

The Dynamic Role of "Mawlana Shah Ahmad Noorani" in the Constitution-Making of Pakistan (1972-1975)

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Abstract

Mawlana Noorani could be found busy in politics even before the independence of Pakistan in 1947. Mawlana Shah Ahmad Noorani entered into Pakistani Parliament through the general elections held in 1970. He always struggled for the democratization and Islamization of Pakistani society through constitutional means. When the Interim Constitution was presented in the National Assembly on April 14, 1972 by the Bhutto Government, Mawlana Noorani on that very day urged the President to prepare a constitution based on the teachings of Holy Quran and Sunnah and on the twenty-two points of the Ulama. A twenty-five member Committee, which was entrusted with the task of preparing the draft for permanent constitution, Mawlana was one of them. Mawlana Noorani was one of the signatories of the "Constitutional Accord" signed by the opposition parties and the then Government on October 20, 1972.

Index terms— shah-ahmad-noorani, constitution-making, parliamentary-politics, udf, jup, 1970- elections, abdul-hafeez-pirzada, 1973-original-constitution, definiti

The Dynamic Role of "Mawlana Shah Ahmad Noorani" in the Constitution-Making of Pakistan (1972-1975) even Some of them are directly participating in political system. While a number of these forces are indirectly involved in influencing the efforts for democratization. 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 democratization (Rashid, 1996, pp. 5-6).

One such group of religious scholars organized themselves in shape of Jam'iyyat 'Ulama-i-Pakistan in 1948. Leaders and workers of this religious party started contributing to the process of democratization 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 Mawlana Shah Ahmad Noorani and Mawlana Abdus Sattar Khan Niazi (1915-2002). Both these personalities as leaders of their own factions remained active political figures for a number of years, where the politics were mainly dominated by the agenda of democratization and Introduction of 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 democratic and Islamic state. In this struggle 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 democratization are struggling in a variety of ways.

Central Legislature against the seat of district Muzafar Nagar (Meerut Division), Mawlana Noorani took active part in his election campaign.

The second event of importance where we can trace Noorani's participation in political activities is when the British government enforced the Zakat Bill for the Muslims in 1946 according to which Zakat was deducted from the Muslims forcefully and used according to British's own choice. This Bill was anti-Muslims and the Ulama all

3 ENACTMENT OF THE INTERIM CONSTITUTION 1972 AND MAWLANA NOORANI

over India agitated against the bill. Mawlana Noorani participated in a meeting held at Madrassa-i-Miskeeniyah Dhorajee Kathiwar on November 13, 1946. He strongly resented the bill and declared it as interference in the religious affairs of the Muslims. He demanded its withdrawal (Ibid; pp. [48][49].

1 IV. Entry of Mawlana Noorani into Parliamentary Politics

Mawlana Noorani started his political career from the platform of Jam'iyat 'Ulama-i-Pakistan (JUP) (Ahmad, 1993, p.44) in 1953. He remained an active member of the JUP Karachi branch during 1953. When the 6th annual conference of the JUP was convened on October 19, 1954 regarding the Day of Hazrat Hussain (R.A), Mawlana Noorani was the office secretary of the JUP Karachi branch at that time. When the One Unit (Khan, 2001, p.158) was formed in 1955, Mawlana Noorani was appointed the Senior Vice-President of the JUP (West Pakistan). When General Muhammad Ayub Khan imposed Martial Law on October 7, 1958, all the political parties were banned including the JUP. But when the political parties were restored (Ibid; p. 159) in 1964, Mawlana Noorani again started the activities from the JUP platform (Hussain, 2009, p. 55).

The elections of 1970 were approaching. The parties having the Socialist and Communist tendencies were busy in their own campaign. Mawlana Noorani also contested the election from the JUP platform. His main slogan was the imposition of Nizam-i-Mustafa in the country (Ibid;).

Meanwhile, General Ayub Khan (1907-1974) handed over the power to General Yahya Khan (1901-1980) who issued a Legal Framework Order on March 30, 1970. In the same order he dissolved the 'One Unit' in West Pakistan; and the principle of parity East and West Pakistan was introduced (44). It required elected representatives to draft a constitution within 120 days after assuming power. The LFO laid down certain fundamental principles that the National Assembly had to respect in framing a new constitution. These principles were the preservation of independence, territorial integrity, national solidarity of Pakistan and its Islamic Ideology (Ibid; pp. 44-45).

On May 30, 1970, the Majlis-i-'Amal met in Lahore to discuss organizational problems. The meeting approved a manifesto. Mawlana Shah Ahmad Noorani was nominated as a candidate of the JUP for NW-134 Karachi VII in the 1970 Elections. Mawlana Noorani, while highlighting the main points of the manifesto, pledged to work for the establishment of a social welfare state based on the teachings of Quran and Sunnah negating socialism and capitalism (Scruton, 1984; 52). He also stressed the need for the enforcement of an Islamic constitution, and condemned the regional, ethnic, and class conflicts (Ibid; pp. [45][46].

V. 1970 Elections and Jam'iyat 'Ulama-i-Pakistan

At first, the date of elections was October 5, 1970, but the elections were postponed by two months, due to heavy floods in East Pakistan in August and now to be held in December 1970. The elections were held on December 7, 1970, for the National Assembly, and December 17, 1970, for the Provincial assemblies. The JUP contested the elections for the National Assembly from NWFP, Punjab and Sindh, and for the Provincial assemblies of Punjab and Sindh. It put up fifty candidates for National Assembly seats. Out of these 01 was put up from NWFP, 08 from Sindh and 41 from Punjab. According to the election results, only 7 JUP candidates won National Assembly seats, which included 4 from Punjab and 3 from Sindh. While in the provincial assemblies 4 of its candidates remained successful for the Punjab Assembly and 7 for Sindh Assembly (p. 70-71).

Mawlana Shah Ahmad Noorani started his parliamentary career with the Jam'iyat 'Ulama-i-Pakistan (JUP) which won 7 seats in the National Assembly of Pakistan during the 1970 elections. He was one of the seven successful candidates from Sindh. He was elected from Karachi in the constituency NW-134 Karachi VII (Ibid; p. 218). Names of other successful candidates along with their constituencies were; Allama Abdul Mustafa al-Azhari (1916-1989) (Ahmad, 1993, p. 75). The General Council of the JUP, which met in Sargodha on March 27, 1972, threatened that the JUP would launch a movement if the interim constitution were not based on the teachings of the Quran and Sunnah. Mawlana Noorani, while addressing a public meeting at Karachi, demanded that the interim constitution should solely be based on the Quran and Sunnah (Ibid; 93).

Mawlana Noorani took the oath and signed the Roll of Members on April 14, 1972 (NAP Debates, I (I), April 14, 1972; 5). When vote of confidence in Mr. Zulfikar Ali Bhutto as President of Pakistan was adopted in the National Assembly of Pakistan on that very first day Mawlana Noorani pointed out the unsuccessful efforts of the Constituent Assembly to frame a constitution for the country during the last 25 years. He assured the House about his cooperation in the formation of a new constitution (Ibid; 26).

2 VI.

3 Enactment of The Interim Constitution 1972 and Mawlana Noorani

As a first step to constitution-making the Bhutto government, presented a draft Interim Constitution on April 11, 1972. Mawlana Noorani, in a press conference, announced that the opposition parties along with the JUP had decided to vote against the constitution of Martial Law and the Interim Constitution. They also decided to work for the introduction of an Islamic constitution and the supremacy of democracy. After taking unanimous vote of confidence from the National Assembly, Bhutto presented the Interim Constitution on April 14, which the National Assembly approved on April 17. A twenty-five-member committee was entrusted with the task of

preparing the draft of the permanent constitution. Mawlana Noorani represented the JUP on this committee ??Ahmad, 1993, pp. 93 -94).

Mawlana Noorani, on April 14, 1972, addressing the inaugural session of the National Assembly welcomed the decision to lift Martial Law. He urged the President to prepare a constitution based on the teachings of Holy Quran and Sunnah and on the twentytwo points of the Ulama (Appendix C, 22 points of Ulama, p. 94). On April 15, 1972, Mawlana Noorani alleged that all the provisions of the Martial Law Regulations (Chowdhury, 1969, pp. 135-136) had been present in the interim constitution. Referring to its Islamic provisions, he observed that no time limit had been laid down for the elimination of un-Islamic provisions. He criticized the government for not banning liquor, music, dancing, nightclubs and gambling. Mawlana Noorani observed that the Interim Constitution would be acceptable to the JUP only if its un-Islamic provisions are omitted ??Ahmad, 1993, p. 94).

Mawlana Noorani actively participated in the discussions of the constituent committee. In cooperation with other parties, he presented more than 200 amendments (Many of those are given in the text of the entire chapters) in the draft constitution of 1973 (Ibid; p. 98).

4 VII.

5 The Constitutional Accord 1972 and Mawlana Noorani

All the opposition parties had representation in the twenty-five-member committee formed by the PPP government. All of the members presented their own suggestions. Bhutto and opposition parties' leaders held talks in that regard. Mawlana Noorani of the JUP informed him about his constitutional proposals in detail and convinced Bhutto about his suggestions ??Hussain, 2009, p. 73). Bhutto also could not find any problem in accepting constitutional proposals of Mawlana Noorani. An agreement was reached upon and in the light of the said agreement a "Constitutional Accord" was signed between the PPP and opposition parties on October 20, 1972 (Ibid; pp. [73][74].

10 leaders of the seven parliamentary parties signed the accord. The leaders of the parties who signed the accord on the behalf of their parties were: Zulfikar Ali Bhutto, the President of Pakistan and Chairman of the PPP, Mawlana Shah Ahmad Noorani, Member of National Assembly (JUP), Sardar Shaukat Hayat ??han (b. 1915), MNA Council Muslim League (CML), Abdul Qayyum ??han (1901 ??han (-1981)) After the constitutional accord it was expected that the constitution would be undisputed. But when the draft constitution was prepared by the PPP, the constitutional accord between the government and opposition was violated. The government hampered the trust. Mawlana Noorani declared this violation as going back by the government on its words. The government blamed the opposition that they were not taking interest in the constitution making ??Hussain, 2009, p. 74). Mawlana Noorani was astonished to see that the formula made and agreed upon by the opposition parties was violated badly. The rulers had ignored the true draft of the constitution in order to protect their desires for power. Each and every Islamic and democratic clause was vanished. According to him the Constitutional Accord could not be a complete constitution but the blame of the ruling party was unjust to say that the opposition parties were not interested in the constitution making process. He responded that his interest was apparent from the fact that he personally presented more than 200 amendments to the draft constitution during the constitution committee proceedings. After the accord it was the duty of the government to insert the Islamic clauses in the constitution. If there would be no Islam in the country then there was no question of the creation of Pakistan. The constitutional guarantee should be given to all the Islamic clauses (Ibid; pp. 74-75). Mawlana Noorani while answering a question during an interview said that Islam was ever used for gaining political ends. Islam was used for instigating the public and to play with their emotions. It was compromised in the constitutional accord that Islam would be made the state religion of the country and no law would be made repugnant to the teachings of the Quran and Sunnah. But it was astonishing that no guarantee was given in the constitution to Islamize all those laws, which were repugnant to the Islamic values ??Siddiqi, 1988, p. 19).

Mawlana Noorani regretted over the draft Constitution and said that in spite of the best efforts made during the deliberations of the Constitution Committee, the proposed draft Constitution was disappointing from the points of view of Islamic provisions, fundamental rights, independent judiciary, free and impartial elections, economic and social justice and parliamentary democracy (Daily Dawn, Karachi, January 1, 1973).

6 X. Mawlana Noorani's Comments on the Draft Constitution

Mawlana said, "The constitution which was going to be framed, if framed on the basis of different nationalities then it would lead us towards destruction" (NAP Debates, II (14), ??arch 6, 1973, p. 722). Propaganda was being made that the Constitution was an Islamic one. It would be Islamic if the Quraanic injunctions were incorporated. But surely it was not the case (Ibid; p.727). In his note of dissent Mawlana Noorani declared that Article-2 of the draft provided that Islam shall be the State religion of Pakistan, demanded that laws in Pakistan should conform to the Quran and Sunnah. He therefore proposed that a constitutional provision should be made that any law in contrast to Islam should be ultra-vires (Daily Dawn, Karachi, January 1, 1973).

7 XI. Mawlana on the proposed Executive and Judiciary of the Draft Constitution

Mawlana Noorani condemned the strange features of the draft constitution concerning the Prime Minister and demanded its correction. The Prime Minister was made a dictator by vesting all powers in his hands. All the powers started and ended in the Prime Minister. The parliamentary system was based on the principle of separation of powers where the executive and judiciary executed separately. These institutions worked just for the integrity of the country and were independent of one another. The separation of powers agreed upon at accord was not completely incorporated. The Prime Minister was made dictator through extraordinary powers in his hands and it would seem that an owl was sitting on every branch. So it was necessary to separate the judiciary completely from the executive. Proper amendments should be made in the constitution in that connection (NAP Debates, II (14), March 6, 1973, pp. 728-729).

8 XII.

9 Mawlana About the Martial Law Regulations in Draft Constitution

Mawlana Noorani drew the attention of the other parliamentarians to the "Martial Law Regulations". He made it clear that the constitution would be showed to the world in its democratic shape hiding the black laws of Martial Law. The preventive detention (Ahmad, M. B., 1996, PP. 261-262) was safeguarded in the draft constitution. Mawlana Noorani was against the bureaucracy indulgence in the politics. He strongly opposed the black laws of the constitution and demanded to consider the amendments made by him and his Party. He aspired that we were supposed to make such a constitution, which would not be defended by the National Assembly but by the residents of the country (NAP Debates, II (14), March 6, 1973, pp. 730-731).

So from the above study one can easily conclude that the government was not true to its words as shown in the accord. There was no proper way for the Islamization of the society in its true sense. The clauses of the draft constitution nominally declare to Islamize the society. No practical steps were there to be followed in that regard. There seemed to be loopholes in the true parliamentary democracy. Fundamental rights were not safeguarded as was promised in the accord.

Instead the black laws of preventive detention were incorporated into the draft.

10 XIII. Government's bill for approval of the Draft Constitution

On February 2, 1973, Abdul Hafeez Pirzada moved for leave to introduce a Bill to provide a Constitution for the Islamic Republic of Pakistan. He hoped for constructive amendments from the Members of the House and assured that weighting would be given to the Members' viewpoints (NAP "Constitution-Making Debates", II (14), February 2, 1973, pp. 23-24). The National Assembly of Pakistan (Constitution-making) again met in the Assembly Chamber, Islamabad on for the approval of the draft constitution (NAP "Constitution-Making Debates", II (14), March 6, 1973, pp. 23-24).

Mawlana Noorani through his speech went into the past and said that Pakistan had come into existence after many sacrifices. One million Muslims were martyred and thousands of Muslim women were raped. These sacrifices were rendered for the sake of a land where the law of Allah and His Prophet Muhammad (PBUH) would be prospered. This country had not come into being by the sacrifices of its people as Punjabis, Baluchis, Sindhis or Pathans rather they were a single nation of the greatest spiritual bond, which was Islam. Some people related the Muslim nation with twenty five hundred or five thousand ancient cultures and civilization. There was no space for Mohenjodaro Civilization in Islam. Our culture and civilization is based only on the footings of Islam (Ibid; pp. 717-718).

Mawlana Noorani said that the people were mistaken to consider that Quaid-e-Azam fought for freedom on the base of Two-Nation theory and that Allama Iqbal founded the Muslim nation. Both of them fought on the basis of Islam, as they knew that nations were built up only on the basis of religion and not upon the culture or civilization. Nobody, within and outside the parliament should be proud to be Sindhi, Baluchi, Punjabi or Pathan. All of us should be proud to be the Muslims. According to the Quran all of us are Muslims (Ibid; pp. 719-721).

11 XIV. The United Democratic Front for Constitution and Noorani

The government's anti-opposition policy had created discontentment within the opposition circles. Nobody could oppose the government. Many opposition leaders went into refuge while many were compelled to stand by the government. For example, Mumtaz Daulatana was made the ambassador and went to England. The government allied Khan Abdul Qayyum Khan. Even the three members namely Mehar Ghulam Haider Bharwana, Sahibzada Nazir Sultan and Mian Muhammad Ibrahim Barq also left the JUP. Initially the opposition leader, Shaukat Hayat

Khan was the head of the Muslim League. He was leading the eleven members of his party but soon this number decreased to only one. The opposition bench decreased rapidly and a new opposition was to be made. The toss favored Khan Abdul Wali Khan as he was leading more members in the opposition benches. So ten members of the Muslim League and three from the JUP had left their parties and had joined hands with the government for power ??Hussain, 2009, pp. 79-80).

All the opposition parties were united against the undemocratic measures of Bhutto. However the leaders of the opposition parties held a meeting at Rawalpindi on March 13, 1973, under the chairmanship of Pir Mardan Shah of Pagara. They decided to set up the United Democratic Front (UDF) (Pakistan Times, Lahore, . Mawlana Noorani was nominated as the Chairman of the Coordinating Committee of the UDF (Daily Nawa-i-Waqt, Karachi, . The UDF was composed of the NAP, PML, JUI, JUP, JI, Khaksar Tahrik (KT) and Pakistan Jamhoori Party (PJP). Apart from these parties some independent members were also there (Daily Pakistan Times, Lahore, . Ten members committee was formed in its meeting so that important amendments to the constitution should be suggested.

The United Democratic Front issued a twelve point's press note. A summary of the points was: the protection of Pakistan solidarity; approval of an Islamic, democratic, federal and parliamentary constitution; restoration of fundamental rights; eradication of exploitation and aggression; guarantee for the provincial autonomy; support of the peasants, workers and students; following the positive politics; united struggle for the termination of the ideological conspiracies; stunt against the dictatorship and efforts for the quick return of the POWs of the East Pakistan crisis ??Hussain, 2009, p. 80).

12 XV. Mass-contact Campaign of Mawlana Noorani and Government's Reaction

Mawlana Noorani, as an in charge of the coordinating committee, started tour of the whole country in order to impose Islamic system and eradicate the 'dictatorship' in the country for bringing Islamic democratic style (Daily Nawa-i-Waqt, Karachi, . He made the programs for public meetings and the first show of public power appeared in the shape of public gathering in Peshawar, which was successful. Apart from the Peshawar gatherings, the meetings at Quetta and Hyderabad were also remarkable ??Hussain, 2009, p. 81).

The government tried to fail the contact campaign of the opposition but that effort was also unsuccessful. It used the traditional tactics to sabotage Volume XV Issue IV Version I the next programs of the opposition. The loud speakers were destroyed and the security forces used 'lathy charge' over the public. Bullets were also fired at the processions. While on the other hand the police arrested the administrators and workers of the processions in the name of peace. The arrested workers were tortured in jails. Even the permits of their public gatherings were cancelled (Ibid; pp. 80-81).

Mawlana Noorani was stopped on his way at Rohri from Karachi to Multan and was delayed so much so that the time of the meeting was over. The people gathered at the station to receive Mawlana Noorani. As soon as he reached Multan, he started his speech just at the railway station. The local police stopped him from his speech and showed the orders that he could not address the gatherings any where at Multan. So in this way the meetings of the UDF were finished by force. But Mawlana Noorani kept up the public contact in the name of religious gatherings at Urs of the saints and informed the mass about the dictatorial mind of the government (Ibid; p. 82).

Addressing the people at Sadiqabad, Mawlana Noorani said, "The present government is making fun of the democracy and freedom of writing and expression. The hooliganism and luxury has increased. The opposition is stoned and 'lathy charged'. The hooligans are encouraged and they have been kept above the law. "No such example of barbarity over the workers in the twenty-five years history can be found as during this government. How such a head of the government can be regarded as the Quid-e-Awam? The contact and relation between the government and public is broken."(Ibid; p. 82).

13 XVI. Charter of Demand of the United Democratic Front and Bhutto Government

The constitutional committee of the UDF presented the charter of demand before the Bhutto Government on ??arch 16, 1973 (Daily Nawa-i-Waqt, Lahore, ??arch 17, 1973). It consisted of the points regarding the independence of judiciary, establishing the Election Commission, fundamental rights and the powers of the Prime Minister. Bhutto did not consider the said points to be suitable for the constitution. So the leadership of the UDF decided to hold a procession in Rawalpindi on March 23, 1973 March 25, 1973). The government dispersed the gathering with cruelty. As a result of this more than a dozen people were killed and many wounded. The leadership of the UDF decided to boycott the next session of the National Assembly. However Bhutto invited the opposition on April 2, 1973 for the sake of national consensus. Bhutto agreed with some of the demands of the opposition and also invited them to participate the Assembly session on April 7. But the UDF decided to boycott that session (Ibid; April 3 & 5, 1973). When Bhutto accepted some more amendments at the final round of the talks, the UDF decided to attend the session (Ahmad, P. G., 1991, pp. 39-42).

18 ANOTHER AMENDMENT MOVED BY MAWLANA NOORANI IN THAT REGARD WAS: -THAT AFTER CLAUSE (2) OF ARTICLE 4 OF THE CONSTITUTION BILL THE FOLLOWING CLAUSES BE ADDED NAMELY: -

14 XVII. Voting over the Draft Constitution in the Parliament

On April 10, 1973, voting within the National Assembly was held in order to know how many opposition leaders were against the draft constitution (Daily Nawa-i-Waqt, Lahore, April 11, 1973). Before holding the voting on the constitution, the UDF leaders met at Islamabad in which most of the party leaders suggested to vote in favor of the constitution (Tarjuman-e-Ahl-e-Sunnat, Karachi, May 1973, pp. [46][47]. But Mawlana Noorani was of the opinion that PPP had gone against the Constitutional Accord and the Islamic clauses included in the constitution were not satisfactory, therefore the JUP members would not vote in favor of the constitution. When the voting over the constitution took place, Mawlana Noorani, Allama Abdul Mustafa Al-azhari, Sayyid Muhammad Ali Rizvi (b. 1916) and Mawlana Muhammad Zakir did not take part. Other opposition leaders of the Parliament like Mir Bakhsh Bezanjo, Abdul Wali Khan (1917-2006) and Professor Ghafoor Ahmad tried their best to convince Mawlana Noorani but he did not vote. Mehmood Ali Qasoori and Ahmad Raza Qasoori of Tahrir-i-Istiqlal (TI) and one member of the PPP, Mir Ali Ahmad Talpur (1915-1987), also voted against the constitution (Ibid; pp. [48][49].

When a journalist asked Mawlana Noorani that being the joint secretary of the UDF, why did not vote in favor of the constitution although the opposition voted in its favor? He answered, "I do not consider the Articles of the constitution completely Islamic and my party is also of the same opinion. He had decided in the meeting of the UDF that every person having any opinion individually about the constitution should express it. Therefore there was no question of differences with the coordinating committee or the opposition. The coordinating committee had permitted the whole members of the opposition to vote according to their own conscience (Siddiqi, 1988, p. 71). Mawlana Noorani in a press meeting at Karachi informed the journalists that during the preparation of the constitution the leaders of the JUP were offered the ministries at Center and Sindh but we rejected the offer for the sake of democracy and Islam (Ibid; p. 72).

Mawlana Noorani said that how could he call such a constitution an Islamic one for which nine years period was specified to Islamize it completely? The government itself had 'confessed' that after the said period the constitution would be made according to the Quran and Sunnah (Tarjuman-e-Ahl-e-Sunnat, Karachi, June 1973, p. 48).

15 (F)

Global Journal of Human Social Science Consequently the permanent constitution of Pakistan was approved on April 10, 1973, which was implemented on August 14, 1973 (Daily Nawa-i-Waqt, Lahore, April 11, 1973). Although the 1973 Constitution cannot be regarded as an Islamic one completely but due to the efforts of Mawlana Noorani and other Ulama some Islamic clauses were included in this Constitution. The Islamic clauses, which were made part of, the 1973 Constitution due to the amendments of Mawlana Noorani, are as under: 1. Islam will be the State religion. 2. No law will be made repugnant to the Quran and Sunnah. Already existing laws will be brought in accordance to Quran and Sunnah. 3. Forming the Islamic Ideology Council within 90 days of the implementation of the Constitution will be compulsory. The Chairman of the Council will be appointed from the two judges of the Supreme Court or the High Court, who will be the members of the Council.

16 2/5th of the minority of the Provincial or Central

Assembly will be able to send any law under consideration to the Islamic Ideology Council. (At first this right was given to the majority) 5. If a bill was passed in a hurry on necessary basis and later on the Council gives the opinion that it was against the Quran and Sunnah, then the revision will be compulsory (Hussain, 2009, p. 126).

17 XIX. Mawlana's Amendment for Individuals' Fundamental Rights

Mawlana Noorani moved this amendment before the House on in the Article-4. The amendment was: If a person or a part of the country is harmed he should have the right to knock at the door of the Supreme Court. This is his fundamental right (NAP Debates, II (18), March 12, p. 1065)).

If that fundamental right was suspended any time then there was no law for the person or institution to knock at the door of the Supreme Court. So Mawlana Noorani was the first person to safeguard the fundamental right of the citizens in this respect (Ibid; p. 1069).

18 Another amendment moved by Mawlana Noorani in that regard was: -That after clause (2) of Article 4 of the Constitution Bill the following clauses be added namely: -

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

(4) The law shall not exclude any injury to individual rights from consideration by the judicial power (NAP "Constitution-Making Debates", II (18), March 12, p. 1065)).

Although these amendments of Mawlana Noorani were rejected by the majority Members sitting in the House but he fulfilled his duty by raising a voice in the Parliament for the constitutional rights of the nation (Ibid; p. 1072).

19 XX.

20 Amendment to the Constitution for Employment of Citizens

Mawlana Noorani moved an amendment to the constitution for the employment of every able citizen of Pakistan. The amendment was: -That Article 8 of the Constitution Bill be re-numbered as clause (1) of that Article and the following be added thereafter, namely: -(2) Every able bodied citizen of eighteen years and above shall be entitled to demand from the State work within a reasonable distance of his place of residence and it shall be the duty of the State to provide work to such a person commensurate with his education and skill and if the State for any reason is unable to do so, he shall be paid a maintenance allowance till such time as the remunerative work is provided for him (NAP Debates, II (19), March 13, 1973, p. 1125).

The amendment moved by Mawlana Noorani was regarding Article 8 of the Constitution and at last stood part of the Act (Ibid; pp. 1131).

21 XXI. Amendment for the Removal of Preventive Detention

Mawlana Noorani made it clear that there was no liberty of individuals as long as Preventive Detention had been protected in the Constitution Bill. According to the law every person could be sent to jail for eight months within two years whether he was arrested on the basis of law and order situation or without any reason. The Islamic principle of equity and justice had been crushed under the feet. If we had a glance over the constitutions in the world it would be clear that there was nothing more important than the freedom of individuals. The examples of the powers of the British Prime Minister were being presented on the floor. But if those powers were vested in his Pakistani counterpart he would become a dictator. Their constitution was the result of hundreds years of democratic experience. The press in England was free. If somebody wished to publish a newspaper he did not need the permission of the government there. Here everything was in the hands of the government. The journalists were not free to write independently. Mawlana Noorani presented a very vivid position on restrictions of press in Pakistan, which is true even today. He declared: banned. The press is free but it is sealed. Everything is free but in chains. This is the atmosphere where slavery is flourished and black laws of the press rules and the people are growing under such circumstances?this is the constitution which is termed as an Islamic one (NAP Debates, II (14), ??arch 6, 1973, p. 726).

Mawlana Noorani strongly criticized the clauses in Article 9, which were in favor of the Preventive Detention. He made it clear that there were no such clauses in the constitution of any civilized country. If a person were arrested on the basis of involvement in any crime, there was already a space for his penalty within Pakistan Penal Code, Criminal Law. The government could arrest such a person under the said code and investigations could be made within 24 hours and could be trialed in the open court. Through Preventive Detention any person could be arrested and sent to jail. So it would become very easy to exploit the Law and used by the government against their political opponents. The amendment moved by Mawlana Noorani in that connection was: That the clauses (3) to (9) of Article 9 of the Constitution Bill be deleted (NAP Debates, II (19), ??arch 13, , pp. 1132 ??arch 13, -1141)).

Another such amendment for the substitution in the Constitution Bill was moved by Mawlana Noorani that was: That for clause (2) of Article 13 of the Constitution Bill, the following be substituted, namely: -(??) No person shall be subject to torture in any form, whether as a mode of extracting proof or as a mode of punishment (NAP Debates, II (20), ??arch 14, , p. 1205)).

The majority of the House rejected the above amendment of Mawlana Noorani. (Ibid; p. 1219).

22 XXII. Amendment for Providing Free Education

Mawlana Noorani forwarded an amendment to the Constitution Bill to make the government responsible for providing free education to its people. No timeframe was given in the Constitution Bill for providing free education. So his amendment moved in this regard was: That for paragraph (h) of Article 39 of the Constitution Bill the following be substituted, namely: -(b) Provide free and compulsory secondary education within a period of five years from the commencing day and remove illiteracy within the minimum possible time (NAP Debates, II (21), ??arch 15, , p. 1360)).

The House also rejected the aforesaid amendment of Mawlana Noorani (Ibid; p. 1391). National Education Council was set up for making the education system better. Five Members, within the National Assembly, were elected to the National Education Council (NAP Debates, II (7), ??anuary 6, 1973, p. 427). Mawlana Noorani was one among them (Ibid; p. 427).

23 XXIII.**24 Amendments for A Smooth Democratic System**

Mawlana Noorani was not in favor of five years term of the National Assembly. He demanded to decrease it to four years. Because the sooner the elections were conducted the more political consciousness was developed. Where the term of the Assembly was prolonged, the flaws become obvious. So he suggested fixing the Assembly term at four years instead of five. The representatives of the people would be more active and the people would also be politically mature. The amendment moved by Mawlana Noorani in that connection was: That in Article 55 of the Constitution Bill, for the word "five", occurring in the second line the word "four" be substituted (NAP Debates, II (23), March 19, 1973 ??arch 19, , pp. 1528 ??arch 19, -1533)). The House negated the amendment (Ibid; p. 1536).

A true parliamentary democracy is that which safeguards the parliamentarians within the sphere of law. Mawlana Noorani also presented some amendments to the Constitution Bill in order to get some relief for them for a better efficiency on their part. He declared that all the previous constitutions had the provisions for sixty days regular leave for a member of the parliament while that was decreased to forty days in the new Constitution. Most of the parliamentarians remained abroad when there was no session of the house. Then there would be no source of communication where they stayed. That was the reason that he considered the forty days sanctioned leaves to be less for the members of the Assembly. Therefore he demanded to increase the leaves from forty to sixty days (NAP Debates, II (24), March 20, 1973, p. 1617).

Mawlana Noorani was of the opinion that when the members of the National Assembly were satisfied they would be able to represent their electorates vigorously and independently. Mawlana Noorani considered their contentment as a price of true parliamentary democracy. He demanded, through an amendment to the Constitution Bill, the protection of the parliamentarians from the instigation of the government benches. He feared that the opposition Members of the National Assembly would be trapped in different false cases by the government. He moved amendment to protect these members from the government blackmailing:

That at the end of clause (2) of Article 69 of the Constitution Bill, the following proviso be added, namely: -Provided that no member of the Parliament shall be arrested or detained on any ground whatsoever unless a Committee known as the "Members Immunity Committee" to be elected in accordance with a law made by the Parliament has given prior authority for affecting such arrest. Until such a Committee is formed, its powers and functions shall vest in the existing Privileges Committee of the National Assembly (Ibid; p. 1640).

The main purpose of the amendment was to stop any person from indulging a Member of the National Assembly in false cases or stop him from joining the session of the National Assembly. So the National Assembly should have the right to take action against such person. He did not mean that the Members of the National Assembly were innocent. He meant that if a parliamentarian committed a crime, the Parliament should have a committee of its own to deal with such a member. After the decision of that Committee the honorable member of the Parliament should be trialed. In such a way the democratic norms would be safeguarded (Ibid; pp. 1649-1650).

Each and every track of the parliamentary and democratic government should be controlled properly through the Constitution. Three organs of the government (legislature, executive and judiciary) should be separate from each other. Mawlana Noorani found some gaps in the Constitution Bill in this connection and pointed out those one by one. He objected to the issuance of ordinances. One hundred and thirty days were specified for the Parliament in the new Constitution Bill. So there was no need for the issuance of the ordinances by the government as enough time was given for the working of the Parliament. The ordinance could be issued when the country was in war. When there would be peace then the session of the National Assembly could be called at once and a Parliament Act could be passed and promulgated. Even if an ordinance was passed and a person or party could be harmed by that ordinance, the person or the aggrieved parties could have the democratic right to challenge it in the Supreme Court (NAP Debates, II (26), March 22, 1973 ??arch 22, , p. 1820). The amendment moved by Mawlana Noorani in this regard was:

25 That at the end of clause (1) of Article 92 of the Constitution Bill, the following proviso be added, namely

Provided that it shall be open to the aggrieved parties to challenge the validity of Ordinance so made and promulgated on the ground that it was passed mala fide in the total absence of existence of emergency which is claimed to be the occasion for the exercise of that power (Ibid; p. 1811).

26 The House rejected the above amendments of Mawlana Noorani. (Ibid; p. 1832).**27 XXIV. Amendments for Islamization**

On August 24, 1972, addressing the National Assembly of Pakistan, Mawlana Noorani declared that the Muslims of the Indo-Pak Subcontinent gave sacrifices in order to lead their lives in accordance with the Islamic culture, traditions and civilization. The resolution that had been moved to observe Friday as weekly holiday had really

been the demand of the Muslims in Pakistan. Friday has a great importance in our life. The Prophet Muhammad (PBUH) has termed the Friday, as 'Sayyad-ul-Ayyam' i.e. "Friday is the king of days". The Prophet also named it as Eid Day. All over the world the Christians and the Jews celebrate Sunday and Saturday respectively as their sacred days (NAP Debates, I (9), August 24, 1972, p. 385).

Pakistan had come into being on the basis of the Islamic Ideology. Mawlana said that the Muslims were bound to declare Friday as a sacred day and there should be a holiday on Friday instead of Sunday. "The Islamic world is a brotherhood and all of them stood by us both in peace and war". Friday was observed as a holiday in the entire Muslim world and if we did the same we would be stronger than ever. If there was deficit in the banks and companies, it should be noted that those firms and insurance companies were busy all over the world. Even Friday was observed as weekly holiday in the Muslim world. They did not suffer economically. Therefore he appealed the House to favor and pass the resolution moved by Sahibzada Safiullah in order to celebrate Friday as holiday instead of Sunday. The resolution was then sent to the Standing Committee and after long deliberations the resolution took the shape of the Bill and was finally passed by the majority Members of the House. Ibid;

28 XXV. Mawlana Noorani for the Law of Apostasy

While forwarding his suggestions for the future constitution of Pakistan, he said that Our constitution should be Islamic one. The Islamic democratic society should be the part of our constitution. This constitution has a space for the Muslim to adopt any religion but when protection is not granted to the religion of a Muslim in a constitution that could not be considered as a complete Islamic one? It was heard that if the apostasy was stopped the world will make fun of us and will say that the Muslim has stopped the Muslim in his country to divert from his religion. So I will say that this objection of the people is wrong (NAP Debates, II (14), March 6, 1973, p. 722).

If someone left the circle of Islam he was an apostate and the punishment for apostasy in Islam was death. The example of the different world constitutions was present and those who rebelled against the constitution were awarded the penalty of death. So we should also give a provision in the future constitution for a law regarding Apostasy (Encyclopedia of Religion and Ethics, "Apostasy-Muhammadan, 2nd ed., s.v.). He declared that as Quran has presented the best democratic system to the world. Each and every work of the Muslim was successful through mutual consultation.

The Quran has a complete Surah with the title 'Shoorah' in this regard. Mawlana Noorani said that the Europeans had adopted the same democratic system of Islam (NAP Debates, II (14), March 6, 1973, pp. 723-724).

29 XXVI.

Mawlana Noorani for the Teachings of Quran and Sunnah Mawlana Noorani was a staunch Muslim and wanted to Islamize the whole society in the light of the Quran and Sunnah. He moved an amendment to make the Quraanic teachings compulsory. His amendment in this regard was:

That for paragraph (a) of clause 2 of Article 31 of the Constitution Bill, following be substituted, namely: -(a) To make teaching of Holy Quran and Islamiat compulsory and reform the system of education in such manner that it may enable the Muslims to mould their lives in accordance with teaching of Holy Quran and Sunnah (NAP Debates, II (21), March 15, p. 1308)).

The House rejected the above amendment to the Constitution Bill of Mawlana Noorani (1326). He also forwarded an amendment for the eradication of the alcoholic liquor from our society. The amendment moved in this regard was: That to the effect for paragraph (h) Article 39 of the Constitution Bill, the following be substituted, namely: -(h) Prohibit the production, import, sale, possession and consumption of alcoholic liquor except for medical purpose, and in the case of non-Muslims for religious purposes (Ibid; p. 1393).

The above amendment of Mawlana Noorani was rejected by majority of the members of the House (Ibid; pp. 1393-1394).

30 XXVII. Mawlana Noorani Against the Usury

Mawlana Noorani made it clear before the House that the people were wrong to consider that Islam encouraged capitalism. As far as the Islamic teachings were concerned it prohibited the Riba (usury). If the Muslims would indulge in that system they would be destroyed in this world and the world hereafter. Without usury everybody could lead an honorable life in this country. But if there would be the system of usury then wealth would concentrate in a few hands and the poor would gain nothing out of it. So he demanded that the government should give a proper timeframe for the elimination of riba instead of saying 'eliminate riba as early as possible.' So the Islamic economic system would prevail and the country would flourish. He presented the following amendment in this regard: That for clause (f) of Article 40 of the Constitution Bill the following be substituted, namely: -(f) Prohibit riba as early possible as but not later than five years from the commencing day (p. 1403 (1404)).

The Assembly rejected the amendment of Mawlana Noorani regarding riba (1406).

31 XXVIII. Mawlana N D oorani's efnition of

32 Muslim

He brought the most important aspect of the Interim Constitution to the light. It had been provided in the Constitution that the President of Pakistan would be a 'Musalman' but nobody knew the definition of 'Musalman' as to what precisely it was and the result was that everybody tried to pose himself as 'Musalman'. He said that there were the worst enemies of Islam in the country who might by posing themselves as 'Musalman' to enter politics from the back door to govern and become the head of the State. He then forwarded a definition of the 'Musalman' (NAP Debates, I (2), ??pril 15, 1972, pp. 125-126).

He was the first political leader in the constitutional history of Pakistan, who demanded incorporation of definition of a 'Muslim' in the constitution. His definition of a Muslim was: "one who believes in the unity of God and in Holy Prophet Muhammad as the last Prophet, is a Musalman, otherwise he is a Mirzai" ??Ahmad, 1993, pp. 94-95).

33 XXIX. Mawlana Noorani's Resolution

for Declaring Qadianis as non-Muslims

On June 30, 1974, Mawlana Shah Ahmad Noorani, presented a resolution signed by thirty seven MNAs, belonging to the opposition and government benches, which stipulated declaration of Qadianis as non-Muslims, and demanded amendment in the constitution for this purpose (Ibid; p. 107). The resolution presented by Mawlana Noorani was: "Whereas it is a fully established fact that Mirza Ghulam Ahmed of Qadian claimed to be a prophet after the last Prophet Muhammad (PBUH);

And whereas his false declaration to be a prophet, his attempts to falsify numerous Quraanic texts and to abolish Jihad were treacherous to the main issues of Islam;

And whereas he was a creation of imperialism for the sole purpose of destroying Muslim solidarity and falsifying Islam;

And whereas there is a consensus of the entire Muslim Ummah that Mirza Ghulam Ahmed's followers, whether they believe in the Prophethood of the said Mirza Ghulam Ahmed or consider him as their reformer or religious leader in any form whatever, are outside the pale of Islam;

And whereas his followers, by whatever name they are called, are indulging in subversive activities internally and externally by mixing with Muslims and pretending to be a sect of Islam;

And whereas in a conference of the World Muslim Organization held in the holy city of Mecca-Al-Mukarram between the 6th and 10th April, 1974, under the auspices of Al-Rabita Al-Alam-e-Al-Islami, wherein delegations from one hundred and forty Muslim organizations and institutions from all parts of the world participated, it has been unanimously held that Qadianism is a subversive movement against Islam and Muslim World, which falsely and deceitfully claims to be an Islamic sect."

Now this Assembly do proceed to declare that the followers of Mirza Ghulam Ahmed, by whatever name they were called, were not Muslims and that an official Bill be moved in the National Assembly to make adequate and necessary amendments in the constitution to give effect to such declaration and to provide for the safeguard of their legitimate rights and interests as a non-Muslim minority of the Islamic Republic of Pakistan (Ibid; pp. 125-126).

After moving the resolution, the Speaker National Assembly, Sahbzida Farooq Ali told Mawlana Noorani that he had moved a terrible resolution. He said that it was not the task of the Parliament to prove who was pagan and who was a Muslim. That was to be a discussion of a Madrassah or Darul Ulum. He asked why Mawlana Noorani wanted to bring the issue to the Parliament ??Hussain, 2009, p. 97). But at last Mawlana Noorani convinced all of them. He also met the Prime Minister, Zulfikar Ali Bhutto and made him realized the sensitivity of the matter. He told the Prime Minister that he was the head of the government. If somebody, in his presence, claimed to be the Prime Minister, what would be his expression? Surely he would consider him a rebel. In the same way, according to the Khatm-e-Nabuwat, there was no prophet after Muhammad (PBUH). So it was very simple to declare any person as non-Muslim who did not trust in the Finality of the Prophethood (Ibid; pp. 97-98). In this way Bhutto was convinced and approved the resolution for discussion in the Parliament. But the problem was how to introduce the matter in the assembly under rules and regulations. Mawlana Noorani suggested "in camera session of Parliament" under the rules of the legislature (Nurani, S.F.R.R. Afkar-i-Nurani, pp. [41] ??42] ??43] ??44].

Bhutto agreed to discuss the issue in camera in the House. The National Assembly thus converted itself into a special committee to discuss and deliberate upon the matter. The special committee set up a steering committee for its assistance. Mawlana Noorani was on that committee. From June 30 to September 7, 1974, the special committee considered this issue in camera in a number of sittings ??Ahmad, 1993, P. 107).

According to Mawlana Noorani, "all the points of the discussion were prepared by Yahya Bakhtiar, Attorney General of Pakistan. He struggled hard for it.

He prepared the questions, asked from the Qadianis, sitting up to midnights and even caters. We used to tell him that such and such were the beliefs of the Qadianis and then he would prepare questions in the light of those questions. "He used to ask questions on our behalf and Mirza Nasir would answer. Zafar Ansari and Abdul Hafeez Pirzada also accompanied me? We had to prove that Rabwah, in fact, was another state within the State.

The Pakistani Passport bears the stamp that 'the Passport is valid for all countries of the world except Israel', then how the Qadianis go to Israel?" They had a Head Quarter in Israel and the Jews had permitted them. When Yahya Bakhtiar asked Mirza Nasir what was the relation of Israel with him having an office there? He rejected all these things. Then Yahya Bakhtiar presented all the magazines and addresses as a proof, which was provided by Mawlana and associates. After that he recognized that some people were working there in their own capacity. The purpose was to prove that the Qadianis had special relations with the Jews and that the Jews had given them shelter. But on the other hand they were pulling out its own inhabitants i.e., the Arabs from there. But the Qadianis were being colonized there. Hundreds of Qadianis had settled there in Israel who had got offices there. The Jews use them against the Muslims. We also cited another aspect of the time when Pakistan came into being; they had purchased a separate place at Rabwah and Sir Prince Moody, the first Governor of the Punjab, gave it to them very cheaply. Sir Zafarullah Khan was the foreign minister at that time. He also misused his position. Even Bhutto accepted all those proofs and the PPP helped us in this connection. All the secular forces were united at that time. "Therefore, we made a front before going into the Parliament. All the religious parties (JUP, JUI and JI) were united. Independent parliamentarians like Sardar Sher Baz Mazari, Mawla Bakhsh (father of Elahi Bakhsh Somro) also stood by us." (Nurani, S.F.R.R. Afkar-i-Nurani, pp. 43-44). In June 1974, when Mawlana Noorani presented his resolution demanding declaration of Qadianis as non-Muslims, the leaders of Lahori Group met Mawlana Noorani in Lahore and reportedly offered him fifty lakh rupees, if he omitted the words 'Lahori Group' from the resolution. However, Mawlana Noorani categorically rejected this offer ??Ahmad, 1993, p. 110).

On September 7, 1974, Abdul Hafeez Pirzada presented the unanimous recommendations of the special committee to the National Assembly. That the Constitution of Pakistan be amended as follows: i) That in Article-106 (3) a reference be inserted to persons of the Qadiani Group and the Lahori Group (who call themselves 'Ahmadis'); ii) That a non-Muslim may be defined in a new clause in article-260 (Ibid; p. 109).

After adoption of these recommendations, Pirzada introduced the Bill to amend the constitution which the House unanimously adopted as 'The Constitution (Second Amendment) Bill, 1974. This Bill stood passed by the House (Ibid; pp. 109-110).

In July 1975, Mawlana Noorani resigned from his seat in the National Assembly ??Ibid; ?? 111). According to Sayyid Aqeel Anjum Qadri, Secretary Information JUP Sindh, Mawlana Noorani was a very competent parliamentarian. As half of the Senators retire after every three years and the seats from Sindh at the Senate were vacated at the very first completion of three years so the party leadership considered it better to place Mawlana Noorani as a Senator and give an opportunity to another JUP candidate to be Member of the National Assembly. Mawlana Noorani had played a vital role in framing the 1973 Constitution as he was expected and then in the Senate the services of a seasoned parliamentarian were needed by the party, so Mawlana Noorani resigned the seat of MNA and was elected as a Senator from Sindh, although the seat vacated by Mawlana Noorani at the National Assembly was not won by the JUP candidate Haji Muhammad Hanif Tayyab in the by-election (Qadri, 2010).

34 XXX.

35 Conclusion

Nonetheless, the present research paper explores that Mawlana Noorani played a vital role in the National Assembly of Pakistan especially in the formation of the 1973 Constitution of the Islamic Republic of Pakistan. He himself forwarded more than 200 amendments to the constitution in order to Islamize it. He, at the floor of the National Assembly, legally and openly fought against the Martial Law Regulations inserted by the then Government in the constitution. He had a voice against the mismanagement of the government and forwarded amendments, modifications and improvements to the constitution to get safeguarded the fundamental and deep seated rights of all the citizens. He also played an important role for the social welfare of the people. To cut the long story short it can be said that Mawlana Noorani tried his level best to solve the social, political, constitutional, religious and cultural issues of the nation on the floor of the National Assembly of Pakistan through constitutional means and modes.^{1 2}

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Figure 1:

(NW -128 Karachi I), Mawlana Sayyid Muhammad Ali Rizvi (NW-118 Hyderabad I), Mawlana Muhammad Zakir (1903-1976) (NW -47 Jhang II), Mehar Ghulam Haider Bharwana (NW-46 Jhang I), Sahibzada Nazir Sultan (NW-48 Jhang III) and Mian Muhammad Ibrahim Barq (NW-92 Muzaffargarh III) (Noorani, M. n.d. p. 75).
 On January 25, 1971, the JUP central working committee held its first meeting in Lahore after the 1970 elections with Khwaja Muhammad Qamaruddin Sialvi (
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Figure 2:

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