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**Assignment: legal System of Pakistan**

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## **Legal system of Pakistan**

Pakistan is a Muslim-majority country. The state religion is Islam, and the Constitution mandates that all legislation be based on Islam. The country has a population of 170 million people and covers an area of 310,527 square miles. According to official religious demography estimates from the most recent census in 1998, nearly 97 percent of the population was Muslim. Sunni Muslims makes up the majority of Muslims in the country, with a Shi'a minority of 10 to 20%. A number of Islamic law (Shari'a) regulations are included in the Penal Code. The judicial system is made up of multiple court systems with overlapping and often competing jurisdictions that reflect distinctions in civil, criminal, and Islamic law. Under the Hudood Ordinances, the Federal Shari'a Court and the Supreme Court's Shari'a bench act as appellate courts for certain criminal convictions; judges and attorneys in both courts must be Muslims. Any legislation found to be incompatible with Islamic precepts may be overturned by the federal Sharia court. However, in March 2005, the Chief Justice of the United States Supreme Court decided that the Federal Shari'a Court lacked jurisdiction. The legal system is based on the much-amended 1973 constitution and Islamic law, and it is derived from English common law (sharia). Criminal and civil cases are heard by the Supreme Court, province high courts, and lesser courts. On the suggestion of the chief justice, the president chooses the Supreme Court's chief justice and formally authorises other Supreme Court justices as well as provincial high court judges. High courts have original and appellate jurisdiction, whereas the Supreme Court has original and appellate jurisdiction. The Federal Shariat Court decides whether or not laws are in accordance with Islamic edicts. Certain types of cases are heard by special courts and tribunals.

## **The Law of Pakistan:**

The law of Pakistan is based on the legal system of the Islamic Republic of Pakistan. The origin of Pakistani law is based on the legal system of the old British India incorporating the common law of England and Wales. Amendments in the legal system of Pakistan came during the reign of General Muhammad Zia-ul-Haq, where elements of Islamic Shariah law were incorporated into Pakistani law. This led to the institution of a Federal Shariah Court (FSC) in Federally administered Tribal Areas (FATA), a system of law disputes is settled by a jirga a council of Tribal Areas (FATA) a system of law employing traditional practice a persistent at the local level. At this level disputes are settled by a Jirga a council of tribal elder. Ministry of law and justice is an advisory service organization providing service to all the offices Federal and Provincial Governments on legal judicial and constitutional matters.

## **The Judicial system of Pakistan:**

The Supreme Court of Pakistan, the Federal Shariat Court, and five High Courts make up the superior judiciary, with the Supreme Court at the pinnacle. Each of the four provinces has its own High Court, as well as a High Court for the Islamabad Capital Territory. The judicial branch's main responsibilities include interpreting federal laws, resolving legal disputes, punishing those who break the law, making civil rulings, and determining a person's innocence or guilt based on criminal laws. In a federal system, the judiciary also serves as the defender of the constitution and the mediator of conflicts between the central government and the states. It serves as a neutral and independent arbiter between the federal government and state governments, as well as between states.

## **The Role of Islam in the Legal System of Pakistan**

Legal experts have paid little attention to the judiciary's role in the Islamization of Pakistan's legal system. Judges in Pakistan's early years increasingly resorted to Islam as a source of law in order to preserve judicial independence and protect the country's shaky democracy.

### **Division of Courts:**

The Supreme Court of Pakistan, the Federal Shariat Court, and five High Courts make up the superior judiciary, with the Supreme Court at the pinnacle. Each of the four provinces has its own High Court, as well as one for the Islamabad Capital Territory.

### **Supreme Court of Pakistan:**

The Supreme Court, which was created in 1956, is Pakistan's highest court and the last arbiter of legal and constitutional disputes. A Chief Justice and sixteen other judges make up the court.

Acting judges and ad hoc judges can also be appointed to the court. Its headquarters are in Islamabad, with branch offices in Lahore, Peshawar, Quetta, and Karachi.

### **Federal Shariat Court of Pakistan:**

In 1980, the Federal Shariat Court of Pakistan was founded to examine all Pakistani legislation to see if they adhere to Islamic norms "as given forth in the Quran and the Sunnah." If a statute is deemed to be "repugnant," the Court notifies the appropriate authorities, explaining its findings. The court also has appellate jurisdiction over Islamic law penalties (hudud), albeit these judgements can be appealed to the Supreme Court's Shariat Appellate Bench. The high courts and the lower judiciary are bound by the court's decisions. The court appoints its own personnel and establishes its own procedural norms.

The court is made up of eight Muslim judges who are nominated by Pakistan's President on the suggestion of a judicial committee comprised of the Supreme Court and Federal Shariat Court chief justices.

### **High courts:**

The Islamabad Capital Territory has its own high court, as well as four provincial high courts. The highest court in a province is known as the high court.

- Lahore High Court, Lahore, Punjab
- Sindh High Court, Karachi, Sindh
- Peshawar High Court, Peshawar, Khyber Pakhtunkhwa
- Balochistan High Court, Quetta, Baluchistan
- Islamabad High Court, Islamabad

### **District judiciary:**

District judiciary or district courts exist in every district of each province, and have civil and criminal jurisdiction ordinarily governed by Civil Procedure Code, 1908 for civil cases and by Code of Criminal Procedure in criminal cases. The administrative head of district judiciary is the 'district and sessions judge'. In each district headquarters, there are a number of courts of additional district and sessions judges having same judicial powers like the court of district and sessions judge, including trial for offences shown in schedule II of Code of Criminal Procedure as exclusively triable by the Court of Session i.e., Qatl e and (culpable homicide), rape, defamation dacoity etc. These courts have also jurisdiction to try cases under the Hudood Laws of Pakistan, certain offences under Control of Narcotic Substances Act etc.

1. Each province's top court has appellate jurisdiction over the lesser courts.
2. The Supreme Court has exclusive jurisdiction over inter-provincial disputes and appellate jurisdiction over high court decisions.

### **Civil judge cum judicial magistrates' courts:**

There are various civil and judicial magistrates' courts in every town and city. Normally, in their function as judicial magistrates, these courts have the authority to try all offences save those that are particularly triable by the Court of Session, but the maximum term of imprisonment that can be given is three years. A judicial

magistrate with exceptional powers under Section 30 of the Code of Criminal Procedure, on the other hand, can impose any punishment except the death penalty.

As a civil judge in the provinces of Sindh and Balochistan, these courts have power to hear third-class suit claims with a pecuniary limit of fifty thousand rupees. Civil judges in other provinces are able to hear first- and second-class lawsuits. According to a statement from the Court of Session Judge, judicial magistrates have geographical jurisdiction over police stations. Judicial magistrates perform magisterial tasks by taking witness statements under oath, judicial confessions of accused, holding identification test parades, and conducting inquest processes for prisoners.

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### **Special tribunals and boards:**

There are numerous special tribunals such as;

- Banking courts
- Criminal courts
- Custom courts
- Drug courts
- Federal Services Tribunal
- Provincial services tribunals (one for each province)
- Income tax tribunals
- Accountability courts
- Anti-terrorism courts
- Labour courts
- Labour Appellate Tribunal
- Environmental courts
- Board of Revenue
- Special magistrate courts
- Control of Narcotic Substances (special courts)
- Consumer courts -
- Intellectual Property Tribunal
- Foreign Exchange Appellate Board

Except for consumer courts, almost all judges of the above-mentioned courts and tribunals are district and sessions judges or have the similar qualifications. There are also revenue courts, which are governed by the West Pakistan Land Revenue Act 1967. The Board of Revenue, the Commissioner, the Collector, the Assistant Collector of the First Grade, and the Assistant Collector of the Second Grade are the different types of revenue courts. Such officers are

appointed by the provincial government, which has administrative control over them. Their powers and functions are defined by law.

### **Family courts:**

Family Courts in West Pakistan are governed under the West Pakistan Family Courts Act 1964. Family courts hear disputes such as dissolution of marriage, recovery of support for wives and minors, dower, dowry articles, guardian and wards disputes (custody of children, recovery of wedding presents, and so on) as set out in the 1964 Act.

### **Juvenile courts:**

The Juvenile Justice System Act of 2018 was passed by parliament. The law applies to the entire country of Pakistan. The Juvenile Justice System Ordinance of 2000 has been repealed. The Bannu Jail from In agreement with the chief justice of the high court, section 4 of the JJSO authorizes the Provincial Government to create one or more juvenile courts for any local region under its authority. Sessions judges and judicial magistrates were given jurisdiction over juvenile courts in accordance with their original competence under the Code of Criminal Procedure. Every person under the age of eight is considered a juvenile under the Juvenile Justice System Act. The Codification Test is the most conclusive method of determining age. According to the Act of 2018, the legislation requires a separate camera trial for the juvenile accused, with all privileges granted to the juvenile accused.

### **Supreme Court of Pakistan:**

In accordance with their initial competence under the Code of Criminal Procedure, sessions judges and judicial magistrates were assigned jurisdiction over juvenile courts. Under the Juvenile Justice System Act, anyone under the age of eight is considered a juvenile. The most accurate way of detecting age is the Ossification Test. According to the Act of 2018, a separate camera trial for the juvenile accused is required, with the juvenile accused receiving all privileges. A new Judicial Commission (called Judicial Commission of Pakistan) and Parliamentary Committee were established for appointments following the passing of the 18th and 19th Constitutional Amendments. The Pakistan Judicial Commission has nine members: the Chief Justice of Pakistan, four senior Supreme Court judges, a former Chief Justice or Supreme Court judge nominated by the serving Chief Justice in consultation with the four serving Supreme Court judges aforementioned, the Attorney General of Pakistan, the Federal Minister for Law and Justice, and one senior advocate nominated by the Pakistan Bar Council.

### **High Courts:**

Appointments to the High Court's follow the same procedure as those to the Supreme Court. Prior to the 18th Constitutional Amendment, appointees to the High Court were subjected to the same scrutiny as those to the Supreme Court. Future appointments to the Supreme Court will be made in the same manner. Instead of four supreme court judges, the Judicial

Commission of Pakistan will examine the appointment of four senior high court judges, a provincial law minister, and a member of a provincial bar council (such as the Punjab Bar Council). The minimum age requirement for a high court judge is 45 years. There is no merit system in place for appointing judges to positions in the higher judiciary. Judges of the Judicial Service are frequently overlooked in the selection process, whereas powerful lawyers with political clout from political parties and bar associations are promoted to the higher judiciary.