The Nation and Its Heretics: Courts, State Authority and Minority Rights in Pakistan

Sadia Saeed
Indiana University, Bloomington

ABSTRACT

In 1984, Pakistan’s military ruler General Zia-ul-Haq passed an executive Ordinance that made it a criminal offence for members of the heterodox Ahmadiyya community, a self-defined minority sect of Islam, to refer to themselves as Muslims and practice Islam in public. Ahmadis challenged the 1984 Ordinance in both the Supreme Court and the Federal Shariat Court in Pakistan – in the former on the grounds that the Ordinance violated their constitutionally guaranteed right to freedom of religion and in the latter on the grounds that it violated shari’a. In a clear departure from the Pakistani courts’ earlier rulings on the issue of rights of religious minorities, the Ahmadi petitions in both these cases were denied. This paper analyzes shifts in the institutional-political and discursive contexts within which Pakistani courts have rearticulated the religious rights of Ahmadis. By examining the triangular relationship between courts, state authority and juridical notions of community and social order, it reveals both complex continuities and disjunctures in sociopolitical relations and legal reasoning through which this shift was constituted.