



**Name: Shahzaib Mustafa Baloch**

**Batch: # (9)**

**Paper: Final Term**

**Reg No: 01038**

**Teacher Name: Sir Abdul Samad**

**Subject: Legal System of Pakistan**

## **Q-1: Define Supreme Court& Explain Appointment and Qualification of a Supreme Court judges?**

**Answer:** Pakistan's Supreme Court is the country's highest appellate court and final court of appeal. It is the law's and the Constitution's final arbiter. All other courts in the country are bound by its orders and decisions. The Supreme Court is obligated to act in its favour by all executive and judicial authorities. The Court's composition, jurisdiction, powers, and functions are all detailed in the Constitution. Judges' qualifications and manner of appointment, retirement age, grounds and procedure for removal, and terms and conditions of service are all detailed in the statute. Original, appellate, and review jurisdiction are all exercised by the Supreme Court. It has sole original jurisdiction over intergovernmental issues between the federal and provincial governments, or between provincial governments themselves. Declaratory judgements are issued by the Court under this authority. If the case involves a matter of public interest, the Supreme Court can also exercise original jurisdiction over the enforcement of basic rights. The Court also has advisory jurisdiction, which allows the President to seek its opinion on a legal issue. The Court hears appeals from High Courts and other special courts/tribunals under its appellate jurisdiction. The judiciary's independence and separation from the executive are guaranteed under the Constitution. The Supreme Court is charged by the Constitution with ensuring harmony and balance between the three pillars of the state: the Legislature, the Executive, and the Judiciary. As the Constitution's keeper, the Court is responsible for preserving, protecting, and defending this fundamental text. The Supreme Court was established by the 1956 Constitution. It succeeded the Federal Court of India, which was created in 1937 and was followed by the Federal Court of India, which was established in 1948.

The Supreme Court has kept its name and jurisdiction through various legal instruments, including the Constitution of 1973, since its inception in 1956. The Supreme Court was established in 1956 by the Constitution of Pakistan, which stated that it will sit in Karachi and at such other locations as the Chief Justice of Pakistan, with the agreement of the President, may determine. The Court was originally located in Karachi, but was later relocated to Lahore and relocated to the High Court building. The Supreme Court's permanent seat was established in Islamabad under the 1973 Constitution. However, the building's construction was halted due to a lack of money.

## Appointment of a Supreme Court judges

A person with five years of service as a High Court Judge or 15 years as a High Court lawyer is eligible to be appointed as a Supreme Court Judge. Article 175A, adopted by the 18th and 19th Constitutional amendments, requires the President to nominate the Chief Justice of Pakistan and all other Supreme Court judges. These modifications to the Constitution have created a new system for appointing Supreme Court, Federal Shariat Court, and High Court judges. The Judicial Commission of Pakistan and the Parliamentary Committee will be established as a result of these constitutional modifications. The Pakistan Judicial Commission is made up of the Chief Justice of Pakistan as Chairman, four senior Supreme Court judges, one former Chief Justice or Supreme Court judge nominated by the Chairman in consultation with four member judges for a two-year term, the Attorney General of Pakistan, the Federal Law Minister, and a senior advocate of the Supreme Court of Pakistan. Similarly, the Parliamentary Committee is made up of eight members drawn equally from the Treasury and Opposition benches, as well as two independent members.

As a result of these constitutional changes, the Pakistan Judicial Commission and the Parliamentary Committee would be constituted. The Pakistan Judicial Commission consists of the Chief Justice of Pakistan, four senior Supreme Court judges, one former Chief Justice or Supreme Court judge nominated by the Chairman in consultation with four member judges for a two-year term, the Attorney General of Pakistan, the Federal Law Minister, and a senior Supreme Court advocate. The Parliamentary Committee, meanwhile, is made up of eight members drawn equally from the Treasury and Opposition benches, plus two independent members.

## Q-2: Define Subordinate Judiciary in Pakistan?

**Answer:** The High Court is the supreme court in every state's judicial system. There are several courts that make up the subordinate judiciary below the High Court. There are two categories of Subordinate Courts: civil and criminal. Civil Courts have authority over issues involving property, succession, ownership, and other similar rights, and they adjudicate these cases in line with the Civil Procedure Code. Murder, robbery, arson, cheating, assault, and rape are examples of criminal cases. In every state's judicial system, the High Court is the highest court. The subordinate judiciary, which sits below the High Court, is made up of many courts. Subordinate Courts are divided into two categories: civil and criminal. Civil Courts have jurisdiction over property, succession, ownership, and other similar rights, and they

adjudicate cases according to the Civil Procedure Code. Criminal cases include murder, robbery, arson, cheating, assault, and rape. Under the West Pakistan Land Revenue Act 1967, there are also revenue courts. The government may also establish administrative courts and tribunals with exclusive authority over certain issues. Pakistan's judiciary has a two-million-case backlog as of 2017, with lawsuits taking an average of over ten years to conclude. [7] According to some estimates, land conflicts account for 90% of civil proceedings in Pakistan, owing to the country's absence of a proper land record.

Pakistan has five high courts, each of which is headquartered in the capital city of one of the country's four provinces. A fifth high court for the Islamabad Capital Territory has been proposed by the government. [1] The Lahore High Court blocked the project; however, the Supreme Court of Pakistan overturned the ruling on December 24, 2007. [2] The Islamabad High Court is constituted as a result of the 18th constitutional amendment.

**Article 170 of Pakistan's 1956 Constitution reads as follows:**

Notwithstanding anything contained in Article 22, each High Court shall have power throughout the territories in relation to which it exercise jurisdiction, to issue to any person or authority, including in appropriate cases any Government directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, for the enforcement of any of the rights conferred by Part II and for any other purpose.

**History**

1. The Lahore High Court, the Dhaka High Court,[4] the Chief Court of Sind, and the Judicial Commissioner's Court in the North-West Frontier Province were considered the four high courts of Pakistan at the time of partition (1947).
2. In 1955, the High Courts of Dhaka and Lahore were renamed the High Courts of East Pakistan and West Pakistan, respectively. The West Pakistan High Court had benches in Karachi and Peshawar, as well as circuit courts in Quetta and Bahawalpur (which replaced the Judicial Commissioner in Balochistan) (replacing the High Court of Judicature at Baghdad-ul-Jadid).
3. Following the dissolution of the Province of West Pakistan in 1970, three high courts were established: the Lahore High Court, the Peshawar High Court, and the Sind and Balochistan High Court (with its principal seat at Karachi).
4. The Sindh and Balochistan High Court was divided in 1976 into the Sindh High Court (Karachi) and the Balochistan High Court (Quetta)
5. The Lahore High Court had benches in Bahawalpur, Multan, and Rawalpindi in 1985, as well as the High Court of Sind in Sukkur, the High Court of Peshawar in Abbottabad and Dera Ismail Khan, and the High Court of Baluchistan in Sibi.

6. The Islamabad High Court, as well as the Mingora Bench of the Peshawar High Court and the Turbat Bench of the High Court of Baluchistan, were eventually created in 2010.

## Q-3: Define Federal Shariat Court & Explain Composition of Federal Shariat Court?

**Answer: Federal Shariat Court;**

The two-nation idea was used to liberate this holy region in the name of Islam. Prior to the establishment of Pakistan, Muslims in the subcontinent were correct in believing that gaining independence and establishing a separate homeland would allow them to live according to the precepts of the Holy Quran and the Sunnah of the Holy Prophet (PBUH). They were also confident that in the Islamic State, their lives, properties, and rights would be safeguarded, and that no one would attempt to violate them. With these goals in mind, the Muslims of the Subcontinent succeeded in establishing Pakistan under the energetic leadership of the Quaid-e-Azam, and countless believers died in the process, along with irreparable loss of honour and property. Pakistan's founder claimed that the country would be an ideology state organised and administered in accordance with the Holy Quran's and Sunnah's injunctions. The Constituent Assembly's Objectives Resolution reaffirmed the primary goals laid forth for the founding of Pakistan. Article 227 of the 1973 Constitution states unequivocally that all current laws must be brought into compliance with the Islamic Injunctions as outlined in the Holy Quran and the Sunnah. It did, however, state that when it came to the application of Article 227, any Muslim's personal law would apply. If a sect uses the phrase "Quran and Sunnah," it refers to the Quran and Sunnah as understood by that group. The Shariat Benches of the High Courts were given the authority to examine and decide petitions brought before them for the scrutiny of any existing law on the basis of Islamic Injunctions, with the exception of (i) Muslim Personal Law, (ii) any law relating to Court or Tribunal procedure until the end of a ten-year period from June 1980, and (iii) any fiscal law or law relating to Zakat levy. Despite the formation of Shariat Benches in the High Courts, the trend of Islamisation could not be accelerated. The Constitution has given the Federal Shariat Court original, criminal, and Suo moto jurisdiction, as well as revisional powers, which have been thoroughly addressed in the Court's annual report of 2002. Only a historical backdrop and certain new advancements in respect will be discussed to minimise repetition. Following are some of the highlights of its jurisdiction. Aside from the Constitution, the law relating to court or tribunal procedure and Muslim personal law were exempt from scrutiny by the Federal Shariat Court under the 1973 Constitution.

### **Composition of Federal Shariat Court:**

The court of 8 Muslim judges including the Chief Justice. Article (203-3). Such as judges appointed by the President in accordance with Article 175A from amongst the serving or retired judges of the supreme Court or High Court or from amongst persons possessing the qualification of a judge of the high Court of the 8 judges, 3 are required to be ullema who are well versed in Islamic law having at least fifteen years' experience in Islamic law, research or instruction. The judges hold term such period Article (203-c).

The Court on its motion or through petition by a citizen or a government (Federal or provincial) may examine and determine as to whether or not a certain provision of law is repugnant to the Shariat. Its decision lies to the Shariat Appellate Bench of the Supreme Court, consisting of 3 Muslim Judges of the Supreme Court and not more than 2 Ulama, appointed by the President. Article (203-F) If a certain provision of law is declared to be repugnant to the Injunction of Islam the government is required to take necessary steps to amend the law as to bring it in conformity with the injunction of Islam. The court also exercises appellate revisional jurisdiction over the criminal courts, deciding Hudood cases, Article(203-D). The decisions of the Court are binding on the high Courts as well as subordinate judiciary. Article (203-G). Federal Shariat Court as well as subordinate jurisdiction.