



**DADABHOY
INSTITUTE
OF HIGHER
EDUCATION**

LEGAL SYSTEM

OF

PAKISTAN

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Question

Q.1)What Is legal system of Pakistan ?

Answer

Pakistan is an Islamic republic. Islam is the state religion, and the Constitution requires that laws be consistent with Islam. The country is Official figures on religious demography, based on the most recent census taken in 1998, showed that approximately 97 percent of the population was Muslim. The majority of Muslims in the country are Sunni, with a Shi'a minority ranging between 10 to 20 percent.

The legal system;

The legal system is derived from English common law and is based on the much-amended 1973 constitution and Islamic law (sharia). The Supreme

Court, provincial high courts, and other courts have jurisdiction over criminal and civil issues.

Definition of Law:

Law means a set of rules or a system of rules of conduct designed and enforced by the state to control and regulate the conduct of people.

SOURCES OF LAW IN PAKISTAN;

The legal system is derived from English common law (Equity) and is based on the constitution of Pakistan 1973 as well as Islamic law (sharia). Thus we can say that in Pakistan the main sources of law are following

Legislation:

- It is the law created by the Parliament of a country and other bodies to whom it has delegated authority.

Precedent:

- Precedent is a judgment or decision of a court which are binding on the subordinate courts.

Customs:

- With the passage of time as the society develops this source of law diminished its tendency as a source of law. In Pakistan, the customary law has been replaced by the Sharia Law.

Agreement:

- Parties in their agreement stipulate terms for themselves which constitute law for the contracting parties.

TYPES OF PRECEDENT

Original:

- Original precedent is one which creates and applies a new rule. Declaratory precedent is the application of an already existing rule of law.

Binding:

- Binding precedent is one which is required to be followed.

Persuasive:

- Persuasive precedent is one which is not required to be followed e.g. a decision by lower court, decision by courts of other countries.
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LEGISLATION:

PARLIAMENT / MAJLI-E-SHOORA;

The parliament of Pakistan consists of:

1. President
2. National Assembly
3. Senate

Functions:

- The President of Pakistan is Pakistan's Head of State and is considered a symbol of unity.

- The President approves the statutes passed by the National Assembly and thereafter by the Senate.
 - He guides the Prime Minister in the matters of national importance.
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Election process:

- President must be a Muslim.
 - President is elected for a five-year term by Senate, National Assembly and members of Provincial Assemblies.
 - President is eligible for re-election, but no individual may hold the office for more than two consecutive terms.
 - The majority party in the National Assembly usually nominates and elects a person as the President.
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Prime minister (Head of Government):

- The Prime Minister must be nominated and elected by a majority of members in the National Assembly. That individual is then appointed as Prime Minister by the President.
- The Prime Minister is assisted by the Federal Cabinet. A council of ministers whose members are appointed by the President on the advice of the Prime Minister.
- Federal Ministers are supported by secretaries and other government officers appointed in each department for ensuring that policies formulated by the government are acted upon.

National Assembly:

- The seats for the national assembly are determined on the basis of population of provinces.
- The members are elected for a period of five years on the basis of direct votes by the voters registered.
- The members elect from themselves Speaker, Deputy Speaker and Prime Minister.

- The most important function of the National Assembly is law making and formulation of policies.
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Senate:

- The Senate is a permanent legislative body with equal representation from each of the four Provincial Assemblies.
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- The role of the Senate is to promote national cohesion and harmony and to alleviate fears of the smaller provinces regarding domination by any one province because of its majority, in the National Assembly.
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- Members are elected for a period of six years. Half the members retire after three years and are replaced by the equal number of newly elected senators.
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- The members elect from themselves a chairman and a Deputy Chairman.
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- The Chairman of the Senate under the constitution is next in line to act as President if the office becomes vacant.
 - All statutes passed by the National Assembly are also approved by the Senate with the exception of money bills.
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COURTS' STRUCTURE IN PAKISTAN

SUPREME COURT OF PAKISTAN;

Supreme Court is the apex court in judicial hierarchy and all executive and judicial authorities are bound to act in aid of the Supreme Court. The Constitution assigns the Supreme Court a unique responsibility of maintaining harmony and balance between the three pillars of the State, namely, the Legislature, the Executive and the Judiciary.

HIGH COURT

Introduction A High Court is the principal court of its province. Structure A Chief Justice and other Judges as may be determined by law.

Jurisdiction

Original: in civil cases including as Company Courts

- Appellate: in civil and criminal cases, both.
 - Supervisory: habeas corpus and prerogative orders (see below)
 - Constitutional: on matters relating to Constitution
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Process

If court decides that a law or the provision of any law is repugnant to the Injunctions of Islam, it shall set out in its decision:

- reasons for its holding that opinion and
- extent to which such law or provision is so repugnant
- Specify the day on which decision shall take effect (unless appeal is filed) Appeal A party

aggrieved by the final decision of the court within 60 days of such decision may prefer an appeal to the Supreme Court. An appeal on behalf of the Federation or a Province may be preferred within 6 months of such decision.

OTHER CIVIL COURTS:

District

Court;:

In each district of a province, Provincial Government appoints a District Judge and Additional District Judges as necessary.

Jurisdiction: Appeal from civil courts for suits valuing below Rs200,000 (Above Rs200,000 appeals are made to High Court).

Civil Courts:

Civil Judges function under the superintendence and control of District Judge and all matters of civil nature originate in the courts of Judges. The

District Judge may, however, withdraw any case from any Civil Judge and try it himself.

Thank you 😊