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A Matter of Policy, Not Law": How Public Debates Made Pakistan an Islamic Republic, 1949–1973

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ABSTRACT

Three constitutions, written under three utterly different regimes, converged on a single formula: between 1956 and 1973 a parliamentary coalition, a military president, and a populist civilian each named Pakistan an Islamic Republic while vesting legislative supremacy in an elected parliament. The dominant scholarship explains Pakistan's constitutional outcomes through the autonomy of the state apparatus, the military, bureaucracy, and judiciary that twice abrogated the documents. This article argues the opposite case: the framers were registering pressure from the public arenas of the Punjab, and the constitutional provisions can be paired, one by one, with the arena campaigns that produced them, the state's name with the ulema's rallies, the definition of a Muslim with two decades of Khatm-e-Nabuwwat agitation, the fundamental rights and federal provisions of 1973 with the left's press and street, the Auqaf clauses with the state's reach for the shrines. Comparing Pakistan's settlement with the guardian models of Iran and Turkey, and taking the state-autonomy objection seriously, the article concludes that the constitutions are best read as the precipitate of a thirty-year public argument: the minutes, written in law, of the arenas in which the idea of Pakistan was debated.

Keywords: constitution of Pakistan; Islamic Republic; Objectives Resolution; fundamental rights; Council of Islamic Ideology; public arenas; constitutional history

Introduction

Between 1956 and 1973 Pakistan was given three constitutions by three regimes that agreed on almost nothing, and all three converged on a single formula. A fractious parliamentary coalition promulgated the constitution of 1956; a field marshal who despised the politicians granted the constitution of 1962; a populist civilian who had broken both traditions enacted the constitution of 1973; and each document, the second under the duress of early amendment, named the state an Islamic Republic, required its head to be a Muslim, promised that law would be brought into conformity with Islam, and vested the last word on legislation in an elected parliament. Convergence under such divergence is the puzzle this article addresses. Neither the interests of the three regimes nor any shared ideology among them explains it; something outside the regimes was holding the pen steady, and the article's business is to identify it.

The chronology within which the puzzle sits should be fixed at the outset, because the period's constitutional history is a story of interruptions. Pakistan began in 1947 under the adapted Government of India Act of 1935; the Constituent Assembly passed the Objectives Resolution in March 1949 and was dissolved in 1954 before completing a constitution; its successor promulgated the constitution of 23 March 1956, abrogated by the coup of October

1958; the Ayub regime granted the constitution of 1962, amended within two years and abrogated in 1969; and after the trauma of 1971 the surviving state's parliament enacted, by consensus of its parties, the constitution of 14 August 1973, in force when the period closed with the coup of July 1977.¹ Five constitutional orders in thirty years is, on its face, a record of failure; the article's contention is that the record conceals a continuity more instructive than the breaks.

The dominant scholarship explains this history from above, and its explanation has hardened into common sense. In the accounts descending from Ayesha Jalal's study of martial rule, Hamza Alavi's overdeveloped state, and the syntheses of Farzana Shaikh and Stephen Cohen, Pakistan's constitutional process was controlled by the military, the bureaucracy, and the judiciary, institutions autonomous enough from society to dismiss assemblies, abrogate documents, and manage politics; civil society figures in these accounts as weak, the public as spectator, and the constitutions as instruments or casualties of institutional interest.² The account explains the interruptions well. What it cannot explain is the convergence, for an autonomous apparatus writing constitutions to its own interest had no reason to write the same formula three times, least of all a formula, parliamentary supremacy under an Islamic name, that constrained the apparatus itself.

This article argues the opposite case, and it rests on a body of research into the public arenas of the Punjab between 1947 and 1977: the campaigns of the religious parties for the Islamic state, the shrine world's sacral narrative of the state, the left's struggle for civil and democratic rights, and the Muslim League's founding commitments of the 1940s, aspects of which are documented in earlier publications cited throughout; the constitutional position of religious minorities, treated fully elsewhere, is accordingly excluded from the present analysis.³ On this foundation the article makes its central claim: the constitutions are the precipitate of the arenas, their provisions traceable, by tests specified below, to the public campaigns that produced them, and the state, far from autonomous, was one player among others on a stage the arenas had built.⁴

The Template: The Objectives Resolution as Constitutional Genome

¹Hamid Khan, *Constitutional and Political History of Pakistan* (Karachi: Oxford University Press, 2001).

²Ayesha Jalal, *The State of Martial Rule: The Origins of Pakistan's Political Economy of Defence* (Cambridge: Cambridge University Press, 1990); Hamza Alavi, "Class and State in Pakistan," in *Pakistan: The Unstable State*, ed. Hassan Gardezi and Jamil Rashid (Lahore: Vanguard Books, 1983); Farzana Shaikh, *Making Sense of Pakistan* (London: Hurst, 2009); Stephen Philip Cohen, *The Idea of Pakistan* (Washington, DC: Brookings Institution Press, 2004).

³Aspects of this history are examined in Muhammad Shafi, "Debating the Idea of Pakistan as Modern Islamic State during 1940s," *Journal of the Punjab University Historical Society* 34, no. 2 (2021): 45–60; Muhammad Shafi and Tahir Kamran, "Leftist Literati, Activists: Debating the Idea of Pakistan in Public Arenas (1947–77)," *Journal of Research in Humanities* 58, no. 2 (2022): 122–35; and Tahir Kamran and Muhammad Shafi, "Balancing Islam and Democracy: The Evolution of Pakistan's Constitutional Framework and Minority Rights, 1947–1958" (book chapter, forthcoming). The last of these treats the constitutional negotiation of 1947–1958 and the minorities question in full; the present article's treatment of that decade is accordingly confined to what the three-constitution comparison requires.

⁴The primary corpus comprises the constitutional texts of 1956, 1962, and 1973 with their amending acts, the *Debates* of the constituent assemblies, and the contemporary analyses cited below.

Every subsequent constitution of Pakistan elaborated a text adopted before any of them was drafted, and the text was itself a settlement. The Objectives Resolution of 12 March 1949 declared that sovereignty over the entire universe belongs to Allah alone, and that the authority He has delegated to the state of Pakistan is to be exercised, through the chosen representatives of the people, as a sacred trust; it promised that Muslims would be enabled to order their lives by the Quran and Sunnah, and, in the same breath, that the state would observe democracy, freedom, equality, tolerance, and social justice, that minorities would freely profess their religions, and that fundamental rights would be guaranteed.⁵ Read as a unity, the Resolution is incoherent; read as a settlement between two publics, the one demanding an Islamic state and the other a democratic republic, it is perfectly coherent, a treaty whose clauses answer opposite armies. The campaigns behind each set of clauses have been documented elsewhere; the present point is textual.

The Resolution functioned thereafter as a constitutional genome, and the inheritance is verifiable line by line. The preambles of 1956, 1962, and 1973 reproduce its formula of delegated divine sovereignty exercised through the people's representatives; its promise of life according to the Quran and Sunnah becomes the enabling clauses and repugnancy machinery of all three documents; its democratic and rights vocabulary becomes their fundamental rights chapters; and its minority guarantees persist across the three texts.⁶ No drafting committee of the period escaped the template or tried to: the arguments of 1950 to 1973 were arguments about the Resolution's ratios, how much enabling, how much repugnancy, how enforceable the rights, never about replacing it. A settlement that constrains three hostile regimes for a quarter century has ceased to be a resolution and become a constitution's constitution, which is what the word template here means.

The Resolution's legal status through the period confirms the reading of Islam it inaugurated, and the confirmation matters for what follows. Across all three constitutions the Resolution remained a preamble, recited at the head of the document and invoked in argument, but not an operative provision enforceable in the courts; only in 1985, beyond this article's period, was it made a substantive part of the constitution.⁷ For thirty years, that is, the state's most Islamic text was legally its least justiciable, a statement of orientation rather than a rule of decision, and the arrangement was not an oversight but the settlement's enforcement mechanism: each public could read its victory in the preamble while the other's defeat was postponed in the articles. The pattern, symbol conceded, supremacy retained, recurs in every section below, because it was the period's standing formula for holding the two arenas in one document.

The Democratic Floor: Fundamental Rights Across Three Constitutions

The rights chapters of Pakistan's constitutions were a deliberate rupture with the colonial baseline, and the rupture's direction identifies its authors. The Government of India Act of 1935, under which the state began its life, contained no charter of enforceable rights, for its framers had never intended to concede to Indians what Britain's own constitution promised Britons; the nationalist generation, League and Congress alike, had absorbed instead the constitutionalism of the British and American traditions, the bill of rights, the rule of law, and

⁵Constituent Assembly of Pakistan, *Debates*, 12 March 1949 (Karachi: Government of Pakistan Press, 1949).

⁶The Constitution of the Islamic Republic of Pakistan, 1956; The Constitution of the Republic of Pakistan, 1962; The Constitution of the Islamic Republic of Pakistan, 1973.

⁷The Constitution of the Islamic Republic of Pakistan, 1973, art. 2A (inserted 1985).

equality before it, and Pakistan's framers wrote that inheritance into every constitution they drafted.⁸ The observation is elementary and its implication is not: the democratic content of the documents was not a residue of colonial law, which had none to leave, but a positive insertion, argued for, drafted, and defended, and insertions have constituencies. Identifying that constituency is this section's task.

The catalogue itself was remarkably stable across the three documents, and its terms should be entered in full. All citizens are equal before the law and entitled to its equal protection; discrimination on grounds of religion, race, caste, sex, or place of birth is forbidden, and all citizens are equally eligible for the service of the state; the freedoms of speech, expression, thought, association, assembly, and movement are guaranteed; every religious denomination may establish and maintain its institutions; no person may be deprived of life or liberty save in accordance with law; slavery, forced labor, and torture are prohibited; and the dignity of the person, and the right of communities to preserve their languages, scripts, and cultures, are secured.⁹ The 1956 and 1973 constitutions made the catalogue justiciable from the start, enforceable by the superior courts as paramount law against legislature and executive alike; the significance of that enforceability, and its one great exception, occupy the next paragraphs.

The 1962 constitution is the catalogue's apparent exception, and the exception's repair is the section's strongest evidence. Ayub's original document demoted the rights from enforceable guarantees to unenforceable principles of law-making, a demotion consistent with the regime's theory of tutelary government; within two years the First Amendment of 1963 restored them as justiciable fundamental rights, in the same enactment that restored the state's Islamic name.¹⁰ The pairing is extraordinary and has been strangely little remarked: a military regime, at the height of its confidence, retreated simultaneously before both publics this series has mapped, returning the name to the religious arena and the rights to the democratic one, in a single amending act. The episode is analyzed as a natural experiment below; here it stands as proof that the democratic floor, like the Islamic superstructure, was not the regime's gift but the regime's concession.

The rights were suspended in practice under both martial laws, curtailed by preventive-detention and press laws even under civilian rule, and enforced by a judiciary whose own doctrine of necessity had validated the very abrogations that swept the rights away; a chapter that could be abrogated twice in thirteen years was a floor with a trapdoor, and no account of the period's lived unfreedom should hide behind its texts.¹¹ The argument here is textual and restorative, not celebratory: what demands explanation is that after every suspension the catalogue returned, unreduced and in 1973 enlarged, when nothing in the interests of the restoring regimes required it. Suspensions demonstrate the state's power over the document; the restorations demonstrate something else's power over the state, and identifying that something is the article's purpose.

⁸Khan, *Constitutional and Political History*.

⁹The Constitution of the Islamic Republic of Pakistan, 1956, pt. II; The Constitution of the Islamic Republic of Pakistan, 1973, pt. II.

¹⁰The Constitution (First Amendment) Act, 1963; Khan, *Constitutional and Political History*.

¹¹Khan, *Constitutional and Political History*.

The floor's constituency was the arena the left had built, and the debt is documented in the scholarship of the leftist literati. The vocabulary of the rights chapters, equality, non-discrimination, the freedoms of speech and association, the primacy of the citizen, is the vocabulary that ran through the left press's decade of editorials, the assembly fights against the safety acts, and the resistance culture that kept the demands public when the press was seized; and the guarantee of every denomination's religious liberty, together with the rights' extension to all citizens without religious distinction, carried into the majority's constitution the case the minority members had argued, a story told in the published study of the minorities' constitutional position and therefore only saluted here.¹² One sentence of synthesis is permitted: the democratic floor is the left's and the minorities' arena bequest, written into documents their authors did not control, which is precisely what this article means by a precipitate.¹³

The Islamic Provisions: What Was Granted, and What Was Never Granted

The state's name is the Islamic provisions' emblem, and its constitutional biography is a fever chart of the arena. The 1956 constitution proclaimed the Islamic Republic of Pakistan, the first state in history so styled; the 1962 constitution deleted the adjective, styling the country simply the Republic of Pakistan; and the First Amendment of 1963 restored it, after public protest, for good.¹⁴ A name binds nothing, decides no case, and allocates no power, and precisely for that reason its history is diagnostic: the only pressure a name registers is symbolic pressure, and the only constituency that fights for one is a public. The name's deletion and forced restoration, examined causally below, is the period's cleanest demonstration that constitutional text moved when the arena moved, and the remainder of this section shows the same signature across provisions of increasing substance.

The confessional qualification of offices advanced across the three documents, and its advance tracks the agitation's arc. All three constitutions required the head of state to be a Muslim; the 1973 constitution extended the requirement, for the first time, to the Prime Minister, and bound both offices by oath to belief in the finality of the Prophethood of Muhammad (PBUH); and the Second Amendment of 1974 inserted into the constitution itself a definition of a Muslim framed to exclude the Ahmadi community, completing at the summit of the legal order the demand first raised in the streets of the Punjab two decades before.¹⁵ The provisions' political history belongs to the causal section; their anatomical significance here is the category they occupy. Names, oaths, and qualifications are gatekeeping provisions: they determine who may hold power and under what profession, while leaving untouched what power may enact, and gatekeeping, the anatomy shows, is what the Islamic campaign actually obtained.

The repugnancy machinery is the anatomy's center, and its design is a single idea executed three times. Each constitution promised that existing law would be brought into conformity with the injunctions of Islam and that no law repugnant to those injunctions would be enacted, and each created a body to advise on the promise: the commission contemplated

¹²Kamran and Shafi, "Balancing Islam and Democracy."

¹³Shafi and Kamran, "Leftist Literati."

¹⁴The Constitution of the Islamic Republic of Pakistan, 1956; The Constitution of the Republic of Pakistan, 1962; The Constitution (First Amendment) Act, 1963.

¹⁵The Constitution of the Islamic Republic of Pakistan, 1973; The Constitution (Second Amendment) Act, 1974.

by Article 198 of the 1956 constitution, to be appointed within a year; the Advisory Council of Islamic Ideology of the 1962 constitution; and the Council of Islamic Ideology of 1973, to be constituted within ninety days.¹⁶ The design's constant is jurisdictional: every body was advisory, its recommendations submitted to the legislature, whose acceptance or rejection was final, and each scheme explicitly sheltered the personal law and citizen status of non-Muslims from its operation. The final verdict on whether a law offended Islam belonged, in every text of the period, to the National Assembly, which is to say to the very institution the machinery was demanded to police.

The machinery's operation matched its design, and contemporaries on both sides understood what had been built. Across the period no statute was struck down by an Islamic council, for none could be: the bodies researched, recommended, and reported, their impact on legislation symbolic rather than sovereign, adjunct institutions, in Muhammad Waseem's characterization, at the margin of a law-making process that remained parliamentary throughout.¹⁷ The point is not that the councils were nullities, for recommendation is a form of pressure and their reports furnished the arena with agendas; it is that the constitutional order had located them, deliberately and three times, on the advisory side of the line that separates influence from authority. Where that line came from, and what it cost to hold, the anatomy's final paragraphs and the causal section explain.

Around the machinery stood the ancillary Islamic credentials, and their common property is administration rather than legislation. The constitutional and legal order of the period provided for the state's collection of Zakat, the alms-tax of Islamic law; placed the mosques and shrines under the Auqaf administration, whose political history the scholarship of the shrine world recounts; and mandated the teaching of Islamiyat, and facilities for Arabic, for Muslim citizens.¹⁸ These provisions Islamized the state's housekeeping, its taxation, its property management, its curriculum, while leaving its legislative constitution untouched, and their inclusion completes the anatomy's pattern: the Islamic content of Pakistan's constitutions accumulated in the symbolic, the confessional, and the administrative registers, and in those registers it accumulated impressively. What it never entered is the register the campaign had actually demanded, and the refusals are the anatomy's last and most important exhibit.

The refusals were as consistent as the concessions, and they define the settlement's other edge. No constitution of the period granted the ulema a veto over legislation; the supra-legislative board of religious scholars proposed by Shabbir Ahmad Usmani's Board of Talimat-i-Islamiyat at the founding was never adopted, in 1956, 1962, or 1973; the 1956 text's conformity clause studiously avoided the word Shariah, speaking of the injunctions of Islam as laid down in the Quran and Sunnah; and the documents delegated the exercise of authority to the people of Pakistan, not to its Muslims.¹⁹ Fazlur Rahman, the period's most acute modernist observer, drew the conclusion in a sentence this article has taken for its title: the

¹⁶The Constitution of the Islamic Republic of Pakistan, 1956, art. 198; The Constitution of the Republic of Pakistan, 1962 (Advisory Council of Islamic Ideology); The Constitution of the Islamic Republic of Pakistan, 1973, arts. 227–231; Leonard Binder, *Religion and Politics in Pakistan* (Berkeley: University of California Press, 1961).

¹⁷Muhammad Waseem, *Political Conflict in Pakistan* (London: Hurst, 2021).

¹⁸The Constitutions of 1956, 1962, and 1973.

¹⁹Binder, *Religion and Politics in Pakistan*.

constitutions treated Islam as “a matter of policy rather than law” for parliament.²⁰ The anatomy thus confirms, from the text’s side, what the political history of the religious parties’ campaign shows from the other side: a settlement, not a surrender, symbols and gatekeeping conceded, supremacy retained.²¹

Between Tehran and Ankara: The Comparative Frame

The distinctiveness of Pakistan’s settlement appears fully only in comparison, and the region supplies the two models that bracket it. In the model realized by revolutionary Iran, and demanded in essence by Pakistan’s Islamic campaign, a non-elected clerical guardianship stands outside and above the elected legislature, empowered to strike down laws repugnant to the faith; in the model built by republican Turkey, and implicit in the confidence of Pakistan’s modernist officers, a military-secularist guardianship performs the mirror function, policing the constitution’s ideology against the elected politicians from outside their chamber.²² Both models solve the same problem, the distrust of the demos by an ideological establishment, with the same instrument, dual sovereignty, the ideology enthroned in the constitutional order’s preamble and enforced by guardians the voters cannot reach. Pakistan’s publics, the record shows, demanded each model at full volume for thirty years, and Pakistan’s framers, three times, built neither.

What the framers built instead was a middle formula, and naming it precisely is the comparison’s payoff. The Pakistani settlement enthroned the ideology, divine sovereignty, the Islamic name, the confessional summit, in preamble and symbol, as the guardian models do; and it withheld the guardians, leaving enforcement to advisory councils and the final word to parliament, as the guardian models never do, a configuration Waseem’s analysis places between the two poles, Islamic commitment without clerical authority, ideological identity without ideological enforcement.²³ The formula’s instability is obvious and was intended by no one; it was the residue of a stalemate, the exact line at which two mobilized publics fought each other to a standstill, drawn three times by three different hands in the same place. Constitutional theory has a name for documents that record stalemates, and the name is settlement; the comparative frame’s contribution is to show that Pakistan’s was a genuine third type, not a failed version of either neighbor.

The Causal Claim: Pairing Text with Arena

The claim that public debate shaped constitutional text requires a method, not an assertion, and three tests will govern this section. The first is timing: a provision responds to the arena if its adoption follows mobilization rather than election, since the campaigners, on the historical record, commanded streets and not seats. The second is wording: a provision carries the arena’s fingerprints if its language echoes the demands’ own formulations. The third is acknowledgment: the case is sealed where the framers themselves, in assembly or in office,

²⁰Fazlur Rahman, “Islam and the New Constitution of Pakistan,” *Journal of Asian and African Studies* 8, nos. 3–4 (1973).

²¹Sayyid Vali Reza Nasr, *The Vanguard of the Islamic Revolution: The Jama’at-i Islami of Pakistan* (Berkeley: University of California Press, 1994); Binder, *Religion and Politics in Pakistan*.

²²Waseem, *Political Conflict in Pakistan*.

²³Waseem, *Political Conflict in Pakistan*.

conceded that they were answering public pressure.²⁴ No single test is conclusive and the three together are demanding; the pairings that follow are offered as passing all three, and the reader is invited to hold them to it. Each pairing states the arena history in a sentence, with the relevant scholarship cited, and dwells on the constitutional consequence, which is this article's proper business.

The founding pairing is the Objectives Resolution itself, and it establishes the pattern the rest inherit. The campaign is well documented: the pincer of converted opponents and loyalist ulema, quoting the League's own wartime commitments, that pressed the first Constituent Assembly through 1948 and 1949; the consequence is the Resolution's double text, divine sovereignty for one arena, democracy, rights, and minority protection for the other, adopted by an assembly that had faced no election since 1946 and would face none after.²⁵ Timing, wording, and acknowledgment all answer: the Resolution followed agitation, not any electoral mandate; its enabling clause tracks the demands' formulations; and the government's own defense of the text, inside and outside the chamber, presented it explicitly as the reconciliation of the two publics' claims. The genome, in short, was arena-made, and everything the genome generated inherits the paternity.

The name's deletion and restoration is the period's natural experiment, and its logic should be stated with care. Between 1962 and 1963 the regime was constant, its interests constant, its command of the formal institutions absolute; the single variable that changed was the state of the arena, quiescent when the 1962 text was granted from above, mobilized in protest thereafter; and the text changed with the arena, the First Amendment restoring the Islamic name, and the justiciable rights, that the original document had withheld.²⁶ Where regime and interest are held constant and text varies with mobilization, the inference is as clean as constitutional history allows: the arena moved the text. Justice Munir's own attribution of the retreat to the regime's inability to resist the ulema's mobilization supplies the acknowledgment test from a hostile witness, and the experiment generalizes: what 1963 demonstrates under controlled conditions, the period's other concessions exhibit in the wild. The Second Amendment of 1974 is the longest arc in the record, and its span is the causal claim's strongest single exhibit. The demand that Ahmadis be constitutionally excluded from the definition of a Muslim was raised in the streets of the Punjab in 1952 and 1953, crushed under the first martial law, and anatomized by the Munir inquiry; twenty-one years later, after a fresh agitation, a parliament led by the period's least clerical government enacted it into the constitution itself.²⁷ Every test answers at full strength. The timing follows two decades of arena pressure and no electoral verdict, for the religious parties had been routed in 1970; the wording of the constitutional definition tracks the movement's own formulations around the finality of the Prophethood; and the government's conduct, conceding under agitation what its manifesto had never contained, is acknowledgment in action. A demand that survives

²⁴Sandria B. Freitag, *Collective Action and Community: Public Arenas and the Emergence of Communalism in North India* (New Delhi: Oxford University Press, 1989); Dietrich Reetz, *Islam in the Public Sphere: Religious Groups in India, 1900–1947* (Delhi: Oxford University Press, 2006).

²⁵Binder, *Religion and Politics in Pakistan*; Nasr, *Vanguard of the Islamic Revolution*.

²⁶The Constitution (First Amendment) Act, 1963.

²⁷The Constitution (Second Amendment) Act, 1974; *Report of the Court of Inquiry Constituted under Punjab Act II of 1954 to Enquire into the Punjab Disturbances of 1953* (Lahore: Government Printing Press, 1954).

twenty-one years, two martial laws, and its movement's every organizational defeat, and then writes itself into the constitution, has demonstrated where constitutional authorship in Pakistan actually resided.

The 1973 constitution's democratic and federal architecture is the same demonstration run from the opposite arena, and the pairing completes the symmetry the two arenas exhibit. The left's thirty-year struggle for rights, and its lonely insistence, from the language movement onward, that provincial autonomy was a democratic right, is on the record, a case the catastrophe of 1971 converted from sedition into common sense; the consequence is the 1973 text, with its enlarged and justiciable rights chapter, its federal structure conceding to the provinces what One Unit had denied them, and its enactment by consensus of parties that included the autonomy movement's survivors.²⁸ The wording test is the most striking here: the constitutional vocabulary of fundamental rights, federation, and the citizen's freedoms is the vocabulary whose manufacture the files of the left press preserve, returning to the state's text from the arena that had kept it alive under two seizures.

The Auqaf provisions close the pairings with the quietest of the arenas, and their presence in the constitutional order is its own argument. The state's administration of mosques and shrines, begun by ordinance in 1959 and carried into the constitutional-legal fabric of the period, has no explanation in the interests of a modernizing officer corps except the one the history of the shrine world supplies: the devotional arena's publics were too large to ignore and too valuable to leave in independent hands, and the state's assumption of their management was the legal registration of that assessment.²⁹ A constitutional order that finds room for the administration of saints' tombs has been shaped by the tombs' constituencies, and the pairing, minor beside the amendments above, completes the census: every arena examined here, the mosque, the shrine, the press, and the street, left its signature in the period's constitutional text, and no signature in that text lacks an arena behind it.

The framers' own acknowledgments run through the record, and a specimen must stand for the class. When Prime Minister Nazimuddin presented the revised Basic Principles Committee report in December 1952, its concessions to the Islamic demands were understood on all sides, and defended by the government, as a response to the public campaign that had greeted the interim report's rejection of them, an episode Leonard Binder's contemporary study fixed in scholarship; the pattern, ministers explaining constitutional drafts as answers to agitation, recurs at every juncture the pairings above have crossed.³⁰ The acknowledgment test matters beyond its evidentiary weight, for it establishes that the causal claim is not a retrospective imposition: the men who wrote the documents described themselves as registering the arenas, and the historian who reads the constitutions as precipitates is accepting the framers' own account of their work against the scholarship's later abstraction of it.

Taking the State Seriously: The Autonomy Objection

²⁸The Constitution of the Islamic Republic of Pakistan, 1973; Shafi and Kamran, "Leftist Literati."

²⁹David Gilmartin, *Empire and Islam: Punjab and the Making of Pakistan* (London: I. B. Tauris, 1988); Katherine Ewing, "The Politics of Sufism: Redefining the Saints of Pakistan," *Journal of Asian Studies* 42, no. 2 (1983); Umer Bin Ibad, *Sufi Shrines and the Pakistani State: The End of Religious Pluralism* (London: I. B. Tauris, 2019).

³⁰Binder, *Religion and Politics in Pakistan*; Tahir Kamran and Muhammad Shafi, "Balancing Islam and Democracy: The Evolution of Pakistan's Constitutional Framework and Minority Rights, 1947–1958" (book chapter, forthcoming).

The state-autonomy school's case is strong, and it must be stated at full strength before it is answered. The military and bureaucracy of the period dismissed governments, dissolved the first Constituent Assembly, abrogated the constitution of 1956 in 1958 and that of 1962 in 1969, and governed for years under no constitution at all; the judiciary, through the doctrine of necessity minted in the 1954–55 crisis, validated the dismissals and abrogations as they came; and a text that can be torn up twice in thirteen years is, on the school's reading, cheap paper, its provisions decorative and its history epiphenomenal to the real distribution of force.³¹ The reading explains the interruptions, honors the evidence, and descends from the finest scholarship on the period; if the present article's claim cannot survive it, the claim fails. Three replies follow, in ascending order of weight.

The first reply is that abrogation refutes the indifference it is supposed to prove. A state for which constitutional text was truly cheap would have governed without one indefinitely, as pure force permits; instead, each abrogating regime found within years that it could not, the Ayub government laboring to produce the 1962 document, the Yahya interregnum collapsing partly for want of a constitutional formula, the post-1971 state making the 1973 consensus its first order of business.³² The compulsion to replace what one has torn up is the tribute coercion pays to legitimacy, and legitimacy, as this article has argued, was manufactured in the arenas: the regimes needed documents because the publics demanded terms, and a power that must always return to the drafting table is autonomous only between drafts. The abrogations, rightly read, measure the text's importance, not its cheapness, for no one repeatedly destroys what does not matter.

The second reply is the direction of travel across the replacements, and it is fatal to the autonomy reading on its own terms. If the apparatus wrote constitutions to its interest, each successive document, written from positions of increasing institutional strength, should have conceded less to society; the record runs opposite, each replacement conceding more, the 1962 text's withholdings surrendered by 1963, and the 1973 constitution standing as the period's double precipitate, simultaneously the most Islamic and the most rights-laden and federal of the three, the maximum text of both arenas at once.³³ An autonomous state does not bid against itself upward for thirty years. A state bargaining with mobilized publics does exactly that, paying more after every rupture because every rupture raised the arenas' price, and the escalation of the documents is the bargaining's ledger.

The third reply dissolves the dichotomy, and it is the position of this research stated last because it presupposes the other two. The choice between an autonomous state and a sovereign public is false: the Pakistani state was itself a participant in the arenas, patronizing shrines, seizing presses, sponsoring writers, campaigning in the publics' vocabularies, and a participant is not autonomous from the game it plays.³⁴ The constitutions, on this account, are not society's dictation to a passive state nor the state's decree to a passive society, but the periodic settlements of a contest in which the state was the largest player among several and never the only one, which is precisely this article's formulation. The autonomy school

³¹Khan, *Constitutional and Political History*.

³²Jalal, *The State of Martial Rule*.

³³The Constitutions of 1956, 1962, and 1973.

³⁴Freitag, *Collective Action and Community*; Reetz, *Islam in the Public Sphere*.

describes the player's size correctly; what it misses is the game, and the constitutions are the game's score sheets.

Conclusion

The puzzle of the opening can now be answered in the argument's own terms. Three hostile regimes wrote one formula because none of the three was the formula's author: the Islamic Republic, parliamentary supremacy under a confessional name, rights beside repugnancy, was the standing settlement of a thirty-year public argument, and each regime, whatever its preferences, inherited the stalemate and transcribed it, at the price the arenas set at the time of transcription. The convergence that neither interest nor ideology could explain is explained by a constant that outlasted every regime, the arenas themselves, filled and refilled across the period by the campaigns of the religious parties, the left, and the shrine publics, and the constitutions of Pakistan are best read as the minutes of the argument, entered in law.

What the settlement held together deserves a final statement, because holding it together was the period's unacknowledged achievement. For thirty years the constitutional order of Pakistan contained, in one document, categories its own publics insisted were irreconcilable, Islam and the republic, divine sovereignty and the people's delegation, the Quran's injunctions and the parliament's last word, and it contained them not by resolving the contradiction but by pricing it, symbol to one arena, supremacy to the other, and renegotiation whenever the balance broke. The settlement was provisional, as all settlements are, and the period's end announced the renegotiation to come: the coup of 1977 brought to power a ruler who would break the formula's central term, and the elevation of the Objectives Resolution to substantive law in 1985 belongs to that different story. Within its own period, the formula held, three times, under three regimes, which is more than the scholarship of failure has ever conceded it.

The article closes with a claim about where the idea of Pakistan lived. It lived in the meetings of the 1940s and the answering of critics; in the campaigns of the religious parties and the courtyards of the saints; in the editorials of a seized press and the refrains of the resistance poets; in the institutions that kept the arguing possible; and, at the last, in the constitutional documents where the arguing was periodically settled and from which it periodically resumed. The state kept the official record of the period; the arenas, this article has argued, kept the truer one, and the constitutions are the place where the two records meet, the arena's verdicts written in the state's hand. To read them so is to return constitutional history to the crowds that made it, which is what a social history of the idea of Pakistan was for.

Note: This article is extracted from Muhammad Shafi, "Debating the Idea of Pakistan in Public Arenas: A Case Study of the Punjab (1947–1977)" (PhD diss., Department of History, Institute of Global and Historical Studies, Government College University, Lahore), completed under the supervision of Hussain Ahmad Khan.