

**REGIME TYPES, REGIME TRANSITIONS, AND RELIGION IN PAKISTAN**

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**Abstract**

How does religion shape regime types, and regime transitions, in Muslim-majority states? Focusing on Pakistan, this chapter examines the limited role of religious groups and religious ideas in driving political transitions between military and civilian-led regimes. Since the partition of India and the formation of Pakistan in 1947, civilian-led regimes have been removed in three military coups (1958, 1977, 1999): only one of these (1977) was framed in religious terms. Protesters later helped to oust Pakistan's military regimes in 1969-70, 1988, and 2007-08. But again, these protests stressed non-religious more than religious demands. Within Pakistan even ostensibly 'democratizing' transitions have typically preserved separate domains (e.g. the security sector) for military decision-making; these reserved domains have limited the scope of democracy. But, in this chapter, I turn away from military to ostensibly *religious* limitations on democracy, noting that, whilst non-religious protests often figure in transitions away from authoritarian rule, ostensibly religious constitutional provisions diminishing the rights of non-Muslims have produce what scholars of hybrid regimes call an 'exclusionary' and 'illiberal' democracy.

**Keywords**

Pakistan, Hybrid Regimes, Regime Transition, Democracy, Authoritarianism, Religion, Islam

How does religion shape regime types, and regime transitions, in Muslim-majority states? In this chapter I examine the effect of religion on transitions between military and civilian-led regimes in Pakistan, where both types of regimes have embraced the same religious constitutional provisions. In Pakistan, these provisions outline different rights for Muslims and non-Muslims and, since 1973, they have also restricted any speech said to infringe on 'the glory of Islam'. Although Pakistan has experienced six major regime transitions since 1947, few have been driven by religious groups or religious ideas. Religion rarely drives the process of regime transition in Pakistan. At the same time, however, I note that ostensibly religious constitutional provisions have underpinned a series of 'exclusionary' and 'illiberal' regimes.

Since 1947, civilian-led regimes have been removed in three military coups: 1958, 1977, and 1999. Only one of these (1977) highlighted religious concerns.<sup>1</sup> Military-led regimes were later removed following widespread protests on three occasions: 1969-70, 1988, 2007-08.

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<sup>1</sup> The coup led by General Zia-ul-Haq in June 1977 was precipitated by protests regarding alleged rigging in the re-election of Prime Minister Zulfikar Ali Bhutto just three months earlier. Protesters associated with a coalition known as the Pakistan National Alliance led by the Jama'at-e-Islami (Party of Islam) and the Jamiat-e-Ulema-e-Islam (Party of Islamic Scholars) called for a political turn to the 'system of the Prophet'. The coups in 1958 and 1999 were motivated solely by military self-preservation—on the part of General Ayub Khan (facing retirement in 1959) and Pervez Musharraf (facing dismissal after a military misadventure in Kashmir).

These protests, however, featured non-religious more than religious demands. Whilst each protest-based transition *away* from military rule suggested a push in the direction of ‘democracy’, the regimes that emerged were characterized by (a) reserved domains of military decision-making (e.g. security policy) and (b) ostensibly religious constitutional provisions restricting free speech and diminishing the rights of non-Muslims. As such, I do not describe the civilian-led regimes that emerged in the wake of Pakistan’s transitions away from military rule as broadly inclusive liberal democracies.

An inclusive liberal democracy is characterised by civilian power obtained via regular, competitive, free-and-fair elections based on universal adult suffrage as well as a firm constitutional commitment to (a) the separation of powers (i.e. horizontal accountability) and (b) fundamental individual rights without exceptions for particular groups. Within the civilian-led regimes of Pakistan, however, policy-making domains reserved for *non*-civilians (e.g. enduring military control over security policy) have pushed against these parameters. And, more often than not, limitations on freedom of religion and freedom of speech (so-called ‘illiberal’ restrictions), as well as limitations targeting particular groups (‘exclusionary’ restrictions), have remained in place with widespread popular support. Even beyond persistent forms of military tutelage, in other words, I argue that civilian-led regimes in Pakistan have been detached from strong popular demands for liberal democracy.

The presence or absence of popular pressure for an ‘inclusive’ or ‘liberal’ democracy is, of course, an empirical question. In Azerbaijan and Kyrgyzstan, Kathleen Collins and Erica Owen (2012) found that, whilst religious affiliation (Muslim/non-Muslim) did not shape individual levels of attachment to democracy, higher levels of Muslim religiosity (i.e. higher levels of individual religious commitment or more extensive forms of individual religious practice) *did* suggest a preference for ‘Islamic’ rather than ‘liberal’ democracy.<sup>2</sup> Frédéric Volpi (2004: 1061, 1069) articulated a similar argument. He noted that Muslims who express an appreciation for democracy might simultaneously oppose ‘liberal’ democracy, turning instead towards what Volpi called an Islamic ‘pseudo-democracy’ defined by a focus on community or state-based mobilization for religious values (i.e. a ‘positive’ focus on religious virtue) rather than popular support for the ‘negative’ constitutional protections commonly associated with liberal democracy.

In this chapter, an inclusive ‘liberal’ democracy differs from an ‘Islamic’ democracy insofar as the latter is associated with elected civilian-led regimes in which various expressions of Islam, i.e. specific *interpretations* of Islam, are politically, legally, and constitutionally salient even if those interpretations are neither liberal nor inclusive with respect to negative fundamental rights for individuals or non-discrimination at the level of particular groups. I do not argue that Islam is inevitably incompatible with liberal democracy. My argument is simply that, in *Pakistan*, what might be described as elected civilian-led ‘hybrid’ regimes have long embraced illiberal and exclusionary constitutional provisions broadly associated with that country’s prevailing interpretations of Islam.

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<sup>2</sup> The World Values Survey (2010-14) found that, across 60 countries, 66% of its respondents described themselves as ‘religious’. That figure rose to 72% in Muslim-majority countries and nearly 100% (99.7%) in Pakistan.

It is possible that grassroots support for non-secular politics could encourage leaders who articulate a liberal reading of their own religious tradition (i.e. religious leaders who use religious ideas to defend non-discrimination as well as an appreciation for fundamental individual rights vis-à-vis freedom of religion or speech). Fazlur Rahman (1982) in Pakistan and Abdolkarim Soroush (2000) in Iran famously stressed the possibility of pro-liberal politics within the Islamic tradition. But, historically, grassroots support for electoral-but-non-secular politics in Pakistan has rarely overlapped with widespread support for such leaders; in fact, Pakistan's first wave of pro-democracy activism (1969-70) coincided with Fazlur Rahman's forced departure into exile. Support for civilian elected regimes in Pakistan has long coexisted with popular support for illiberal, exclusionary, and ostensibly 'Islamic' constitutionalism.

Assessing multiple features of Pakistan's political and constitutional history, this chapter locates Pakistan within a much broader literature on regime types, including 'hybrid' regime types, and regime transitions, arguing that while *non*-religious grassroots protests figure prominently in Pakistani transitions away from authoritarianism, broadly democratizing transitions tend to preserve a 'Pakistani' approach to religious constitutional provisions pushing away from an inclusive liberal democracy. As such, I build on Jan Teorell's (2010: 156) call for a greater emphasis on 'the subjective experience of ... [democratizing] actors', highlighting an appreciation for what elected civilian-led government in Pakistan has actually meant for those seeking to introduce and, then, constitutionalize it. To say that liberal democracy has not prevailed in Pakistan's Muslim-majority religious politics is not to say that Islam is incompatible with democracy. But, in *Pakistan*, popular pressure for democracy has *not* pressed for an inclusive liberal democracy.

### **Pakistan: Regime Types and Regime Transitions**

Tracking regime transitions requires a sense of the regime types from which, and to which, those transitions occur. Increasingly, scholars with an interest in regime transition have moved beyond a simple account of 'democracies' and 'dictatorships' (Alvarez et al. 1996) to examine a much wider range of regime types. At the relatively open or competitive end of the scale, social and even secular democracies are said to include substantive elements that press beyond the procedural core associated with Robert Dahl's definition of 'polyarchy' (1971, 1982; Diamond 1999). At the more constrained or authoritarian end of the scale, Samuel Huntington (1991) and Barbara Geddes (1999) have noted that most transitions involve a shift between several different types of autocratic leaders, including (a) personalistic leaders (e.g. monarchs), (b) military leaders, and (c) single-party leaders. By and large, however, most regimes are no longer characterized as 'open' democracies or 'closed' dictatorships. Instead, they are categorized as hybrid regimes, including 'defective' democracies (Collier and Levitsky 1997; O'Donnell 1994; Zakaria 1997; Merkel 2004) and 'electoral' autocracies (Levitsky and Way 2002; Brumberg 2002; Schedler 2006) that *combine* electoral procedures with various autocratic constraints (Wigell 2008; Bogaards 2009; Morlino 2009; Gilbert and Mohseni 2011).

Making no a priori normative claims about popular preferences for secular/non-secular, liberal/illiberal, or inclusive/exclusionary regimes, I examine four different modes of regime transition (1947-2019) in Pakistan, highlighting the purely analytical importance of hybrid regimes:

1. outright military dictatorship → **'hybrid' autocracy** (a.k.a. electoral autocracy)
2. 'hybrid' autocracy → outright military dictatorship (constitutional abrogation/suspension; no elections)
3. outright military dictatorship → **'hybrid' democracy** (exclusionary/illiberal; reserved domains of military power)
4. 'hybrid' democracy → outright military dictatorship (e.g. military coup)

Outright military dictatorships originating in a military coup (No. 4, above) are relatively easy to identify in Pakistan: 1958, 1977, 1999. Each coup, however, was followed by a further transition from outright dictatorship to some type of hybrid autocracy (No. 1). For scholars like Levitsky and Way (2002: 16) and Andreas Schedler (2013: 29, 82), hybrid electoral-authoritarian regimes are said to require competitive party-based elections for the executive (e.g. the presidency) as well as the national legislature. But, in Pakistan, presidential polls occasionally involve non-competitive referenda rather than party-based elections. And, under both military and civilian-led regimes, Pakistan has conducted several 'indirect' polls in which non-party local elections produce an electoral college for subsequent National Assembly (NA) and/or Provincial Assembly (PA) polls. As such, *none* of Pakistan's military regimes has met the definitional standard set by Levitsky, Way, and Schedler for an 'electoral-authoritarian' regime.

Within Pakistan's military-led regimes, *party*-based NA/PA elections have also appeared unevenly. Under General Ayub Khan (1958-69), for instance, non-party elections were held in 1959-60 and 1962. And, under General Zia-ul-Haq (1977-88), party-based activity was largely proscribed notwithstanding electoral activity in 1979, 1983, 1985, and 1987 (Shah 2014: 158-59). General Ayub, however, *did* hold party-based NA/PA polls in 1965. And, historically speaking, party-based affiliations were an open secret even under General Zia (1985). General Musharraf (1999-2007) went on to hold party-based elections in 2002 and 2007-08. As such, I adhere to the convention amongst Pakistan experts, highlighting transitions *within* each military-led regime between outright military 'dictatorship' and some form of 'electoral autocracy'.

My main interest, however, is not military coups or intra-authoritarian transitions from outright dictatorship to electoral autocracy. Instead, I focus on a two-step process of regime transition from military rule back towards 'Islamic' democracy: specifically, I focus on (a) transitions from electoral autocracy back to outright military dictatorship (1969, 1988-A, 2007)<sup>3</sup> and, then, shortly thereafter, (b) broadly democratizing transitions to some type of civilian-led regime (1970-72, 1988-B, 2008). As noted above, this two-step process typically begins with widespread *non*-religious protests. But, when a re-imposition of martial law fails to quell these protests, it also involves military leaders handing power back to civilians via elections.<sup>4</sup> The protests that play such a crucial role in Pakistani transitions from military to civilian rule rarely stress religious demands. But, in due course, I argue, the regimes they engender invariably retain the 'exclusionary' and 'illiberal' constitutional provisions of their predecessors.

### **'Hybrid Democracy' and the Constitutional Status of Religion**

<sup>3</sup> This process usually involves imposing martial law (except 1988) and dissolving the NA (except 2007).

<sup>4</sup> Religious rioting in 1953-54 was followed by a stretch of martial law and the dissolution of Pakistan's first Constituent (National) Assembly. After several weeks, however, these protests were effectively controlled.

Following the rise of each civilian-led regime in Pakistan, extra-constitutional but increasingly formalized patterns of military power—in effect, ‘reserved’ domains of military decision-making—have persisted alongside constitutional provisions that diminish the rights of non-Muslims (and, since 1973, restrict fundamental rights), ensuring that Pakistan’s civilian regimes have *not* reflected an inclusive or a liberal democracy. I have examined the origins of these constitutional provisions elsewhere (Nelson 2016); Maya Tudor addresses them in [Chapter X](#) (this volume).

Few twentieth-century states were created as territorial homelands explicitly associated with particular religious communities—only Pakistan (Muslim 1947) and Israel (Jewish 1948). In fact, even amongst Muslim-majority states, few were deliberately created to transform a national Muslim minority (e.g. Muslims in India) into a majority (Pakistan). This unusual political history directly underpins Pakistan’s national identity and, therein, its constitutional approach to religion (specifically, Islam). Apart from Pakistan, beginning in 1956, only three twentieth-century constitutions have actually placed the word ‘Islamic’ in the name of the state itself: Mauritania since 1958, Iran since 1979, and Afghanistan since 2004. Indeed, since 1947, Pakistan has never treated its majoritarian Muslim identity as an open constitutional question: if it did, the state’s historically rooted *raison d’être* would almost certainly unravel. The illiberal and exclusionary features of Pakistan’s constitution, however, do not follow seamlessly from Pakistan’s Muslim-majority or ‘Islamic’ constitutional identity; instead they flow from historically and politically embedded processes that privilege a specific *interpretation* of that identity.

Pakistan’s most important constitutional provision concerning religion—in many ways its first constitutional provision—is known as the Objectives Resolution. Initially approved by the Muslim members of Pakistan’s first Constituent Assembly over the objections of every single non-Muslim within that Assembly (1949), then introduced as a preambular provision within Pakistan’s first constitution (1956), this resolution was diluted in Pakistan’s second constitution (1962) before being restored to its original form in a constitutional amendment shortly thereafter (1963). It has remained an important feature of every constitution since then (e.g. 1973), becoming a substantive article within the constitution (Article 2A) in 1985. Reflecting a subtle compromise between Islamist and nationalist elites (Nelson 2016), this resolution states that, while ‘sovereignty over the entire universe belongs to ... Allah’ and the state’s authority will be exercised ‘within the limits prescribed by Him’, state authority must be exercised by ‘the people’ of Pakistan via their ‘chosen representatives’ working alongside an ‘independent’ judiciary.

Since the introduction of Pakistan’s first constitution in 1956, this resolution has co-existed with further elements specifying that no law may be repugnant to the injunctions of the Qur’an and *sunnah* (that is, the practice of the Prophet and his closest companions), with Pakistan’s head of state (for example, the President) appointing an ‘advisory’ Council of Islamic Ideology to guide each NA/PA in defining the parameters of repugnancy: 1956 (Article 198); 1962 (Article 204); 1973 (Articles 227-230). Together, these provisions aim to promote conformity with the injunctions of *Islam* while, at the same time, framing Pakistan as an Islamic ‘republic’, preserving the power of *parliament* to frame the state’s interpretation of Islam (Nelson 2016).

As noted above, identifying a state religion—as in the United Kingdom, Denmark, or Costa Rica—need not automatically restrict liberal rights (e.g. freedom of religion or speech). But, in the U.K., Denmark, and Pakistan after 1973 (Article 2), the constitutional identification of a state religion has been associated with formally *exclusionary* provisions declaring that *only* those adhering to the state religion will be permitted to serve as the head of state (Pakistan: 1956 Article 32; 1962 Article 19; 1973 Article 41). In fact, since 1973, related constitutional provisions in Pakistan have gone on to clarify that, not unlike the British Queen vis-à-vis the Church of England (specifically) or Denmark's strictly Lutheran head of state, Pakistan's President must be, not merely a 'Muslim', but a Muslim in a specific doctrinal sense, i.e. *not* part of a heterodox minority known as the Ahmadiyya (Third Schedule). The Ahmadiyya describe themselves as Muslims but, since 1974, they have been constitutionally reclassified as 'non-Muslims' (Article 260) owing to certain views articulated by their late-nineteenth-century founder Ghulam Ahmed—namely, that he was not just a religious reformer but a 'prophet' after Mohammad. (Typically, Muslims see the Prophet Mohammad as the final prophet, indeed, the 'seal' of prophecy itself [Quran 33:40].<sup>5</sup>)

In 1973, Pakistan combined these *exclusionary* constitutional provisions regarding the country's head of state with *illiberal* provisions removing free-speech protections for any statement that might be said infringe, not on the personal security of fellow citizens, but rather on an abstract idea, namely, 'the glory of Islam' (Article 19). Whereas in countries like the U.K. broadly related criminal laws concerning anti-'Christian' blasphemy were removed in 2008, constitutional protection for laws concerning anti-'Muslim' blasphemy (specifically) remain in Pakistan.

In 1956 and again in 1973, the introduction of Pakistan's exclusionary and illiberal constitutional provisions was initiated by religious groups claiming special religious authority to define the doctrinal boundaries of Pakistan's Muslim majority—above all, groups that initially opposed the nationalism of Mohammad Ali Jinnah and his ostensibly 'secular' anti-colonial Pakistan Movement, including (a) the urban middle-class Jama'at-e-Islami (JI, Party of Islam) and (b) the madrasa-based Jamiat-e-Ulema-e-Islam (JUI, Party of Islamic Scholars).<sup>6</sup> These religious groups boycotted the late-colonial provincial elections that underpinned the formation of Pakistan's first Constituent Assembly. And, as a result, they were not physically present when Pakistan's first constitution was drafted. But, even so, their relevance was recognized by the Constituent Assembly through an external body charged with considering religious views (namely, the Talimat-e-Islamia Board, i.e. the Board of Islamic Instruction). And in due course some of the exclusionary and illiberal constitutional provisions demanded by this Board were formally adopted by Pakistan's Constituent Assembly.

In fact, since the early inclusion of these illiberal and exclusionary provisions, subsequent parliamentary majorities containing very few JI or JUI members have retained them. No

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<sup>5</sup> The Third Schedule specifies presidential and prime ministerial oaths stating that these officials must believe in Mohammad as 'the last of the Prophets'.

<sup>6</sup> Within a 22-Point manifesto drafted in 1951 by 31 religious leaders meeting in Karachi was a demand for a 'Muslim' head of state; Pakistan's first Constituent Assembly accepted this demand in August 1952 (Binder 1961: 226). In 1973-74, religious parliamentarians also guided Pakistan's Attorney General, who oversaw the unanimous amendment of Article 260 (Qasmi 2014: 185-220).

serious effort to repeal them has ever emerged during any subsequent civilian or military regime. Indeed, alongside constitutional provisions excluding ‘non-Muslims’ from the presidency (Article 41), an exclusionary constitutional amendment formally re-defining Pakistan’s Ahmadiyya as non-Muslims (Article 260) was passed *unanimously* by a freely elected NA in 1974.<sup>7</sup> And, in 2010, Article 91 was amended by another freely elected civilian NA (85% in favour) to state that NA members were only permitted to choose a ‘Muslim’ member—i.e. not an Ahmadi—to serve as the country’s prime minister. Initiated by religious leaders but formally introduced and retained by civilian as well as military leaders, Pakistan’s exclusionary and illiberal constitutional provisions reflect popular views regarding a majoritarian ‘Muslim’ (non-Ahmadi) as opposed to a more inclusive liberal regime.

To avoid conceptual slippage vis-à-vis the terminology commonly used for hybrid regimes, my discussion relies on two terms developed by Guillermo O’Donnell and Philippe Schmitter (1986) to describe (a) ‘dictablanda’ hybrid regimes at the relatively closed end of the scale and (b) ‘democradura’ hybrid regimes at the open end. In democradura regimes, free-and-fair elections are the norm, but several different limitations are possible, including (a) constitutional ‘brown areas’ (i.e. territories where constitutional provisions do not apply),<sup>8</sup> (b) reserved domains lying beyond the control of elected leaders (i.e. ‘tutelary’ spheres of policymaking), (c) limitations on constitutional checks-and-balances such that the power of elected leaders is partly despotic (i.e. ‘delegative’ or ‘cæserist’ democracies), (d) barriers to equal participation (‘exclusionary’ limits), and/or (e) restrictions on fundamental individual rights like due process or freedom of religion and speech (‘illiberal’ constraints) (Dahl 1971; Adeney 2015: 120). In what follows, I focus on the latter two: exclusionary and illiberal constraints.

**Exclusionary Constraints** Exclusionary constraints targeting equal citizenship first emerged in 1955 when the territories of West Pakistan (Punjab, Sindh, Balochistan, and the Northwest Frontier Province or NWFP) were combined as One Unit with the same number of elected representatives as East Pakistan (Bengal), despite the latter having a larger population. Until this One Unit scheme was removed shortly before Pakistan’s first national election in 1970, this provincial set-up explicitly undermined the democratic principle of equal participation by constraining the terms of electoral equality. The most persistent exclusions, however, have been associated with religion, including the presence of ‘separate electorates’ for non-Muslims (1947-56, 1985-2002, and with continuing relevance for the Ahmadiyya)<sup>9</sup> as well as

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<sup>7</sup> Following General Zia-ul-Haq’s military coup in 1977, Pakistan’s constitution was held in abeyance for nearly eight years. During this period Zia also introduced Article 203(c) creating a Federal Shariat Court (FSC) and a Shariat Appellate Bench of Pakistan’s Supreme Court. When the constitution was restored in 1985, Zia required his newly elected (non-party) NA to incorporate Article 203(c) as well as Article 62 (requiring Muslim parliamentarians to ‘practice [the] obligatory duties prescribed by Islam’ and remain ‘righteous’ and ‘honest’ in a religious sense).

<sup>8</sup> In Pakistan, brown-area restrictions pertaining to the country’s Federally Administered Tribal Areas (FATA) were removed in a Twenty-fifth Amendment (2018) merging FATA with NWFP (renamed Khyber Pakhtunkhwa in 2010).

<sup>9</sup> Pakistan’s 1956 constitution allowed each province to adopt joint *or* separate electorates for Muslims and non-Muslims (Article 145). This provision was removed (restoring joint electorates) in 1962 and 1973, then revived by General Zia in 1985 (Eighth Amendment), then removed by General Musharraf in 2002 (Conduct of General Elections Executive Order No. 7) *except* for the Ahmadiyya (Executive Order No. 15).

the fact that, as noted above, Pakistan's president and prime minister must be 'Muslims', not an Ahmadis or members of any other religious community.

**Illiberal Constraints** With reference to Ahmadis, illiberal measures also extend to Pakistan's Second Constitutional Amendment (1974) unilaterally defining the Ahmadis as 'non-Muslims' (Article 260) and, thus, undercutting their fundamental right to religious self-identification (Article 20A).<sup>10</sup> Furthermore, as noted above, Pakistan has illiberal constitutional provisions removing free-speech protections for otherwise peaceful statements deemed to infringe, not on the safety of other citizens, but rather on 'the glory of Islam' (Article 19).<sup>11</sup> In addition, Pakistan offered no legal recognition for the marriage, divorce, custody, or inheritance rights of Hindus until 2017. With respect to fundamental rights of personal property (Articles 23-24) and legal equality (Article 25), this exclusion was also clearly illiberal.

It is not merely that religious references have played a formal constitutional role in every Pakistani regime. It is, rather, that Pakistan's elected civilian regimes qualify as 'hybrid' regimes precisely owing to Pakistan's specific treatment of this role. This is not a normative statement; it is an analytical statement regarding the prevailing scholarly definition of 'exclusionary' and 'illiberal' regimes as this pertains to the constitutional operationalization of Islamic interpretation in Pakistan (Collier and Levitsky 1997; Zakaria 1997; Wigell 2008; Bogaards 2009). One aspect of hybrid democradura regimes—namely, reserved domains of military power—has been widely discussed in the literature on Pakistan (Shah 2014; Adeney 2015; Mufti 2018). I focus on Pakistan's constitutional treatment of religion.

### **Religious Parties and the Shape of 'Electoral Autocracy'**

Within Pakistan, transitions to outright authoritarian rule via military coups are well known. But, as noted above, different types of elections also figure prominently *within* the dictablanda regimes that have emerged in the wake of each coup. The first type of election includes direct local elections held at a district and a sub-district level on a non-party basis. The second consists of NA/PA elections conducted with or without political parties (including religious parties). There is no consistent pattern across these types of elections. Under General Ayub, local elections produced an electoral college for *non*-party NA/PA elections in 1960; but, after Pakistan's NA passed a new 'Political Parties Act' in 1962, further district and sub-district-level elections produced an electoral college for *party*-based NA/PA elections later that same year (and again in 1964-65).<sup>12</sup> Under General Zia-ul-Haq, party-based elections were formally proscribed, but non-party NA/PA elections were conducted in 1985. And, under General Pervez Musharraf, party-based NA/PA elections were held in 2002.

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<sup>10</sup> Article 20A notes that 'every citizen shall have the right to profess, practice, and propagate his religion'.

<sup>11</sup> As a constraint on freedom of speech and religion, Pakistan Penal Code restrictions on blasphemy (§295, 298) might be described as a 'religious' component of illiberal democracy; but, as a general rule, Pakistan's courts have not justified these restrictions in religious terms—instead they rely on liberal notions of 'public order' in constitutional provisions concerning religious freedom (Nelson 2020, unpublished). Illiberal *constitutional* provisions limiting liberal rights (e.g. for the sake of 'public order') are common. These provisions highlight the space between liberal and 'hybrid' (illiberal) democracies (Dyzenhaus 2011).

<sup>12</sup> In a Cold War constraint on left-wing politics, the Political Parties Act (1962 §3-1) said that no party could act against Pakistan's 'Islamic ideology'; this exclusionary *statutory* provision was removed in 2002.



A third type of voting includes indirect/direct and non-party/party-based *presidential* polls. As noted above, General Ayub's local elections produced an electoral college for indirect (non-party) presidential polls in 1960. This was followed by direct (party-based) polls in 1965. Thereafter, however, voters returned for *non*-party presidential polls under both General Zia (1984 referendum, 98% in favour) and General Musharraf (2002 referendum, 98% in favour; 2007 'indirect' polls, 57% in favour).

Crucially, elections under *both* military *and* civilian-led regimes produced governments that included key *religious* parties. In fact, despite their weak performance in every poll since 1970, politicians from the JI and/or the JUI have managed to join a ruling NA or PA coalition in almost every subsequent regime. In 1970, for instance, despite these religious parties winning just 20 seats—JI 4 (NA); JUI 7 (NA) and 9 (PA: NWFP)—JUI leader Mufti Mahmud emerged as the NWFP's provincial chief minister. This pattern, linking religious parties to some form of participation in government, has faltered just three times since 1970: in 1985, 1997, and 2018 (Fig. 1).

**Figure 1. Pakistan: Religious Parties in Government since 1970**

1970-71	NWFP PA: JUI	1997	--
1977	Advisory Cabinet: JI/JUI	2002	NA + NWFP PA + Balochistan PA: 'MMA' **
1985	--	2008	NA + Balochistan PA: JUI-F
1988	Balochistan PA: JUI-F; Punjab PA: 'IJI' *	2013	NA: JUI-F; NWFP (renamed KP) PA: JI
1990	Balochistan PA: JUI-F/'IJI'; NA + Punjab PA: 'IJI' *	2018	--
1993	NA: JUI-F		

\* Within the Islami Jamhoori Ittehad (IJI; including JI and JUI-S), religious parties did not hold cabinet posts

\*\* Within the Muttahida Majlis-e-Amal (MMA; including JI, JUI-S, and JUI-F), the JUI-F held cabinet posts in Balochistan and, together with the JI, in NWFP

After General Zia's military coup in 1977, JI and JUI members were appointed to Zia's (advisory) cabinet even as they continued to push for the NA/PA elections that Zia had promised.<sup>13</sup> The JUI largely boycotted Zia's non-party NA/PA elections in 1985. But, even then, 10 JI-affiliated candidates prevailed as political 'independents'.<sup>14</sup> Still, these independents remained outside the formal governing coalition created by Zia's hand-picked Prime Minister Mohammad Khan Junejo; in fact, as shown in Figure 1, 1985 marked the first occasion when *no* religious party was included in *any* NA or PA government (Nasr 1994: 196-97). This is, of course, somewhat ironic given Zia's reputation as Pakistan's 'Islamizing' dictator.

After Zia was killed in a plane crash (1988), the chairman of Pakistan's Senate, Ghulam Ishaq Khan, was constitutionally elevated to the presidency. At the same time, the Islamist JI and a faction of the madrasa-based JUI known as the 'JUI-S' (Sami-ul-Haq faction) worked with Pakistan's Inter-Services Intelligence Directorate (ISI) to create a right-wing alliance known as the Islami Jamhoori Ittehad (Islamic Democratic Alliance, IJI) under the leadership of Punjab Chief Minister Mohammad Nawaz Sharif. In the ensuing elections (November 1988), however, this alliance was defeated by a left-leaning NA coalition created by Pakistan People's Party (PPP) leader Benazir Bhutto. But, in due course, Prime Minister Bhutto's

<sup>13</sup> Most JI and JUI representatives resigned from Zia's cabinet in 1979. After 1981, however, JUI-S leader Sami-ul-Haq continued to serve in Zia's hand-picked Majlis-e-Shura.

<sup>14</sup> In 1985 Sami-ul-Haq (JUI-S) was elected to Pakistan's Senate.

coalition incorporated a separate religious faction of the madrasa-based JUI known as the 'JUI-F' (Fazlur Rahman faction).<sup>15</sup> In fact at a *provincial* level the JUI-F also secured cabinet posts in Balochistan even as the right-wing IJI held power under Punjab's Chief Minister, Nawaz Sharif, in Lahore. Again, this pattern of religious-party involvement in both national and provincial governments was the norm.

When Benazir Bhutto tried to control military appointments, the army's corps commanders instructed President Ghulam Ishaq Khan to dismiss her NA coalition on charges of unconstitutional corruption. The IJI went on to win the next round of elections (1990), both in Lahore (PA) and in Islamabad (NA). (The IJI also created a provincial coalition with the madrasa-based JUI-F in Balochistan.) But, when IJI Prime Minister Sharif sought to review the constitutional article that empowered Pakistan's president to unilaterally dissolve Pakistan's NA (Article 58-2(b)), his own NA was dissolved (1993). The Supreme Court struck down Sharif's removal; but, almost immediately, military threats persuaded both Prime Minister Sharif and President Ghulam Ishaq Khan to step down, leading to fresh elections.

This time, Sharif's Pakistan Muslim League (PML-N) lost to a PPP + JUI-F coalition led by Benazir Bhutto. But, after Pakistan's new president, Farooq Leghari, returned to the powers enshrined in Article 58-2(b) to dismiss Prime Minister Bhutto in 1997, the PML-N was brought back into power with a two-thirds majority—the *second* of three occasions when *no* religious party held power in *any* NA/PA government.

Sharif quickly passed Pakistan's Thirteenth Amendment (removing Article 58-2(b)) before replacing Chief of the Army Staff Jahangir Karamat with General Pervez Musharraf.<sup>16</sup> And after comprehensive talks with Indian Prime Minister Atal Bihari Vajpayee, Sharif also signed a landmark India-Pakistan agreement known as the Lahore Declaration in 1999—unaware that General Musharraf had already launched an offensive military campaign across the Line of Control in Indian-administered Kashmir. U.S. pressure forced Musharraf to retreat. But, when Prime Minister Sharif moved to sack General Musharraf in October 1999, Musharraf deposed Sharif in Pakistan's third military coup.

Despite marginalising several seasoned PPP and PML-N politicians by requiring NA/PA candidates to possess either a university degree or an advanced madrasa certificate, Musharraf's own party (PML-Q) fell short of a parliamentary majority in the dictablanda NA elections of 2002. In fact, with just 26% of the NA vote and only 37% of the seats, Musharraf's PML-Q was forced to construct a governing coalition with a collection of religious parties known as the Muttahida Majlis-e-Amal or MMA. (The MMA included all of Pakistan's major religious parties: the JI, the JUI-S, and the JUI-F). Yet, five years later, when Musharraf was ousted via mass demonstrations and replaced with an elected government led by the PPP (2007-08), the madrasa-based JUI-F *returned* to power, yet again, in another ruling coalition with the PPP.<sup>17</sup>

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<sup>15</sup> In this chapter, there are two Fazlur Rahmans: one led General Ayub Khan's Central Institute of Islamic Research; one led the 'Fazlur Rahman' faction of the JUI.

<sup>16</sup> The Thirteenth Amendment restored the prime minister's power to appoint provincial governors, military service chiefs, and, in collaboration with the Supreme Court Chief Justice, superior-court judges.

<sup>17</sup> In 2008, the JUI-F also joined the ruling PA coalition in Balochistan.

Nawaz Sharif's PML-N defeated this PPP-led coalition during the NA/PA elections of 2013; but, again, the JUI-F switched sides and secured a place in Sharif's new government. The Islamist JI also joined a ruling *provincial* coalition with Imran Khan's Pakistan Tehreek-e-Insaf (PTI) in Peshawar. The PTI returned to power—both in Peshawar (PA) and in Islamabad (NA)—following elections in 2018. But, at this point, religious parties were excluded from *both* the NA *and* all provincial governments. Again, this is unusual. Since 1970, elections have routinely provided Pakistan's religious parties with access to governing power. Religious parties have not governed on their own, but—across both exclusionary/illiberal democradura and post-1970 dictablanda regimes—they have rarely been excluded from government.

Scholars occasionally claim that adding religious parties to civilian-led governing coalitions fosters 'more' democracy (or, at least, more inclusive forms of democracy), whereas marginalising such parties means 'less' democracy (Fair and Patel 2020). These claims, however, remain underspecified without a more elaborate sense of the ways in which the governments that include these religious (Islamic) parties articulate their interpretation of Islam, particularly with respect to individual freedoms and general or targeted restrictions on legal equality. There is, again, no inherent or inevitable link between the inclusion of these parties and the presence of an inclusive liberal democracy.<sup>18</sup>

### Regime Transitions and the Role of Religion

Elsewhere in the Muslim world—for example in the Middle East and Indonesia—secular militaries and political parties tend to distance themselves from right-wing Islamist parties. But, in Pakistan, *every* leading party (PPP, PML-N, PTI), including General Musharraf's king's party (PML-Q), has invited these parties into a ruling coalition. As such, it is difficult to say that Pakistan's military has placed a check on Islamist parties or, for that matter, that *including* Muslim religious parties in government has—*ipso facto*—signaled a transition from authoritarianism to liberal democracy (or vice versa).

Leonardo Morlino (2009: 283) uses a horizon of 10 years to distinguish established regimes from 'transitional' polities,<sup>19</sup> but in Pakistan, every regime has collapsed within this 10-year horizon or one year beyond it (e.g. 1947-58, 1988-99), placing Pakistan in something like a state of permanent transition (Hoffman 2011: 91-92). I do not locate Pakistan within a state of permanent transition. Instead, I focus on electoral-autocratic and exclusionary-democratic hybrid regimes—neither fully consolidated—and, then, I focus on the *non*-religious factors that underpin transitions between them.

In Pakistan, hybrid democradura regimes never collapse directly into hybrid dictablanda regimes (Knutsen and Nygård 2015; Sanchez-Urribari 2011). Instead, all of Pakistan's hybrid democradura regimes have ended with a military coup and a stretch of outright military authoritarianism. Similarly, hybrid dictablanda regimes never transition, directly, into hybrid democradura regimes (Bunce and Wolchik 2010). Instead, ostensibly 'democratizing'

<sup>18</sup> Fair and Patel (2020) highlight the link between democracy and the inclusion of such parties in urban, educated, middle-class contexts; for an account of such contexts in Pakistan see Maqsood 2017.

<sup>19</sup> Wright (2008: 329) prefers a three-year horizon.

transitions (1969-71; 1988A-B; 2007-08) tend to involve widespread non-religious urban protests followed by an intermediate stage of hardening military rule.<sup>20</sup>

In **1969-70**, the electoral autocracy of General Ayub Khan (1962-69) came to an end when non-religious ethnic (Bengali) protests in East Pakistan combined with smaller urban protests in West Pakistan—in this case, ethnic (Sindhi, Pashtun, and Baloch) protests demanding the restoration of various provinces merged under West Pakistan's One Unit scheme as well as left-wing strikes and conservative demonstrations challenging the 'modernizing' religious reforms of General Ayub's Central Institute of Islamic Research (Sobhan 1969; Rahman 1976: 301).<sup>21</sup> These protests eventually prompted the exile of the Institute's leader, Fazlur Rahman, followed by an intra-military transfer of power from General Ayub to General Yahya Khan, who hardened military rule by reimposing martial law.

The same hardening of authoritarian rule unfolded in between the dictablanda regime of General Zia-ul-Haq (1985-88) and the democradura regime of PPP Prime Minister Benazir Bhutto (**1988A-B**)—partly owing to non-religious protests led by a PPP-based movement known as the Movement for the Restoration of Democracy (MRD) in Sindh (1983) as well as non-religious ethnic protests (1985-86) in which Pashtun urban migrants battled an ethnic formation known as the Mohajir Qaumi Movement (MQM) supported by General Zia in Karachi (Khan 2010: 39, 41).<sup>22</sup> Finally, in 1988, Zia responded to these protests with a return to outright military rule, dissolving his dictablanda NA.

In fact the same authoritarian hardening emerged between the dictablanda regime of General Pervez Musharraf (2002-07) and the democradura regime of PPP Prime Minister Yusuf Raza Gilani (**2007A-B**)—this time, in response to non-religious protests led by district lawyers demanding the reinstatement of Supreme Court Chief Justice Iftikhar Chaudhry, who was sacked after challenging Musharraf's effort to stand for re-election as President without first holding NA/PA elections to install a new Electoral College (Kokab 2013). Once again, after sacking Chief Justice Chaudhry, Musharraf cracked down with a return to martial law.

In Pakistan, the spasms of street-level protest that end authoritarian regimes are rarely framed by religious parties, religious groups, religious ideas, or religious demands. As noted above, however, religious actors often intervene *after* each protest-led transition to marshal support for the preservation of Pakistan's exclusionary and illiberal 'religious' constitutional provisions—provisions that obstruct the formation of a liberal democratic regime.

### Non-Religious Transitions: Economic and Institutional Drivers

The case of Pakistan is an awkward fit for most of the literature addressing key drivers of regime transition, including (a) economic shocks, (b) the presence or absence of authoritarian legislatures (and regime-oriented political parties), as well as (c) anti-regime decisions delivered by constitutional courts. In what follows, I examine this awkward fit and

<sup>20</sup> Bogaards (2009: 404) sees such reversions from a hybrid dictablanda regime to outright military dictatorship as extremely rare; he cites only Pakistan, Peru, and Belarus.

<sup>21</sup> See fn29, above.

<sup>22</sup> A Pakistani 'mohajir' is a partition-era Urdu-speaking migrant from North India.

then move beyond these drivers to stress an account of democratizing transitions rooted in (d) urban protest—not *non-violent* or *religious* protests, but historically specific configurations of *non-religious* and occasionally *violent* protests. As noted above, religious groups and religious ideas are not a key driver of regime transition in Pakistan. Religious elements merely intervene post hoc to stress an exclusionary *interpretation* of Pakistan's Muslim identity (i.e. 'Muslim', not Ahmadi), ensuring that democratizing transitions (otherwise rooted in *non-religious* protest) pull away from the parameters of an inclusive liberal democracy.

**Economic Drivers** Following Guillermo O'Donnell (1973), who moved away from an account of 'democratizing' transitions to argue that democracies faced with economic shocks might shift in the direction of authoritarianism to advance unpalatable reforms, some note that, even if economic *growth* tends to be associated with regime survival, recessionary *shocks* often promote regime collapse (Markoff and Baretta 1990). Mark Gasiorowski (1995: 882), for instance, focusing on democratic regimes, traced the drivers of regime collapse to recessions. And, later on, Milan Svolik (2008: 153) linked the same result to what he described as the collapse of 'non-consolidated' democracies (see also Haggard and Kaufman 2012: 512). Even as Gasiorowski and Svolik linked recessions to transitions *away* from democracy, however, Thomas Pepinsky (2009: 1-2, 34) found that destabilizing debt crises were tied, both to patterns of authoritarian survival (Malaysia) *and* to authoritarian *collapse* (Indonesia), depending on the shape of the ruling coalition and the nature of its ties to capital. Jan Teorell (2010: 76) extended this view. Returning to the underlying features of 'democratization', Teorell used a large-n statistical analysis to argue that recessions generally *increase* the possibility of democratizing transitions.

In Pakistan, however, these findings are difficult to replicate, mostly because, technically, Pakistan has never actually experienced a recession.<sup>23</sup> In fact, pulling away from Gasiorowski (1995), Svolik (2008), and Teorell (2010), we see no clear macroeconomic trends anticipating any transition towards, or away from, democracy. Before the coup led by General Ayub Khan in October 1958, for instance, Amina Ibrahim (2009) noted that annual GDP growth rates climbed from 2.0% (1955) to 3.5% (1956) before falling back to 3.0% (1957) and, finally, 2.5% (1958). This might point to a link between declining growth and authoritarian backsliding. But, before the coup led by General Zia in July 1977, World Bank figures show GDP growth climbing from 3.5% (1974) to 4.2% (1975) and, finally, 5.2% (1976).<sup>24</sup> In fact, before the coup led by General Musharraf in October 1999, we see GDP growth rates falling from 4.8% (1996) to 1.0% (1997) before climbing back to 2.6% (1998) and, finally, 3.7% (1999).<sup>25</sup>

The same inconsistency can be seen in the years preceding each *collapse* of military rule. Under Generals Ayub Khan and Yahya Khan (1958-70), for instance, GDP growth rates bounced from 5.4% (1967) to 7.2% (1968), then back to 5.5% (1969) before reaching their highest-ever level in 1970 (11.4%) and their lowest-ever level (0.5%) during the civil war that

<sup>23</sup> See World Bank data (<https://data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG?locations=PK>) and IMF data (<https://data.imf.org/regular.aspx?key=61545852>); Amina Ibrahim (2009: 19) uses different data to show negative GDP growth—unrelated to transitions—in 1952 (-1.9%) and 1997 (-0.4%).

<sup>24</sup> During this period, inflation fell from 26.7% (1974) to 20.9% (1975) to 7.2% (1976).

<sup>25</sup> During this period, inflation fell from 11.4% (1997) to 6.2% (1998) to 4.1% (1999).

preceded Pakistan's democratic transition in December 1971. Under General Zia, rates fell from 7.6% (1985) to 5.5% (1986) before climbing to 6.5% (1987) and, then, 7.6% (1988). Yet, under General Musharraf, GDP growth fell from 7.7% (2005) to 6.2% (2006) to 4.8% (2007) and, finally, 1.7% (2008) when Musharraf actually stepped down. Macroeconomic growth, or recession, does not reveal any consistent patterns vis-à-vis regime transitions in Pakistan.

**Institutional Drivers: Legislatures and Political Parties** In Pakistan, the meso-level mechanisms *through* which economic pressures often express themselves—including legitimization crises rooted in fragmenting patronage coalitions—have also been uneven.

In *Transitions from Authoritarian Rule: Prospects for Democracy* (1986), Guillermo O'Donnell and Philippe Schmitter focused on the role that elected *legislatures* might play in reinforcing authoritarian rule by accommodating competing elites and facilitating redistributive pacts between them (see also Karl 1987; Lust-Okar 2006; Gandhi and Lust-Okar 2009; Blaydes 2010). O'Donnell and Schmitter paid relatively little attention to political *parties* within authoritarian legislatures (e.g. king's parties), but this dimension was taken up by Jason Brownlee (2007) and Jennifer Gandhi (2008). Whereas Brownlee argued that authoritarian parties help to *sustain* authoritarian regimes, however, Gandhi stressed the value of authoritarian legislatures without finding *any* link between party-based legislatures and patterns of authoritarian regime survival.

Yet, again, the experience of Pakistan is an awkward fit, mostly because every military-led dictablanda regime with an elected NA has ended after just 3-5 years with or without the presence of (a) a so-called authoritarian king's party or (b) supportive religious parties: Ayub Khan (authoritarian NA, authoritarian king's party, no religious parties 1965-69); Zia-ul-Haq (authoritarian NA, no parties at all 1985-88); Pervez Musharraf (authoritarian NA, authoritarian king's party, supporting religious parties 2002-07). In Pakistan, neither authoritarian NAs nor authoritarian king's parties (nor supportive religious parties) seem to facilitate the extended survival of electoral autocratic regimes.

It may be that, in Pakistan and elsewhere, military regimes create regime-friendly king's parties to protect their interests both within the regime itself and after any subsequent (election-based) transition to civilian rule. But, again, this pattern is difficult to trace in Pakistan, where prominent king's parties—the Convention Muslim League (CML) under General Ayub Khan and the Pakistan Muslim League 'Quaid-e-Azam' (PML-Q) under General Pervez Musharraf—have *not* fared well in any subsequent election. During the transitional election of 1970, for instance, Ayub Khan's CML won just 7 out of 300 seats. And, during the transitional election of 2008, Pervez Musharraf's PML-Q won only 50 out of 341. Contra Joseph Wright and Abel Escribà-Folch (2012: 292-94, 302), in other words, elite-incorporating authoritarian parties have not provided the sort of 'exit guarantees' that might allow dictablanda regime-based elites to defect in favour of democradura-oriented regime transitions. (In fact, spanning *both* sides of most transitions, Pakistan's autonomous *religious* parties have generally fared much better.)

**Institutional Drivers: Courts** Like those who track the possibility of a counterintuitive link between authoritarian government and elected legislatures, scholars have also examined the ways in which patterns of judicial independence—a familiar marker of democracy—

might coexist with patterns of authoritarian survival (Moustafa 2014). In recent years, however, some have also begun to consider the role that senior judges might play in driving regime transitions.

With reference to regime survival in Argentina, Christopher Larkins (1998: 424) noted that authoritarian states and what he called anti-rule-of-law ‘delegative’ democracies have tended to use senior judges to preserve their regimes in different ways: whereas authoritarian states limited judicial independence by restricting courts to particular types of cases, delegative democracies tended to appoint biased judges.<sup>26</sup> In short, different patterns of judicial (in)dependence were associated with different types of regimes. But again, Pakistan is an awkward fit, particular insofar as both authoritarian *and* democradura leaders have tended to stress *similar* judicial limitations.

Whereas General Zia-ul-Haq and General Pervez Musharraf introduced mandatory oaths of allegiance (stacking their courts with loyal judges) (Kokab 2013: 33), for instance, they also expanded the role of military courts to limit the role of Pakistan’s civilian judiciary in trying the leaders they’d deposed (Shah 2014: 153 fn13, 160 fn41; Tate 1993: 323, 325, 332). Pakistan’s civilian leaders, however, opted for a similar approach. Prime Minister Z.A. Bhutto stacked Pakistan’s Supreme Court with loyal judges by amending the constitution to retain a sitting Chief Justice beyond his original retirement age.<sup>27</sup> And, in due course, Prime Minister Nawaz Sharif (a) altered the procedures underpinning judicial appointments even as his NA (b) expanded the role of military courts (to try civilians accused of ‘terrorism’).<sup>28</sup> Divergent approaches to judicial independence—or dependence (as the case may be)—have *not* distinguished Pakistan’s military and civilian regimes.

Moving away from patterns of regime *survival* to matters of regime *transition*, however, Raul Sanchez-Urribarri (2011: 878) and Jill Goldenziel (2013) highlight the ways in which superior-court judges facilitate both the rise and fall of hybrid dictablanda regimes. During Venezuela’s move away from democracy under Hugo Chavez, for instance, Sanchez-Urribarri notes that judicial appointments were reshuffled to create a more ‘compliant’ dictablanda judiciary. Goldenziel, in turn, examines trajectories of Middle Eastern democratization, noting that, after the emergence of electoral autocracy in Egypt, Turkey, and Kuwait, even ostensibly compliant judges began to read (unfair) election results in ways that helped to identify moments of regime weakness—moments they *reinforced* with judgments challenging each country’s authoritarian government.

Regimes dislike anti-regime judgments and, in many cases, they seek to appoint compliant judges to avoid them. But, following Goldenziel, it may be that dictablanda regimes also produce electoral outcomes that open up space for anti-authoritarian judicial decisions (see also Helmke 2002). In 2004, for instance, many Pakistani legislators refused to support General Musharraf’s indirect re-election as president (44% abstained or failed to vote). And, in 2005, local-election turnout scarcely exceeded 50%. *Thereafter*, Supreme Court Chief Justice Iftikhar Chaudhry used his suo motu powers to target Musharraf (Kennedy 2012),

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<sup>26</sup> Larkins builds on Neal Tate (1993) regarding the Philippines, India, and Pakistan 1977-79.

<sup>27</sup> See the Fourth, Fifth, and Sixth Amendments (1975-76; removed under General Zia’s Eighth Amendment 1985).

<sup>28</sup> On judicial appointments, see the Eighteenth and Nineteenth Amendments. The Twenty-first Amendment regarding military courts included a two-year sunset clause; military courts were not renewed in 2019.

focusing on the military's post-9/11 'disappearance' of suspected religious militants (2005) as well as instances of high-level government corruption (2006). In 2007, Musharraf sacked Chief Justice Chaudhry. But, shortly thereafter, protests led by furious lawyers produced one last gasp of authoritarian martial law. When this move from electoral autocracy to outright military dictatorship failed to end the protests supporting judicial decisions challenging Musharraf, Pakistan experienced yet another authoritarian → democradura transition.

### Non-Religious Transitions: Urban Protest

In each Pakistani transition away from authoritarian rule (1969-71, 1988, 2007-08), the common denominator has involved provincially dispersed urban protests. With the partial exception of the late-1960s, however, these protests have *not* drawn on religious rhetoric to target the incumbent regime. Indeed, if transitions *away* from democracy have been achieved via self-serving military coups that, apart from 1977, rarely refer to religion—but, pushing in the direction of electoral autocracy, incorporate NA/PA elections that almost invariably leave room for religious parties—transitions *toward* civilian rule have generally unfolded via short-lived authoritarian reversions that fail to overcome largely *non*-religious grassroots urban protest.

During the 1990s, Terry Lynn Karl (1990) was pessimistic about the ways in which grassroots protest might support a consolidation of democracy. Whereas Karl argued that mass protests often generate an anti-democratic backlash amongst frightened elites, pulling them *away* from democratic power-sharing, however, Nancy Bermeo (1997: 315-16) saw this risk as relatively limited. Specifically, Bermeo saw this risk as limited to cases in which violent protests directly targeted individual elites. In Pakistan, however, the non-consolidation of democracy has not been related to *protest*-based threats directly targeting elites; instead it has been tied to *constitutional* threats targeting religious minorities.

Dan Slater (2010) has argued that different state responses to mass protest often produce different types of authoritarian consolidation, with (a) urban protests demanding radical economic redistribution along ethnic or communal lines facilitating elite domination underpinned by democradura 'protection pacts' (e.g. Singapore and Malaysia) and (b) rebellions threatening the territorial integrity of the state producing dictablanda forms of 'bureaucratic' authoritarianism (e.g. Burma and Indonesia).

If we consider urban protests demanding economic redistribution in West Pakistan alongside proto-separatist calls for ethnic redistribution in East Pakistan during the 1960s or, for that matter, economic redistribution along ethnic lines in Sindh and Karachi throughout the 1980s, however, we see something different. Departing from Burma and Indonesia, redistributive ethnic protests demanding territorial autonomy in East Pakistan during the late-1960s produced a call for NA/PA elections followed by a civil war and, then, *a return to civilian rule*. And, departing from Singapore and Malaysia, urban protest demanding economic redistribution along ethnic lines during the mid to late-1980s was followed by NA/PA elections in which the election of an ethnic minority (Sindhi) Prime Minister (Bhutto) was accompanied, once again, by *a return to civilian rule*. Departing from Slater, in other



words, urban protest in Pakistan does not play a role in authoritarian consolidation; instead it seems to facilitate forms of authoritarian *collapse*.<sup>29</sup>

**Urban Protest: Violent or Non-Violent?** A large-n study conducted by Barbara Geddes, Joseph Wright, and Erica Franz (2014: 326) found that ‘coerced’ transitions from authoritarian rule (i.e. violent protest-based transitions) were especially unlikely to push in the direction of democratization. In fact, they argued, military dictatorships were more likely to collapse *without* coercion (for example via national elections) (see also Teorell 2010: 116).

Again, the experience of Pakistan is different. In Pakistan, large-scale urban protests have often pushed in the direction of democratization, with dictators repeatedly stopping short of the brutality required to crush the protests that threaten them. In 1968-69, for instance, Ayesha Jalal (1990) notes that violent urban uprisings were a crucial part of General Ayub Khan’s decision to step down. And, in 1970, his successor General Yahya Khan promised national elections only *if* the country’s ongoing violence came to an end (Jalal 1990: 308). (The violence continued, but elections and, then, a transition to civilian rule went ahead.)

In 1988, Paul Staniland (2008) notes that Pakistan’s corps commanders finally decided to call for NA/PA elections owing to ‘growing resentment ... on the street’, with Michael Hoffman (2011: 88) citing ‘difficulties presented by [the] suppression [of protesters]’ as ‘the major factor driving the military’s decision [to step aside]’.<sup>30</sup> In fact, the only partial exception to this violent protest-led pattern of democratizing regime transition involved the largely *non*-violent protests led by lawyers in 2007-08—protests that eventually forced General Musharraf to relinquish power.

Geddes, Wright, and Franz (2014: 325) found that only 1 in 5 cases of ‘coerced’ authoritarian breakdown moved in the direction of democracy. But, in Pakistan—tracking exclusionary and illiberal ‘democradura’ regimes (rather than non-hybrid ‘democratic’ regimes)—3 out of 4 cases clearly belong to this 20%.<sup>31</sup>

If urban protests play a consistent role in Pakistan’s transitions away from authoritarianism, but neither religious rhetoric, nor economic recession, nor ethnic/territorial mobilisation, nor the use of violence is a consistent feature of these protests, however, a key question concerns the factors that consistently prevent Pakistan’s authoritarian leaders—so well known for their repressive capacity in other contexts (Bengal, Balochistan, Karachi, Khyber Pakhtunkhwa)—from crushing the demonstrators that eventually remove them from power. (On decisions to repress or not, see Bellin 2004: 146; Ulfelder 2005; Davenport 2007; Escribà-Folz 2013.) Yet, apart from Hoffman’s (2011) account of Pakistan’s democratizing transition in 1988, I do not know of any study that successfully exposes the decision-making

<sup>29</sup> On protest and regime transition, see also Collier and Mahoney (1997) and Wood (2001).

<sup>30</sup> Paula Newberg (1989: 566) discounts the role of protest.

<sup>31</sup> On the factors that push protesters seeking self-governance towards violence (or not), see Lichbach (1997) and Pearlman (2011). Pearlman notes that movements with strong leaders, a coherent ideological focus, and other features of organisational cohesion are better able to sustain *non*-violent protests. This may help to explain why anti-regime protesters in Pakistan embraced (a) *violence* during the organisationally and ideologically disparate late-1960s/1980s and (b) *non-violence* during the more cohesive (but equally effective) Lawyers’ Movement of 2007-08.

process of Pakistan's army or its associated 'king's parties' to illuminate *why* they avoid the brutal measures required to end the protests that topple them.<sup>32</sup>

Bellin (2004: 144-45) suggests that authoritarian regimes well versed in repression are most likely to lose their 'will and capacity to hold onto power' when, *inter alia*, their 'financial foundation is seriously compromised' or they lose 'crucial international support'. But, again, there is no indication that the financial position of Pakistan's dictablanda or authoritarian regimes faced any consistent pattern of decline before their removal. Nor is there any indication that key foreign allies—above all the United States—fully abandoned General Yahya Khan (1971), General Zia-ul-Haq (1988), or General Musharraf (2008) before their regimes collapsed. Further research is needed to understand why Pakistan's army imposed far-reaching restrictions on civil liberties (1970, 2007) but, then, faced with protests that threatened the army's corporate interests (see Gartner and Regan 1996), chose to hand over power.

**Religious Influence *after* 'Democratizing' Transitions** In Pakistan, transitions away from dictablanda regimes have typically proceeded via non-religious protests followed by what might be described as a temporary reversion to outright authoritarian rule that fails to end the protests. Religious actors have then intervened *after* each protest-led transition back to preserve the 'exclusionary' and 'illiberal' constitutional provisions (Articles 19, 41, 260; Third Schedule) that, by definition, obstruct the formation of an inclusive liberal democracy.

Although religious protesters criticizing the ostensibly 'modernizing' religious reforms of General Ayub Khan and Fazlur Rahman emerged in West Pakistan during the late-1960s, religious claims did not figure prominently in the democratizing protests of 1988 or 2007-08. Both the JI and the madrasa-based JUI played a role in delegitimizing General Ayub Khan during the late-1960s (Rahman 1976: 288, 296); but, for the most part, the religious concerns of these two parties were dramatically overshadowed by ethnic and economic protests led by (a) Bengalis in East Pakistan and (b) Z.A. Bhutto's left-of-centre Pakistan People's Party in West Pakistan. In fact, even as religious parties helped to oust General Ayub Khan in 1969, a JI-affiliated militia known as Al-Badr quickly moved to *support* the army's repression of Bengali protesters in East Pakistan throughout 1970-71. In fact, after the separation of East Pakistan as Bangladesh in 1971, the *same* religious parties and protesters resurfaced during (West) Pakistan's constitutional debates to reinforce and *extend* Pakistan's illiberal and exclusionary constitutional provisions (Qasmi 2014: 175-79). While religious protesters worked alongside ethnic and economic protesters to initiate a 'democratizing' transition from General Ayub to General Yahya and, then, from Yahya's military authoritarian regime to the civilian-led regime of Prime Minister Z.A. Bhutto, in other words, they simultaneously ensured that, ultimately, this complex transition to a civilian-led regime did *not* push in the direction of an inclusive or a liberal democracy.

A similar pattern unfolded in 1988: *non*-religious ethnic protests by Sindhis, then also Mohajirs and Pashtuns, helped to spur a two-part transition from the dictablanda regime of General Zia's hand-picked prime minister Mohammad Khan Junejo to a simple dictatorship

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<sup>32</sup> On military decision-making regarding the repression of territorially based religious insurgents (rather than non-religious urban protesters) in Pakistan—see Staniland, Mir, and Lalwani 2018 (incl. fn32 on the difficulty of accessing military decision-making).

led by General Zia himself and, then, from this dictatorship to a ‘democradura’ regime led by Prime Minister Benazir Bhutto (PPP) followed by Prime Minister Nawaz Sharif (IJI/PML-N) (1988-99).

In this context, the role of religious parties in stifling any transition toward an inclusive or a liberal democracy was more complex. Under General Zia, a pair of JI and JUI-S Senators introduced a bill aiming to make the Qur’an and sunnah Pakistan’s supreme law. When Zia dismissed his dictablanda NA in 1988, however, Zia himself stepped in to introduce a similar ordinance of his own (which, as an executive ‘ordinance’, required NA endorsement within four months to reappear as a piece of ‘legislation’). This four-month, however, window lapsed after Zia’s death in August 1988; so, after the transitional election of Prime Minister Benazir Bhutto in November 1988, a group of IJI-affiliated Senators prepared a *third* bill to accomplish the same objective. This bill, however, was not confirmed before Bhutto’s own NA was dismissed in 1990.

Following the election of Prime Minister Nawaz Sharif in November 1990, a *fourth* version of the same bill was brought to a vote and passed—ironically, *without* any religious-party support (Kennedy 1992: 774-80). In fact, following the non-religious protests that prompted the demise of Zia’s outright authoritarian rule (Hoffman 2011) and, then, Pakistan’s democratizing transition in 1988, the JI refused to support Nawaz Sharif’s ‘shariat bill’ because, according to the JI, it failed to share the JI’s comprehensive understanding of shari’ah. Specifically, and despite serving in Prime Minister Sharif’s IJI-led coalition, the JI insisted that its own understanding of shari’ah should be treated as an even *more* exclusionary and illiberal ‘supra-constitutional’ source of power—one that constrained, not only Pakistan’s legislature, but also its constitutional courts.

The same sequence—*non*-religious protests followed by a democratizing transition followed by ostensibly ‘religious’ support for illiberal and exclusionary constitutional provisions—emerged in 2007-08, when non-religious protests by thousands of lawyers spurred a two-part transition from the dictablanda regime of General Pervez Musharraf to a stretch of martial law (November-December 2007) followed by the election of a civilian-led regime under Prime Minister Yusuf Raza Gilani (PPP 2008-12), then Prime Minister Nawaz Sharif (PML-N 2013-17), then Prime Minister Imran Khan (PTI 2018-present). The Eighteenth Amendment (2010) that emerged shortly after Pakistan’s restoration of civilian rule did not remove the constitution’s exclusionary and illiberal clauses. Instead, it altered Article 91 to state even more explicitly that Pakistan’s prime minister must be a ‘Muslim’ (not an Ahmadi). Again, religious parties did not play an important role in the protests that ousted General Musharraf; they simply persisted *after* this protest-led transition, as part of Prime Minister Yusuf Raza Gilani’s ruling coalition, to enhance Pakistan’s exclusionary constitutional provisions.<sup>33</sup>

## Conclusion

Regime transitions in Pakistan, both towards authoritarianism and away from it, are rarely driven by religious groups or religious ideas. Transitions pushing away from democracy

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<sup>33</sup> The omnibus Eighteenth Amendment received Presidential assent with 85% NA and 90% Senate votes.

towards authoritarianism are typically associated with self-serving military coups (1958, 1977, 1999)—coups that have, invariably, moved beyond outright military dictatorship in favour of ‘electoral autocracies’. Pulling away from authoritarianism towards democracy (1969-70, 1988, 2007-08), however, Pakistan also departs from much of the literature linking democratizing transitions to the shock of economic recession, the bridging role of authoritarian legislatures (or so-called ‘king’s parties’), as well as anti-authoritarian decisions rendered by constitutional courts. This chapter stresses, instead, the ‘democratizing’ role of widespread urban protests—not non-violent or religious protests, but broadly non-religious ethnic and economic protests that often turn towards violence.

Beyond the *non*-religious drivers that underpin broadly democratizing regime transitions in Pakistan, however, I also stress the importance of illiberal, exclusionary, and ostensibly religious constitutional provisions in accounting for the ‘hybrid’ regime types that Pakistan’s democratizing transitions produce. Introduced and retained by civilian as well as military-led regimes, these illiberal and exclusionary constitutional provisions restrict otherwise peaceful forms of speech seen as infringing abstract principles like ‘the glory of Islam’ (Article 19); they also prevent particular groups like the Ahmadiyya and non-Muslims from enjoying equal forms of political participation (Articles 41, 260, Third Schedule). Even beyond enduring constraints associated with informal patterns of ‘tutelary’ military authority, in other words, these provisions situate Pakistan’s elected civilian-led regimes within the realm of illiberal and exclusionary (rather than liberal) democracy.

The exclusionary and illiberal constitutional provisions underpinning this categorization are not incompatible with survey data indicating widespread popular attachment to an ‘Islamic’ rather than a ‘liberal’ democracy. In fact, *all* of Pakistan’s exclusionary and illiberal constitutional provisions were introduced or retained by large parliamentary majorities. When proposals seeking to amend specific provisions growing out of these articles were introduced—for instance, in 2017—enormous protests forced Pakistan’s NA to retreat. Indeed, changes to the electoral registration procedure for Ahmadi parliamentary candidates were met with protests in Islamabad that prompted a unanimous parliamentary vote to leave the country’s more exclusionary provisions unchanged.

In 2015, Katherine Adeney examined the prospects for democratic consolidation in Pakistan. But, avoiding the question of democratizing *transitions*, she argued for a multi-dimensional measure of hybrid democratic *regimes*. Focusing specifically on 2013—the first year in which Pakistan saw a direct transfer of power from one elected NA to another—Adeney stressed the presence of a regime characterized by persistent military intervention (i.e. reserved domains of military decision-making) as well as a weak defense of (a) civil liberties and (b) equality. Departing from core themes in this chapter, however, she did not examine the ostensibly *religious* constitutional provisions that *underpin* Pakistan’s illiberal and exclusionary constraints, nor did she consider Pakistan’s history of popular support for such provisions. In this chapter, I stress the ways in which, spurred by religious groups like the JI and the JUI, Pakistan’s *elected* civilian leadership actively promulgated (often unanimously) the exclusionary and illiberal constitutional provisions that underpin what Adeney describes as a weak defense of ‘civil liberties’ and ‘equality’.

Citizens may protest for, and succeed in achieving, a greater role in public decision-making. But, in Pakistan, following largely *non*-religious protests, religious parties like theJI and the JUI have often taken the lead in reinforcing the illiberal, exclusionary, and ostensibly *religious* provisions of Pakistan's postcolonial constitutions. In doing so, however, they have rarely faced any significant popular or political resistance.<sup>34</sup> On the contrary, the exclusionary and illiberal constitutional amendments that underpin Pakistan's understanding of an 'Islamic' democracy have passed with huge parliamentary majorities. Indeed, despite targeted adjustments revising other religious ordinances and statutes—for example, ostensibly religious criminal laws concerning rape (previously confused with 'adultery')—Pakistan's illiberal and exclusionary *constitutional* provisions remain firmly intact.<sup>35</sup> As Steve Wilkinson points out, civilian regimes in Pakistan have generally 'fail[ed] to revoke' what he calls 'anti-minority laws' because, turning to prevailing strains of religious interpretation, the leaders of those regimes have feared widespread religious criticism. Specifically, Wilkinson argues, civilian regimes have feared 'being labelled [an] enemy of Islam' (2000: 221-22). In Pakistan, popular pressure for a liberal and inclusive democracy does *not* follow from ostensibly 'democratizing' anti-authoritarian forms of mobilization.

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<sup>34</sup> Philpott (2007: 522) sees Pakistan as a 'consensual' integrationist state seeking a strong constitutional role for Islam alongside democratic electoral politics.

<sup>35</sup> See (a) the 2006 Protection of Women (Criminal Laws Amendment) Act retaining religious punishments for adultery in General Zia's Offence of Zina (Enforcement of Hudood) Ordinance (1979) but shifting cases of rape to §375-76 of the Pakistan Penal Code and (b) the 2016 Criminal Laws (Amendment) (Offenses Relating to Rape) Act revising §151-4 of Zia's Qanun-e-Shahadat (Law of Evidence) Order (1984).

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