

# The Significance of Socio-Political Context in Shaping the Authenticity of Jamaat-i-Islami's Gender Discourse

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## 1. Introduction:

The paper argues that authenticity in religious discourses is not an absolute and universal entity, but that it is shaped/defined and reshaped/redefined in various socio-political contexts. Hence, the significance of these socio-political contexts is far more than what is generally assumed. To substantiate this argument, I have deconstructed the constitutive processes of authenticity in the Jamaat-i-Islami's (hereafter referred to as JI) gender discourse analyzing its interaction with the political space in Pakistan. The paper has selected some gender-related issues for analysis. These issues are: (1) The Muslim Family Laws Ordinance, 1961 (hereafter referred to as MFLO), (2) the JI's support to Ms. Fatima Jinnah<sup>1</sup> as a presidential candidate of Pakistan, (3) Hudood Ordinances, 1979 (hereafter referred to as HOs), (4) The Protection of Women Act, 2006 (hereafter referred to as PWA), and (5) election of women members of the JI on reserved seats for women in the Parliament.

There are two important matters which need explanation before beginning an analysis of the selected gender issues referred to in the list above. The first is the selection of the JI's gender discourse for analysis and what are main features of its gender discourse. The second is the notion of authenticity employed in the paper which is different from the generally understood connotation of the term.

Let us explicate the first issue. The JI is one of the most organized religio-political parties of Pakistan (Nasr 1994: Joshi 2003). It was organized by Maulana Abul Ala Maududi in 1941 before partition of the Indian Subcontinent (Nasr 1996, 41). Maududi kept on anchoring and supervising the JI for more than three decades till his death in 1979. According to Nasr (1996, 3), Maududi is "the most influential of contemporary revivalist thinkers." The same is the opinion of Jackson (2011). At present, Maududi's brainchild, the JI, works under the same

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<sup>1</sup> Fatima Jinnah was the youngest sister of Muhammad Ali Jinnah (Quaid-i-Azam) founder of Pakistan.

name “Jamaat-i-Islami” in five geographical locations in the Indian Subcontinent (Grare 2005, 11). The JI’s influence has exceeded far beyond its place of birth, i.e. the Indian Subcontinent. It maintains links and has established sister organisations in the USA, UK, and other parts of the world, and such ideological connections are maintained largely due to the diaspora of the Subcontinent (Grare 2005, 102). Maududi’s ideological influence may also be observed in Central Asia, North Africa and Southeast Asia (Nasr 1996, 4).

Maududi wrote on gender issues extensively. His most important book on the subject is *Purdah*<sup>2</sup> (2003) written in Urdu and published in 1940. The book was translated into English as *Purdah and the Status of Woman in Islam* (2010).<sup>3</sup> Maududi (1943; 2010) was one of the most vocal proponents of the duality of spheres between men and women. In simple terms, duality of spheres signifies that activities outside the home are to be carried out by men while women’s sphere of activity is within the home. According to Maududi (1943; 2010), this scheme of division of labour into two distinct and complementary spheres is not only sanctified by their essentialist and different human nature but it is also considered as apposite in light of the divine. We will come across in two out of five selected gender issues in the paper where the JI adjusts this standard version under the influence of different socio-political contexts.

Let us now discuss how the term authenticity, which is at the foundation of the analysis carried out in the paper, has been employed. The notion of authenticity as understood in religious discourses takes it as a static and an immutable entity which is not liable to transformation and reshaping. This paper regards authenticity as susceptible to change and influence by multiple factors including the socio-political context. Authenticity is not taken to be as defined once and for all; rather, it goes through the same path which is travelled by the authenticity seekers. Thus, authenticity is not universal and absolute; it is contingent and always opened to re-evaluation and reassessment. The reason for adopting this variant understanding of authenticity is that it is more conducive to the nature of analysis in this paper. If we take authenticity as a stable and immutable entity as is generally understood, then we would be left with single

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<sup>2</sup> It means seclusion and veiling.

<sup>3</sup> There are other books by Maududi dealing with gender issues including *Khawateen aur Deeni Masayl*, *Haquq us Zojjain*, *Tafheemul Quran*, *Deen aur Khawateen*, *Rasael-o-Masayl*.

argument, that a particular discourse does not conform to its standard stance in this and that situation.

This notion of authenticity has been derived from the famous French philosopher Michel Foucault's concept of truth. According to Foucault (Rabinow 1984, 4; 12; Gordon 1980, 230-231; Foucault 1980, 66; 93; Foucault 1984, 72-73; 74), there are four characteristics of truth which are also present in my use of authenticity in this paper. Firstly, there is no universal and absolute notion of authenticity, which is similar to Foucault's concept of truth i.e. authenticity is relative and contextual. Secondly, authenticity ought to be deconstructed from an analysis of its constructive processes instead of searching it at an abstract level within the parameters of right and wrong. Thirdly, the paper regards authenticity in JI's discourse as constructed by its day to day religio-political experiences. Fourthly, authenticity in JI's gender discourse is shaped and reshaped by different configurations of power which work within the discourse and also influence it from outside, i.e. its socio-political context.

Informed by this notion of authenticity, the paper argues that authenticity in JI's gender discourse is continuously defined and redefined due to its interaction with a particular socio-political context. Hence, the latter is a significant factor for constructing authentic versions or stances of the JI at different junctures in politico-legal history of Pakistan. Even though the paper is meant to highlight socio-political context as an important factor in shaping the authenticity of JI's gender discourse, it should not be taken to mean that it is the sole and exclusive factor in this regard. The paper's sole focus on the socio-political context is for illustrating its significance which is often eclipsed by a passionately assertive reading of the divine. Another extreme and hasty conclusion would have been to regard the JI as a product of its socio-political context. This last conclusion is as faulty as the earlier one. What could be said instead is that the JI contributes to the political space of Pakistan after being inspired by its ideological underpinnings and political goals. What would appear during the analysis is that the JI's contributory role is often downplayed by structural and emphatic influences of the socio-political context.

Let me point out an important limitation of the paper: it has not debated the religious texts and their varying interpretations. Since the focus of the paper is to analyze the role and significance of the socio-political context in construction of JI's gender discourse, any discussion of the religious texts and their interpretations would tend to derail the analysis or make it more voluminous. Hence any such attempt is consciously avoided. Let us now discuss the selected episodes one by one.

## **2. The Muslim Family Laws Ordinance, 1961 (MFLO):**

This Ordinance is one of the most contentious ordinances in the legal history of Pakistan. In 1955, a Commission on Marriage and Family Laws<sup>4</sup> was constituted to suggest amendments in the laws regarding marriage, divorce, maintenance, and other ancillary matters with a view to ameliorate women's status in the society (Rehman 1997, 3). The Commission was composed of seven members: three women and four males, and one of them was a religious scholar.<sup>5</sup> The JI was not represented in it. The Commission presented its recommendations in 1956 and all members were unanimous in its findings and suggestions, except the religious scholar Maulana Ihtisham-ur-Haq. The MFLO is based on these recommendations.

The changes brought about by the MFLO were quite significant. It introduced compulsory registration of marriages, allowed inheritance rights to orphaned grandchildren from their grandparents<sup>6</sup>, regulated polygamy and divorce, and regarded unspecified dower as prompt in case its mode of payment is not settled in the marriage contract. After comparing the recommendations of the Commission and the MFLO, Pearl (1969, 182) has opined that "minor reforms" were introduced by the MFLO. This statement refers to the fact that all the

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<sup>4</sup> It is known as "Rashid Commission."

<sup>5</sup> Following were selected as members of the Commission:

- (1) Begum Shamsunnahar Mahmud,
- (2) Begum Anwar G. Ahmed,
- (3) Begum Shah Nawaz,
- (4) Mr. Enayat-ul-Rehman,
- (5) Khalifa Abdul Hakeem,
- (6) Mian Abdul Rashid, Ex-Chief Justice of Pakistan
- (7) Maulana Ihtisham-ul-Haq (Rehman 1997, 3).

<sup>6</sup> Orphaned grandchildren are not allowed to inherit anything from their grandparents their uncles and aunts are alive according to classical law of inheritance as practiced by all Sunni schools of thoughts.

recommendations of the Commission did not find favor with the government while enacting the MFLO. Despite the selective approach of the government in this regard, there were many factors shaping the severe and critical response by various religious segments of the country, including the JI.

The post-independence period in Pakistan was marked by the religious enthusiasm of religio-political parties. These parties were hopeful of pushing forward their agenda of Islamization due to the fact that the state was not well entrenched, and these groups were of the view that they would have an opportunity to accomplish their programs. To some extent, the government responded to them in a positive way by adopting the Objectives Resolution in 1949 which is considered a cornerstone of Islamic constitutionalism in Pakistan (Muhammad 2001).<sup>7</sup> This raised hopes of the religious parties that the country is drifting towards thorough Islamization. The JI regarded it as the foundation stone of an Islamic state and an Islamic license to enter into electoral politics in Pakistan (Nasr 1994). The JI galvanized this event and proclaimed that the Objective Resolution had baptized the new born state of Pakistan into Islam (Muhammad 2001, 69).

This scenario of hope, quite paradoxically, was not without an entirely opposite feeling of fear. There was an unspoken understanding among religious segments of the country that we must not give in, in that sphere, to secular laws, which was regulated by Islamic law in the colonial period. During the colonial period, family laws were part of that protected sphere; these laws were generally not interfered with because they were understood to be the core of *Shariah* (Anderson 1959, 39-40).

The post-colonial legal domain in Pakistan was characterized by a mixture of two strands of jurisprudence: one was secular, and the other presumed to be divine (Pearl 1969, 66). Given the colonial heritage, the family laws were based on religious interpretations and un-codified Islamic law, while the rest of the domain was mostly regulated by secular law. In such a scenario, it was perceived by the religious segments of the country that if the secularists were successful in

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<sup>7</sup> The Objectives Resolution was passed in the Constituent Assembly to guide the legislative process in the early days of Pakistan as a country. It was resolved in that resolution that sovereignty of the country would be vested in Allah Almighty and the representatives of the people would exercise their power as a trust. Moreover, it was stated therein that Muslims would be provided with an atmosphere that would be helpful for them to live according to the tenets of Islam. Full text of the resolution is available online [http://www.pakistani.org/pakistan/constitution/annex\\_objres.html](http://www.pakistani.org/pakistan/constitution/annex_objres.html) (Accessed on 14/12/2012).

implementing their agenda, the family laws would be “largely affected” (Pearl 1969, 166). Therefore, any maneuvering in the protected sphere of *Shariah* was perceived to jeopardize the Islamic character of the family laws, and in this manner, would strengthen the secular elements of the country. On the other hand, the Commission’s recommendations were specifically meant for the regulation of different family issues which were not interfered with by the colonial government.

The JI was appreciative of the colonial government for accommodating the religious sensibilities of Muslims by not interfering with family laws (Islahi 1958, 12-13). In JI’s perspective, the religious aspect of the laws ought to have been looked into more attentively after the independence of Pakistan rather than changing them massively, as attempted on the basis of the Commission’s recommendations (Islahi 1958, 12-19). On the contrary, the same non-interference with family laws by the colonial government facilitated members of the Commission to criticize it as this attitude let the laws to stagnate (Islahi 1958, 12).

This perception of non-interference was not accurate as many changes were made to the Muslim family law by the colonial government. For example, laws relating to matters of legitimacy and putative widowhood,<sup>8</sup> the minimum age of marriage,<sup>9</sup> and divorce<sup>10</sup> were substantially changed (Esposito 1980, 222-223; 230). Despite the erroneous appraisal by the JI regarding non-interference with the family laws by the colonial government, this appraisal contributed to the fear that what was not done by the colonial government was being attempted by the Pakistani government in an effort to implement the Commission’s recommendations. Therefore, the resistance of the JI was marked by a dual function of hope and fear: the hope of furthering its agenda of an Islamic state and the fear of interference in a protected sphere of Islamic law, i.e. the family laws. The JI’s uncompromising stance regarding the Commission’s recommendations and the MFLO cannot be viewed in isolation from these factors.

Let us discuss some differences of opinion between the contending parties. One of the suggestions of the Commission was to increase the minimum age of marriage for the prevention of child marriages. The JI was not willing to allow any change in this regard through the legislative process (Islahi 1958, 110-121).

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<sup>8</sup> It was an effect of the enactment of the Evidence Act, 1872.

<sup>9</sup> The Child Marriage Restraint Act, 1929.

<sup>10</sup> The Dissolution of Muslim Marriages Act, 1939.

Its official stance was that any legislative amendment in the minimum age of marriage would be against Islamic principles and the only way to address this issue was through education of the masses (Islahi 1958, 116). This strict stance of the JI appears to be different from Maududi's previously expressed opinion regarding the regulation and control of child marriages.

In his book *Haquq uz Zojjain*, written before the partition of the Indian Subcontinent, Maududi (1943, 117) once suggested that child marriages could be controlled and regulated. The issue he was dealing with then pertained to the non-availability of the option of puberty<sup>11</sup> for girls when their marriages were solemnized by their fathers or grandfathers. According to the classical or older law practiced in Indian Subcontinent before the promulgation of Dissolution of Muslim Marriages Act 1939, there was no option of puberty for a girl whose marriage had been solemnized by her father or grandfather during her minority provided that the same was manifestly disadvantageous to the minor (Mulla 1995, 409; Fyzee 2008, 73). Maududi was of the opinion that because of the widespread immorality among boys, if a girl was married by her father or grandfather without an option of puberty, she would be exposed to unaccountable hardship. Having this in mind, Maududi (1943, 117) suggested that child marriages should be controlled strictly so as to prevent girls from such sufferings. If that was not possible, then these girls should be provided the option of puberty regardless of the fact that their marriages were solemnized by their fathers or grandfathers. In this pre-partition debate, Maududi categorically displayed his preference for restricting child marriages as an option. But as far as the JI's stance on the Commission's recommendation for increasing the minimum age of marriage was concerned, that was without any such an option.

The JI's stance on the minimum age of marriage in response to the Commission's recommendations was logically inconsistent. On the one hand, it demonstrated flagrant resistance to any legislative measure to control child marriages and on the other, it suggested that this problem should only be addressed by educating the people. The importance of education cannot be denied in dealing with social problems like this, but the JI ought to have been cognizant of the fact that legislative measures are also meant to have specific educational implications. Legal prohibitions are designed to generate and inculcate behavioral change. Thus, these are an inalienable part of the process of educating people.

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<sup>11</sup> Option of puberty is the right available to the minor to repudiate such a marriage on attaining majority which was solemnized during his/her minority by his/her guardian (Fyzee 2008, 73).

Let us go back to the process of the Commission's investigation into the issues it charted out for analysis/recommendation. During this process, the Commission publicly circulated a questionnaire for broad-based consultation on selected issues. Maududi, in response to the questionnaire, agreed to the proposal for the registration of marriages but was of the opinion that it should be kept optional and not made compulsory (Maududi 1955, 02). In the same reply, Maududi (1955, 04-06) categorically stated that prohibition of child marriage and the introduction of similar rights of divorce for the wife in the marital contract would be against Islamic injunctions. After publication of the Commission's report, the JI had acknowledged that there were issues which ought to have been addressed, e.g. issues of three consecutive divorces, polygamy and the inheritance rights of orphaned grandchildren from their grandparents (Islahi 1958, 212-220).<sup>12</sup> These issues were addressed by the Commission but the problem was that the JI was not satisfied with its recommendations.

The JI's public stance was very critical of the Commission's recommendations. It was based on the perspective of futility that enacting any law on the basis of the Commission's recommendations would not be effective in resolving unresolved issues and simply lead to more problems.<sup>13</sup> For instance, presenting the JI's version, Islahi (1958, 102-103) pointed out that the compulsory registration of marriage would resolve some existing issues of litigation regarding proof of marriage, but at the same time, the mechanism of registration would provide an opportunity to those who might fabricate registered documents without a real marriage and harass the victims in this way. Similarly, the proposed compulsory registration of marriage would also be troublesome for those who might have gone through the traditional process of marriage without getting it registered (Islahi 1958, 102-103).

There is no doubt that every measure has its positive and negative aspects. For example, the proposed compulsory registration was going to affect those who had not been able to register their marriages under the law as pointed out by the JI. Similarly, keeping this aspect unattended as it was at that time was also bound to affect those who were or would be going through judicial proceedings for proving their marriages. Therefore, opting for one set of victims, either the

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<sup>12</sup> Maududi's (1959, 29-44) article on the inheritance of the orphaned grandchildren may also be referred to this effect.

<sup>13</sup> Futility has been regarded as one of the three rhetoric of reaction by Hirschman (1991).

victims of the compulsory registration of marriage as per the JI or victims of the non-registration of marriage as visualized by the Commission, was not reflective reading of the divine but was instead influenced by the strained relationship of the parties. Both parties - the JI and the Commission - were of the opinion that their approach was more in line with the divine even though nothing has specifically been provided in the divine regarding the registration of marriage (Islahi 1958, 99-101).

Issues like this ought to be debated, while going beyond the realm of religious permissibility and impermissibility, as a legitimate law-making exercise by the state. As far as the divine is concerned, protecting the parties in a marriage is what the divine says, and registration is one of the modalities to realize this protection. But the fact of the matter is that both parties – the JI and the Commission - primarily got themselves involved in the religious uprightness of their respective stance which served to harden their positions rather than generate any space for mutual concession. As if both were bearers of the divine in their own way.

In addition to the debate for and against the Commission's recommendations and the MFLO, the political space of Pakistan was divided into the pro- and anti- camps of General Ayub, and the JI was situated in the latter camp. There were a few factors contributing to and strengthening the JI's perspective regarding General Ayub's Martial Law. General Ayub abrogated the Constitution of 1956 which had been declared "satisfactory and acceptable" by the consultative body of the JI (Muhammad 2001, 108). The JI's stance regarding the abrogated Constitution of 1956 was informed by the insertion of Islamic provisions in the Constitution and the declaration of Pakistan as an Islamic state (Nasr 1994, 143).

The JI also won a significant number of seats in municipal elections held in Karachi in April 1958 before the imposition of Martial Law by General Ayub (Muhammad 2001, 120).<sup>14</sup> This result was important due to the fact that Karachi was the capital of Pakistan at that time. It raised the hopes of the JI for a better performance in the national election scheduled to be held at the end of 1958 (Nasr 1994, 145-146). However, due to the imposition of Ayub's Martial Law, the scheduled national election did not take place. The Martial Law regime halted the electoral process and all political parties were banned including the JI. The expectation of having more political clout from a favourable result in the

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<sup>14</sup> Out of its 23 candidates 19 won their seats.

scheduled national elections and the unexpected disappointment caused by Ayub's Martial Law contributed to push the JI into the pro-democracy camp.

The selection of issues by the *Tarjumanul Quran* and its manner of elaboration during that period was significant as there was consistent reference to democracy and democratic norms. This was because of the JI's hope that if democracy was allowed to persist it would gain a significant share in the political space. This opinion was also emphasized by the JI in the very first meeting of its consultative body after the lifting of Martial Law in 1962 (Siddiqui 1962, 02-13). The JI then viewed the dictatorial system of General Ayub as a tool in the hands of the secularists to serve their interests.

General Ayub relied continuously on the secular forces during his rule and also made efforts to lessen the influence of the JI (Nasr 1994, 150-155). For example, women belonging to APWA<sup>15</sup> were at the forefront of the campaign for enactment of the MFLO and they were given opportunities to meet the President during his official tours within the country (Rehman 1997, 3). Conversely, this scenario was contributing to and hardening the resistance of the JI to the enactment of the MFLO, as the President's patient hearing was only available to those who were in favor of its enactment. After the enactment of MFLO, the resistance of the JI did not subside and continuously demonstrated by rhetorical pronouncements. Thereafter, the government had to take strict measures to contain the resistance, including the imprisonment of some of the JI's leaders and workers (Rahman 1997, 4-6; Muhammad 2000, 495). Thus, the relationship between the JI and General Ayub was characterized by antagonism and suspicion; this aspect was also part of the JI's overall attitude towards the latter. In this loaded and hostile socio-political context, it is hard to assert that the JI's opinion regarding the Commission's recommendations and the enactment of MFLO was exclusively based on religious interpretations, as one could not understand the severity of its opinion and magnitude of its resistance without taking into consideration the political space of Pakistan at that time.

### **3. The JI's Support for Miss Fatima Jinnah as a Candidate for the President of Pakistan:**

In chronological sequence, this is the second example of how authenticity in the gender discourse of the JI has been constructed by the socio-political

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<sup>15</sup> All Pakistan Women Association. Islahi (1950) articulated the JI's perspective regarding APWA which displayed the pervasive distrust of the JI regarding the latter's activities in general. This book was written by Islahi when he was one of the central leaders of the JI.

context. As far as the “standard” stance of the JI is concerned, it is of the opinion that women’s sphere of activity is different from that of men. Women are not only required, according to religious dictates, to do work inside their houses but are also naturally engineered for this job. Their participation in activities outside their homes is meant to cater for exceptional situations (Maududi 1943; 2010). It is pertinent to mention that in 1951, the JI represented by Maududi was one of those political parties and religious scholars who proposed that the head of an Islamic state should be a Muslim man (Muhammad 2001, 73). It was one of the unanimously articulated points out of 22 presented by the renowned religious scholars of that time (Muhammad 2001, 72-74). Keeping in view the “standard” stance of the JI, it is perplexing how it managed to support Miss Fatima Jinnah as the Presidential candidate of the country in 1965.

This shift in stance can be fathomed if we analyze the relationship between the government of General Ayub and the JI. Some of the factors which shaped their mutual relationship characterized by antagonism and suspicion have been discussed in the previous section. Their strained relationship touched new heights of hostility during the period between the lifting of Martial Law in June 1962 and the well-known Pakistan-India war of September 1965 (Muhammad 2000; 2001), and formed the basis of the JI’s support of Fatima Jinnah for the Presidential candidate against General Ayub. Let us analyze these events.

The JI was a forerunner in the campaign against the recommendations of the Commission on Marriage and Family Laws as elaborated in the preceding section. Its campaign was premised on the binary categorisation of religion and secularism. Supporters of implementation of the Commission’s recommendations were perceived to be the secular segments of society. Such a perception attained more currency after the enactment of the MFLO by General Ayub, hence it was sufficient proof to categorize him as a secularist. This perception was further strengthened by the extension of constitutional protection to the MFLO by the government (Rehman 1997, 46).

The Constitution of 1962 originally did not provide for Fundamental Rights; these were incorporated later on. This incorporation exempted some laws from the application of Fundamental Rights and one of them was the MFLO. The reason for extending this sort of exemption to some laws including the MFLO was to protect them from judicial review on the touchstone of Fundamental Rights. Rehman (1997, 46), a leading jurist influenced by the ideology of the JI, opined that this protection “amounts to suspension of the Fundamental Right to profess, practise, and propagate one’s religion.”

In addition to the continuous rift between the government and the JI with respect to the MFLO, the Constitution of 1962, a brainchild of General Ayub, was different from the previous Constitution of 1956 in many respects. The JI was critical of some of those aspects, e.g. (1) the declaration of Pakistan as a republic instead of an Islamic republic, (2) the non- incorporation of the Fundamental Rights as provided in the Constitution of 1956, and (3) the inclusion of indirect elections instead of a universal adult franchise (Muhammad 2001, 146). The first meeting of the consultative body of the JI after the restoration of democracy and implementation of the Constitution of 1962 labeled the new Constitution as a dictatorial arrangement disguised under democracy (Muhammad 2001, 146).

Due to significant differences between the two Constitutions – the one of 1956 and the one of 1962 - many political parties, including the JI, raised a hue and cry. The government accepted some of the demands and introduced an amendment to the Constitution to incorporate Fundamental Rights and Pakistan was also declared to be an Islamic republic in January 1964. The acceptance of the demand for substituting the name as an Islamic republic has been termed by Joshi (2003, 65) as proof of “the potential of fundamentalist forces” in Pakistan. To be fair, there were certain other demands which had not been acceded to by the government. Therefore, acceding to some demands by the government did not merely demonstrate the political potential of the protesting groups including the JI; rather, it emphasized how far the government’s approach was utilitarian in its selection. For instance, the demand of the opposition parties including the JI for direct elections was not heeded by the government, as it was in conflict with its interest to rule the country without submitting itself to public accountability.

In addition to the binary categorization of religion and secularism, there was another binary categorization running through the political space, i.e. democracy and dictatorship. Democracy was perceived to be aligned with religion and dictatorship was annexed to secularism (Siddiqui 1962, 02-13). The government of General Ayub was viewed as a dictatorship by the JI even after the lifting of Martial Law and implementation of the Constitution of 1962. The coupling of General Ayub with dictatorship was a persistent theme of the JI’s monthly journal *Tarjumanul Quran*. There was no substantial difference in this regard during the Martial Law period and after the implementation of the Constitution of 1962.

The standard illustration of the above approach of the JI appeared in one of the editorial articles published by *Tarjumanul Quran* (Siddiqui 1963, 02-16) in which the author elaborated upon the specific psychological mindset of dictators,

relying on the examples of Alexander the Great and Hitler. This exercise was not meant to be just academic; it had definite political implications for its context and was carried out in order to make a connection with General Ayub. Thus, there was an ever-growing aversion to General Ayub, which was ultimately reflected in Maududi's announcement that "even if Convention Muslim League [General Ayub's party] nominated an angel [in future elections] the Jamaat would oppose him" (Nasr 1994, 154).

Associating the government with dictatorship after the implementation of the Constitution of 1962 was supplemented by the self-portrayal of the JI as an unconditional supporter of democracy. The JI's support for democracy was criticized by its opponents as an undue reliance on Western democratic norms (Siddiqui 1965b, 02). The JI's stance was not without reason; the JI was hopeful that democracy would provide an opportunity to it to establish an Islamic state. The JI virtually romanticized democracy as the only available mode of human salvation in the political arena at that time, describing the evolution of constitutional means of change as a victory of humanity over anti-human forces (Siddiqui 1964, 10).

The JI was also given a tough time by state authorities due to its untiring struggle against the government. The political activities of the JI were hampered on different pretexts. For example, the JI scheduled an annual meeting in October 1963 but were not given permission to hold it at its scheduled venue, i.e. the famous Minto Park<sup>16</sup>; the JI had to shift to *Bhatti Gate*, which was not an appropriate place to organize such a gathering (Muhammad 2000, 504). Meanwhile, the government also enacted an Ordinance to prohibit the use of loudspeakers in public places. One of the purposes of such an enactment was to create hurdles in the smooth running of that scheduled meeting, according to the JI (Muhammad 2001, 154). Despite such preventive arrangements, the JI decided to hold its scheduled meeting. The meeting was attacked and even a few shots were fired as Maududi was addressing the opening session; one of the JI workers was killed during the incident (Nasr 1994, 154).

The JI's attitude against the government was also hardened by a series of events which took place at the beginning of 1964. The official permission to publish *Tarjumanul Quran*, the JI's monthly journal, was withdrawn on 3<sup>rd</sup> January 1964. On 6<sup>th</sup> January 1964, the JI was proscribed. These events occurred just before the President's assent to the first amendment of the Constitution on

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<sup>16</sup> Now *Minar-e-Pakistan*, Lahore.

10<sup>th</sup> January 1964 (Muhammad 2000, 505), introducing Fundamental Rights into the Constitution of 1962. According to the JI (Muhammad 2001, 156), the President's assent to the first constitutional amendment was deferred to avoid judicial scrutiny of discriminatory governmental measures taken against the JI so that the latter could not get any relief on the basis of Fundamental Rights through courts. The proscription of the JI was immediately followed by imprisonment of its entire consultative body including Maududi (Nasr 1994, 154).<sup>17</sup>

The main leadership of the JI was still in prison when the Combined Opposition Parties decided to contest the forthcoming Presidential election in January 1965. The meeting of the Combined Opposition Parties to deliberate on the election was not attended by the frontline leadership of the JI, though some of its representatives were present in that meeting (Muhammad 2000, 510). After the deliberations, the opposition requested Fatima Jinnah to contest as a candidate for the President of Pakistan. Maududi was later contacted in prison and was "convinced...of the urgency of the situation and the necessity of giving Fatima Jinnah unwavering support" (Nasr 1994, 155). The proposal of the Combined Opposition Parties was accepted by the JI albeit with some hesitation and, thereafter, the latter jumped into the political arena with religious vigour to support Fatima Jinnah as a presidential candidate. The hesitation was expressed due to the fact that the JI had time and again asserted that an Islamic state should only be ruled by a Muslim male. After his release from prison, Maududi announced in a public meeting that there was no merit in General Ayub except that he is a man and there was no demerit in Fatima Jinnah except that she is a woman (Muhammad 2001, 162).

The JI's support of Fatima Jinnah led to a religiously-motivated debate as to whether a woman can become a head of an Islamic state or not. The irony of the situation was that General Ayub was supported by a significant segment of the traditional *ulama*; they were supporting him because he was a man whilst also producing a series of *fatwas* against the JI for its support of a woman (Nasr 1994, 155). The response of the JI would have been straightforward and simple, had it proclaimed that it supported Fatima Jinnah for political reasons exclusively. But the JI's perspective on Islam, that it encompasses all aspects of life, placed it at

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<sup>17</sup> According to Nasr (1994, 155) forty-four members were arrested in that anti-JI move by the government. But as per the general secretary of the JI the total number of detainees was fifty-four (Muhammad 2001, 156).

the centre of the controversy as to whether supporting a woman candidate was a religiously commendable act or not.

Both sides of the debate had arguments to support their respective stances<sup>18</sup> and were referring to similar religious texts and material for substantiating exactly opposite positions. One group was supporting a man as a candidate eligible for headship of an Islamic state and the so-called secularist General Ayub was the sole beneficiary of this stance. The other group was trying to portray the position that in exceptional circumstances, a woman could become leader of an Islamic state.

Both these positions were basically the human understanding of religious evidence and how it might be applied to specific circumstances. Both groups were of the opinion that as per the general rule, a man should be a leader of an Islamic state and their basic difference pertained to whether the prevailing situation was sufficient to warrant resorting to the exception of supporting a woman for that post. Thus, the question which needed to be settled was whether existing circumstances on the political scene justified a departure from the norm. The JI was willing to regard them as such and attempted to justify its position while relying on various principles derived from Islam (Siddiqui 1965a, 02-16; 65-72). For example, it argued that any change in time, circumstances and intentions was likely to change a rule (Siddiqui 1965a, 06) and that the end justifies the means (Shehadeh 2003, 47). The JI's approach was severely criticized by one of its ex-comrades, Islahi<sup>19</sup> (2000, 219-249). Islahi (2000) was of the opinion that "dire

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<sup>18</sup> The Conventional Muslim League (General Ayub's party) published many pamphlets to show the inconsistencies and contradictions in the JI's stance. For example, "*Mohtarmaa* Miss Fatima Jinnah *aur* Jamaat-i-Islami" and "*Aurat aur Mansaba e Saddaarat*." The first had highlighted the contradictions between the JI's standard stance on political participation of women and its support for Fatima Jinnah, while the second had compiled numerous *fatwas* from *ulama* across the country to demonstrate the irreligious nature of the JI's support. The Combined Opposition Parties also reciprocated in the same manner. One of the most important pamphlets published by it had collected the opinions of *ulama* to substantiate its stance of supporting Fatima Jinnah (*Kiya Aurat Musلمانoun ki Serbaraah ho sakati hai?*).

<sup>19</sup> It is pertinent to mention that Islahi was one of the important leaders of the JI till he went his separate way in 1958. Islahi was of the view that the constitution of the JI confers dictatorial powers to its president/*ameer* (Muhammad 2000, 387). Islahi (2000, 53-78) has himself written about the series of events which culminated in his resignation from the JI. The rift between him and Maududi started when the latter pressured a central committee, constituted for a particular purpose by the consultative body of the JI, to resign from its task. Islahi was of the opinion that Maududi as president/*ameer* of the JI could not ask such a committee to resign which had been constituted by the JI's consultative body.

circumstances” cannot justify conversion of any prohibited act into a permitted one.

The JI then faced a perplexing situation: on the one hand, it was trying to demonstrate that its opinion had not been influenced by its strained relationship with the government, and on the other, it was asserting that the exigency of the situation had warranted treating the prevailing situation as exceptional (Siddiqui 1965a, 03). This manner of argument by the JI was contradictory on the face of it. If we accept that the JI was not influenced by the prevailing circumstances in reading the divine, then we have to presuppose that it was situated outside the political context of that time. If the last presupposition is accurate, then how was it possible for the JI to evaluate the exceptional nature of the circumstances?

Such a perplexing situation demonstrates the dilemma of the religiously-oriented politics of the JI, as it had to demonstrate unequivocally, even to its own supporters, that its religious stance was not influenced by its political circumstances and motives. This objective was difficult to achieve without relativizing the human aspect of its reading of the divine and deemphasizing the peculiarity of its socio-political context. This is what the JI exactly did. The fact of the matter is that the JI experienced a tough time due to the various discriminatory measures of the government and these measures contributed in pushing the JI to support Fatima Jinnah. Were it not for the strained relationship between the JI and the government, there would have been negligible possibility of supporting Fatima Jinnah in the presidential election. So the prevailing socio-political context constituted as a significant component in shaping the authenticity of the JI’s stance regarding the headship of an Islamic state by a woman.

#### **4. Hudood Ordinances, 1979 (HOs):**

This section looks at the political scenario and context of Pakistan a decade later in order to appreciate the JI’s stance on the HOs. The JI’s stance in this regard cannot be properly understood without an appraisal of the prevailing circumstances and goodwill between the JI and Zia-ul-Haq’s government. This analysis underscores the significance of that particular context in shaping the authenticity of the JI regarding the HOs.

Pakistan was engulfed in a political crisis after the national elections of 1977. As a consequence, the then Chief of Army Staff General Zia-ul-Haq imposed Martial Law on the country. General Zia was known for his religious devoutness before his usurpation of power, and his personal inclinations had influenced his way of governing the country (Nawaz 2008, 359). Political

developments in the country at that time also provided every opportunity for employing the slogans of Islam. These developments were partly contributed to by the *Nizam-e-Mustafa* (system of the Prophet Muhammad) campaign of the Combined Opposition Parties against the government of Zulfikar Ali Bhutto. These parties contested the national elections of 1977 under the alliance known as the Pakistan National Alliance (PNA). The elections were won by Zulfikar Ali Bhutto's Pakistan People's Party (PPP). Thereafter, the alliance leveled allegations of massive vote rigging against the incumbent Prime Minister Bhutto and launched a protest campaign (Rizvi 1988; Nawaz 2008). This campaign was later on transformed into a demand for the enforcement of *Nizam-e-Mustafa* in the country (Rizvi 1988, 233).

Thus, in addition to Zia's personal religious inclinations, a religiously-motivated political campaign laid down the framework and strategy of how to prolong his stay in power. The international community was not very critical of the rise in religious fervor of the country as such heightened religiosity was necessary for containing the imminent threat of the USSR in the region (Nawaz 2008).

The JI was one of the component political parties of the PNA and also significantly instrumental in bringing the campaign of *Nizam-e-Mustafa* to a climax. After the imposition of Martial Law, the JI had to make a choice between the pro-democracy alliance led by the PPP and Zia's regime. The list of grievances held by the JI against the PPP's previous government was enough to keep it from standing hand in hand with the pro-democracy alliance. The then president/*ameer* of the JI Mian Tufail Muhammad was arrested and put behind the bars (Muhammad 2001, 259). One of its prominent leaders, Dr Nazir,<sup>20</sup> was murdered during that period (Muhammad 2001, 265). There were numerous other incidents reported by the JI of maltreatment, imprisonment and killing of its workers and of throwing hand grenades at its public meetings (Muhammad 2001, 259; 265-267). Even families of the JI's leaders were not spared. For instance, Mian Tufail Muhammad's (*ameer*/president of the JI) wife and son were arrested and put behind the bars by the PPP's regime (Muhammad 2001, 267). Bhutto's regime tried to shut down the JI's newspaper *Jasarat* and arrested its editor Syed Salahuddin and mistreated him during his imprisonment (Muhammad 2001, 240; 251). According to the JI, these incidents could not have been successfully staged without the involvement of the PPP's government (Muhammad 2000; 2001). The

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<sup>20</sup> Member of the Parliament.

Jl termed Zulfikar Ali Bhutto's regime as a "black period" in Pakistan's political history and specifically condemned the latter's discriminatory attitude against the former (Siddiqui 1978b, 03-05). Therefore, the Jl's option was simple and made easier by regular pronouncements of General Zia to initiate a comprehensive policy of Islamization in the country.

The democratic rhetoric, an essence of the Jl and its journal *Tarjumanul Quran* during its struggle against General Ayub, was noticeably invisible during Zia's Martial Law. Nasr (1994, 189) states that this change of heart in the Jl's stance created disharmony between the Jl's ideological position of Islamizing the country and its political aims which were hitherto dependent on the continuity of the democratic process. This shift was negotiated by the Jl through prioritizing its ideological position and political aims. The ideological position was an end and the political aims of achieving it through democracy were a means to that end. But if the end was likely to be achieved through other means, i.e. Martial Law, then there was no harm in opting for that. The contradiction inherent in this shift was blurred by highlighting the dictatorial way in which the democracy was run during the Bhutto-led PPP government (Siddiqui 1978f, 06).

General Ayub's Martial Law and its initiatives were viewed by the Jl as suspicious and supportive of secular segments of the country. In this new scenario under the Islamized leadership of General Zia, the selection of words and phrases had undergone an enormous transformation particularly during the initial few years of Zia's government. There was widespread optimism and jubilation within the Jl regarding Zia's initiatives to Islamize the country and insistence on the bone fide intentions of Zia's government in this regard (Siddiqui 1978a, 02-08; 1978c, 02-08). In an editorial of *Tarjumanul Quran*, the Martial Law team, including its civilian component, was regarded as the first team ever in Pakistan's history with bona fide intentions and the requisite qualifications to implement Islamic law (Siddiqui 1978f, 02). In the same editorial, the Jl's stance regarding Martial Law was justified as it was more important to implement Islamic laws rather than fruitlessly support democratic government in the country.<sup>21</sup> It was pointed out in some editorials of *Tarjumanul Quran* how coercive force was

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<sup>21</sup> There were scores of other editorials/articles/interviews suggesting how to Islamize different social and institutional aspects of the country. For example, how to revive Islamic system pertaining to *salat*, *zakat*, oath, expenditures and *Ramadan* (Siddiqui 1978d, 02), how to Islamize the education system (Siddiqui 1978g, 02), and how to bring Islamic reforms to the taxation system (Maududi 1979, 10-12).

important for bringing about any change in society (Siddiqui 1978c, 05-06; 1978e, 05-06). Such debates reflected the relevance of the socio-political context in which the JI was constrained to make concessions to a military government, especially in the face of the expected coercive measures of Zia's Martial Law. This was also meant to prepare the minds of its supporters for such measures.

This attitudinal change represents a consistent thread of the JI's romanticism regarding state-oriented institutions to transform a country. In General Ayub's Martial Law, these institutions were viewed as tools in the hands of secular segments and therefore worthy of condemnation, but in General Zia's regime these institutions were supportive of the Islamic agenda and hence appreciated and viewed positively.

For instance, in General Ayub's period the constitutional protection of the MFLO from judicial review on the touchstone of Fundamental Rights was conclusive proof of the secular tendencies of the government. The same kind of protection of the MFLO from judicial review on the basis of the touchstone of Islam from the newly-constituted Shariat Benches was "astonishing" but did not constitute sufficient proof to shake the JI's belief in Zia's bona fide intentions (Siddiqui 1979a, 07). The protection extended to the MFLO by Zia's government from the Shariat Benches was a more serious issue as compared to General Ayub's constitutional protection, due to the fact that the former government was making big claims for the Islamization of the country, and the sole purpose of establishing the Shariat Benches was to ensure all laws should conform to Islamic dictates through the judicial process. Thus, it ought to have been severely criticized as to why the MFLO was extended protection from this scrutiny despite claims of thorough Islamization, but the JI did not do that.

Given this background, the JI's unconditional support of the HOs ought to be viewed as a continuous reflection of its excessively positive attitude towards Zia's Martial Law (Siddiqui 1979b, 02). The JI's approach to Islamic criminal law and particularly *hudood* punishments has been explicitly spelled out by Maududi in his writings (Maududi 2001, 320-329; 1962, 54-59). According to his approach, the implementation of *hudood* punishments without properly preparing a society for that purpose would amount to *zulm* or injustice.

Maududi (2001, 320-321) has observed that without massive social reforms, we cannot resort to implementation of *hudood* punishments. For

example, before resorting to *hadd* of *zina*,<sup>22</sup> a society should establish separate social spheres for men and women. It should also discourage other factors which may have an encouraging effect on the commission of *zina*. It ought to have a standard system of marriage and divorce as per Islamic dictates. On the other hand, if the commission of *zina* is made easier and all sorts of encouragement for its commission are widespread in a society, then there is no justification for resorting to *hudood* punishments (Maududi 2001, 320-321).

Maududi (2001, 321-322) has contended that if *hadd* of theft is intended to be introduced without eliminating those factors which tempt someone to commit it or without having established an Islamic system of financial regulation, then its implementation would not be justified. According to him, the Islamic system of financial regulation is characterized by implementation of *zakat*, elimination of interest, and the fair distribution of wealth. Moreover, there ought not to be an excessive imposition of taxes and the necessities of life should not be beyond the reach of common people due to exorbitant prices (Maududi 2001, 321-322).

Maududi (1962, 59) has also distinguished between two situations which ought to be kept in view regarding any debate on *hudood* laws: the first where a *hudood*-based system is working, and the second where it is planned to be introduced. He (1962, 59) opines that the latter situation requires a more prudent approach. It implies that the delay in the introduction of a *hudood*-based system is affordable in the latter situation, and in the meantime, efforts should be made for the prevention of socially encouraging factors for the commission of *hudood* offences, rather than introducing the system of *hudood* first and then trying to focus on such social factors.

Having read the above elaboration of Maududi, if one analyzes the JI's stance on the HOs of General Zia (Siddiqui 1979b, 02), one is bound to be surprised as there is a wide gap between the theory and the practice. The JI extended its unconditional support to the HOs (Siddiqui 1979b, 02) without considering the prerequisites as laid down by Maududi. A question ought to have been raised from within the JI as to whether society was brought to the level specified by Maududi where such punishments could be enforced. If the prerequisites were not met, then what sort of necessity was there to

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<sup>22</sup> *Hadd* literally means limitation but in Islamic Criminal Law it is employed to refer to the maximum penalty prescribed for some offences in the Quran and Sunnah. *Hadd* of *zina* means maximum penalty for illicit sexual intercourse.

unconditionally support the HOs? This situation illustrates how the political exigencies of the period drove the JI to rearticulate its authentic version regarding *hudood*.

The gap between the “standard” stance and its practical manifestation was attributable to many factors. One of them, i.e. goodwill between the JI and Zia’s government, has already been referred to earlier in this section. No doubt one cannot understate the part played by the JI in deviating from its own “standard” approach, but at the same time it needs to be emphasized that it was facilitated by a particular context. At the time of the Zia’s coup, the JI was a part of the opposition alliance (PNA) and this alliance joined Zia’s government (Muhammad 2000, 357). On the one hand, the JI was aiming to “share the credit” of the government’s policy of Islamization (Rizvi 1988, 236). On the other, it was apparently tired of its overwhelming oppositional politics during General Ayub and Prime Minister Bhutto’s regimes (Nasr 1994) and might be expecting to have some respite during Zia’s so-called Islamic Martial Law.

Zia’s government was actually steered by the army and the civilian component was often bypassed by the military on significant policy decisions (Rizvi 1988, 236). General Zia was apparently very focused on his objective of how to prolong his stay in power. He capitalized on the religious sensibilities of the people and in this manner, expanded the power and capacity of the state and his government (Nasr 2001). On the eve of the coup, his government initially promised to hold free and fair elections, but then it started to shift its emphasis to Islamization and accountability in search of legitimacy (Rizvi 1988: Nawaz 2008). To this end, the government was playing its cards very shrewdly. For instance, the HOs were promulgated on the same day as Muslims were celebrating the Prophet’s birthday. This religiously-charged atmosphere made it unlikely for the JI to apply a critical gaze on the HOs on the touchstone of Islam.

The JI cannot be exonerated from its part in heightening religious sentiment to this level as its role was pivotal in the campaign of *Nizam-e-Mustafa*. Thereafter, the JI itself became a victim of this heightened religious atmosphere which masked the shift that took place in its own stance. Neither did the JI observe the loopholes in the HOs, nor did the former think the latter worthy of being critically scrutinized as in the case of the MFLO. In the case of the MFLO, the stained relationship between the government and the JI facilitated the latter to critically go through the law and point out its loopholes. But as far as the HOs were concerned, the scenario was dominated by goodwill. Therefore, the JI restricted its role to advising the government in order to keep an eye on the

implementation of the HOs so that their implementation would not be hampered by the secular segments of the country (Siddiqui 1979b, 04-05).

In its quest for Islamization, the JI basically sidelined those factors which Maududi underlined as necessary preconditions for initiating a *hudoon*-based system. The authenticity of the JI regarding the HOs was partly due to its location in a religiously-heightened atmosphere and partly because of its excessively positive attitude towards General Zia's policy of Islamization. Thus, the political context of the country contributed to shape its authenticity and there seems little reason to equate its stance on the HO's with comprehensive representation of the divine.<sup>23</sup>

#### **5. Protection of Women Act, 2006 (PWA):**

The process leading to the enactment of the PWA during Musharraf's regime (1999-2008) represents an important episode regarding the confrontation over women's rights in Pakistan by different political parties. This law was meant to address the loopholes of Zia's HOs, amending some of its provisions. Although the enactment of this law did not fulfil the demand of the human rights activists of totally repealing the HOs, it was a significant step towards minimizing some of the hardships experienced by women victims (Lau 2007, 1307; 1313).

The PWA has repealed the *hadd* penalty for rape and exclusively brought it within the domain of *tazir*<sup>24</sup> offences. It has also reduced the penalty for a voluntary sexual relationship. Moreover, a strict procedure has been introduced for the initiation of any proceedings which might lead to infliction of the *hadd* penalty.

For our analysis, this section forms the other half of the same debate undertaken in the preceding section. In that section, it has been elaborated how the JI deviated from its previously held authenticity regarding the enforcement of *hudoon* laws and extended its unconditional support of the HOs due to the specificity of the socio-political context. This section analyzes how the socio-political context of the PWA made it difficult for the JI to review its stance on the

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<sup>23</sup> There are many scholars who have critiqued the HOs or punishments provided there from an Islamic perspective, e.g. Quraishi (2003), Farooq (2006), Cheema and Mustafa (2008-2009), Ghamidi (2009, 35-136). That is why it would not be a straightforward inference to say that the HOs in its original form were a mirror representation of Islamic dictates on *hudoon* laws.

<sup>24</sup> *Tazir* is a right of a state to criminalize any act and to prescribe its punishment. *Tazir* is different from *Hadd* whose punishment is provided by *Shariah* itself.

HOs. In other words, it highlights the circumstances which contributed to harden the JI's stance in favour of the HOs and against the PWA.

Given the fact that the JI's support of the HOs does not reflect its "standard" opinion as explained in the previous section, one would have expected the JI not to go too far in its efforts to protect the HOs. But the JI branded the efforts of Musharraf's government for enacting the PWA as a "war against *Hudood Allah*" (Ahmad 2006). The religious segment of the country including the JI was apprehensive that the enactment of the PWA would lay down the foundations of a free-sex society and the westernization of the country (Lau 2007; Ghauri 2006). Bearing in mind the strict stance of the JI against the PWA, let us analyze the role of socio-political context for constructing the JI's authentic version.

When the Pakistani Army dislodged the civilian government of Nawaz Sharif on 12th October 1999 under the leadership of General Musharraf, the JI was not very sceptical of the coup. The consultative body of the JI appreciated the coup and demanded that an interim government ought to be put in place for the purpose of carrying out a process of thorough accountability (Ahmad 1999, 03-05). The coup was also generally welcomed by the public (Malik 2001, 357). The editor of *Tarjumanul Quran* regarded the public jubilation on the coup as a "public referendum" (Ahmad 1999, 05).

General Musharraf's coup was a counter-coup designed to prevent excessive interference in the military by Nawaz's government, and it was not planned in the same way as previous military coups in Pakistan (Malik 2001, 358). After General Musharraf's takeover in October 1999, the Martial Law regime was hard-pressed to find a way to provide legitimacy to its unconstitutional assumption of power as the international response to the coup was not favorable, particularly from the democratic West (Malik 2001, 358; Butler 1999). For instance, the Commonwealth suspended Pakistan's membership from all its organizations and also debarred it from attending the forthcoming summit in South Africa (Black 1999; Deans 1999).

Keeping in view such an unfavorable response, Musharraf thought it appropriate to portray his soft image of an enlightened moderate as a strategy to fill the legitimacy void. The first instance of this kind was his appearance before foreign journalists with his two Pekinese dogs (Burke 1999). The Independent's London reporters regarded it as "another offensive [by Musharraf] to win over international opinion" (Bennett-Jones, O. and Peter Popham 1999). In another effort of the same kind, General Musharraf proclaimed in an interview with *The Guardian* that Attaturk Mustafa Kamal Pasha was his ideal (Burke 1999). Such

efforts of General Musharraf might have had a softening impact regarding his image in the West, but these efforts laid down the basis of a suspicious relationship between General Musharraf and the religious parties, including the JI. These incidents started to dispel whatever goodwill there was between the JI and General Musharraf.

In this scenario, the *Tarjumanul Quran* republished Maududi's critical review of a book written on Attaturk six decades ago (Maududi 2000, 51-55). The review presented the standard version of the JI regarding Attaturk. In the review, Maududi condemned Attaturk's efforts to secularize Turkey by abolishing Islamic law and introducing Western legal codes. Maududi also rebuked him for banning the purdah and encouraging a Western style of liberty for women. Without leaving anything for speculation, the editor of the *Tarjumanul Quran* specifically attributed the re-publication of the review to General Musharraf's idealization of Attaturk (Maududi 2000, 51). So, the stage was once again set for a similar relationship to that of General Ayub and the JI, with the substitution of General Ayub by General Musharraf as far as the secular segment of the society was concerned, while the JI had been consistently occupying the pro-Islam camp.

Thus, the brief period of unspoken concessions between General Musharraf and the JI was soon overtaken by seeds of suspicion. This uneasy relationship was aggravated after the disaster of 9/11, when General Musharraf unreservedly supported the notorious war on terror while the JI unequivocally criticized it. This new situation started to categorize people into pro- and anti-war camps in Pakistan. Given this new categorization, those who were situated in the other camp were liable to be viewed as suspicious because of their support of the enemy. The JI and General Musharraf were in opposing camps and their respective positions made it difficult to accommodate each other. This divide was so decisive and categorical that it did not only influence their war-related perspectives; it started to penetrate every aspect of their mutual relationship. The editorials and articles published in *Tarjumanul Quran* during this period were consistently broadening the scope of the war on terror to connect it to other issues, e.g. identity politics, the nuclear assets of Pakistan (e.g. Ahmed 2004), and the educational system of the country. The frequency of such writings had been definitely on the rise ever since 9/11.

Let us briefly go through some of the editorials and articles dealing with religious education published during the period of the war on terror and the enactment of the PWA. These writings demonstrate how far the war on terror was instrumental in shaping the response of the JI. In one of the editorials of

*Tarjumanul Quran*, captioned “Weapon of Mass Destruction of New Crusade: Assault on the Education System”, Ahmad (2004a) elaborated upon how education was brought into focus when the map of the war was drawn after 9/11. As per the author’s point of view, one of the main objectives of such a remapping of the war was to destroy the religious education of Muslims. Ahmad (2004a) stated that the educational system was a main source of the ideological training of Muslims, purifying their individual character and sensitizing them to the unity of *ummah*. But these characteristics are regarded by the present American leadership as a major stumbling block in the realization of its interests (Ahmad 2004a). The JI’s then *ameer*/president, Qazi Hussain Ahmed, equated any effort for bringing change to the education system as part of America’s imperially assertive right of pre-emptive attack (Ahmed 2005). The employment of terminologies such as ‘weapons of mass destruction’ and ‘pre-emptive strikes’ with respect to the education system by leaders of the JI exposes the infiltration of the war on terror into a sphere which is beyond actual warfare.<sup>25</sup>

Efforts meant to reorient the education system were facilitated by General Musharraf through the legal and institutional mechanisms of the country as per the JI (Khalid 2004b).<sup>26</sup> This line of reasoning can also be viewed in Ahmed’s (2004) editorial article where General Musharraf was criticized for his measures to implement the educational, cultural and civilizational agenda of the West. Thus, according to the JI, the sympathies of Musharraf were becoming clearer in that his agenda was driven not by a genuine need, but rather by the interests of Western powers.

The above manner of argumentation channelled through Western cultural and civilizational agenda can be traced in Ahmad’s (2006) editorial of the *Tarjumanul Quran* which equated any interference with the HOs as waging war against *hudooh Allah*. Ahmad (2006, 03-06) highlights the similarities between Bush’s sponsored war on Iraq and Musharraf’s war against *hudooh Allah* while making the point that there is a difference between the declared objectives and real targets of the two. The declared objective of enacting the PMA is the

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<sup>25</sup> One may observe similar kinds of analysis to strengthen the fear that America was determined to reorient the education system to serve its own purposes under the garb of promoting peace (Khalid 2004a).

<sup>26</sup> Khalid (2004b) analyzed the attitude of the government regarding Agha Khan Board to substantiate how Musharraf’s government facilitated the efforts to change the education system of the country.

protection of women's rights but its real target is the secularization of the society and depriving the country of its Islamic identity (Ahmad 2006, 04).

This politics of suspicion and fear between General Musharraf and the JI was also deepened by another well-entrenched ideological difference that pertained to their views on Islam. General Musharraf portrayed Islam as an enlightened moderate religion. On the other hand, such a portrayal was regarded by the JI as another dimension of Western, and particularly America's, new imperial agenda. Ahmad (2004b), in his editorial article captioned "Enlightened Moderation or New American *Deen-e-Illahi*", described the standard version of the JI in this regard. The employment of the phrase *Deen-e-Illahi* is significant per se. It refers to the Great Mughal Emperor Akbar's construction of a religion known as *Deen-e-Illahi*, developed by mixing elements from religions other than Islam. From this perspective, the emphasis on an enlightened moderate Islam by General Musharraf was another episode reminiscent of similar efforts carried out by Akbar earlier. Musharraf's efforts, in this regard, are part of a broader project of introducing a new world order and paving the way for the imposition of an American value system in all spheres of life (Ahmad 2004b).

The JI's view of dominance of the Western value system contributed in shaping its opinion regarding the unequivocal protection it extended to the HOs. Having this perspective in mind, the then *ameer*/president of the JI warned the government that there must not be any interference with *hudood* and the blasphemy laws (Ahmed 2004, 04).

This was the socio-political context wherein General Musharraf was making efforts to enact the PWA and the JI was trying its best to resist its enactment. It is submitted that this context contributed to hardening the JI's position on the divinity of the HOs, to the extent that it refused to participate in a parliamentary committee to discuss the draft of the PWA (Lau 2007, 1306). Ultimately, this scenario led to its rhetorical declaration that the legislation of the PWA was equivalent to waging war against "*Hudood Allah*" (Ahmad 2006).

It has been elaborated in the preceding section that the JI rearticulated its authenticity regarding the HOs while influenced by the prevailing goodwill context during Zia's Martial Law. In case of the PWA, it was the context of pervasive suspicion and distrust between the JI and General Musharraf which facilitated the JI to bluntly criticize any effort to amend the HOs and enact the PWA, despite the fact that the former was not consistent with its standard stance regarding *hudood* laws. So in one way or another, the socio-political context was important in shaping the authenticity of the JI.

## **6. Election of Women Members of the JI to Reserved Seats of Parliament:**

This is the final example of the construction of authenticity in the JI's gender discourse under the influence of the socio-political context in the present paper.

On 21 August 2002, General Musharraf introduced a Legal Framework Order (LFO) which brought some changes to the Constitution of 1973 (Mirza 2009, 2). The LFO restored a joint electorate in the country and increased the total number of seats in all assemblies, including the upper house of Parliament, i.e. the Senate. It also provided for a representation of 17% women on reserved seats in both houses of Parliament and provincial assemblies (Mirza 2009, 2). One of the objectives of the LFO's promulgation was to condone all previous actions of General Musharraf. Another was to conduct national elections under this new arrangement, scheduled to be held in 2002.

This legal arrangement left the parties with a choice: to opt for contesting the elections under the LFO, or not to contest at all. General Musharraf had already got himself elected through a controversial referendum held in April, 2002 (Mirza 2009, 1). It was certain at that time that General Musharraf would remain as President for the next five years. In such a situation, opting out of the elections would amount to a political demise. Even those political parties such as the Pakistan People's Party and the Muslim League (Nawaz) which were victimized by General Musharraf during the initial years of his rule decided not to leave the political space open for the President and his allies.

The issue for religious parties including the JI was not about a political demise only. Rather, these parties were hoping to make some electoral gains due to the involuntary exile of the leadership of two main political parties of the country, i.e. Pakistan People's Party and the Muslim League (Nawaz). To fill this political gap, six religious parties including the JI constituted an alliance as *Muttahida Majlis-e-Amal* (MMA).

The MMA's expectancy of making political gain was also strengthened by events taking place in the region after 9/11. After 9/11, America and NATO commissioned their forces in Afghanistan. The MMA was the most vocal political alliance to condemn the presence of foreign forces in the region. Historically an alliance of religious parties, the MMA managed to have reasonable public support in areas situated near the borders of Pakistan and Afghanistan. The presence of foreign forces in Afghanistan provided another opportunity for the MMA to stir up and capitalize on anti-American sentiments. The MMA played its cards well and gained historic results by winning 18% of the seats in Parliament (Nawaz

2008, 532). These seats were mostly won from the above-mentioned areas, i.e. the provinces of Khyber Pakhtunkhwa (previously known as NWFP), and Balochistan.

After the elections, the religious alliance including the JI had to choose from going for election to the reserved seats of women as provided by the LFO, or to simply leave the space for other contenders. Politically, the situation was not very complex but due to the pronounced stance of the religious parties on the political participation of women, it was made difficult. For instance, it was explicitly disapproved by Maududi (n/d, 100) for women to sit in mixed parliaments and councils.

For the JI, the issue was not new. Previously in Zia's hand-picked Parliament, one of its women members was nominated and served as a member of the Parliament. So, the psychological barrier of contradicting its "standard" position had already been crossed by the JI during Zia's period. But, thereafter, it did not nominate any woman to contest the reserved seats in any house of Parliament and that sole nomination was part of a fading memory. So, it was General Musharraf's initiative of introducing a substantial number of reserved seats for women which brought this issue to the forefront again.

The JI, along with its alliance of religio-political parties, opted for a more politically pragmatic approach to contest the reserved seats so that it would not lose any opportunity to have more seats in the Parliament. As far as the political implications of this decision were concerned there was no viable objection to it, since it was every political party's legitimate right to desire and strategize to gain the maximum number of seats in legislative assemblies. What is important to highlight here is how politics shapes a particular understanding of religion. As per the "standard" discourse of the JI, there ought to be different spheres for men and women, but due to non-realization of this ideal, religion did not prevent the JI taking a different route, irrespective of the fact that it was likely to expose women to mixed gatherings and violation of a number of other forms of purdah, including purdah of eyes and listening to strangers.

This scenario demonstrates the predicament of a complex relationship between religion and political goals. How is religion to be employed for political goals or how is politics to be pursued for religious ends? Contesting elections and gaining maximum seats in assemblies is politically understandable despite the fact that these seats come through reorienting previously pronounced authenticity. But whenever one tries to justify such contradictions in religious terms, one has to employ dichotomies of means and end on the one hand, and on the other, general

rule and exceptional circumstances (Maalik 2005, 61-62). For instance, establishing an Islamic state/system is an end and to gain maximum seats is a means to that end according to the JI. As a general rule, women are allocated a different sphere from men according to the JI, but if it is difficult to realize the general rule then for the time being, exceptional circumstances/necessity grants women permission to become a part of mixed sphere of activity.

Thus, the opinion of the JI regarding the participation of women in political space is not substantiated by its reading of the divine, as its reading of the divine emphatically divides spheres between men and women. Rather, it is a product of that specific context anchored by General Musharraf's policy of enhancing the number of reserved seats for women in the Parliament which softened its stance on women's participation in mixed parliament and councils. Thereafter, the JI attempted to substantiate its authenticity in religious terms by prioritizing political ends over means and reinforcing it by logic of necessity. Had the opportunity of enhanced seats for women not been provided by the socio-political context, the JI would not be in a position to rearticulate its authenticity afresh in this regard.

#### **7. Conclusion:**

The paper has explored the relevance of the socio-political context in the construction of authenticity in the JI's gender discourse. While doing so it has problematized the assumption that authenticity is exclusively shaped by the divine rather it is influenced considerably by many factors and one of them is socio-political context. This is so because readings of the divine cannot be carried out in a vacuum; these are always done in different contexts. These contexts infiltrate into our readings in many ways. For instance, specificity of a particular context may make us realize that it ought to be regarded as exceptional. This was one of the main arguments of the JI when it supported Fatima Jinnah as a presidential candidate of the country. Sometimes the context may facilitate how to prioritize between means and ends. It was this mental confrontation which lured the JI to support the Islamization of General Zia and nominate its women members to contest the reserved seats for women in the Parliament during General Musharraf's regime. Therefore, the lesson of the paper is that before equating the human interpretations with the divine, we need to question ourselves inquisitively as well as persistently so as to ascertain how far these interpretations are influenced by the specificity of their socio-political contexts.

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