Illiberal Democrats and the Marginalisation of Religious Minorities in Pakistan

Ajay K. Raina

10 May 2013
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About the Author

Ajay K Raina is based in the School of Political and Social Enquiry at Monash University in Australia. This work is drawn from a larger project dealing with religious minorities in Islamic societies.

Abstract

The central argument of this paper is that the illiberal particularities of the politics of two of Pakistan’s greatest leaders – Muhammad Jinnah and Zulfiqar Ali Bhutto – decisively shaped the emergence of an Islamic, constitutional, legal, political, and educational context in Pakistan in which religious minorities, not least Pakistan’s Christians, are marginalised and repressed. It argues that the means to address these problems are extremely limited, but that ways forward may be found in the detoxification of the public sector school’s curricula, and in the introduction of super-majority political arrangements in which minorities are more centrally placed within the electoral process.

Keywords: Pakistan, Jinnah, Bhutto, Constitution, Christian, Minority, Religious.

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It is a commonplace that minorities have not fared well in Pakistan: at ethnic levels, the protocols for distribution of social and economic goods have been consistently unfair; at religious or heterodox levels, this is further exacerbated by a regime of atrophied liberties and rights – an absence of the liberal basic of ‘equality’. This paper is about the latter class, the religious minorities, and although more specific references are to Christians, the conclusions, the author believes, hold in general.¹ Also, this paper does not go into specific social and political conditions obtaining in Pakistan that militate against these minorities, but focuses only on laws, legislated through procedurally democratic processes under the so-called ‘modernist’ leaderships, that discriminate against minorities.

The marginalisation of religious minorities in Pakistan is commonly attributed by contemporary scholars to the Islamisation project of General Zia-ul-Haq’s (r. 1977-1988).² Prior to the Zia era, it is generally argued, Islam—inevitably, given the history of Pakistan formation—while being the principal social narrative informed the political discourse but did not overwhelm it. This paper deconstructs this discourse at the level of critical political leadership.³ Two ‘great’ leaders, Mohammad Ali Jinnah and Zulfiqar Ali Bhutto, are chosen. They are considered great because they created nationwide cross-cutting political consensuses
across an ethno-territorially cleaved plural society at (and, for) the two instances of formation of Pakistan; first in 1947, in partitioned from British India on decolonization, and in 1971, as a consequence of the secession of East Pakistan, now Bangladesh. More importantly, both these leaders professed their belief in democratic governance on a Westminster model, albeit with a written constitution, with justly—as they variously interpreted the term—guaranteed liberal preconditions of equality, rights and liberties for all citizens.

Clearly, these liberal conditions have neither been met at the substantive level of law nor at the procedural level of governance, partly explaining Pakistan’s poor performance as a state. Freedom House for 2012 rated Pakistan as only ‘Partly Free’ (status unchanged over decades) with a low index of 4 for Political Rights and a lower index of 5 for Civil Liberties, while Foreign Policy Magazine rated it as the 13th most failed state in the same year, just above Nigeria: its ‘Group Grievance’ index of 9.6 is worse than all but two other failed states. This index reflects, in part, the marginalisation of minority groups. This paper, within the proposed framework, tries to explore why. It will show that, in the case of Jinnah, the moral ontology was only limitedly liberal and, in the case of Bhutto, it was, in addition, flexible to the exigencies of ‘rule’. That is, a major reason, among possible others, for the marginalisation of religious minorities, is the liberal deficit of Pakistan’s “great” leaders and ideologues.

1. Jinnah and the Minorities

The following excerpt from Jinnah’s presidential address to the first ever meeting of the Pakistan Constituent Assembly at Karachi on the 11th of August, 1947, is mandatorily quoted by scholars in support of the view that the founder’s vision for Pakistan was that of a state founded on liberal principles of universal individual—the ‘equal’ citizen—incorporation and ‘secularism’. 

You are free; you are free to go to your temples, you are free to go to your mosques or to any other place or worship in this State of Pakistan. You may belong to any religion or caste or creed; that has nothing to do with the business of the State…We are starting in the days where there is no discrimination, no distinction between one community and another, no discrimination between one caste or creed and another. We are starting with this fundamental principle that we are all citizens and equal citizens of one State… [keep] that in front of us as our ideal and you will find that in course of time course of time Hindus would cease to be Hindus and Muslims would cease to be Muslims, not in the religious sense, because that is the personal faith of each individual, but in the political sense as citizens of the State. 

Given that the Pakistan formation discourse was centred on a Muslim identity narrative, and that the political welfare of that identity was the premise for, and the purpose of, the new
state, Jinnah, as this quote suggests, believed that Pakistan fulfilled the purpose and cancelled the premise: a liberal democratic state process would henceforth be the best guarantor of the political welfare and development of all the people; religious or community identities would recede from the public space and confine to their legitimate private sphere.

Jinnah often reiterated this position, for example addressing the Parsi community at Karachi on Feb. 3, 1948, he said: ‘I assure you that Pakistan means to stand by its oft-repeated promises of according equal treatment to all its nationals irrespective of their cast and creed’. However, his liberalism had many twists. To another Parsi delegation in Quetta on June 13, 1948, he said: ‘I reiterate that you, like any other minorities, will be treated as equal citizens with all your rights and obligations so long as you are loyal to Pakistan,’ followed by the coup de grâce: ‘Minority communities must not by mere words but by actions show this that they are truly loyal and they must make the majority community feel that they are true citizens of Pakistan’. Equality, of citizens of a religious minority, now becomes conditional rather than absolute, and the onus of satisfying the conditionality is on the minority itself. Moreover, this is not as if an individual, in a court of law, is to prove her innocence against a charge of sedition or treason for which she is arraigned; it is a whole community arraigned in the majority’s court in which that majority is the judge, the jury and the executioner; the charges are assumed a priori valid unless otherwise proved, in word as well as in deed. Therefore, Jinnah’s conception of Pakistan as a democratic state had riders on its liberalism: minority citizens’ rights and liberties were conditional on majority’s approval.

On the religion-state relationship, throughout the colonial period of the movement for Pakistan, Zaman contends that ‘[Jinnah] left little doubt among his audiences that Islam would play an important public role in the new state’. Indeed, this is seen in most of his contextually relevant speeches during the colonial era. Jinnah, and the Muslim League represented, the Muslim ‘modernists’—those who believe that core precepts of Islam can be made compatible with western liberal valued by an innovative and contemporaneously relevant re-interpretation of the original sources of Islam, especially the Quran and the Sunnah (traditions) of the Prophet, instead of continued reliance on the medieval times’ codified orthodox schools of Islamic law as the traditional ulama (Islamic scholars and jurisprudence experts) did. However, since such an innovation was yet to be done — as it still is — modernists often ended up, as they still do, engaging in an incompatibly dual discourse: one for the benefit of the western audiences and another for domestic ones; the former in English (or, the colonialist language) where they emerge as liberal statesmen in broadcasts, interviews and at western or international forums, and the latter in vernacular (or national language) where they appear as defenders of Islamic values.

In his radio broadcast to Australians on Feb. 19, 1948, for example, Jinnah said: ‘But make no mistake: Pakistan is not a theocracy or anything like it’, or to the Americans in another broadcast in the same month: ‘Pakistan is not going to be a theocratic State to be ruled by priests with a divine
mission.’ To the native audiences (in Urdu): ‘[our] salvation lies in following the golden rules of conduct set for us by our great lawgiver, the Prophet of Islam. Let us lay the foundation of our democracy on the basis of truly Islamic ideals and principles...I have had one underlying principle in mind, the principle of Muslim democracy.’ Three days later, on April 17, 1948, to the Pashtun tribal leaders’, at Peshawar, he says: ‘[it] is now a Muslim government and Muslim rule that holds the reigns of this great independent sovereign State of Pakistan,’ and the very next day at the Edwards College in the same town, he adds: ‘[this] mighty land has now been brought under a rule, which is Islamic, Muslim rule. In all his speeches in the newly formed state, beyond the occasional exhortation to Muslims to protect minorities—articulated as an Islamic rather than civic duty—Jinnah, the founder and governor-general, makes it quite clear that the state will be substantively Islamic even if procedurally democratic. In this ‘modernist’ moral ontology minorities exist as a historical remnant: protected perhaps, but not equal.

Jinnah did not give Pakistan a constitution, but the guidelines for framing this constitution, the so-called Objectives Resolution (OR), that the Constituent Assembly adopted on March 12, 1949, just seven months after his demise, bears the clear imprint of his ‘modernism’. The OR starts with the invocation ‘In the name of Allah, the Beneficent, the Merciful’ and lists its first clause as: ‘Whereas sovereignty over the entire universe belongs to Allah Almighty alone and the authority which He has delegated to the State of Pakistan, through its people for being exercised within the limits prescribed by Him is a sacred trust’. This gives a deep insight into the limitations on democratic liberalism that such modernism imposes; clause 3 of the OR says: ‘Wherein the principles of democracy, freedom, equality, tolerance and social justice, as enunciated by Islam, shall be fully observed’. On Minorities, the OR says:

Wherein adequate provision shall be made for the minorities to freely profess and practice their religion and develop their cultures (Clause 5); and,

Wherein adequate provision shall be made to safeguard the legitimate interests of minorities and backward and depressed classes (Clause 8)

However, the most critical clause of the OR is the fourth clause which says:

Wherein the Muslims shall be enabled to order their lives in the individual and collective spheres in accordance with the teachings and requirements of Islam as set out in the Holy Quran and Sunnah;

The import of this clause will become clearer in the next section. Note that this Constituent Assembly was dominated by the Jinnahist modernism of the Muslim League led by Liaqat Ali Khan (after Jinnah’s death), the Prime Minister from 1947. The OR, as the guidelines for constitution
framing, lay down the directive principles of state policy and was adopted through an impeccably
democratic legislative procedure, and not in a dictatorial fiat. The new state, at the very outset, thus
institutionalised the ‘minority’ concept and introduced citizen inequality based on the confessional.

2. Bhutto, the new (1973) Constitution and the aftermath

On Dec. 20, 1971, Zulfiqar Ali Bhutto took over West Pakistan, now the only Pakistan—East Pakistan, or Bengal, had just seceded becoming an independent state, Bangladesh—as both
the President and the first civilian Chief Martial Law Administrator. He needed a constitution:
the old one was abrogated; the existential reality was also new. This required broader
legislative consensus than his own party alone could provide. He set about the task of
building up the needed two-thirds majority earnestly.

Bhutto was a quintessential caudillo democrat: an Artigas and Bolivar rolled into one;
like them, he ‘[fancied] himself as a great harmoniser, as the political champion of an
undivided society that now desperately needed a brand new set of government institutions to
heal the social cuts and bruises that empire and monarchy [read colonialism and dictatorships]
had inflicted on the body politic’. Such institutions were meta-theoretically laid out in the
credo of the Pakistan Peoples’ Party, the PPP, he founded in 1967, the PPP: ‘Islam is our
faith; democracy is our policy; socialism is our economy’. In public, Bhutto was a demagogue
nonpareil, his speeches frenziedly emotive, rhetorical and histrionic; peddling utopias,
trashing rivals. In private, he governed by ‘[forging] deals with important persons’, a strategy
at which he had been very successful as an international diplomat under Ayub Khan. Jinnah
was a top-down patrician, who only managed the elites and seldom if ever engaged with the
masses; Bhutto wanted to be known as the masses’ Jinnah, hero of the urban proletariat and
the rural poor, with elites pocketed in diplomatic pork barrelling deals. The caudillo could
also not overcome his feudal instincts, as his most notable biographer, Stanley Wolpert,
says:

He tried to “run” Pakistan as he had run his estates in Larkana, or the way he managed his
personal affairs, like the feudal lord he still was, with alternate threats and promises, with
carrots and sticks, with bribes and hunting rifles, curses and tears, and solemn oaths to God.

By Oct. 20, 1972, he got his first constitutional accord, achieved by committing in
conformity to the Quran and Sunnah all laws to Islamists, and federalism to the ethno-
territorial elite. That did not work, so he weaned the religious parties by “[agreeing] that the
PM as well as President must be Muslims and be required to take a “solemn oath” to that
effect; that special facilities would be set aside throughout Pakistan for the Study of Arabic; and that “correct and exact’ versions of Holy Quran would be printed and distributed,” and unleashed the state’s coercive might to suppress any secular-ethnic opposition.24 This delivered the dividend: the second constitutional accord was signed on April 2, 1973; the constitution promulgated soon thereafter on April 14.

This constitution, Walbridge avers, was ‘[the] most Islamic of all of Pakistan’s attempts at a permanent constitution’.25 Bhutto’s first act—now as the Prime Minister—under this constitution was to suspend ‘fundamental rights’ the very next day on April 15, using the emergency powers granted to the PM in this constitution, justified because he placed ‘[greater] stress on the fundamental rights of the nation as a whole.’26 Bhutto used emergency powers with great abandon to dismiss provincial governments and governors and use the military to crush political unrest.27 His commitment to any liberal, democratic or modernistic values is quite debatable: he was secular but with visions of Islamic glory; democratic with aversion to power devolution; and, idealistic with only ephemeral commitments.

For the minorities, his acquiescence to the Islamists’ demands — that all his predecessors, including dictators had rejected — was disastrous. Since power was the ‘end’ for Bhutto, the more insecure he felt politically, the more he gave in to the religious right, not only in the ‘[later] years in office,’ as Ayesha Jalal sympathetically suggests, but always.28 His most illiberal anti-minority measure was his Sept. 10, 1974 declaration of the tiny Ahmadi minority as non-Muslim to consolidate the Islamists’ support; a diplomatic move that delivered him great short-term political dividends, while disenfranchising a whole—politically expendable because of its insignificant size—community from the fundamental liberties of conscience, religion, speech, or even vocation.29

However, in 1972 itself he had irrevocably collaterally damaged the small Christian minority, when, to service his populist-socialism program, he nationalised school education. This nationalisation affected low fee schools, where the poor—both Christian and Muslim—studied in the Urdu medium, rather than the elite, high-fee, Anglophone schools, which the elite’s children attended. The Church due to its Urdu-medium school outreach, enjoyed prestige and goodwill among ordinary Muslims due to the quality of education and social contact these schools offered: the community’s position was irretrievably compromised; the poor children lost access to good education, many moving over to madrassas (religious schools) instead.30 Inevitably, the school bureaucracy, curricula and textbooks all passed into the hands of Islamic conservatives, who turned the education system into an ideological instrument. Falsification of history, massaging of facts, religious prejudice, anti-minorityism, and Islamic radicalism have since proliferated through this state school system.31 Many generations of students have already passed through this system, creating a more intolerant society. Bhutto also
instituted alcohol, gambling and prostitution prohibitions and moved the weekly holiday from Sunday to Friday: aspects socially identified as signifiers of Christian culture; he further had the constitution re-drafted—the original was by Justice A.R. Cornelius, a Christian—because a non-Muslim cannot write an Islamic states’ constitution.

In 1947, Pakistan inherited the Government of India Act 1935, the British Parliament Act XLV 1860 ‘The Indian Penal code’ and the Anglo-Mohammadan Law (fusion of British Common Law and Shari’a personal law) as the legislative code, the penal code and the personal law code for Muslims, respectively. These have provided the basic scaffolding for all Pakistan constitutions including Bhutto’s 1973 constitution, which is the extant one. Presently, it has twelve parts (each with many chapters), 280 articles, an Annex, seven schedules and nineteen amendments (some still as pending bills).\(^{32}\) It is a singularly hard-to-follow document; poorly indexed; laced heavily with insertions, deletions and missing clauses; and confusing footnotes and annotations.\(^{33}\) It affirms basic civil liberties and political rights (Part II, Chapter 1, Articles 8-28): Speech—Art 19; Religion—Art 20; Non-discrimination in education—Art 22; Non-discrimination in employment—Art 27, etc. However, ‘Fundamental Rights’ in this oft-suspended Chapter—most notably by Bhutto himself and all dictators since—all have riders: Article 19 is restricted in the ‘interests of glory of Islam’; Article 20 excludes Ahmadis, and so on.

It is worth noting that since 1971 Pakistan has been over 96% Muslim. The 1973 constitution retained the OR (with minor non-essential modifications) as its preamble, including the fourth clause that mandated that the collective sphere of Muslims be ordered according to Islamic injunctions. This sphere now virtually constituted the whole political community and was mandated to be so governed: the marginal totality of religious minorities, because of its insignificant numerical mass and absence of territorial salience, could not meaningfully politically exist outside of such an overwhelming collective sphere; indeed Pakistan’s greatest ‘modernist’ democrats had ensured so.\(^{34}\)

The substantive laws of Bhutto’s constitution that, directly and indirectly impact religious minorities, are:

**State and Offices:** Pakistan is an ‘Islamic’ republic (Art1(1)) with Islam as the state religion (Art 2); President and Prime Minister can only be Muslims (Art 41(2), 91(3)); ‘Oaths of office’ for most federal and provincial offices and legislature positions, are mandatorily in the name of ‘Allah’, and most are required to affirm ‘I will strive to preserve the Islamic ideology which is the basis for the creation of Pakistan’ (Third Schedule; under various Articles); All Muslim legislators (federally 332 out of 342) are mandated to follow Islamic practices and injunctions (Art 62 (d,e)), etc.

**The Shari’a Courts (Part VII, Ch. 3A):** The all-Muslim judges based Federal Shariat Court (FSC) is supra-constitutional since the judge’s ‘Oath of Office’ does not require protecting the constitution (Art 203C (1; 2; 7)); FSC decides, suo motu or by petition, if any law is repugnant to the Islam, and if so
decided the law becomes immediately ineffective and requires alteration for compliance (Art 203D (3a, 3b)); FSC can re-adjudicate any case from anywhere and summon any person or records (Art 203DD, 203E(1)); only Muslim lawyers can represent before the FSC, but no pleading is allowed (Art 203 E(4)); Appeals against FSC judgements (in restricted cases) allowed only to the “Shariat Appellate Bench” of the Supreme Court which has five all-Muslim judges including two ulama (Art 203F), etc.

**Other Islamic Provisions** (Part IX of the Constitution): All laws to be in conformity with Quran and Sunnah (Art 227); Establishment of Council of Islamic Ideology (CII) (Art 228); References to CII by the Presidents, Governors, Parliaments for Islamic conformity of any proposed or existing law or legislation (Art 229); Art 230: CII can recommend to National Assembly (federal parliament) provisions for Islamisation; advise on conformity of laws with Islamic injunctions; vet proposed laws; write Islamic guidance manuals for legislatures, etc. (Art 230), etc.

Bhutto had ceded political territory to the religious right: Zia-ul-Haq only took this process to its next logical step, the incorporation of the OR into the constitution body as Art. 2A, making it justiciable: the spirit was thus converted to letter. Zia had already issued ordinances, as unchallenged military dictator, to realise the OR’s spirit, for example in the case that that Muslims as individuals live according to Islamic injunctions or, equivalently, not violate them. For this he had promulgated *Hudood laws* — Shari’a laws for crimes of trespassing the limitations or ‘boundaries’ set by God — and made changes to the Chapter “Of Offences Relating to Religion” of the Pakistan Penal Code (PPC) by adding Clauses 295B (Defiling Quran; Life imprisonment), 295C, 298A, 298B and 298C to bring it in line with Shari’a. The last PPC additions specifically target Ahmadis making the practice of their faith a felony crime. Other changes, for example, 295B (Defiling Quran; Life imprisonment) and 295C (Blaspheming the Prophet; Death since an FSC ruling in 1991) have been a nightmare for religious minorities, particularly Christians. In summary, Zia-ul-Haq took on the path, and was able to do so, because it had been cleared and made potentially possible to tread by his democratic predecessors, rather than by dictators, as is often assumed.

3. **What can be done?**

An honest answer to this question is: not much. There are three reasons for this pessimism: one, Pakistan’s religious minorities, about 3.6% in all, are electorally insignificant which implies that they lack any leverage with political entrepreneurs and parties; two, this is compounded by their inferior socio-economic status; and, three, the civil society is hostage—ideologically and physically—to extremists with well-indoctrinated vigilante armies and terrorists, with its segments often in sympathy with such groups. The state itself has
limited reach into society; its writ hardly runs broadly. None of these problems has an immediate fix.

However, there are two aspects where redress may, in principle, be possible. Firstly, a strong and internationally respected (and heard) ‘monitory’ institution led by widely respected liberal academics and scholars should begin to detoxify, in steps, the state-school textbooks to enable emergence of more liberal future generations; the step eventually carried into complete curriculum reforms.\textsuperscript{41} This is the most important imperative to save the future from the present.

Secondly, in underdeveloped countries like Pakistan, politics is conducted through patronage networks, which at the local level—critical to everyday life, liberty and security—is formed by the nexus between landlords, builders, and politicians (often the same persons) on the one hand and police, magistracy, lower courts and religious leaders on the other. Leverage with this nexus during crises—for example a blasphemy riot—is often a life and death matter for a religious minority. Minorities, more than others, critically need leverage at this level, a way to create that is to find a means to make the minority vote count at this level. A possible way to do that is the ‘supermajority’ rule suggested by Lani Guinier; that is a political candidate needs more than just a majority of votes to get elected, s/he also needs a certain percentage of polled minority votes to win.\textsuperscript{42} This would force the politicians to factor in the minorities as well into their political calculations. Again, federally there are ten reserved minority seats in the legislature, distributed to political parties for nomination in proportion to their legislative strength. This forces these members to follow party line rather than their own conscience. Once nominated, these members should cease to be party members and move to cross benches; and the supermajority, or a similar, rule should apply to all legislation. As things stand today, these would be extremely hard measures to get legislated, but continued pressure from monitory organisations and the international community may eventually, even if in small steps, bear fruit.
This is the 1998 Pakistan Census official data (www.census.gov.pk; last accessed Mar.05, 2013). Christians are counted at 1.59% or 2.1 million, roughly the same as Hindus at 1.6%, and Ahmadis, the most persecuted, at 0.22%. The majority is overwhelmingly Muslim: 96.28% in a population of 132 million people. The latest 2011 Census is still in process and the details are likely to be available in 2014. Minority NGOs often contest these census figures; sometimes even claiming impossible numbers: see, for example www.pakistanchristiancongress.org that claims that Christians are 20 million! CIA World Factbook estimates the total population as about 190 million (July 2012 estimate) and religious minorities in all at 3.6% of this (2010 estimate): see https://www.cia.gov/library/publications/the-world-factbook/geos/pk.html. Minority persecution has received considerable attention from Human Rights Organizations, particularly since the institutionalisation of blasphemy penal laws; see, for example, Annual HRW reports at (www.hrw.org) or the International Religious Freedom Reports of the US State Department (http://www.state.gov/j/drl/rls/irf/). The most exhaustive relevant database is that of the “Minorities at Risk (MAR)” Project ((http://www.cidcm.umd.edu/mar/assessments.asp?regionId=3, last accessed Mar. 05, 2013) that quantifies the risk levels of 283 minorities worldwide. Surprisingly, neither Christians nor Zikris of Pakistan are included in spite of a long history of persecution and protest. However, Pakistan Christians are likely to be included in this critical database in the future: See Deepa Khosla, ‘Additional Groups for the Minorities at Risk Study’, in Ted Robert Gurr (2000): Peoples versus States: Minorities at Risk in the New Century, United States Institute of Peace Press, Washington D.C., Appendix C, p. 316. Khosla gives Christian population as 2.6 million, or 2%. Gurr, as is well known founded the MAR project.


‘Pakistan lives ‘by its leaders,’ Malik correctly argues: see Malik, I. H. (1997), State and Civil Society in Pakistan: Politics of Authority, Ideology and Ethnicity, London: Macmillan, p.30. In general, leadership is far more important in a functional democracy than Democratic Theory accepts. See Körösényi, A. (2005), Political Representation in Leader Democracy, Government and Opposition, 40(3), 358-378; see esp. p. 376, Table 2, Item 7, and also item 4 ‘Political Process and Discussion’ and ‘Its aims’: Functionally, the political process is, as Körösényi says, ‘selection of [a] leadership’; this vertical dimension of the political process is all the more important in a plural society that adopts any kind of democratic system.
4 Plural society is, in its first modern definition from Furnivall, is one in which ‘two or more elements of social orders which live side by side, yet without mingling, in one political unit.’ Furnivall, J.S. (1939), *Netherlands India: A Study of Plural Economy*, London, Cambridge University Press (Reprinted 1967), p. 446. Later, M.G. Smith refined this definition to ‘a condition in which members of a common society are internally distinguished by fundamental differences in their institutional practice.’ Smith, M. G. (1969), *Institutional and Political Conditions of Pluralism*, in L. Kuper & M. G. Smith (Eds.), *Pluralism in Africa*, Berkeley and Los Angeles, University of California Press, p.27. For Smith, politically plural society is reflected in its corporate divisions that are contiguous with the institutional cleavages. Notably, for both Furnivall and Smith, coercive rule (by a corporate group elite) was a precondition to maintaining social order. Arend Lijphart, later provided the theory of ‘consociational democracy’ wherein a grand alliance of significant such ‘segments’ rules democratically under proportional distribution of powers, offices and representation, with each group having a veto. Lijphart, A. (1977). *Democracy in Plural Societies: A Comparative Exploration*, New Haven and London, Yale University Press, pp. 25-52. Note that Pakistan’s religious minorities, while they form groups in the plurality, lack numerical or privilege significance to be counted into a consociational regime.


6 Among notable recent scholarship specifically researching the Christians of Pakistan are: Walbridge, Linda. S. (2003), *The Christians of Pakistan: The Passion of Bishop John Joseph*, London, RoutledgeCurzon, p. 43 (the date given in the fn 14 is incorrect); Gabriel, Theodore, (2007), *Christian Citizens in an Islamic State: The Pakistan Experience*, Hampshire, Ashgate Publishing, p. 3; and, Sookhdeo, P. (2002), *A People Betrayed: The Impact of Islamization on the Christian Community in Pakistan*, Wiltshire, Isaac Publishing, p. 77. Note also that there is no formal Church in Islam or in most non-western societies with other religions. Therefore, secularism in such democracies, rather than implying a post-Westphalian Church-State separation in Christendom, essentially typifies religious agnosticism, or non-privileging of religion, by the State. In Muslim societies governed by the Shari’a Law or Islamic precepts, the citizen incorporation into the state is ‘differential’ based on religious identity. See, for example, Maududi, Sayyid Abul A’la (1967), *The Islamic Law and Constitution*, Khurshid Ahmad (Tr.). Lahore: Islamic Publications; esp. Ch. 8, pp 273-299.


8 Ibid. p. 48.

9 Ibid. p. 146.

10 Zaman, M. Q. (2011), *Pakistan: Shar’ia and the State*, in Hefner R. G. (Ed.), *Shar’ia Politics: Islamic Law and Society in the Modern world*, Bloomington, Indiana University Press, p.212. The Muslim League, which was led by Jinnah, as its unchallenged leader, from 1916 to his death, was the political party in colonial India that led the Pakistan movement, and assumed power immediately on its formation in 1947.


Ibid., p. 56. This is from his address to the gathering (Urdu Durbar) Baloch tribal chiefs at Sibi on Feb. 14, 1948, which he terms as the “[f]irst Shahi [royal] Durbar of Baluchistan held under the authority of our new Muslim State of Pakistan.” Ibid., p.51.

Ibid., p.126, 129.

Salim Mahmood, M. (2004). The Constitution of the Islamic Republic of Pakistan. Islamabad: National Assembly of Pakistan, p. 131. Pakistan promulgated three constitutions: in 1956 (by Chaudhary Mohammad Ali), in 1962 (by Ayub Khan) and in 1973 (by Zulfikar Ali Bhutto); the first was abrogated in 1958 by Iskander Mirza when he imposed Martial Law and the second in 1969 when Ayub Khan abdicated and handed over power to Yahya Khan. The third is the extant constitution, albeit with heavy amendments by military dictators Zia-ul-Haq and Pervez Musharraf achieved through pliant parliaments once they were well ensconced in power and changed into civvies. It was, of course, suspended or shelved by these dictators in uniform from 1977 to 1985 and from 1999 to 2002 respectively. The OR forms the preamble to all the constitution versions, although the original version has been significantly tampered with. Mahmood’s is the official version of the extant constitution and is used here throughout, although there have been many amendments since 2004.

Note that Zia-ul-Haq in 1985 (Eighth Amendment) made OR substantive law as Art 2A of the constitution. In this the word ‘freely’ was dropped from Clause 5; see Salim Mahmood, op. cit. p.131. It was restored twenty-five years later in 2010 under the Eighteenth Amendment. However, ‘freely’ still remained part of the ‘non-justiciable’ preamble—a somewhat non-essentially modified 1949 original OR—of the 1973 constitution; ibid., pp.1-2. Note also the need for interests to be ‘legitimate’, i.e. to be in conformity with Islamic laws.

The OR was adopted with only one Muslim member, Mian Iftikharuddin, dissenting; minority members, expectedly, voted against it. See Mahmood, S. (2000). Pakistan: Political Roots & Development 1947-1999. Oxford: Oxford University Press, p.37. Initially, there were 69 Muslims and 14 Hindus (13 from East Pakistan) in this Assembly. It had no Christian member.

This was a consequence of the first ever universal adult franchise based election conducted under the dictatorship of Yahya Khan in 1970, a full twenty-three years since Pakistan formation in 1947. The National Assembly had 300 seats: 138 for West Pakistan and 162 for East Pakistan. Bhutto’s Pakistan Peoples’ Party contested 120 (all in West Pakistan); won 62 in Punjab, 18 in Sindh and 1 in NWFP; nationally a 19.5% vote.


Forging such deals is a major caudillo art of rule; ibid., p. 407


Ibid., p. 206

Ibid., p. 213

Walbridge, op. cit., p. 60.

Wolpert, op. cit., p. 231. Ironically, Jinnah’s first major act, in the first week of his governor-generalship was to dismiss the duly elected opposition provincial government of Dr. Khan Sahib.


Wolpert, op. cit. p. 239. Anti Ahmadi movement was started by the Islamist Ahrar party in mid-1940s in colonial India. In Pakistan, the movement acquired momentum after they started anti-Ahmadi riots in Karachi in 1951; all Sunni parties joined it; its leadership eventually taken over by Maududi’s Jamaat-i-Islami; civilian and
military governments before Bhutto had all scrupulously rejected this demand. See also Afzal Iqbal, op. cit., Ch.III.

30 On this Ishtiaq Hussein comments: ‘There has been a historical tradition of the Christians, in particular, and other non-Muslim communities in general, being involved in the social betterment of the communities now living in Pakistan through their educational institutions established during the British era. Their nationalization under Bhutto not only removed these prized institutions and cramped their chances to move up the socio-economic ladder, but Pakistani society also forgot the educational, social and welfare contributions that had been made by the Christian (and other communities) to the country as a whole’. See his ‘Religious Minorities in Pakistan: Mapping Sind and Baluchistan, p. 177, in Rita Manchanda (Ed.), States in Conflict with their Minorities: Challenges to Minority Rights in South Asia. New Delhi: Sage.


32 Salim Mahmood, op. cit.

33 For example, Art 203 establishing Shar’ia courts is actually a set of thirteen articles 203-A, B, C, CC, D, DD, E, F, G, GG, H, I, J. As another example, Art. 63 on disqualification of a Federal Legislator has so many clauses, sub-clauses and sub-sub-clauses that it runs over five pages: from 27 to 31; only a few federal legislators have been disqualified so far, mostly for holding dual nationality (http://www.nation.com.pk/pakistan-news-newspaper-daily-english-online/editors-picks/21-Sep-2012/disqualified; accessed on Mar. 10, 2013).

34 Before 1947, the substantial number (20%) of Hindus of East Pakistan provided some overall minority mass; after 1971 that was completely lost.

35 Art 227 does not ‘affect Personal laws or citizenship of non-Muslims’, but the FSC is not bound by this Article (or any other) and its sweeping powers allow it to look at any law including a personal law that may be repugnant to Islam. Even the regular Supreme Court (bound by the constitution) decreed in the Zaheer-ud-Din vs. State case (on the validity of some anti-Ahmedi laws) that ‘[even] Fundamental Rights must not violate norms of Islam’, All Pakistan Legal Decisions Vol. XLV (1993) SCMR 1774-75, quoted in Sookhdeo, op. cit., pp. 150-151.

36 Zia-ul-Haq’s laws were incorporated into the 1973 constitution through the infamous Eighth Amendment in 1985 passed by the 7th National Assembly (20.03.1985 to 29.05.1988) elected on a non-party basis. Most of the clauses of this Amendment had been issued as Presidential Orders earlier under his dictatorship. Shahla Zia provides a very interesting account of the constitutional discriminations against minorities under these laws; see her ‘Discrimination in Pakistan against Religious Minorities: Constitutional Aspects,’ in Rita Manchanda, op. cit., pp. 143-172.

37 The impact of these laws on women has been horrific. See Imran, R. (2005). Legal Injustices: The Zina Hudood Ordinance of Pakistan and Its Implications for Women. Journal of International Women's Studies, 7(2), 78-100. Also, these laws have been systematically abused to forcibly convert minority women to Islam; see, for example Gregory, op. cit., Malik, op.cit., and Sookhdeo, op. cit., pp. 203-213.

38 The PPC is based on the colonial ‘Indian Penal Code’ of 1860 (Act XLV), which had four Clauses 295 to 298 on religious offences of defiling of places of worship, disturbing a religious assembly, defiling burial areas, using derogatory language or signs. In 1927, 295-A was added against outraging religious feelings. All these offences required ‘intention’ or ‘wilfulness’ and carried reasonable prison terms on conviction; Zia-ul-Haq removed those requirements. See Sookhdeo, op. cit., pp. 248-257.

39 See Walbridge, op. cit., Ch. 7, pp. 81-101 and Gabriel, op. cit., Ch. 5, pp. 59-73 for the impact of 295B and C on the Christian community.
Ironically, it was another dictator, General Musharraf, who provided some political relief to religious minorities by dispensing with the ‘separate electorates’ system, wherein minorities could not vote for general (Muslim) candidates, but instead elected their own representatives across the country as a single constituency; he also provided some relief to women in *Hudood* laws.

41 For ‘Monitory’ democratic institutions, see John Keane, op. cit. See also n.31 above.