlement is a serious reflection on his character and insisted that the motion be referred to the Committee where he would have an opportunity to further clarify his position. Taking the floor Senator Prof. Khurshid Ahmed contended that under the law and the Constitution the personal capacity as a political worker and as a member of the Parliament was not distinguishable in such matters on certain occasions. Senator Yahya Bakhtiar submitted that in the instant case, it is not a question of a political statement. Political statement can be of hundreds of types but when somebody attacks a member's integrity it is a different thing.

Further consideration of the motion was resumed on 24th June, 1992. Taking the floor the mover asked permission to add one more point in support of his motion. He submitted that under Article 62 (f) qualification of a member is that he is sagacious, righteous and non-profligate and honest and "Ameen". If he is, the mover maintains, not "ameen" or righteous as alleged, his membership will be affected. He can, therefore, legitimately raise the question of breach of his privilege in this House. I observed: Article 62 applies where the member seeks election. As the mover has already been elected the Article will not apply. Article 63 may have application as it deals with the disqualification of a member and its implication could be examined.

However, there is another aspect of this matter. All the three Ministers have individually and categorically denied on the floor of the House having made any statement accusing the mover of embezzlement in funds. I then drew the attention of the mover to the Ministers denial on the floor of the House. The mover then contended that actually his motion was based on the accusations of Prof, Mujadadi, and the interim President of Afghanistan and not on the statement of the Ministers. This is contrary to the position taken up by the mover at the very outset when I started hearing him on the admissibility of the motion. He had agreed and rightly so that the statement of a foreign Head of State cannot be the subject of a motion before this House.

The mover had alleged that the statements had undermined his efforts for liberation of Kashmir. However, efforts allegedly made by the mover in Jihad in Kashmir or Afghanistan have apparently no nexus with his status as Senator or the performance of duties as a member in this House. In such circumstances, he has only one option

### **RULINGS OF THE CHAIR PRIVILEGE MOTION**

to vindicate his position if he considers that the accusations are false, i.e. filing a case in a court of law for defamation or for damages against those who are responsible for tarnishing his reputation

as leader of a political party in relation to his activities and programme to advance the cause of Jihad both in Kashmir and Afghanistan. This apart, interestingly, the three Ministers whom he alleged had accused him falsely of embezzling crores of rupees in Afghan Jihad have categorically denied having made the impugned statements. Moreover, when Prof. Mujadadi made the impugned accusations he was in Pakistan as state guest in his capacity as the Head of a Foreign country. He, therefore, enjoyed complete diplomatic immunity and protocol and was not subject to judicial processes of any court in this country. Similarly, Parliament of Pakistan of which Senate is a limb, has no jurisdiction or power to initiate a proceeding in contempt or in breach of privilege against the Head of a State. I, therefore, cannot take cognizance of the impugned statement which patently falls outside the purview and scope of Rule 60 of the Rules of Procedure. The Senate could, however, interfere if a question raised had hindered or obstructed the mover in the performance of his Constitutional duties in the House, or where his character or role detracting from his credibility during his performance in the House is questioned. Accordingly, I hold the motion inadmissible under Rule 62 (ii) and (iii).

## APPENDIX- C

### ADJOURNMENT MOTION

**Adjournment Motion: The mover sought leave to discuss a matter regarding death of 10 Pakistani Commandos in Poonch sector during cross fire by the Indian Armed Forces: Opposing the motion the Minister concerned stated that the news item was totally baseless and incorrect: Press note contradicting the press report was also issued by the Government: The Chairman ruled the motion out of order on the ground that the press statement forming basis of the adjournment motion was devoid of any truth: Such a matter could not form a legitimate subject matter of an adjournment motion.**

Rulings of The Chair Adjournment Motion

Ruling

On July 7, 1986, Senator Qazi Hussain Ahmad sought leave to discuss a matter regarding the death of 10 Pakistani Commandos in Poonch Sector, during cross fire by the Indian Armed Forces.

Opposing the motion Sahabzada Yaqub Khan, Minister for Foreign Affairs, stated that the news report of the Press Trust of India to which the Honourable Senator had made reference and which was broadcast by the BBC and published in various papers was totally baseless and incorrect. He further pointed out that on 20-3-1986 the Government of Pakistan had also issued a press release denying the veracity of the above report.

Ruling the motion out of order the Chairman, Mr. Ghulam Ishaq Khan, observed that only specific matters of urgent public importance could be discussed under an adjournment motion. Since the veracity of the press report forming basis of the present adjournment motion has been denied by the Minister concerned such matters could not form a legitimate subject matter of discussion through an adjournment motion.

Senate Debate, July 7, 1986

**ADJOURNMENT MOTION: The members of a delegation of Jamaat Islami not allowed to board the Afghanistan Airline Flight at Peshawar Airport: contention that the alleged action not only violated the fundamental right of the members of the delegation but also brought disrepute to the country: Minister concerned opposed the motion and justified the action as the members of the delegation had no valid visas to visit Afghanistan: held that the matter is not of public importance as the remedy lies on administrative as well as judicial forums: ruled out of order:**

Ruling

On August 18, 1992, Senators Qazi Hussain Ahmad and Prof. Khurshid Ahmed sought leave to move their joint Adjournment Motion on a matter regarding immigration staff at the Peshawar Airport disallowing Jamat-e-Islami delegation to board the Afghan Airline flight leaving for Kabul on 16th July. Senators Qazi Hussain Ahmad and Prof. Khurshid Ahmed (herein after referred to as mover No. 1 and 2 respectively) have stated in their motion that a delegation of Jamat-e-Islami was invited by the President of the Islamic Republic of Afghanistan to visit Kabul. On 16th July, the delegation left for the Airport Peshawar to take the Afghan Airline flight. They got the

boarding cards of the Airline, their baggage was booked and loaded in the plane. Immigration staff checked their travel documents and cleared them to take the flight. Their passports were also stamped with exit entry. When they were about to board the plane, a plain clothed person appeared on the scene and on his instructions the immigration staff stopped them from boarding the plane on the pretext that they did not have the visit visas for Kabul. However, the leader of the delegation who had already boarded the plane was allowed to travel to Kabul although, he too, did not have a visit visa.

This action, which he considered not justified and correct, the mover No. 1 added, has not only hurt the fundamental right of the Leaders of the Jamaat but has also brought disrepute to Pakistan abroad. The movers based their motion on the news item carried by the daily "Jang" dated 17th July, 1992, containing the version as stated by the movers in their motion.

Ch. Shujaat Hussain, the Minister for Interior opposed the motion.

Explaining further the mover No. 1 submitted that when a delegation makes an official visit on the invitation of the Head of the foreign government, it is the duty of the host government, under the usual protocol to receive the guests at the airport of the host country. In such situation, visa from the local consulate of the host country is not required. The visa if required is given at the airport when the delegation lands in the host country. He cited his own example in that behalf and said he travelled to Kabul during Daud regime and was granted visa in plane before the plane landed. In the instant case, the immigration staff stopped them when their passports were duly stamped with exist entry and they were cleared by immigration staff to take the flight. The Airline had issued boarding cards and leader of the delegation had already boarded the plane. He was not stopped from travelling, although, he did not have the visa, but other members of the delegation were stopped on the pretext of not having the visit visa stamped on their passport. They were, he accused, stopped for political reasons. He also submits that the Government of Pakistan is aware that the Jamaat is in a position to play a conciliatory role in the Afghan conflict and commands respect and influence in the warring factions in Afghanistan. It was, therefore, against the national interest to stop the members of the delegation to visit Afghanistan particularly, when they were going to Kabul at the invitation of the President of the Islamic Republic of Afghanistan. This action on the part of the government, in his opinion, the mover No. 1 alleged, would create obstacles in improving friendly bilateral relations between the two countries. The government, he submits, owes an explanation why did it stop the members from making a visit to Kabul on the invitation of the Afghan Government. The Interior Minister submitted that government action was in the public interest and was not motivated by political consideration or to spoil, as alleged, the friendly relations between the two countries. The Government of Afghanistan, he submitted, had issued instructions to the Government of Pakistan not to allow any citizen of Pakistan to visit Kabul without a valid visa issued by their embassy in Islamabad. It is also the policy decision of Pakistan Government not to permit any person to visit Kabul without a valid visa. It is, therefore, necessary for any visitor to obtain a visa before leaving Pakistan for Kabul. The Interior Minister positively stated that the members of the delegation were not allowed to travel without visa consistent with the government policy not to allow any citizen to travel to Kabul without visa and the Government of Pakistan had also received identical instructions from the Kabul Government in this behalf.

After hearing the movers and the Minister for Interior I had reserved the ruling on 18th August because the Minister promised to furnish the Afghan Government instructions to the effect that no

Pakistani would be allowed to visit Kabul without a valid visa. It is an established procedure that nobody is allowed to travel abroad unless he has valid travel documents for the country he seeks to visit, unless the visa requirement is bilaterally dispensed with under an agreement between the two governments. The immigration staff which prevented the members of Jamaat-e- Islami delegation to travel at the relevant time was acting in pursuance of Government instructions. The Interior Minister has categorically stated that the Afghan Government had also desired that no person should visit Afghanistan without a valid visa. In these circumstances, the action of the immigration staff in stopping the members of the delegation from taking the flight for Kabul was justified and in accordance with the government directive and instructions of the Kabul Government.

#### RULINGS OF THE CHAIR ADJOURNMENT MOTION

The impugned action, in absence of any evidence to the contrary, could hardly be termed as illegal or motivated by political consideration or as contrary to public interest. This, apart from the subject matter of the motion, is by no means a matter of urgent public importance. It is an ordinary incident. It is not one of public importance either. The action, complained of, was taken by the immigration staff on duty at the airport, acting in the course of their normal duty under the law to which no legitimate exception can possibly be taken, even if it has some political ramifications. Accordingly, I hold the motion inadmissible under Rule 75 (a). If in the opinion of the movers, the immigration staff acted illegally, they could move against both on the administrative as well as on the judicial side. The motion is therefore ruled out of order.

Wasim Sajjad Chairman Senate Announced 22nd August, 1995

#### **1: ADJOURNMENT MOTION: Railway Accident At Railway Crossing Malikwal: A Matter Already Pending Before The Committee Constituted By The Government: Ruled Out Of Order.**

On 4th November 2003, during the proceedings of the House, Qazi Hussain Ahmad and Ch. Anwar Ali Cheema, MNA, sought leave to move adjournment motion regarding Railway accident occurred on the 20th of September 2003, at Railway crossing Malikwal in which at least 40 passengers were killed and many injured. It was informed that at that Railway crossing there was a Chowkidar but later on the Railway department removed the Chowkidar and the Railway crossing as well. He said that the Railway department was responsible for the terrible accident. He requested for two hours discussion on the matter after suspending the proceedings of the Assembly. Mr. Ghous Bux Mehar, Minister for Railways opposed the adjournment motion. He stated that the department had inquired into the matter and report was sent to the Cabinet. The report was very comprehensive and it had addressed every aspect of the matter in detail.

After hearing both sides at length, Mr. Speaker held the adjournment motion inadmissible and observed as under:

“The matter raised to in the adjournment motion is pending before the Committee constituted by the government therefore, the motion is hit by rule 93 of the Rules of Procedure and Conduct of Business in the National Assembly, 1992.”

Vol. X, Nos. 25-37 N. A. Debate, dated: 04-11-2003 Page Nos. 2388-2389

**2: ADJOURNMENT MOTION: KILLING OF MR. MURAD BALOCH MPA IN KARACHI: A PROVINCIAL MATTER: ADJOURNMENT MOTION HELD TO BE INADMISSIBLE**

Raja Pervaiz Ashraf and Qazi Hussain Ahmad, MNA, on 10th March 2004, sought leave to move adjournment motion regarding deteriorating law and order situation in Karachi due to murder of Mr. Abdullah Murad Baloch, MPA of Pakistan Peoples' Party in Karachi. Other members also spoke on the issue. They condemned the killing and demanded strict action against the murderers. They added that the matter was of urgent public importance, therefore, the proceedings of the House be adjourned to discuss the matter at length for two hours in order to expose the killers, the motive behind the murder and the failure of the government to control law and order situation in Karachi. The Minister for Parliamentary Affairs opposed the motion. After hearing the members and the Minister, the Speaker observed:

“The matter raised in the motion does not primarily relate to the Federal Government, therefore, the motion is ruled out of order. However, the Interior Minister may, if desires make a policy statement on the issue.”

Vol. XIII, Nos. 1-7 N. A. Debate, dated: 10-03-2004 Page Nos. 268-269,284

**3: ADJOURNMENT MOTION: BAN ON CONSTRUCTION IN THE RURAL AREA OF ISLAMABAD CAPITAL TERRITORY: MATTER TO BE RAISED THROUGH OTHER PROCEDURAL DEVICES COULD NOT BE DISCUSSED THROUGH ADJOURNMENT MOTION: RULED OUT OF ORDER.**

On 8th June 2004, Qazi Hussain Ahmad and Syed Nayyer Hussain Bokhari, MNA, sought leave to move an adjournment motion regarding ban on construction in the rural areas of Islamabad Capital Territory. He stated that the matter was of extremely urgent public importance and of recent occurrence, therefore, the proceedings of the House be adjourned to discuss it for two hours. Raja Pervaiz Ashraf, MNA, also supported the views expressed by the mover. The Minister for Interior opposed the motion by denying the facts alleged by the movers. The Chair observed as under:

“The motion is inadmissible as the matter has already stood discussed through Calling Attention Notice in this very august House. Further, the matter which can be raised under any other procedural devices, i.e. the Calling Attention Notices, Questions, Short Notices Questions, Half an Hour Discussion etc. cannot be raised through an adjournment motion.”

Vol. XIV, Nos. 1-8 N. A. Debate, dated: 08-06-2004 Page Nos. 803-804,810

**4: ADJOURNMENT MOTION: ARMY ACTION IN SOUTH WAZIRISTAN: MATTER ALREADY DISCUSSED: A MATTER CONTINUING FOR SOME TIME CAN NOT BE DISCUSSED THROUGH ADJOURNMENT MOTION: RULED OUT OF ORDER.**

Dr. Farid Ahmed Paracha, Raja Pervaiz Ashraf, Ch. Nisar Ali Khan, Khawaja Saad Rafique, Qazi Hussain Ahmad and other MNAs, moved similar adjournment motions on 13th September 2004, regarding army action in South Waziristan with the request to discuss it after adjourning the normal proceedings of the House as the matter was of urgent public importance and recent occurrence. The Minister for Law and Justice opposed the motion being against the rules. The Minister for Interior argued that the action of the law enforcing agencies was in retaliation to the activities of the terrorists and that it was still continuing. The Chair ruled it out of order as under:

“It is a fact that operation in Wana has been going on for the last more than six months and it is still continuing. A matter which has been continuing for some time cannot be raised through adjournment motion. (M.N. Kaul, Page No. 451). According to the government version, the matter has already been discussed in this very House in the month of September, so it is hit by Rule 93(d) of the Rules of Procedure and Conduct of Business in the National Assembly, 1992. Furthermore, according to the government version this operation is against the foreigners who are the terrorists, hiding there and not against the local population. According to parliamentary practice, when the government disputes the facts, the version of the government is to be accepted.”

Vol. XXI, Nos. 1-9 N. A. Debate dated: 13-09-2004. Page Nos. 103,128.

**5: ADJOURNMENT MOTION: KIDNAPPING OF PARTY LEADERS IN BALOHISTAN: IDENTICAL ADJOURNMENT MOTION ALREADY MOVED IN THE SENATE: RULED OUT OF ORDER.**

On the 24th August 2006, Mr. Abdul Rauf Mengal, MNA, moved an adjournment motion regarding kidnapping of some party leaders in Balochistan on the 23rd August 2006 which was opposed by the Minister. It was admitted by the mover that the kidnapped leaders were the brothers of Senators Sanullah Baloch, who had already moved the adjournment motion on the same issue in the Senate.

Mr. Speaker ruled:

“An identical adjournment motion has already been moved and is under discussion in the Senate. The same cannot be taken up in the Assembly.”

Vol. XXXVII, Nos. 1-10 N. A. Debate, dated: 24-08-2006 Page Nos. 1770-1772

**CALLING ATTENTION NOTICE**

**CALLING ATTENTION NOTICE: NON-PAYMENT OF COMPENSATION TO THE RELATIVES OF THE VICTIMS OF RAILWAY ACCIDENT OCCURED AT SOVO DARO RAILWAY CROSSING NEAR JACOBABAD: CHAIR OBSERVED THAT A MEMBER MAY ASK A QUESTION; NOT TO MAKE A STATEMENT.**

On April 18, 2006, during the proceedings of the House, Mir Ijaz Hussain Jhakarani, MNA, invited attention of the Minister for Railways to the non-payment of compensation to the relatives of the victims of Railway accident occurred at Sovo Daro Railway crossing near Jacobabad. After a brief statement made by the Minister for Railways instead of asking a question h/e sought permission of the Speaker to give a brief statement regarding the background of the accident. The Speaker did not allow him to give brief statement and observed as under:

“On a Calling Attention Notice after a brief statement made by a Minister, a member has the right to ask a question, but brief statement by a member is not permissible.”

## **FINANCE BILL**

**FINANCE BILL: INCLUSION OF THE BILLS IN FINANCE BILL WHICH WERE PENDING BEFORE THE STANDING COMMITTEE: HELD MONEY BILLS PENDING BEFORE THE STANDING COMMITTEES COULD BE INCLUDED IN THE FINANCE BILL.**

On June 21, 2006, during consideration on the Finance Bill 2006 in the House, Mr. Muhammad Hussain Mehanti and Qazi Hussain Ahmad MNA raised objection that certain laws were included in the Finance Bill which were pending before the Standing Committee for examination. He was of the view that the Bills pending before the Standing Committee for examination could not be included in the Finance Bill.

Mr. Speaker rejected the objection raised by the member and ruled as follows:

“A Money Bill which is already pending before a Standing Committee for consideration can be included in the Finance Bill and brought before the House for passage.”

## **LEAVE OF ABSENCE**

**LEAVE OF ABSENCE: REASONS NOT STATED IN THE LEAVE APPLICATION BY THE MEMBERS: MEMBERS ADVISED TO MENTION REASONS FOR ABSENCE IN THEIR APPLICATIONS AND MINISTERS AS WELL.**

On May 2, 2006, after disposal of leave of absence of the members

Mr. Speaker ruled:

“I have found that asking leave of absence, over a time, has become a routine matter. The members do not bother to mention the reasons for their absence. The business of the House has priority over all other matters. Mentioning reasons in the application provides justification for absence of a member. Asking leave without reasons or on flimsy grounds be avoided. Likewise, informing the House of their absence, the Ministers should also indicate the reasons of absence.

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