

Jamaat-e-Islami Bangladesh: From Ban to Ban

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ABSTRACT

The history of Jamaat-e-Islami Bangladesh is replete with serious trajectories and paradoxes. The role of Jamaat in the independence of Bangladesh has been very questionable. Since Jamaat supported Pakistan establishment during the war of independence, therefore, after independence it had to experience a very challenging time and was banned from all political activities. However, after the assassination of Mujibur Rehman, the ban was lifted and Jamaat resumed its political journey in the Independent Bangladesh. In the post 1990's Jamaat became a part of BNP government and hold some important portfolios. The paper shall seek to comprehend the political history of the party. The paper shall also seek to understand the politico-ideological dimension of the Jamaat and will also highlight the ban on it.

1. Jamaat-e-Islami Bangladesh

On August 26th, 1941 the foundation of Jamaat-e-Islami was laid by Syed Abul Ala Mawdudi in Lahore. Mawdudi has been and is the soul and spirit of the party. Mawdudi was one of the most important proponents of political Islam during his period. He believes in complete obedience to Islamic rules and insisted that without political power Islam cannot succeed in its mission. Mawdudi avowed politics as an essential and inseparable part of the Islamic faith and the Islamic state. An Islamic state was regarded by him as a solution to all the problems of the Muslim ummah. Jamaat-e-Islami has been seeking to win over society leaders, conquer the state and Islamize the government. Religion with politic and faith with social action was fused by Mawdudi. He restructured Islamic beliefs so that it could materialize his ideology.

In the 79 years of its existence the JI has undergone several changes, much of which happened during the lifetime of Mawdudi. After Partition, the Jamaat was trifurcated into Jamaat-e-Islami Pakistan (JIP), Jamaat-e-Islami Hind (JIH) and Jamaat-e-Islami Kashmir (JIK). At the time of its inception, the major objective of the JI was to act as a religious revivalist party. The JI in Pakistan keeps special affiliations with similar pan-Islamic organizations in South-East and South Asia. Other than the JI Pakistan, the following are the JI factions in South Asia:

- Jamaat-e-Islami Bangladesh
- Jamaat-e-Islami Hind (India)
- Jamaat-e-Islami Kashmir (Jammu & Kashmir, India) and
- Jamaat-e-Islami Sri Lanka. (Jamal, 2009:107-108).

In 1950 Jamaat began to work in the then East Pakistan and emerged as the second largest political party after Awami league in the 1970 elections in Eastern wing of Pakistan. At that time Jamaat was working with around 40 full time workers, 425 full members and 40000 thousand associate members. During the 1971 war Jamaat-e-Islami supporters sided with the military and vehemently criticized the creation of Bangladesh as a separate nation.

After the emergence of Bangladesh, Jamaat-e-Islami Bangladesh was banned and was not allowed to take part in the political activities of the country. It was banned because of two fundamental contradictions, one that it criticized the creation of Bangladesh as a separate nation and secondly its idea to establish an Islamic state was in contradiction to the four fundamental principles namely secularism, socialism, nationalism and democracy. The communal character of the party did not compliance with the aspirations of the secular ethno-Bengali nationalism and the secular nature of the state. After the ban, legal actions were initiated against those Jamaat leaders who had collaborated with the Pakistan during 1971 war. But the party sustained the state onslaught from 1972 to 1975.

Jamaat-e-Islami is the largest Islamic political party in Bangladesh. Despite its history of being an active anti-liberation force during 1971 war, it enjoyed political power through its alliance with both of the major political parties, Awami League and Bangladesh Nationalist Party (BNP) at different periods of time. The Jamaat-e-Islami eventually ended up with the BNP as its primary ally whereas the Awami League became its rival. The party continued to enjoy political power until the Awami League started the War Crimes Tribunal in 2008, delivering on the promise made in election manifesto. Many top leaders of Jamaat-e-Islami involved in war crimes were convicted and were put under war crimes trials. This ushered in the fall of Jamaat-e-Islami in Bangladesh.

2. Ideology of Jamaat-e-Islami

The JI is one of the oldest and leading Islamic revivalist movements of contemporary times. The party's ideology and plan of action are aimed at uniting the Muslims for an Islamic revolution and thus 'have made the party a primary example of what the West has feared most in revivalism'.¹ Ideologically JI centers on Islamism, Islamic democracy or Theo-democracy and Islamic fundamentalism. Basically, the JI Pakistan envisions an Islamic government in Pakistan governed by the sharia. Mawdudi said in one of his speeches that 'the JI is created to change the system of the entire world, to change the world's ethics, politics, economy and society. To change the

world's system as per the will of God and to achieve this we need to fight against all evil forces.'

In order to understand the political thoughts of Jamaat-e-Islami, it is essential to study some basic ideas of Maulana Maududi's religious thoughts. Maulana Maududi's political thoughts basically revolves around the concepts of *Hukumat-ilahiyyah* and *Iqamat-i Din*, which in fact means the establishment of a God's government, commandments of the Shariat and also covers other aspects like personal character, ethics, socio-cultural, political, economic, judicial etc.

The party's political philosophy centers around the concept of 'Theo-democracy', stating that the political government formed through the platform of the JI would not be a group of 'religious fundamentalists' but a democratic representative of the community, governing according to the rules of the *Koran* and *Sunnah*. It is a form of democracy where people are not allowed to legislate for matters that are clearly defined in either of the Islamic doctrines.ⁱⁱ

The party opposes almost all 'isms' apart from Islam, such as Americanism, feminism, secularism, imperialism, socialism, liberalism, capitalism, modernism, communism, nationalism, commercialism, and so on. The JI defines the party's standpoint on theocracy in an article about 'Islam and the New World Order'.

There is no scope for theocracy in Islam, because in a theocracy a particular religious class has the right to interpret religious law and wield political power. Islam does not subscribe to any such theocratic arrangement. Instead it establishes rule of law and equality of all before the law. It is based on the principle of accountability and formation and change of government through the will of the peopleⁱⁱⁱ.

With the above-mentioned statements, the JI has been attempting to change its anti-democracy image, but this is not the case in reality, because the party opposes the current forms of democracy in the South Asia on the basis of its Theo-democratic and anti-secular ideology. Theo-democracy is where 'God the sovereign, is the primary law-giver, while agents such as the Islamic state and the Khalifa (God's agents on earth) enjoy marginal autonomy necessary to implement and enforce the laws of their sovereign. This is the Islamic form of democracy for many thinkers like Mawdudi, who believes that the complete code of life in Islam comes from the *Koran* and *Hadith*.

Mawdudi while commenting on the electoral democracy, said, 'If going for elections and the assembly is to implement a secular democratic system, then this is against our religion.'^{iv} In many of his writings he labeled 'secular' as *la deeni* (irreligious), which clearly shows that the participation of multiple faiths in Pakistan's politics and policy making was not acceptable to him, as he always wanted an Islamic state. There is great ideological divide between secular Muslims and conservative/traditionalist blocs of Muslims. Advocates of secularism in Muslim societies believe that there is a lot to learn from models of the secular West.^v Mawdudi also argued that, 'if democracy is conceived as a limited form of popular sovereignty, restricted and directed by God's law, there is no incompatibility with Islam...Islam is the very antithesis of secular Western democracy based solely on the sovereignty of the people'.^{vi} It is an ideology solely of fundamentalists, which

aims at returning to the past in recapturing the roots of the Islamic religion^{vii} the way it was introduced by Prophet Muhammad (PBUH).^{viii}

Mawdudi's Islamic ideology seeks to follow Prophet Muhammad's mission, which he described as:

- a) To revolutionize the intellectual and mental outlook of humanity and to instill the Islamic attitude towards life, ideals of life and standards of values and behavior become Islamic;
- b) To regiment all such people who have accepted Islamic ideals and moulded their lives after the Islamic pattern with a view to struggling for power and seizing it by the use of all available means and equipment;
- c) To establish Islamic rule, organize the various aspect of social life on Islamic bases, and adopt such means which will widen the sphere of Islamic influence in the world.^{ix}

Another aspect of the party's ideology is depicted in this statement, which is the party's global vision, the pan-Islamism. In the party's 'Article of Faith', the JI reiterates the universality of al-Din (the religion) Islam, and also that the 'Jamaat-e-Islami is totally committed to the concept of the Umma (the Muslim community) which embodies the unity of the Muslim people'.^x

To achieve his goal he started a mass movement called *Matlab-i Nizam-I-Islami*, the aim of which was the establishment of an Islamic order. Following are some of the important fundamentals of Jaamat's ideology and of the Islamic constitution

- i. Sovereignty belongs to Allah.
- ii. Sharia forms the basis of the law.
- iii. Law repugnant to Islam will be abrogated.
- iv. The government will not over step the limit laid down by the Sharia
- v. Obedience to the Prophet
- vi. Vicegerency and mutual consultation
- vii. Justice.
- viii. Fundamental rights.
- ix. Social welfare
- x. Position of women

Mawdudi questions what should be yardstick of a sincere leader? He writes that as per the guidelines of the Sharia the minimum requirements are:

- a) The leader should be true follower of Islam who performs his duties and shuns all his desires
- b) He should be honest, faithful and straight forward person.
- c) He should not be an evil monger or a debaucher.
- d) He must possess good knowledge and understanding of the Islamic affairs and the other necessary requirements
- e) He should not be a greedy person and shall not desire for a post.

3. Jaamat's Idea of State

The Jamaat like all other Islamist organizations believes in the idea of Islamic state. But it has tried to camouflage this by the use of modern terminology. It says that the Islamic state is a "welfare state, a multi-religious, multi-cultural and democratic state run by the people's representatives."⁸ But its true nature comes immediately to the fore when it says that:

Its principles of (Islamic state) are derived from the Holy Quran and Sunnah of Prophet Muhammad (PBUH) but its administration is carried out by the representatives of the people. The form of the Islamic government is a divine democratic government because the Muslims have been given limited popular sovereignty under the sovereignty of God. The executive power under this system of government is constituted by the general will of the Muslims who have also the right to depose it. The sources of law of the Islamic state are as follows; (1) The Holy Quran (2) The Sunnah (the practice and sayings of the prophet) (3) The third source of law is the Ijma of the companions of the Prophet. (4) Ijtihad. The constitution of the state must follow the rules of the Holy Quran and Sunnah. It is a divinely ordained system of laws. The Quranic law is supreme. Sunnah occupied second position as the source of law. 9

Clearly the Islamic state as envisaged by the Jamaat is very different from a modern democratic state.

4. Pre and post Liberation Position of Jamaat-e-Islami in Bangladesh

During the freedom struggle of Bangladesh in 1971 the role of Jamaat was confined to its act of collaboration with the Pakistani army. It had formed various armed militias namely Al Badr, Razakars, Al-Shams which worked hand-in-hand with the Pakistani army to suppress the Bengali freedom fighters.^{xi} But these efforts could not yield desired results and finally Bangladesh emerged as an independent nation on December 16th, 1971. During the war time, Jamaat and its militant wings together with Pakistan military had killed thousands of unarmed Bengali people; raped women destroyed thousands of habitations and forced 10 million people to leave their homes to India.^{xii}

The West-Pakistani government created the "East-Pakistan Central Peace Committee" (Known as Shanti Committee or Bahini in Bengali) which was a vital part of their military operations against the Bengali nationalists. Ghulam Azam^{xiii}, the former 'Ameer' (leader) of Jamaat-E-Islami was among the founding members and top leaders of the Shanti Committee.

Regardless of its doubtful past, it managed to revive as a political entity in newly created Bangladesh. After the liberation, all religious based parties including Jamaat-e-Islami were banned. Jamaat-e-Islami's many top leaders fled to Pakistan after the end of 1971 war but many continued to live in Bangladesh.

Additionally, the International Crimes Tribunal Act 1973 was passed to authorize the State "to provide for the detention, prosecution and punishment of persons for genocide, crimes against humanity, war crimes and other crimes under the international law." It was passed with the intention to hold trials against the crimes committed by the Pakistani military and their affiliates such as the combatant groups created by Jamaat-E-Islami.^{xiv}

However, politics in South Asia remains full of surprises. Shortly after these constitutional and legal impositions against anti-liberation forces, the three neighbouring South-Asian countries, India, Pakistan and Bangladesh realized the

necessity of mutual peace agreements for the future progress of all three nations. With regards to the peace of the subcontinent, Bangladesh signed the tripartite agreement with India and Pakistan in 1974. This agreement included Bangladesh's consent to the repatriation of 195 Pakistani prisoners of the 1971 war. Thus, the international crimes tribunal act of 1973 was left with promises of forgiveness.^{xv}

5. Resurgence of Jamaat-e-Islami

Jamaat-e-Islami Bangladesh had not to wait for long to resume their journey as a political party in independent Bangladesh. A decade of assassinations began with Sheikh Mujibur Rehman and some other top leaders which plunged the country in deep political crisis. Throughout these coups and counter coups one significant change occurred when General Ziaur Rehman became the President of Bangladesh in 1977. Ziaur Rehman brought Fifth Amendment to the constitution and allowed the banned religious parties including Jamaat to participate in the electoral politics. The Fifth Amendment also abolished the provisions of socialism and secularism and provided the provision for forming political parties based on religion. Changes made to the constitution drastically altered the fundamental principles of state policy, destroyed the secular character of the constitution and allowed politics based on religion. Besides, the changes replaced Bengali nationalism with Bangladeshi nationalism, and provided political right to anti-liberation forces including Jamaat-e-Islami and war criminals that resulted in an alarming growth of political parties and organizations based on religion.^{xvi}

After the assassination of Ziaur Rehman it was his wife who continued his legacy and supported Jamaat in the electoral politics. Military General, Ershad followed Ziaur Rehman's path and continued the process of islamization as well as supported Jamaat during his military tenure.

Jl successfully re-established itself, securing 10 seats during the 1986 Jatiya Sangsad (JS) elections and 18 seats during the 1991 JS elections^{xvii}, becoming an increasingly significant factor in the country's political arena.^{xviii} The political landscape of Bangladesh, especially since the 1990s, was determined by the intense rivalry between AL and BNP. Jl could secure only three seats in the 1996 elections but it re-emerged in 2001 as the third largest political party, securing 17 seats as a partner of the BNP-led Four-Party Alliance (including another Islamist party, the Islami Okiya Jote/IOJ^{xix}) that formed the government under Begum Khaleda Zia (BNP) from 2001 to 2006. Two leaders of Jl headed strategically important ministries (agriculture and social welfare) marking a peak of electoral performance of Jl. This was made possible by the unrestricted struggle between AL and BNP^{xx} and a consequent policy of coalition^{xxi} building by effectively switching partners based on the best political opportunities either provided them with. While the party's national voting share in polls has been relatively small, its coalition with the BNP enabled it to 'play a disproportionately important role in politics'.^{xxii}

The alliances with two major political parties and more importantly with Bangladesh Nationalist Party provide political and electoral legitimacy to Jamaat and they utilized it fully to regain its lost power and glory. It gained access to power corridors and control of vital economic sectors of Bangladesh

such as the well-funded NGO sector and the Islami Bank (one of the largest Islamic Banks in Bangladesh).

During the BNP-Jamaat rule non-Muslims and ethnic minorities became extremely vulnerable and this found reflection in frequent incidents of communal violence.^{xxiii} Major atrocities against minorities included destruction of places of worship and killings. History books were manipulated by the government to popularize and glorify their own agendas. The anti-liberation forces gained more power than ever and freely voiced their arguments asserting that the war in 1971 was merely a civil war.

6. Jaamat's Reemergence/Resurgence

Political Islam in Bangladesh has always had some local promoters. The Islamist political parties, including Jamaat-e-Islami used the tension between the Bengali and Islamic dimensions of Bangladeshi identity to further their objectives. Its founder Abul Ala Mawdudi, rejected nationalism, which he labeled *kufur* (unbelief) and had great interest in the political role of Islam. Mawdudi's ideas went on to influence a whole generation of modern Islamists.^{xxiv}

Many factors helped Jamaat to acquire the status of a mainstream political party. First of all, to begin with, a part of the blame has to be attributed to Sheikh Mujibur Rahman himself. Despite his exemplary promises to punish the collaborators, the Bangladesh collaborators" (Special Tribunal) order 1972, issued on 24th January of that year, contained several loopholes. As a result, out of the 37,471 cases instituted under the order, only 2,848 cases were decided by October 31st 1973 of the accused, only 752 were punished. The remaining 2,096 cases were proclaimed not guilty. Moreover, Mujib declared a general amnesty in favour of the collaborators, which helped them to return to mainstream politics of Bangladesh. Furthermore, Mujib's three unpopular and authoritarian acts namely the declaration of a state of emergency on December 28th 1974, making himself President for 5 years in January 1975 and the formation of Bangladesh Krishak Sramik Awami League (BAKSAL) set the stage for the rehabilitation of Jamaat.

All political parties including Awami League used Jamaat as a tool to retain political power and this largely helped Jamaat to get assimilated in the mainstream politics. But it appears very surprising that Awami League party which acquired power through general elections and therefore whose legitimacy was unimpeachable, also hobnobbing with Jamaat and other fundamentalist political parties, just because of certain vested interests.^{xxv}

Besides there was another support base in the form of Madrassas created by Jamaat itself for the sake of its survival in politics. Innumerable Madrassas set up by funds, drawn from the Islamic countries created young fanatics who not only supported Jamaat but also provided its future cadres. Jamaat received funds from countries like Kuwait, UAE, Bahrain, Pakistan, Saudi Arabia, Libya, etc. Several International NGOs like the Kuwait-based Revival of Islamic Heritage, UAE – based Al Fuzaira, Khairul- Ansar-Al- Khairia, and Saudi Arab based Al Harmaine Islamic Institute.

The third component is Jamaat-e-Islami's network of social, educational, informational, and economic institutions, which, in effect, create a state within a state. Not only do these services extend Jamaat-e-Islami's patronage network, but the

party can also favorably juxtapose its institutions with the corruption and inefficiency of those of the Bangladeshi government. Impoverished citizens may not question how such services are financed, but the rapid growth of Jamaat-e-Islami's network suggests that it has an outside revenue source which it has not revealed.

Finally there is one more support base of Jamaat i.e. rural people, mostly illiterate and were rigorously brainwashed by the agents of Jamaat, most of whom happened to be the Mullahs of local mosques. These rural illiterate people were indoctrinated to believe that Jamaatis were the true devotees of Allah. They formed an important support base of Jamaat.

Although it could not gain any grip in East Pakistan, it emerged as the second largest political party in the East Pakistan after the AL in the 1970 elections (Ahmed, 2008).

7. Jaamat's Rebranding Strategies

Jamaat projected itself as a 'moderate Islamic political party'^{xxvi}, but it is not a moderate party, or even a political party in the way it is commonly understood. It is a complex movement with a comprehensive socio-political agenda aiming to transform the state and society of Bangladesh according to its totalitarian vision.^{xxvii} JI believes theocracy is the ultimate way to organize societies and seeks to establish an Islamic state in Bangladesh.^{xxviii} To achieve this, it goes to great lengths to camouflage the exclusive and anti-secular nature of an Islamic state by using modern state terminology and focusing on the social and economic concerns of the people.^{xxix} However, to establish an Islamic state, JI aspires to seize state power and implement its fanatic values in society. From its perspective, both dimensions- increasing its weight within the political-administrative system and reshuffling the social-religious structure of the country are intertwined: 'the Jamaat in power would help Islamization; Islamization would help the Jamaat to come to power.'^{xxx} JI's socio-political thought and action promotes modern Jihadism as an alternative to the notions of the nation-state, secularism and democracy.^{xxxi} Moreover, it considers the participation in elections a 'tactical necessity'^{xxxii} and claims it 'is the sole arbiter of what counts as Islamic'. To achieve this, JI seeks to manipulate public opinion and create the image of a religious, conservative, but 'socially aware' force.^{xxxiii} The true objectives of JI's social activities underlines that all constitutional, legal and social principles of a state and society must be based on Holy Quran and Sunnah of Prophet Muhammad.^{xxxiv} It clearly aims to abolish democratic institutions and establish an Islamic state.^{xxxv}

8. Radicalization in Bangladesh

The rise of religious radicalization, extremism and terrorism has substantially increased in Bangladesh during BNP-Jamaat dispensation. It has become a major concern in Bangladesh since the incidence of nationwide serial bomb blasts in 2005.^{xxxvi} It may not be possible to estimate Islamist extremists groups operating in Bangladesh today because these groups change names or members from time to time but the presence of seventy Islamist militant outfits with thousands of militant members were identified during 1999-2010.^{xxxvii}

Bangladesh experienced an upsurge in support for Islamist violent extremism between 1999 and 2005. An influx of already radicalized groups, such as returning veterans of the Afghan war and migrant workers from abroad, radicalized public

opinion, global events, particularly US interventions in Iraq and Afghanistan and events in Palestine have fueled radicalism and anti-western sentiments in the country.^{xxxviii}

Immediately after 9/11, Bangladesh was presented as a new hub of terrorism in the international media because of nationwide serial bomb blasts in August 2005. Bangladesh has not been the site of any major terror attacks afterwards and has not been listed high as terror risk country; however, religious radicalization has remained a concern. Since 2013 attacks on bloggers, publishers, university teachers, foreigners and members of minority groups signifies a major shift in the radicalization process. Because of these incidents, the Global Terrorism Index (GTI) indicates the rise in the score from an historic low of 4.1 in 2012 to 5.47 in 2013 to 5.92 in 2014 and to high terrorism risk in an early 2015 assessment.^{xxxix}

Ali Riaz analyzed that Islamist militant groups in Bangladesh have emerged through five generations.^{xl} In his research he shows that, first generation extremists were those who have joined the Soviet- Afghan war during 1979-1992 periods and have created Harkat-ul-Jihad al-Islam (HUJI) in Bangladesh. The second generation appeared in 1996 with the advancement of the organization named 'Qital Fi-Sabilillah'. This organization transformed into 'Jamayat-ul-Mujahedin Bangladesh' (JMB) in 1998. It was deeply connected with HUJI. The third generation of Islamist radicalization started from 2001, through the group known as Hizbut Tahrir. Professor Riaz mentioned that, it had a direct linkage with an international movement on-going in other countries. The fourth generation commenced in 2007 through the group known as Jaamatul Muslemin which later began to function as 'Ansarulah Bangla Team'. They were influenced by Anwar Alwaki and presently claim to represent al-Qaeda in Bangladesh with the name of Ansar Al-Islam. Emergence of ISIS has hatched the fifth generation. This generation is affiliated with the ideology of ISIS and some of them are migrating to fight abroad like the first generation. In 2015, the JMB was divided into two groups, one was the older JMB and the new one who left the JMB for some ideological reason has come to be known as Neo-JMB.

No stratum of society is now left untouched, as people from various backgrounds and professions are being included in militant hit lists. From the secular bloggers, liberal college and university teachers, LGBT magazine editor, Hindu priest, temple worker and trader, Buddhist monk, Christian grocer, Muslim Sufi spiritual leader, follower of Baul philosophy to foreign professionals and businessmen all are vulnerable. According to a report by the South Asian Terrorism Portal (SATP), at least 393 people were killed during terrorist attacks in Bangladesh since 2005 to July 17 2016. Among these deaths, there were 360 civilians and 33 security forces personnel. In addition, 243 terrorists were also killed.^{xli}

The 11 years data shows that the highest number of killings occurred in 2013, when 246 civilians and security forces (including 133 terrorists) were killed. For the rest of the years, 26 were killed in 2005, 6 in 2006, 1 in 2007, 1 in 2008, 3 in 2010, 1 in 2012, 40 in 2014, 25 in 2015 and 46 in 2016.

9. War Trials against Jamaat leaders

Jamaat-e-Islami Bangladesh opposed the liberation war along with other five political parties. In 1973 during the AL regime, thousands of people were arrested for alleged war

crimes, such as assisting the Pakistani army, killing freedom fighters, committing rape, arson and looting.

It was on January 1, 1972, the interim government of Bangladesh established a "Genocide Investigation Commission". Sheikh Mujibur Rahman government repeatedly proclaimed its intention to bring to justice all individuals culpable of these crimes. Under the Collaborators (Special Tribunal) Order of 1972, over 37,000 individuals were arrested and the trial of 2,842 was completed. Mujib proclaimed a general amnesty largely as a step towards fostering national reconciliation. This was done under the tripartite agreement between India Pakistan and Bangladesh in 1974. This acquitted those accused of petty crimes, but specifically excluded collaborators who were charged with serious offences such as rape, murder and arson. During this period, the Bangladesh government was also contemplating war crimes trials against Pakistani Army officers. The initial list of 400 was pruned to 195 against whom the government had strong evidence. In July 1973, the International War Crimes (Tribunals) Act was brought into effect. President Zulfikar Ali Bhutto of Pakistan virulently opposed the trials of Pakistani Army officers. "So far as prisoners of war are concerned", he told the Indians, "you can throw the whole lot in the Ganges, but I cannot agree to the trials". If Bangladesh went ahead with the trials, he would charge 203 Bengali civilian officials in Pakistan with espionage and high treason. This coupled with Bhutto's refusal to accord recognition to Bangladesh, led Mujib to agree to the repatriation of the Pakistani officers in August 1973. By the time the Bangladesh government reverted its focus to trials of its own nationals, Mujib and his associates were murdered in a military coup. The new regime revoked the Collaborators Order and blocked moves towards the trials. It also began gradually rehabilitating groups that had opposed the struggle for independence. Since then the controversy over war crime trials continued between the BNP allies and AL party. Finally, during the 2008 general election, the Awami League (AL) pledged to try those who had collaborated with Pakistan during the war and committed crimes against humanity. In 2010 a tribunal was established to try those accused of war crimes. The ICT was based on a three member tribunal, a seven-member investigation agency, and a twelve-member prosecution team to conduct the trials under the ICT Act 1973. It is called the International Crimes Tribunal, though it is not an international court in the sense of being founded on international law. Rather it is a national court, based on a Bangladeshi statute passed in 1973 and amended in 2009 and 2012. The government promised that the tribunal, which has the power to announce death sentences, would adhere to international standards. But opposition parties claim the government is following a vendetta politics and has politicized the whole process.

In 2009, after four decades the Awami league Government re-established the International Crime Tribunal (ICTB) as promised in its election manifesto. Sheikh Hasina's government after being elected ratified the Rome Statute and afterwards established two tribunals, in 2010 and 2012 respectively. These tribunals were constituted under the old ICTA 1973 aimed to manifest the international crimes into the domestic legal order of the country. The ICT-1 and the ICT-2 works under the special rules of procedure and is not bound to follow

guidelines mentioned in general Evidence Act of Bangladesh and Bangladeshi Code of Criminal Procedure.^{xiii}

As promised in the election manifesto by Sheikh Hasina that all those who were involved in war crimes will be dealt as per the law. Accordingly many Jamaat leaders were executed by the government which even created law and order problem in the state.

10. Ban on Jamaat

Bangladesh's High Court has declared that the registration of Jamaat-e-Islami, the country's main Islamist party stands cancelled. The court made the ruling in the country's capital, Dhaka; after a petition was lodged arguing that Jaamat's charter breached the constitution. "It is hereby declared illegal", said Moazzem Hossain, the chief judge hearing the case amid tight security outside the courthouse in Dhaka.

The Election Commission has scrapped the registration of Jamaat-e-Islami, a component of the BNP-led 20-party alliance making it clear that the party will not be able to contest the national election. A gazette notification was published in this regard as per the Representation of the People Order, 1972. The notice, signed by EC Secretary Helaluddin Ahmed, said the decision was made following a High Court verdict that declared Jaamat's registration illegal. Shahdeen Malik a lawyer of Bangladeshi election commission said that, "as a party Jaamat's registration with the election commission is declared illegal, with the consequence that they cannot contest the election as a political party", he further said that "the party can still carry on with other political activities. If it amends its charter, to bring it in conformity with the constitution and reapplies for registration, it can be re-registered".

Rezaul Haque Chandpuri, then secretary general of Bangladesh Tariqat Federation, along with 24 others had filed a writ petition with the High Court on January 25, 2009, seeking its order declaring Jaamat's registration illegal. The petitioners said Jamaat was a religion-based political party and it didn't believe in independence and sovereignty of Bangladesh. In the verdict, two judges of the three-member HC bench declared the registration illegal. However, the other judge disagreed with the decision of his two colleagues. Jamaat then filed the appeal with the apex court challenging the HC verdict.

A total of 38 political parties, including Jamaat, registered with the EC after the then military-backed caretaker government had introduced the registration system in 2008. Jamaat had brought major incremental changes to its constitution to meet the registration requirements. For the first time, the Islamist party made a mention of democracy in its charter, although its ultimate aim was to establish Islamic rule in the country. The party had secured the registration on November 24, 2008. The writ petition said section 2(5) of Jamaat charter failed to recognize parliament or its legitimacy to enact laws for the republic which was a violation of article 65(1) of the country's constitution.

They added that Jamaat had offices abroad in violation of the country's constitution. The government of independent Bangladesh in its first decision had banned five communal outfits, including Jamaat, which not only opposed the nation's independence but also actively helped Pakistani occupation forces commit genocide and other war crimes.^{xliii}

11. Conclusion

The trajectory of Jaamat's political history is full of paradoxes and contradictions. Jaamat's role in the liberation of Bangladesh is questionable. The radical ideology adopted by the Jamaat is not in consonance with constitutional apparatus of the country. After the end of Mujib era ban was lifted and Jamaat resumed its political activity. Jamaat emerged as a main force post 1990 politics in Bangladesh and became a part of government machinery and also hold some important portfolios in the government. But after the end of BNP-Jamaat government, Awami League won the 2009 elections and became a ruling party in the country. After assuming office, Awami League as promised in the manifesto started the process of war crime trials against Jamaat. Subsequently many Jamaat leaders were executed which even led the law and order problem in the state. Both parties need to understand that politics of vendetta could prove disastrous for the state and also could disturb the social harmony. The need is to buried this 1971 ghost and start a process of reconciliation and establish perpetual and inclusive peace in the country.

End Notes

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- iv Mawdudi, *Tehreek-e-Islami*, p. 70.
- v Islam and Democracy, p. 1.
- vi Abootalebi, A. R, 1999 'Islam, Islamist, and Democracy', *Middle East Review of International Affairs*, vol. 3, no. 1, p. 15.
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