



Overview of Pakistan Judicial System

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Quaid-i-Azam's presidential address to the Constituent Assembly of Pakistan 11th August, 1947





“Pakistan is not a theoretical state we would treat the people of other religions with tolerance. We welcome all persons irrespective of caste, color or creed as being the equal citizen of Pakistan”

“You are free: you are free to go to your temples, you are free to go to your mosques or to any other places of worship in this state of Pakistan . You may belong to any religion or caste or creed that has nothing to do with the business of the state”.



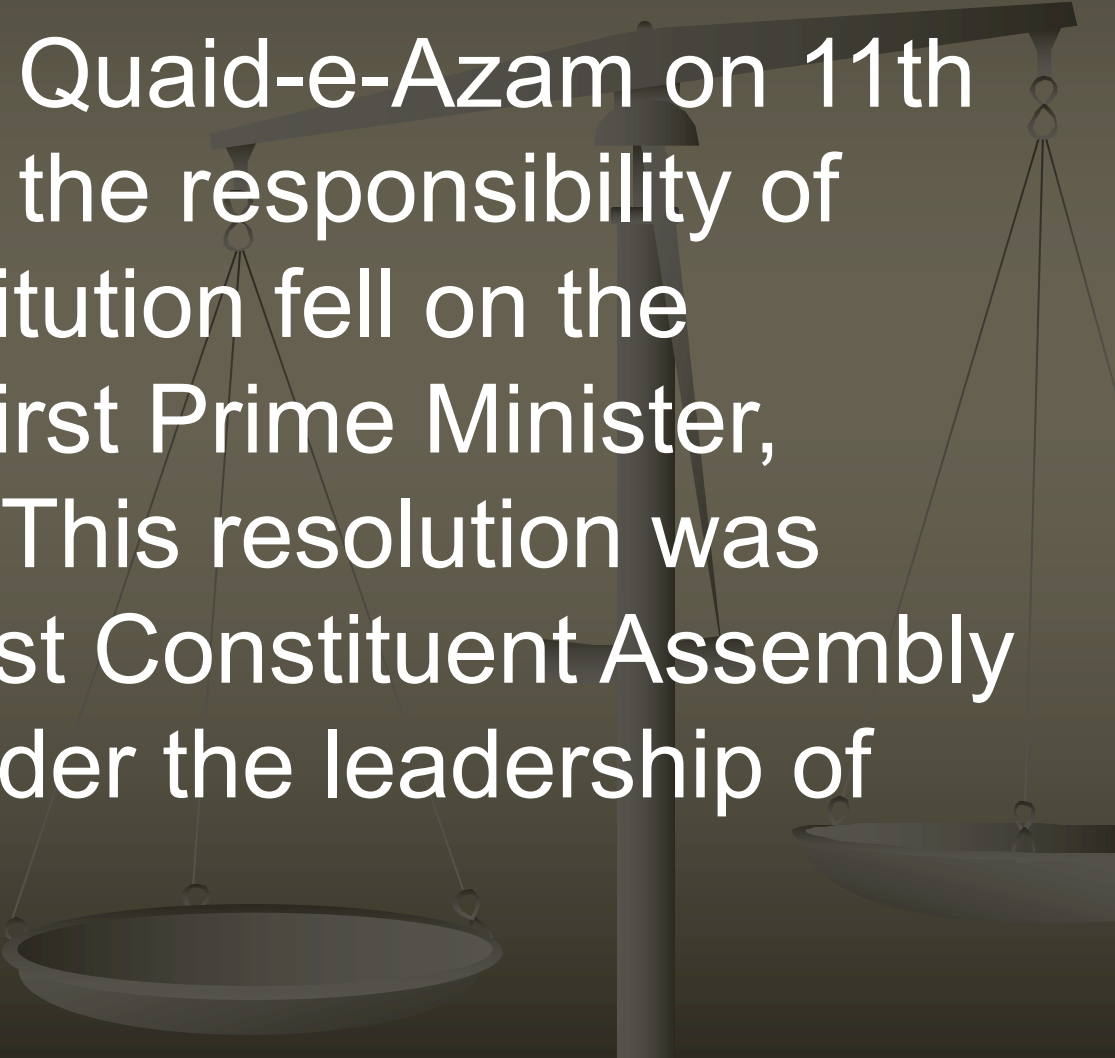
Liaquat Ali Khan's Speech on "Objectives Resolution"

7th March, 1949



==Objective Resolution==

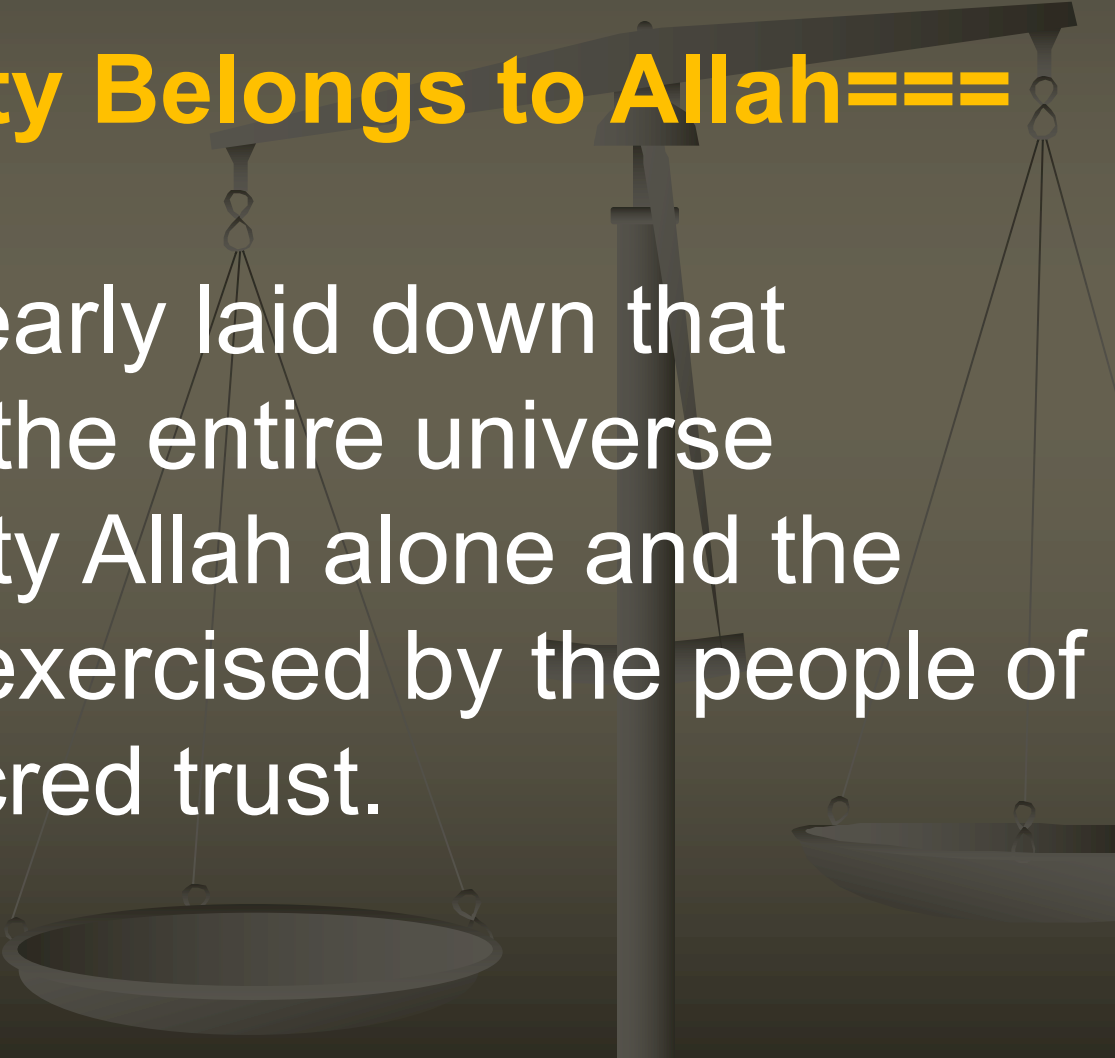
After the death of Quaid-e-Azam on 11th September 1948, the responsibility of framing the constitution fell on the shoulders of the first Prime Minister, Liaquat Ali Khan. This resolution was passed by the First Constituent Assembly in March 1949 under the leadership of Liaquat Ali Khan.



Salient Features of Objective Resolution

===Sovereignty Belongs to Allah===

The resolution clearly laid down that sovereignty over the entire universe belongs to Almighty Allah alone and the authorities to be exercised by the people of Pakistan as a sacred trust.



===Federal System===

Federal System of Government will be introduced in Pakistan.

===Golden Principles of Islam===

Principles of democracy, equality, freedom and social justice as laid down by Islam shall be fully observed.

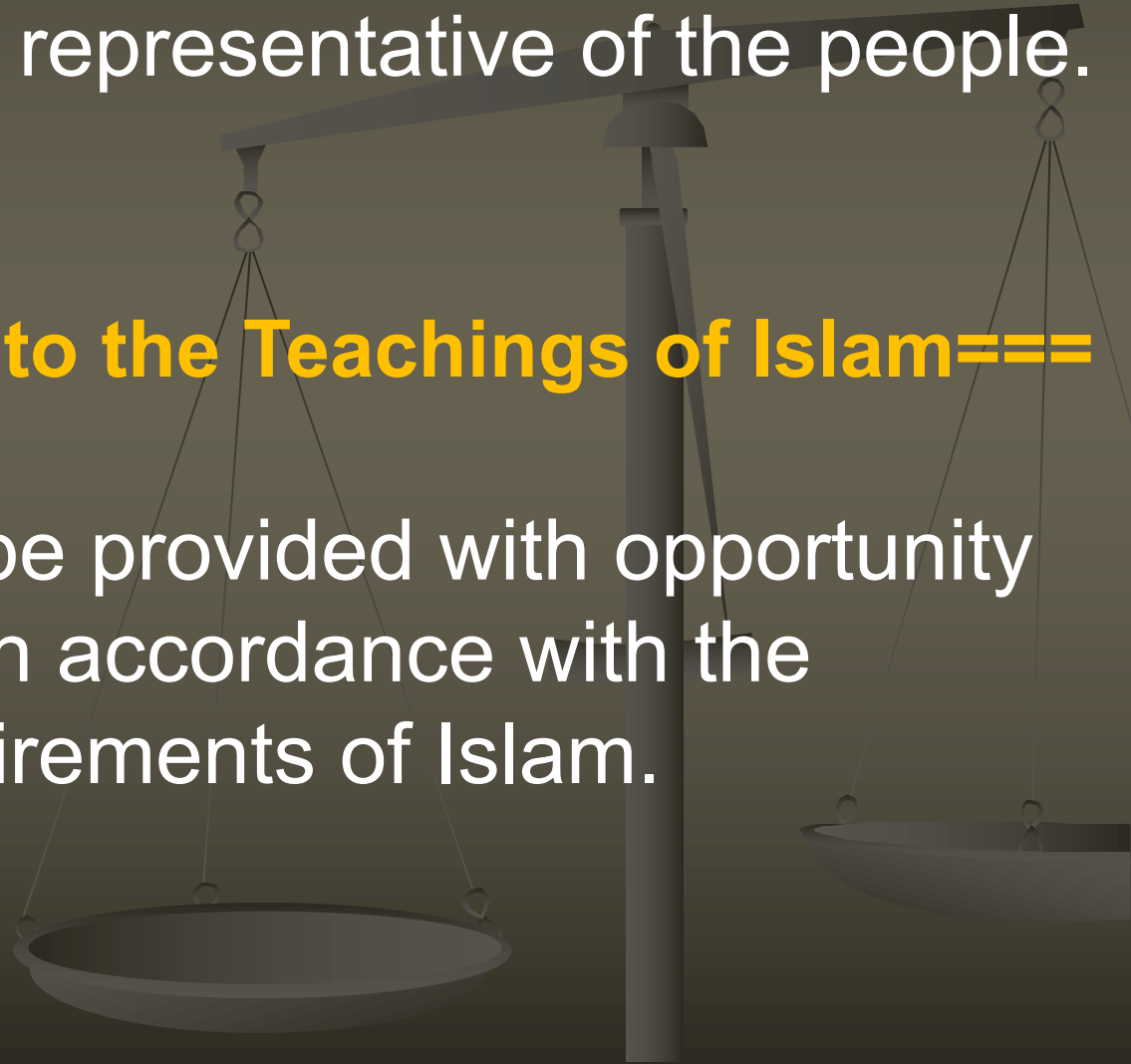


===Supreme Authority of the People===

The sovereignty of the state will be established through the elected representative of the people.

===Life According to the Teachings of Islam===

The Muslims shall be provided with opportunity to order their lives in accordance with the teachings and requirements of Islam.

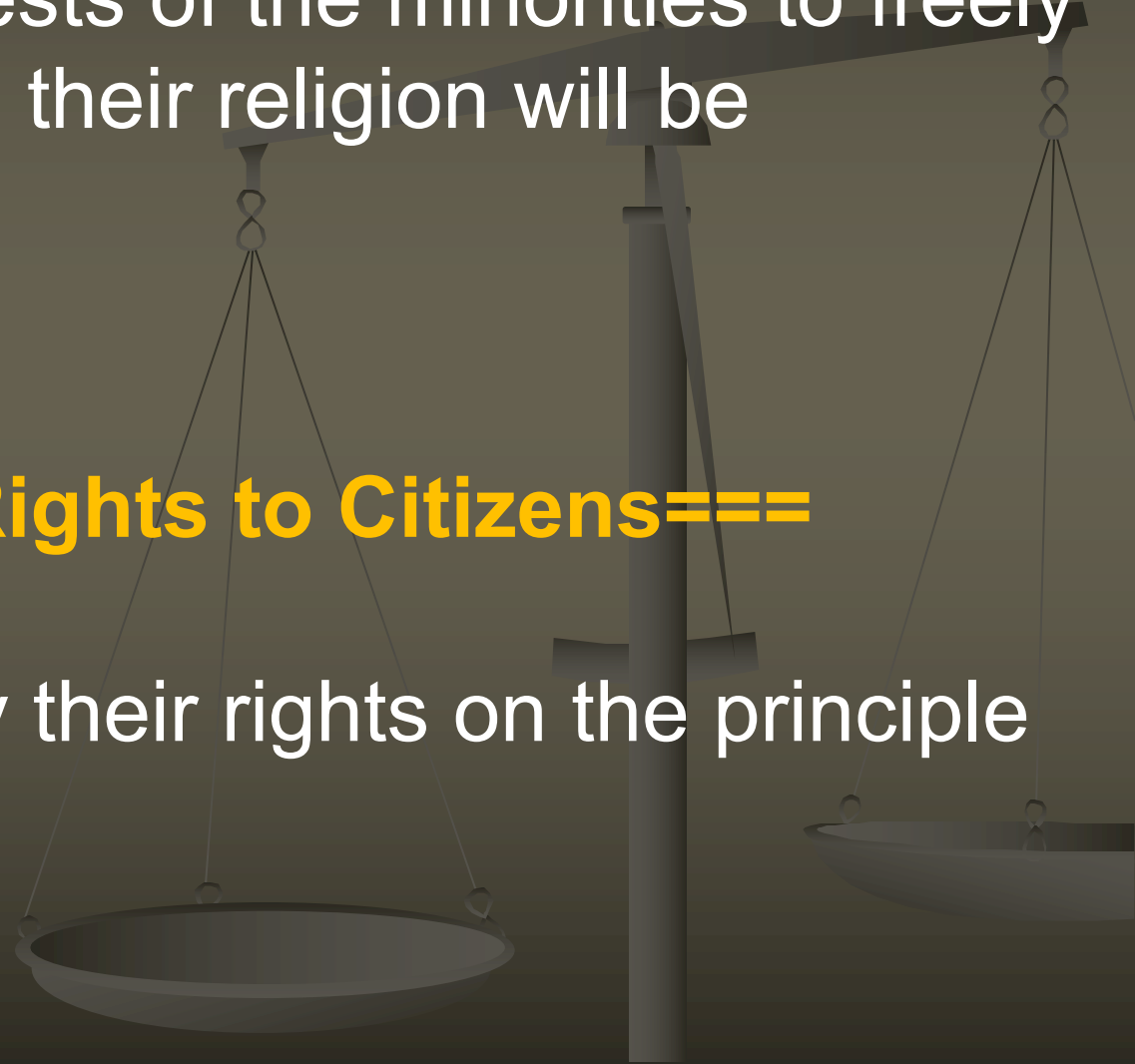


===Protection of the Rights of Minorities===

The rights and interests of the minorities to freely profess and practice their religion will be protected.

===Equal Rights to Citizens===

All citizens will enjoy their rights on the principle of equality.



===Development of Under Developed Areas===

All efforts will be made for the development and progress of the under developed areas.

===Independence Judiciary===

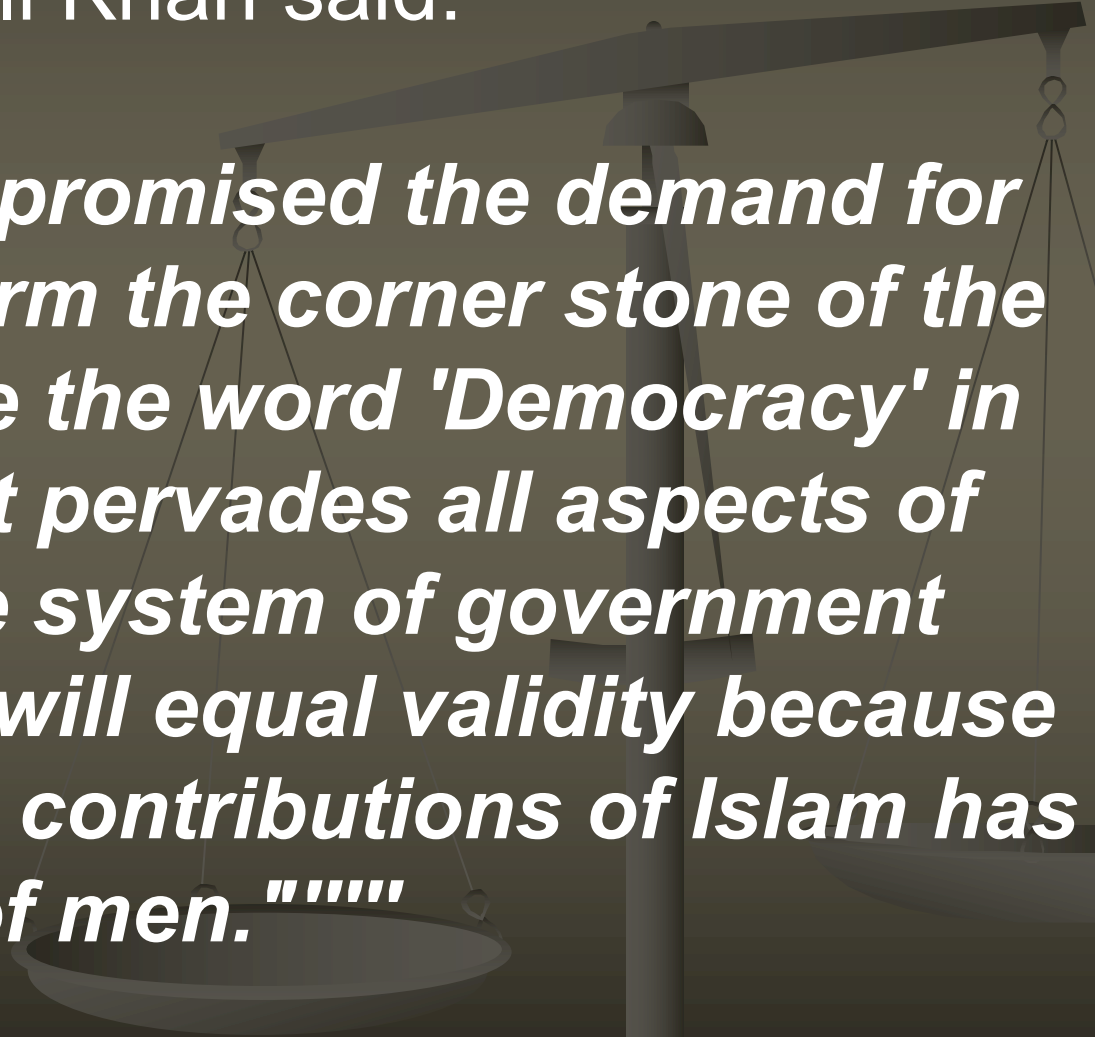
Judiciary will be independent.



==Objective Resolution and Liaquat Ali Khan==

While introducing the resolution in the Constituent Assembly, Liaquat Ali Khan said:

""""The ideals that promised the demand for Pakistan should form the corner stone of the state. When we use the word 'Democracy' in the Islamic sense it pervades all aspects of life. It relates to the system of government and to our society with equal validity because one of the greatest contributions of Islam has been the equality of men. """"



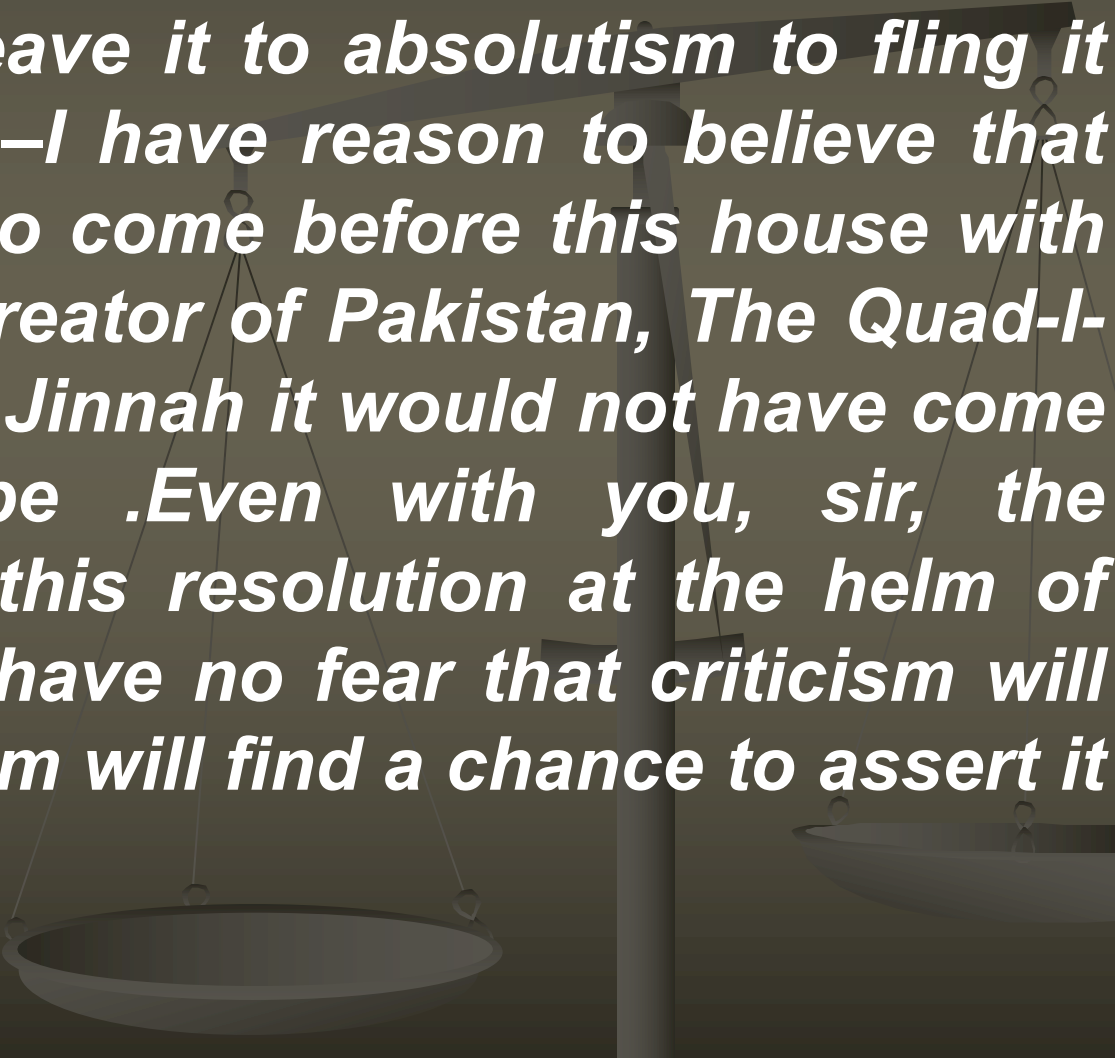
Birat Chandra Mandal's Speech On "Objectives Resolution"

9th March, 1949

"Sir is there not pundits in India who could not insist on political thinkers of India to adopt such a constitution. Are there not bishops in England nor in America or in any other country which is dominated by Christians on the face of the globe?"

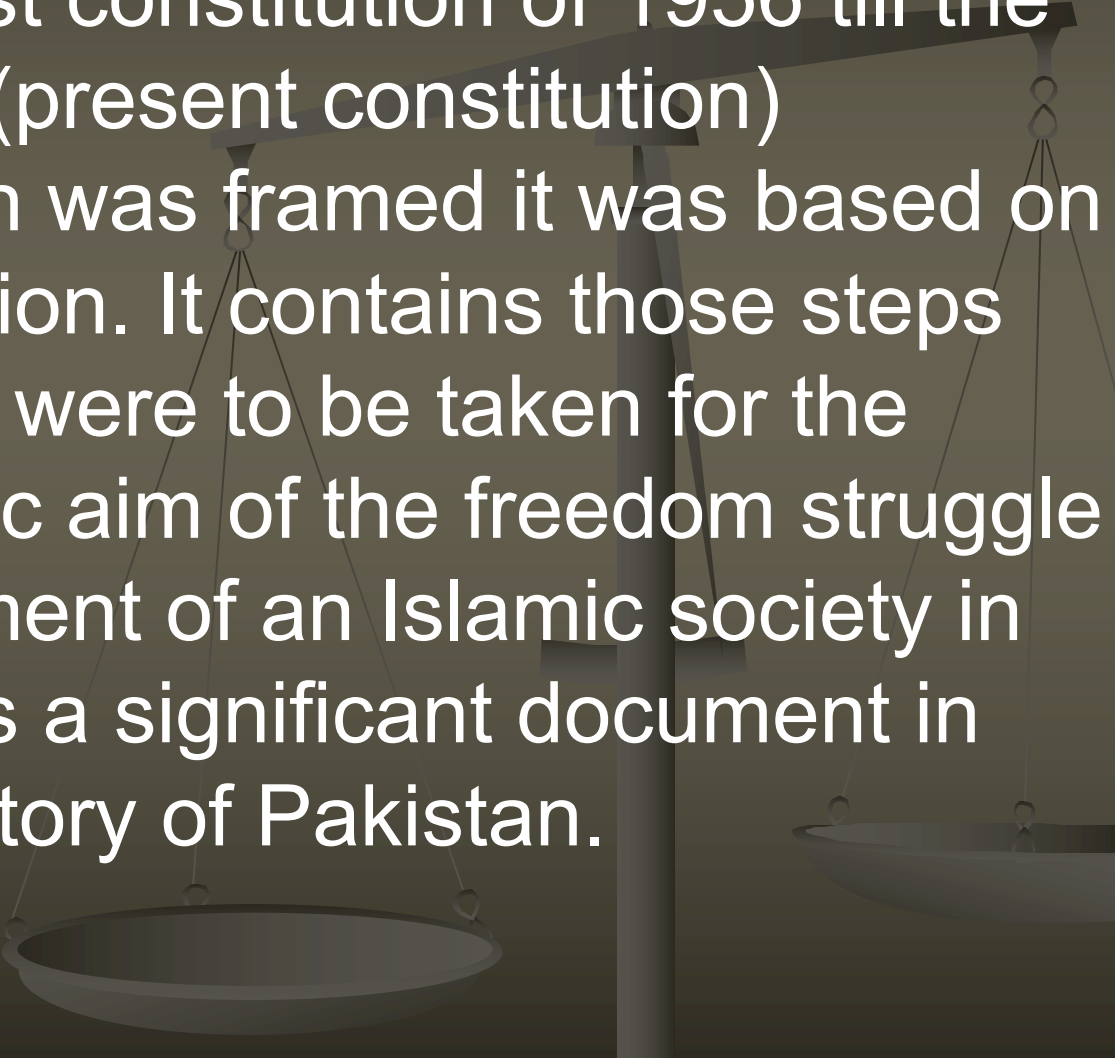
"Individuals might have religion, but the state has got no religion. So in the interests of the state of which I am a humble member. I bring it to your notice through the president that you will be held responsible because you are the sponsor of this resolution not to the countries in the world which have made their constitutions in the past but also to the posterity who will think of making their constitutions in the future. So I tell you again and again to ponder over the resolution before you finally adopt it."

“But as you bring in religion or things as matters of faith. You open the door ajar for resentment of criticism. You then leave it to absolutism to fling it wide open. Sir I feel –I have reason to believe that were this resolution to come before this house with in life time of great creator of Pakistan, The Quad-I-Azam Muhammad Ali Jinnah it would not have come in its present shape .Even with you, sir, the honorable mover of this resolution at the helm of affairs in the state, I have no fear that criticism will be stilled or absolutism will find a chance to assert it self.



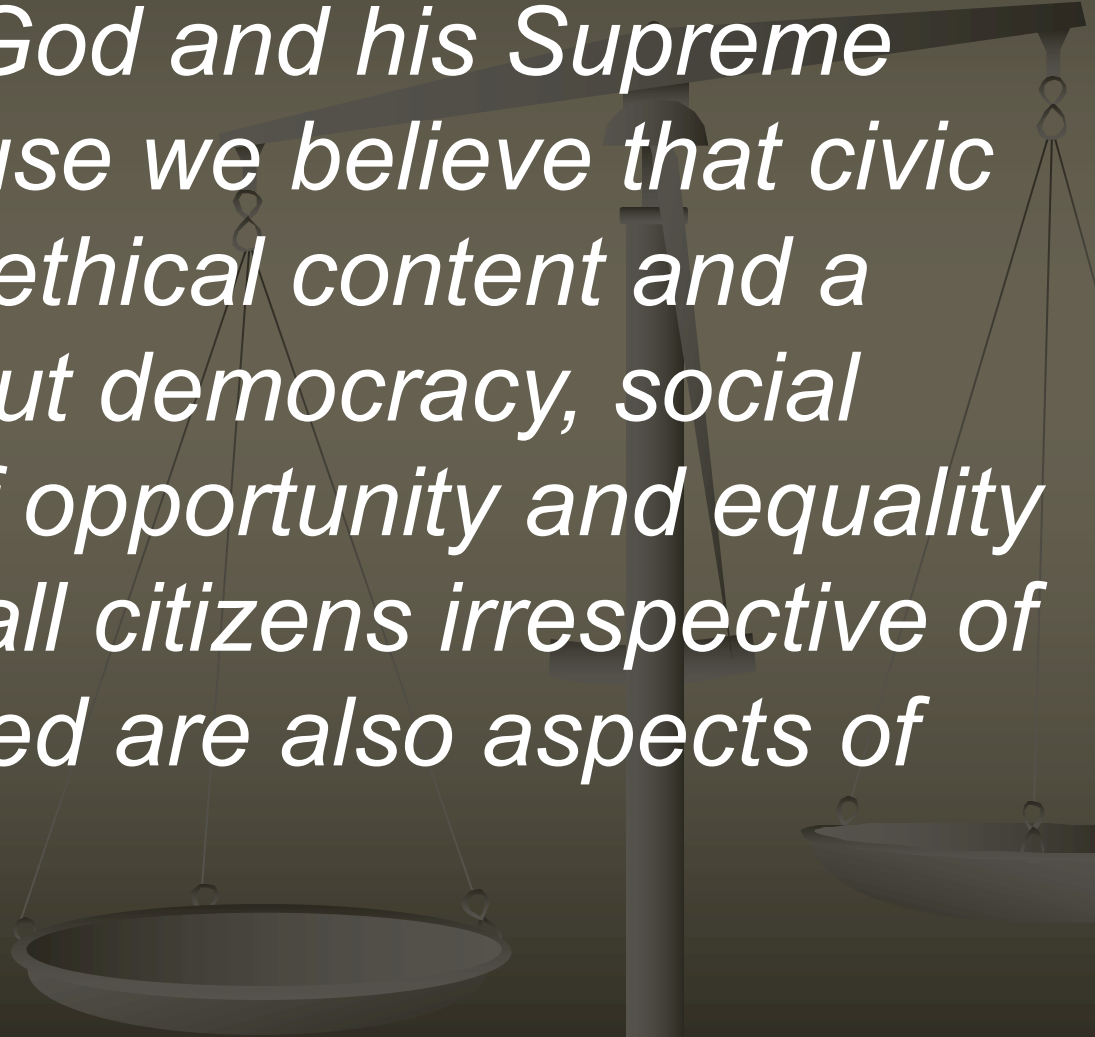
==Importance of the Objective Resolution==

This resolution is of fundamental importance in the history of constitutions making in Pakistan because from the first constitution of 1956 till the constitution of 1973 (present constitution) whatever constitution was framed it was based on this objective resolution. It contains those steps and principles which were to be taken for the fulfillment of the basic aim of the freedom struggle that is the establishment of an Islamic society in Pakistan. Hence, it is a significant document in the constitutional history of Pakistan.



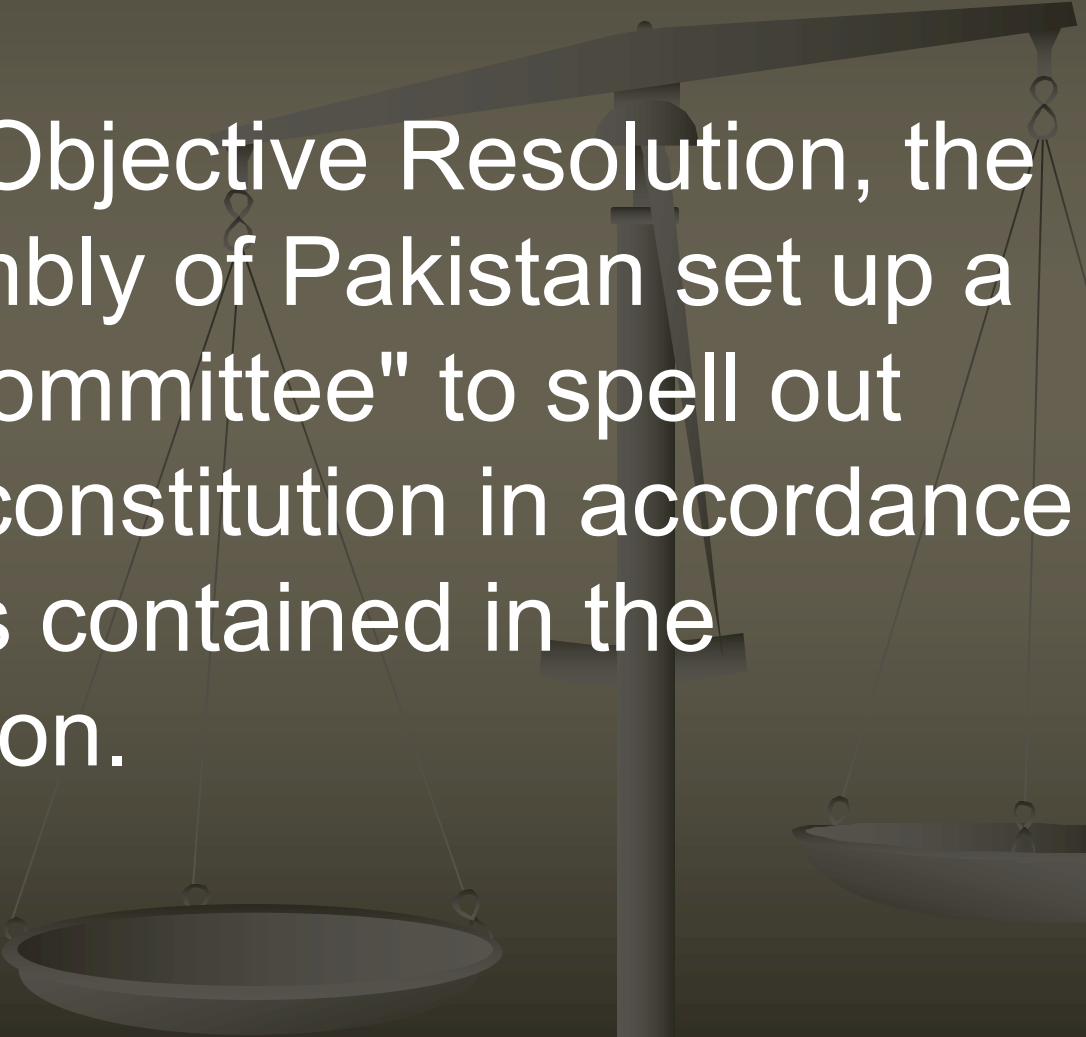
When Liaquat Ali Khan visited America, in the course of his speech at New Orleans, he said,

""""We believe in God and his Supreme sovereignty because we believe that civic life must have an ethical content and a higher purpose. But democracy, social justice, equality of opportunity and equality before the law of all citizens irrespective of their race and creed are also aspects of faith with us.""""



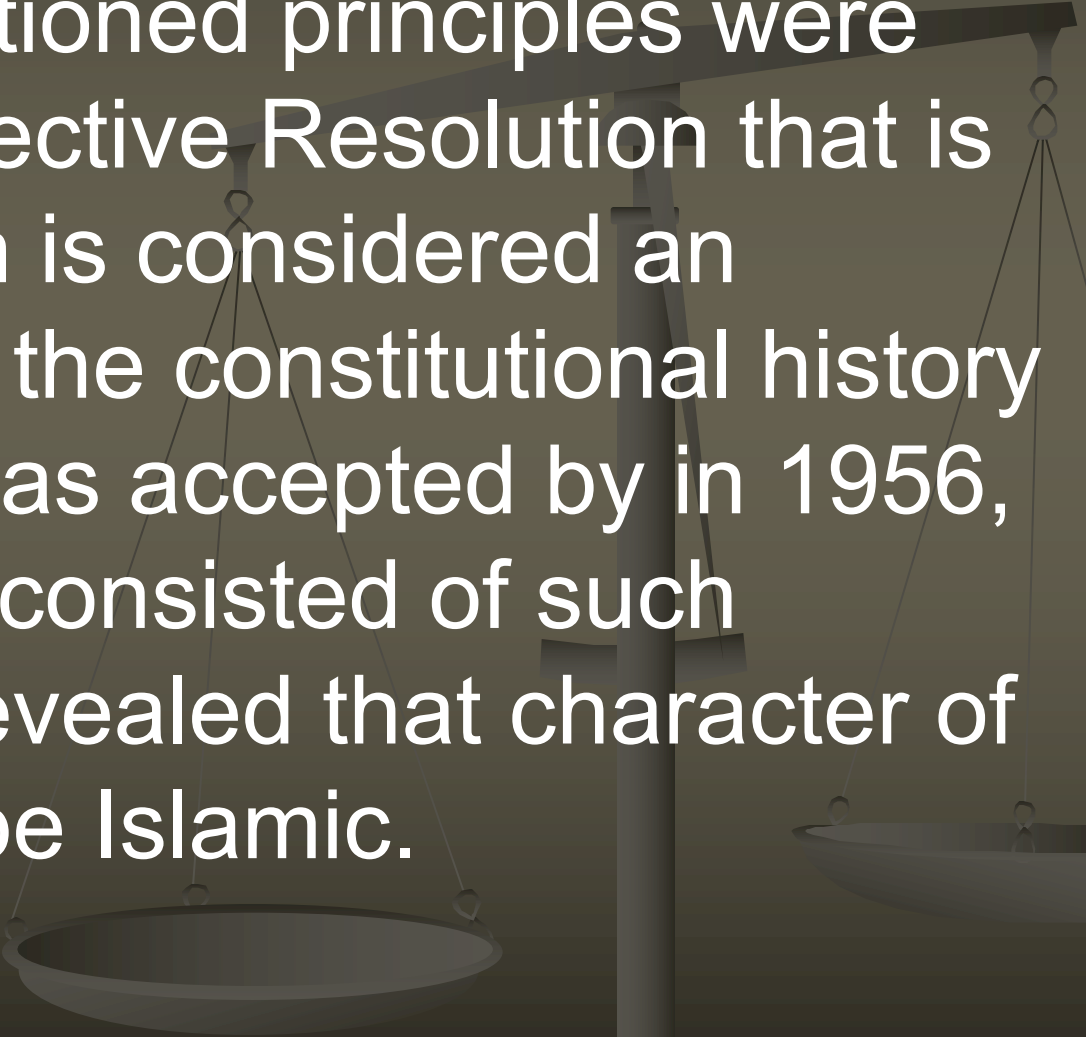
==Basic Principles Committee==

After passing the Objective Resolution, the Constituent Assembly of Pakistan set up a "Basic Principle Committee" to spell out proposals for the constitution in accordance with the guidelines contained in the Objective Resolution.



==Conclusion==

All the above mentioned principles were present in the Objective Resolution that is why this resolution is considered an important event in the constitutional history of the country. It was accepted by in 1956, 1962 and 1973. It consisted of such principles which revealed that character of constitution shall be Islamic.



Constitution of the Islamic Republic of Pakistan, 1973

Preamble: -Whereas sovereignty over the entire Universe belongs to Almighty Allah alone,
and the authority to be exercised by the people of Pakistan within the limits prescribed by Him is

a sacred trust;

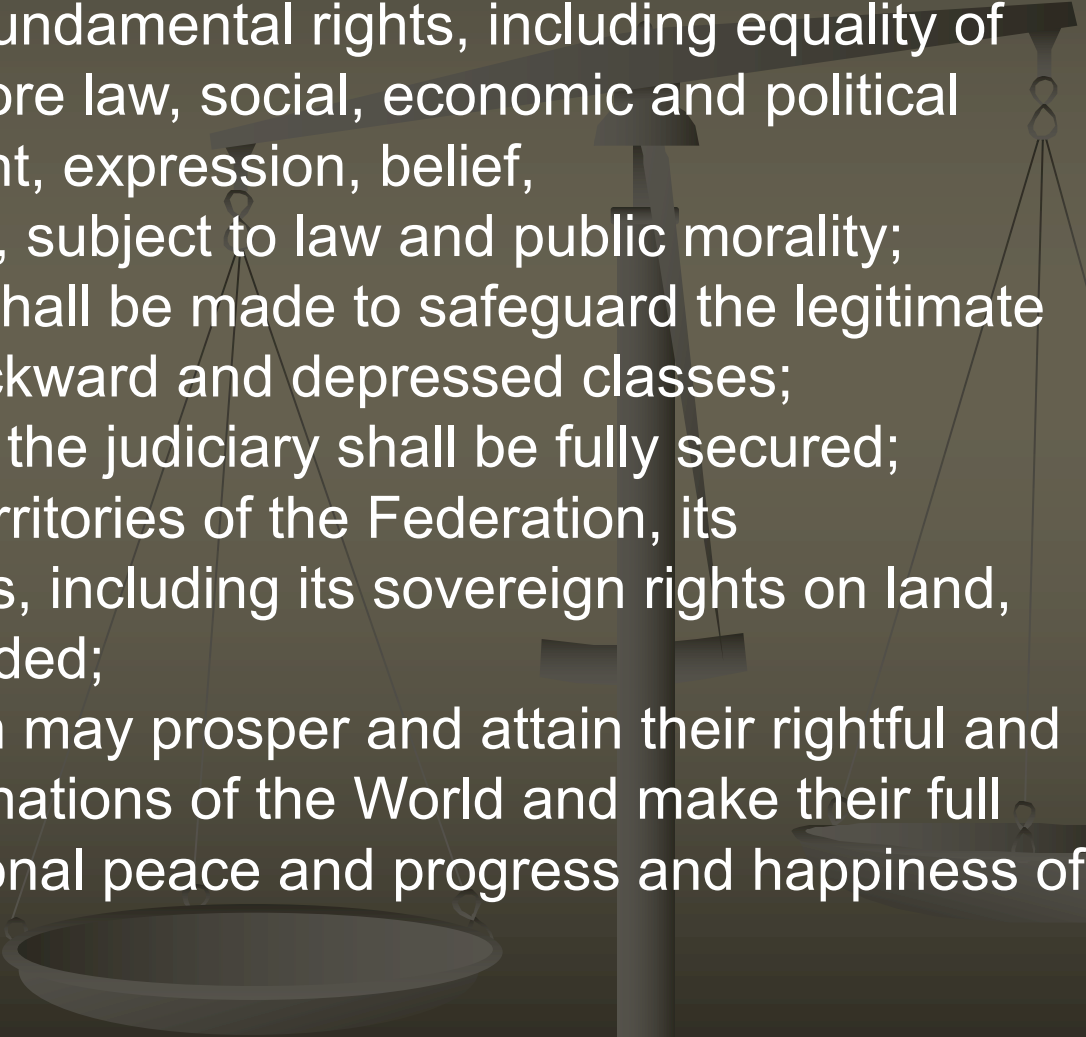
And whereas it is the will of the people of Pakistan to establish an order:-

Wherein the State shall exercise its powers and authority through the chosen representatives of the people;

Wherein the principles of democracy, freedom, equality, tolerance and social justice, as enunciated by Islam, shall be fully observed; Wherein the Muslims shall be enabled to order their

lives in the individual and collective spheres in accordance with the teachings and requirements

of Islam as set out in the Holy Quran and Sunnah; Wherein adequate provision shall be made for the minorities freely to profess and practice their religions and develop their cultures;



Wherein the territories now included in or in accession with Pakistan and such other territories as may hereafter be included in or accede to Pakistan shall form a Federation wherein the units will be autonomous with such boundaries and limitations on their powers and authority as may be prescribed;

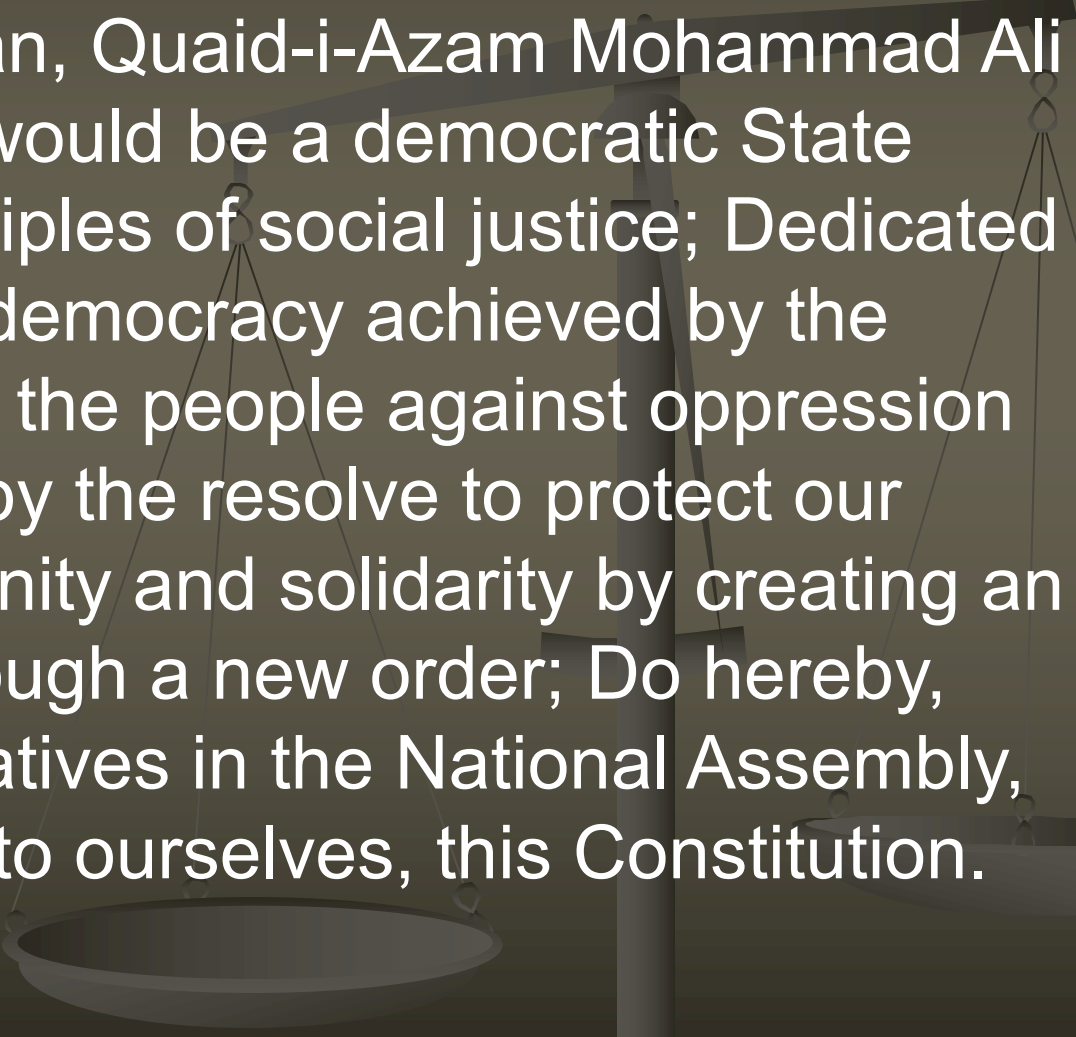
Therein shall be guaranteed fundamental rights, including equality of status, of opportunity and before law, social, economic and political justice, and freedom of thought, expression, belief, faith, worship and association, subject to law and public morality;

Wherein adequate provision shall be made to safeguard the legitimate interests of minorities and backward and depressed classes;

Wherein the independence of the judiciary shall be fully secured;

Wherein the integrity of the territories of the Federation, its independence and all its rights, including its sovereign rights on land, sea and air, shall be safeguarded;

So that the people of Pakistan may prosper and attain their rightful and honoured place amongst the nations of the World and make their full contribution towards international peace and progress and happiness of humanity:



Now, therefore, we, the people of Pakistan, Cognisant of our responsibility before Almighty Allah and men; Cognisant of the sacrifices made by the people in the cause of Pakistan; Faithful to the declaration made by the Founder of Pakistan, Quaid-i-Azam Mohammad Ali Jinnah, that Pakistan would be a democratic State based on Islamic principles of social justice; Dedicated to the preservation of democracy achieved by the unremitting struggle of the people against oppression and tyranny; Inspired by the resolve to protect our national and political unity and solidarity by creating an egalitarian society through a new order; Do hereby, through our representatives in the National Assembly, adopt, enact and give to ourselves, this Constitution.

1. The Republic and its territories.

(1) Pakistan shall be a Federal--Public to be known as the Islamic Republic of Pakistan, hereinafter referred to as Pakistan.

(2) The Constitution shall apply to the following territories of Pakistan:

(a) the Provinces of Baluchistan, Khyber Pakhtunkhwa, the Punjab and Sind ;

(b) the Islamabad Capital Territory, hereinafter referred to as the Federal Capital ;

(c) the Federally Administered Tribal Areas ; and

(d) such States and territories as are or may be included in Pakistan, whether by accession or otherwise.

(3) The Constitution shall be appropriately amended so as to enable the people of the Province of East Pakistan, as and when foreign aggression, in that Province and its effects are eliminated, to be represented in the affairs of the Federation.

(4) Parliament may by law admit into the Federation

2. Islam to be State religion.

- Islam shall be the State religion of Pakistan:



The Objectives Resolution was passed by the Constituent Assembly of Pakistan in March, 1949, and was made a substantive part of the Constitution of Pakistan by Art.2 and Sch.item 2 (with effect from March 2, 1985)

Zia-Ur-Rehman's case (PLD1973 SC 49)

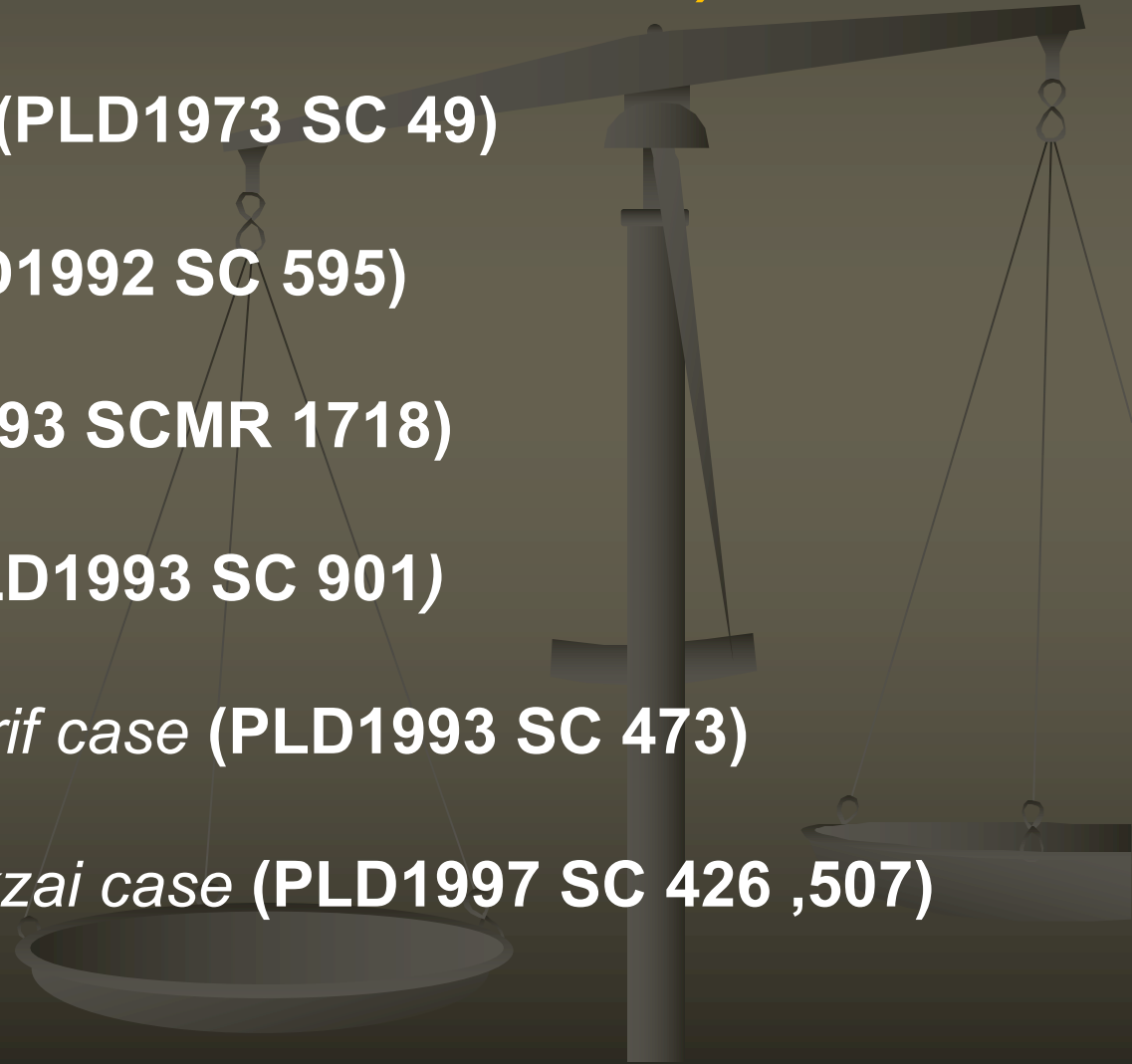
Hakim Khan's case (PLD1992 SC 595)

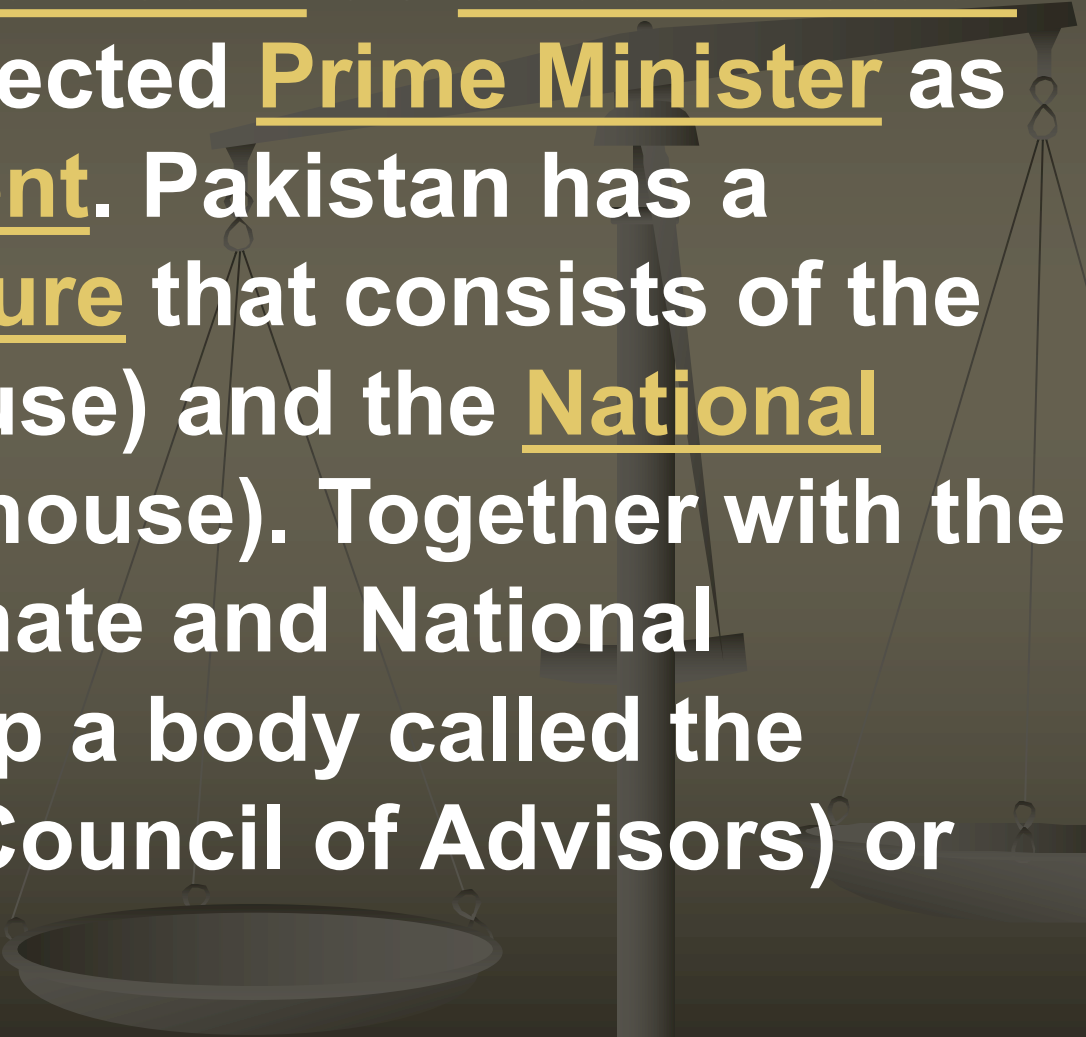
Zaheer-U-Din's case (1993 SCMR 1718)

Kaneez Fatima case (PLD1993 SC 901)

Muhammad Nawaz Sharif case (PLD1993 SC 473)


Muhammad Khan Achakzai case (PLD1997 SC 426 ,507)





Pakistan's constitution provides for a parliamentary system of government with the President of Pakistan as head of state and a popularly elected Prime Minister as head of government. Pakistan has a bicameral legislature that consists of the Senate (upper house) and the National Assembly (lower house). Together with the President, the Senate and National Assembly make up a body called the Majlis-e-Shoora (Council of Advisors) or Parliament

A parliamentary system is a system of government in which the ministers of the executive branch get their democratic legitimacy from the legislature and are accountable to that body, such that the executive and legislative branches are intertwined.



According to article 41(3) of the Constitution of Pakistan, this electoral college consists of the Senate, the National Assembly, and the Provincial Assemblies. Members of the National Assembly and Provincial Assemblies are directly elected by the people in competitive multi-party elections. Members of the Senate are indirectly elected by the provincial assemblies.



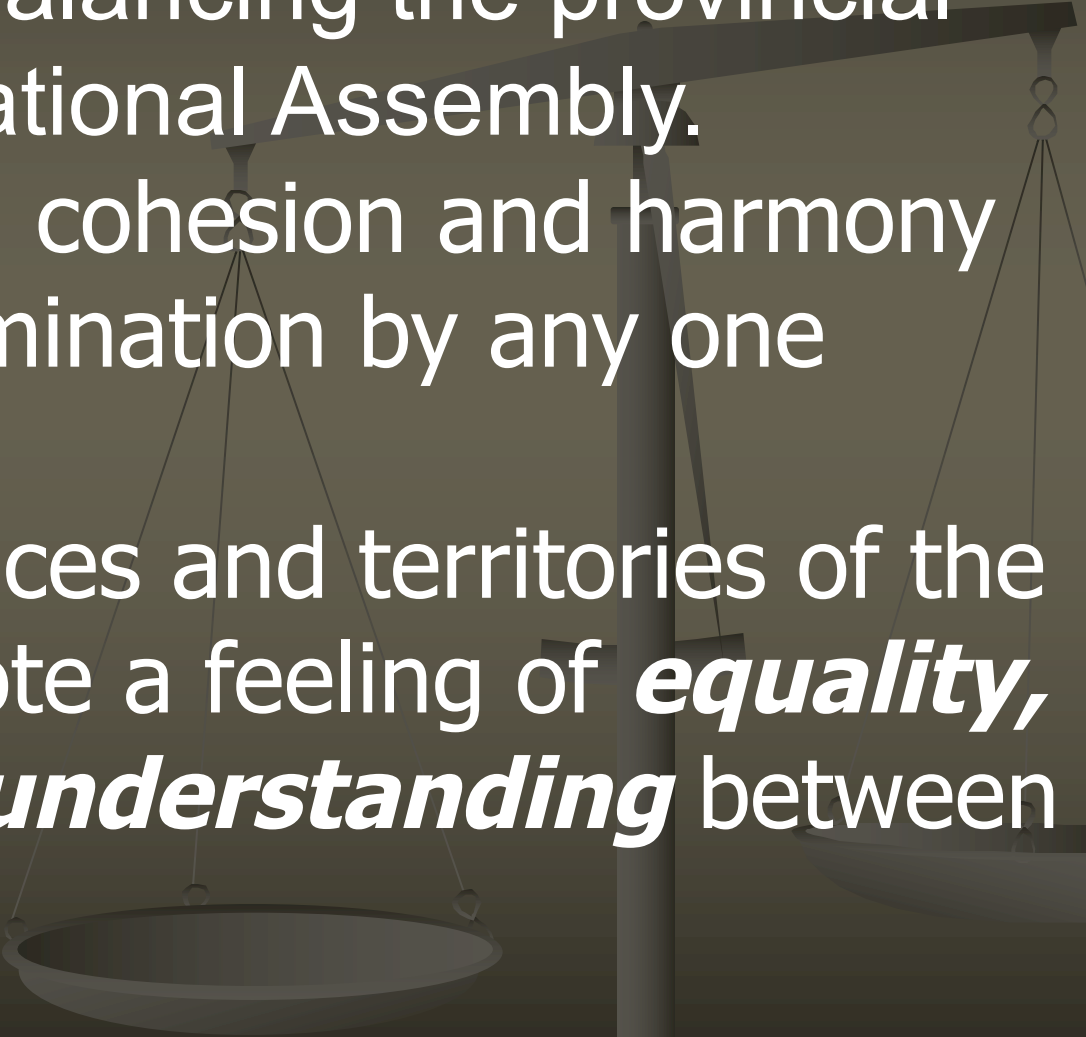
The **Senate of Pakistan** is the upper house of the bicameral Parliament of Pakistan.

Elections are held every three years for one half of the senate and each senator has a term of six years. If the office of the President of Pakistan becomes vacant, or the President is unable to perform his functions, the Chairman of the Senate acts as President until a President is elected.

The Chairman of the Senate is Nayyar Hussain Bukhari since 12 March 2019.



Purpose and role

1. **Give** equal representation to all the **federating units** balancing the provincial inequality in the National Assembly.
 2. **Promote** national cohesion and harmony and to prevent domination by any one province
 3. **Represent** provinces and territories of the country and promote a feeling of ***equality, peace and good understanding*** between them
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Article 59 of the Constitution

Senatorial seats= 116

Election in accordance with the system of proportional representation by means of the single transferable vote. Senate shall not be subject to dissolution but the term of its members, who shall retire as follows, shall be six years:-

14 elected by the members of each Provincial Assembly (7 retire after three years and 7 retire after expiration of the next three years)

8 elected from the Federally Administered Tribal Areas, in such manner as the President (4 retire after three years and 4 retire after expiration of the next three years)

2 general seats, 1 woman and 1 technocrat including aalim shall be elected from the Federal Capital in such manner as the President may by order prescribe (1 elected on general seat retire after the expiration of the first three years and the other 1 shall retire after the expiration of the next three years, and 1 elected on the seat reserved for technocrat shall retire after first three years and 1 elected on the seat reserved for woman shall retire after the expiration of the next three years)

4 women elected by the members of each Provincial Assembly (2 retire after the expiration of the three years and 2 retire after the expiration of the next three years)

4 technocrats including ulema shall be elected by the members of each Provincial Assembly (2 retire after the expiration of the three years and 2 retire after the expiration of the next three years)

4 seats in the senate reserved for minorities in each province shall be elected by each provincial assembly. (2 retire after the expiration of the three years and 2 retire after the expiration of the next three years)

Seats in the Senate of Pakistan

Party	Number
<u>Pakistan Peoples Party</u>	41
<u>Pakistan Muslim League (N)</u>	14
<u>Awami National Party</u>	12
<u>Pakistan Muslim League (Q)</u>	5
<u>Muttahida Qaumi Movement</u>	7
<u>Jamiat Ulema-e-Islam (F)</u>	6
<u>FATA</u>	8
Independents	4
<u>Balochistan National Party (Awami)</u>	4
Total	104



The **National Assembly** is the lower house of the bicameral Parliament of Pakistan.

Governance and structure

The Speaker of the House presides over the Assembly, and acts as the president of the country if both the President and the Chairman of the Senate are not present. The leader of the largest party in the Assembly often serves as the Prime Minister of Pakistan.

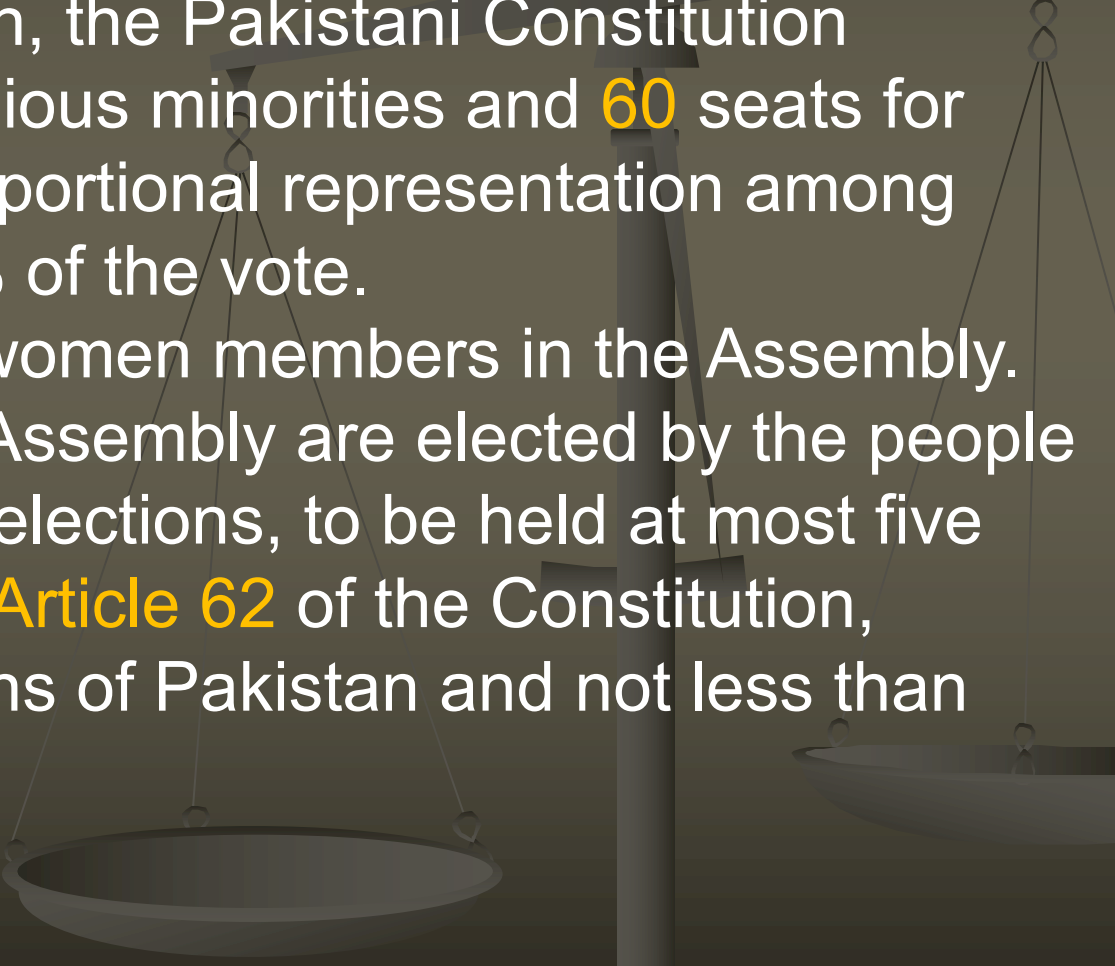
Currently, Sardar Ayaz Sadiq of PML (N) is serving as Speaker and Syed Khurshid Shah of Pakistan Peoples Party is serving as an opposition leader of the house.



Composition and elections

The composition of the National Assembly is specified in **Article 51** of the Constitution of Pakistan. There are a total of **342** seats in the National Assembly. Of these, **272** are filled by direct elections. In addition, the Pakistani Constitution reserves **10** seats for religious minorities and **60** seats for women, to be filled by proportional representation among parties with more than 5% of the vote.

As of 2006, there are 72 women members in the Assembly. Members of the National Assembly are elected by the people in competitive multi-party elections, to be held at most five years apart. According to **Article 62** of the Constitution, candidates must be citizens of Pakistan and not less than eighteen years of age.



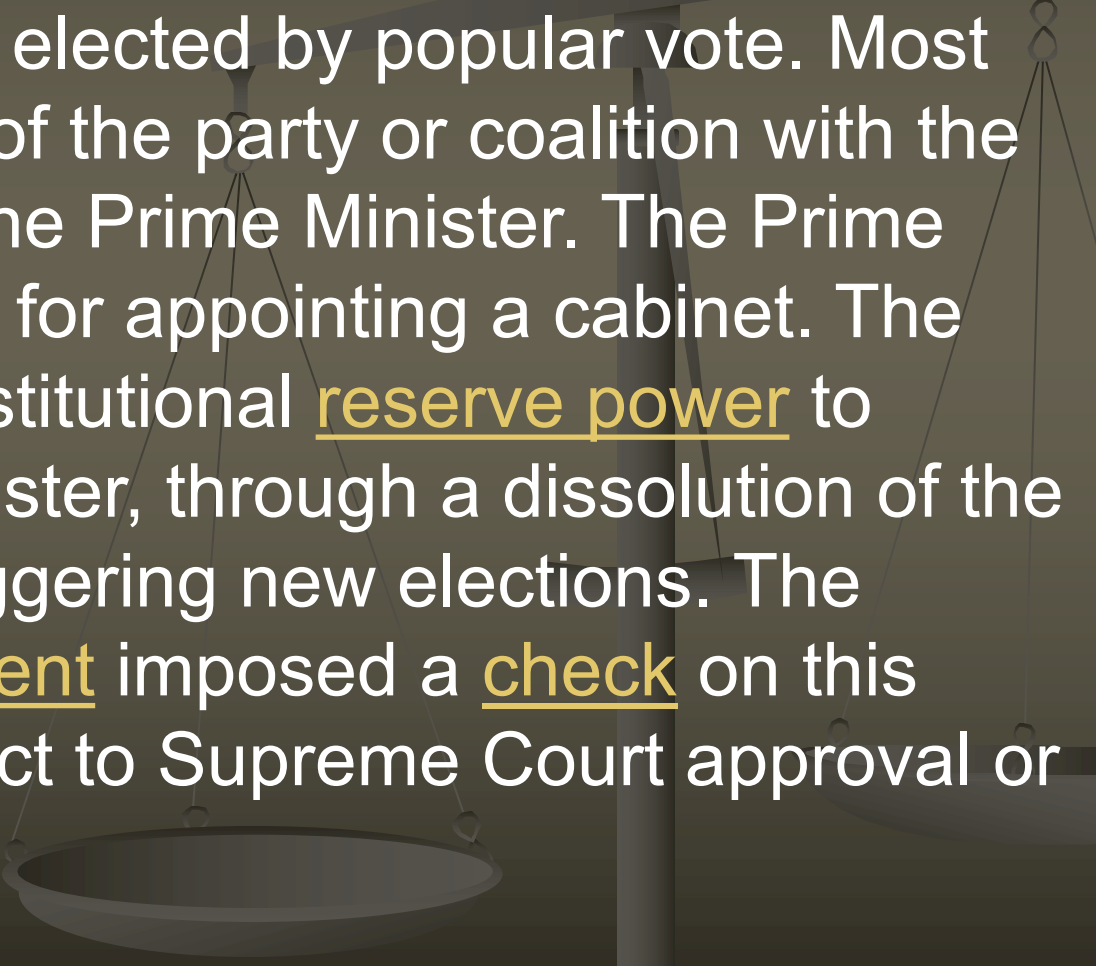
Results of the Pakistani general election, 2008

Political Party	Votes	%	Elected seats	Reserved seats (Women)	Reserved seats (Minorities/Non-Muslims)	Total
Pakistan Peoples Party	10,606,486	30.6%	94	23	4	121
Pakistan Muslim League (N)	6,781,445	19.6%	71	17	3	91
Pakistan Muslim League (Q)	7,989,817	23.0%	42	10	2	54
Muttahida Qaumi Movement	2,507,813	7.4%	19	5	1	25
Awami National Party	700,479	2.0%	10	3	0	13
Muttahida Majlis-e-Amal Pakistan	772,798	2.2%	5	1	0	6
Jamiat Ulema-e-Islam (F)						
Pakistan Muslim League (F)			4	1	0	5
Pakistan Peoples Party (Sherpao)	140,707	0.4%	1	0	0	1
National Peoples Party			1	0	0	1
Balochistan National Party (Awami)			1	0	0	1
Independents			18	0	0	18
Total	34,665,978	100%	266	60	10	336

Prime Minister of Pakistan (Urdu: وزیر اعظم *Wazir-e-Azam* meaning "*Grand Minister*"),

is the Head of Government of Pakistan.

The Prime Minister is elected by the National Assembly, members of which are elected by popular vote. Most commonly, the leader of the party or coalition with the most votes becomes the Prime Minister. The Prime Minister is responsible for appointing a cabinet. The President has the constitutional reserve power to remove the Prime Minister, through a dissolution of the National Assembly, triggering new elections. The Seventeenth Amendment imposed a check on this power, making it subject to Supreme Court approval or veto.

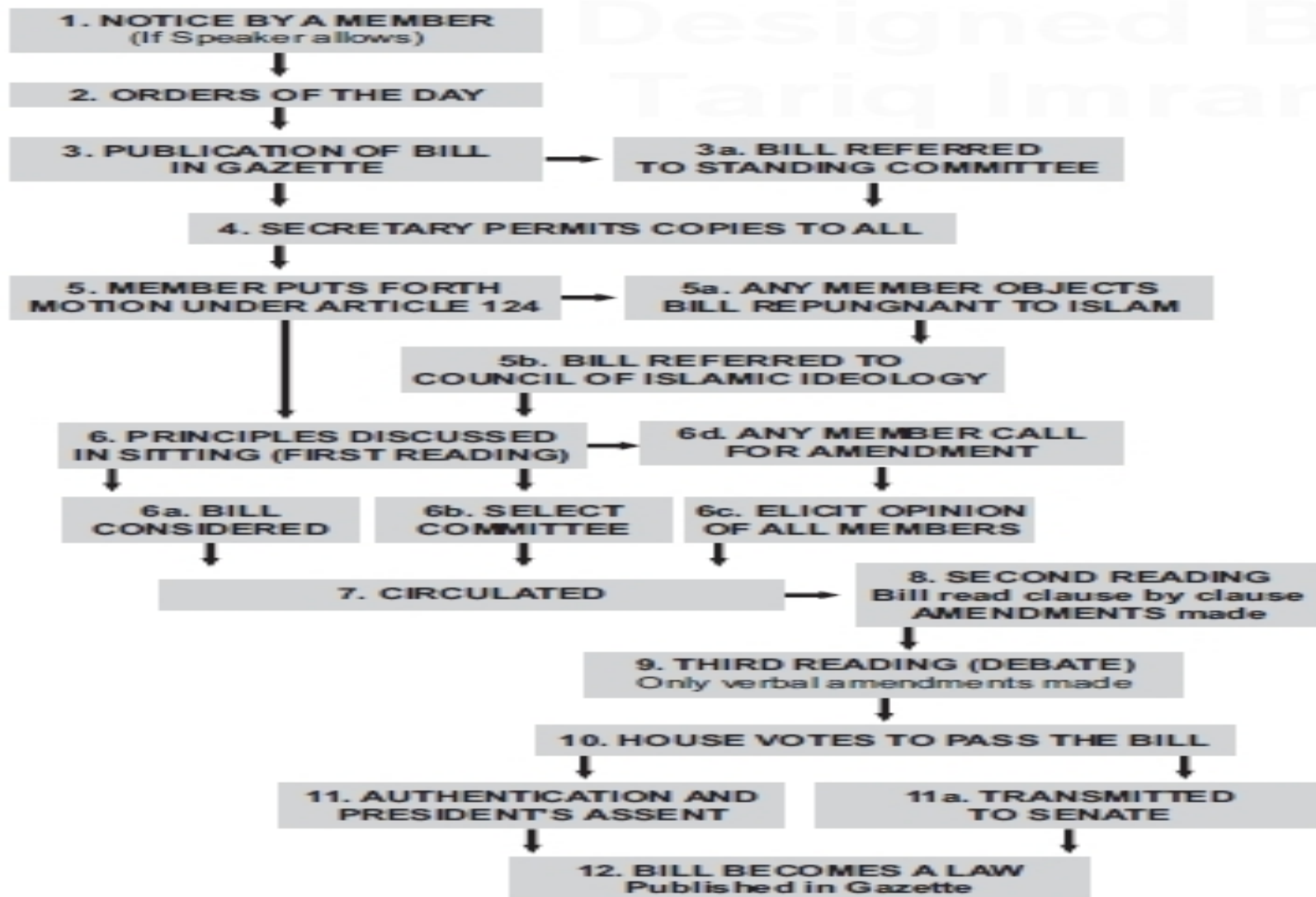


The *office* of Prime Minister did not exist during three periods of Pakistan's history, a circumstance different from a vacancy in the office, as a result of the dismissal of an *individual* Prime Minister by the President. In the first two cases, Pakistan had no Prime Minister from October 7, 1958 until July 3, 1972, and from July 5, 1977 until March 24, 1985— periods of martial law. During these periods, the President, who was the chief martial law administrator, effectively had the powers of Prime Minister as the head of government, without the title of Prime Minister. In the third case, after Pervez Musharraf's coup, Pakistan did not have a Prime Minister from October 12, 1999 to November 20, 2002. During this time, Musharraf, holding the office of *Chief Executive*, was effectively the Head of Government. Mian Muhammad Nawaz Sharif is the currently 29th Prime Minister of Pakistan.



Legislative Process

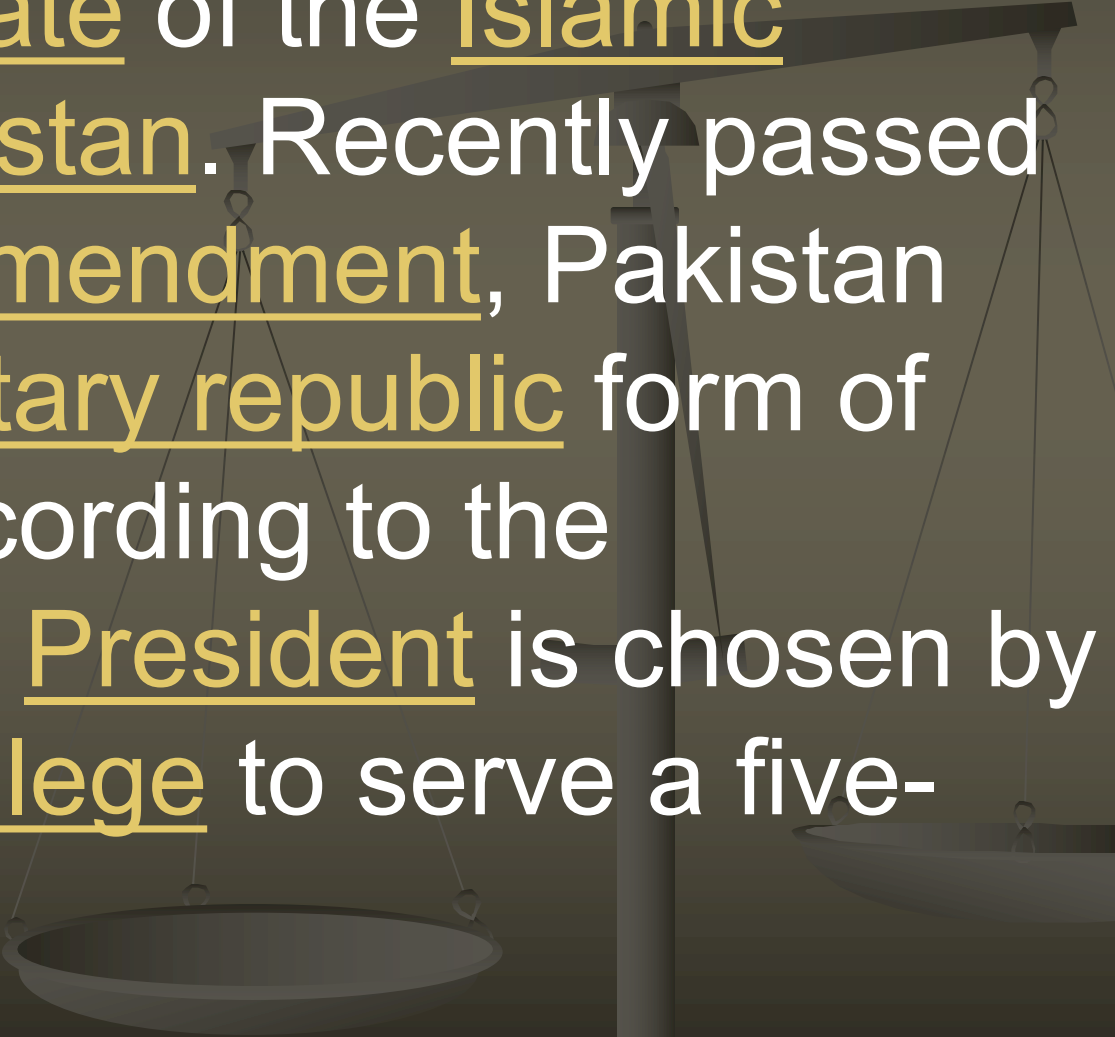
Designed By
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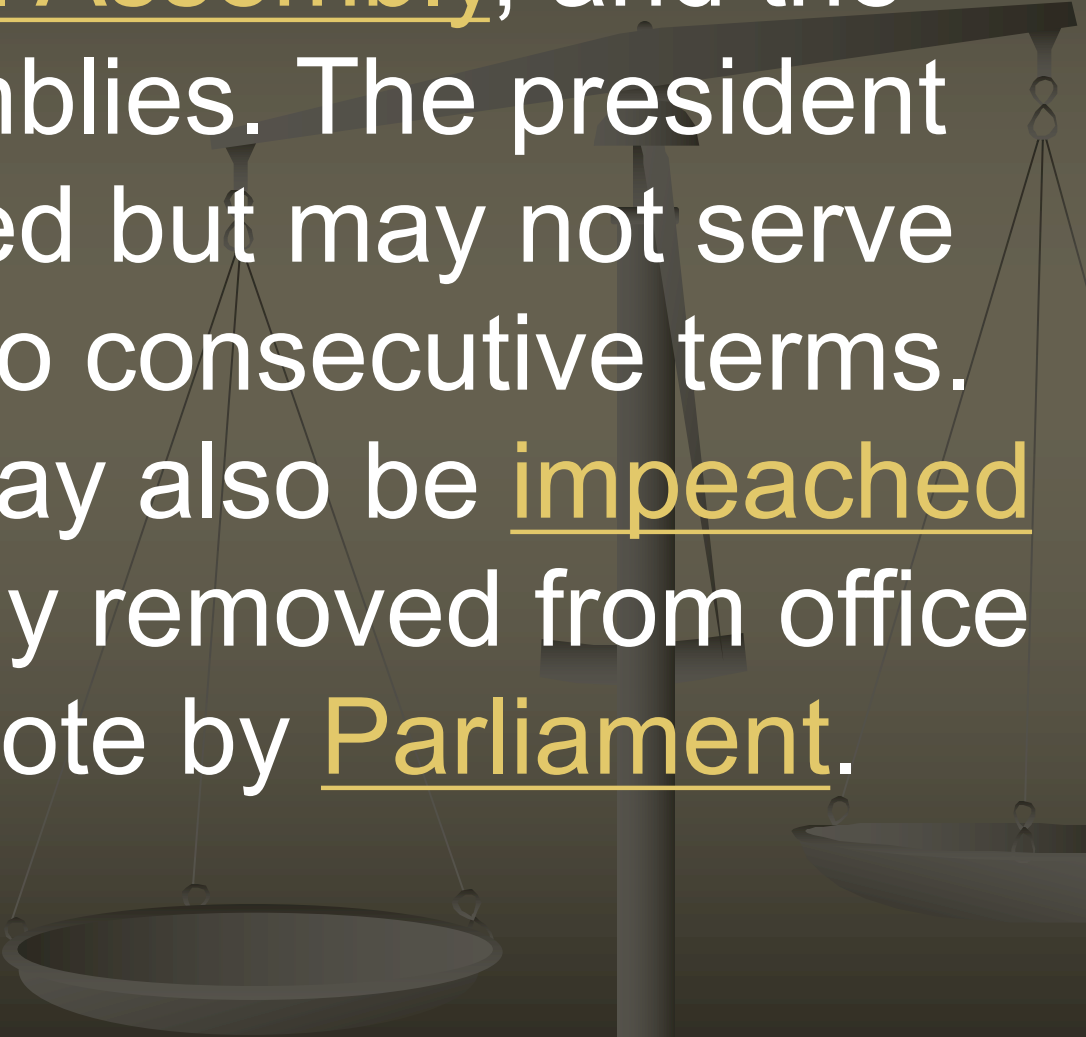


The President of Pakistan

(Urdū: صدر 'Sadr-e-Mumlikat')

is the head of state of the Islamic Republic of Pakistan. Recently passed an Eighteenth Amendment, Pakistan has a parliamentary republic form of government. According to the Constitution, the President is chosen by the Electoral College to serve a five-year term.






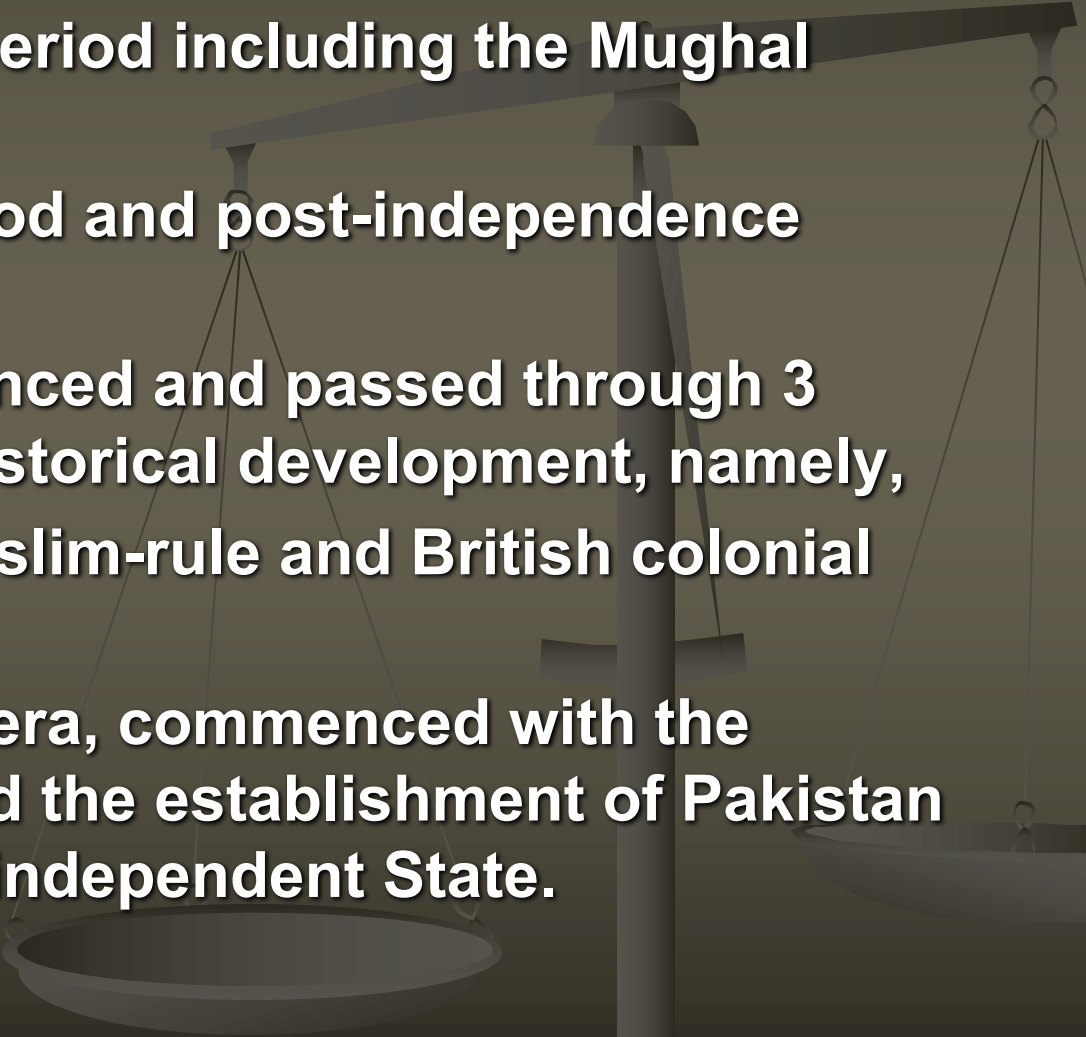
The electoral college comprises the Senate, National Assembly, and the provincial assemblies. The president may be re-elected but may not serve for more than two consecutive terms. The president may also be impeached and subsequently removed from office by a two-thirds vote by Parliament.

President in Pakistan has traditionally been one of a figurehead with actual powers lying with the Prime Minister. However, at various times in history, often related with military coups and the subsequent return of civilian governments, changes in the Constitution have altered the powers and privileges associated with the office of the president.

Constitution gave the president reserve powers - subject to Supreme Court approval or veto - to dissolve the National Assembly, triggering new elections, and thereby to dismiss the Prime Minister. The president also chairs the National Security Council and appoints the heads of the Army, Navy and Air Force.

Summary of the 6 September 2008 Pakistani presidential election results

Candidate	Main supporting party	<u>Senate</u>	<u>National Assembly</u>	<u>Punjab*</u>	<u>Sindh*</u>	<u>Balochistan</u>	<u>NWFP*</u>	Total
<u>Asif Ali Zardari</u> 	<u>Pakistan Peoples Party</u>		281	22	63	59	56	481
<u>Saeeduzzaman Siddiqui</u>	<u>Pakistan Muslim League (N)</u>		111	35	0	2	5	153
<u>Mushahid Hussain Syed</u>	<u>Pakistan Muslim League (Q)</u>		34	6	0	2	2	44

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- The roots stretch back to the medieval period and even before.
 - A long period of time, spanning roughly over a whole millennium.
 - Hindu era, Muslim period including the Mughal dynasty,
 - British colonial period and post-independence period.
 - The system experienced and passed through 3 distinct stages of historical development, namely,
 - Hindu Kingdom, Muslim-rule and British colonial domination.
 - The 4th and current era, commenced with the partition of India and the establishment of Pakistan as a sovereign and independent State.

1- Hindu Period

1500 BC until 1500 AD.



The King was regarded as the fountain of justice who also discharged judicial functions. In this task, judges as well as his ministers and counselors assisted him.

2. Muslim Period

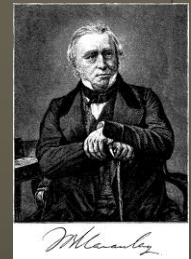
11th century A.D.

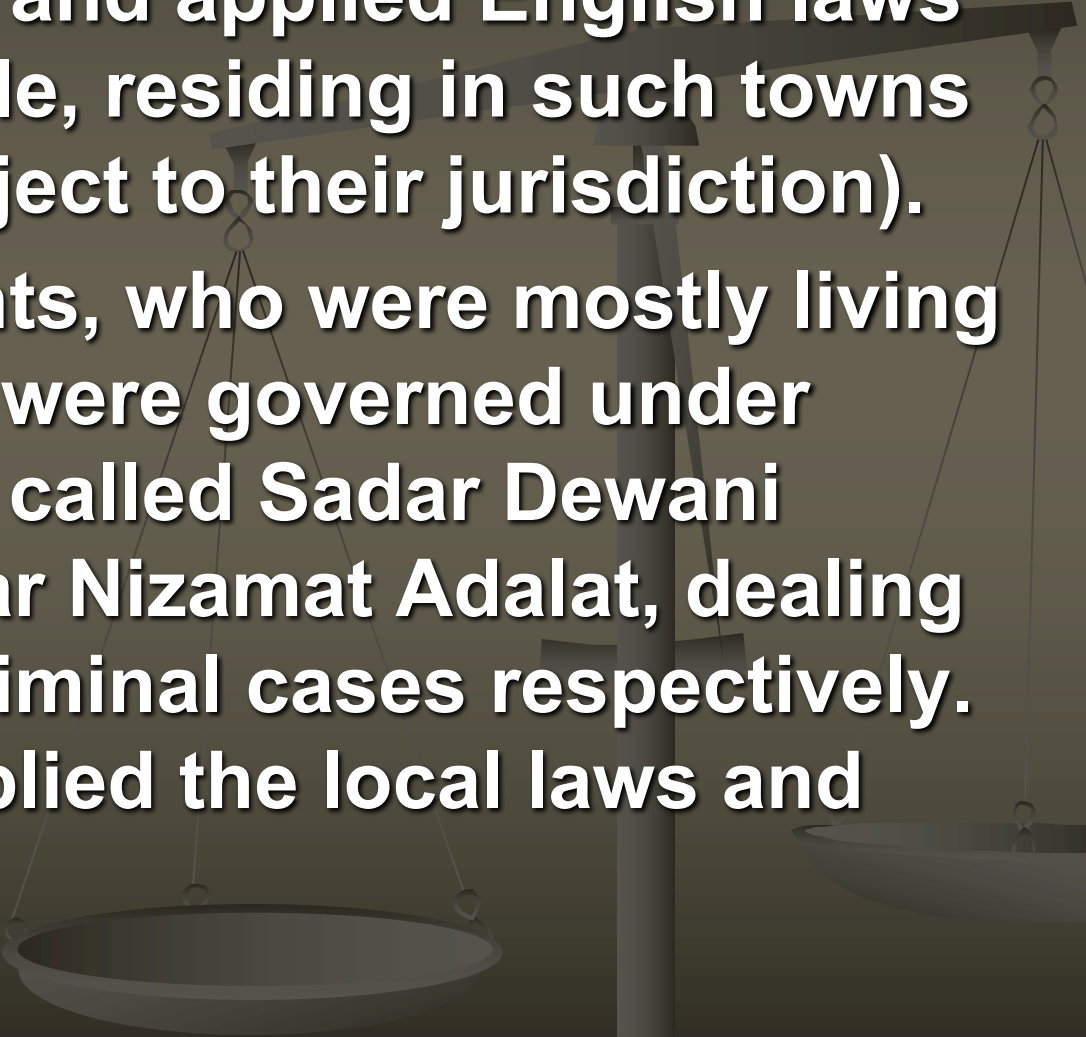


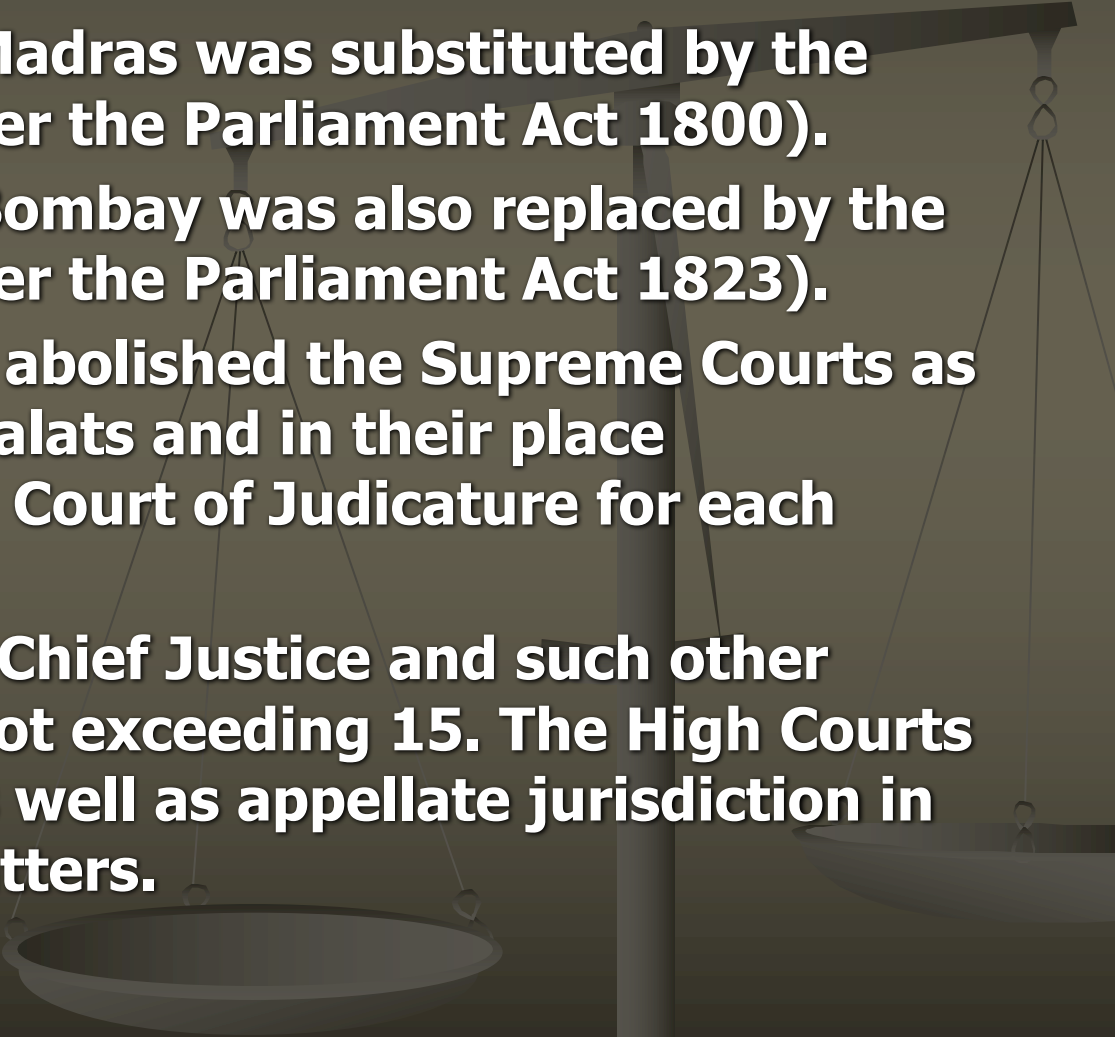
(I) Period of early Muslim rulers who ruled Delhi and some other parts of India

(ii) Mughal period, 1526 A.D to until middle of 19th century.

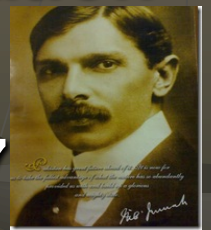
- The East India Company was authorized by the Charter of 1623 to decide the cases of its English employees.
- The Company, established its own courts
- Charter of 1661 authorized the Governor and Council to decide not only the cases of the Company employees but also of persons residing in the settlement.
- Applied the English laws.
- The administration of justice was initially confined to the presidency town of Bombay, Calcutta and Madras



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- **Two sets of courts, one for the Presidency towns and the other the mufussil.**
 - **Supreme Courts and Recorders Courts.** (English judges and applied English laws to English people, residing in such towns alone, were subject to their jurisdiction).
 - **Native inhabitants, who were mostly living in the mufussil, were governed under separate courts called Sadar Dewani Adalat and Sadar Nizamat Adalat, dealing with civil and criminal cases respectively. Such courts applied the local laws and regulations.**

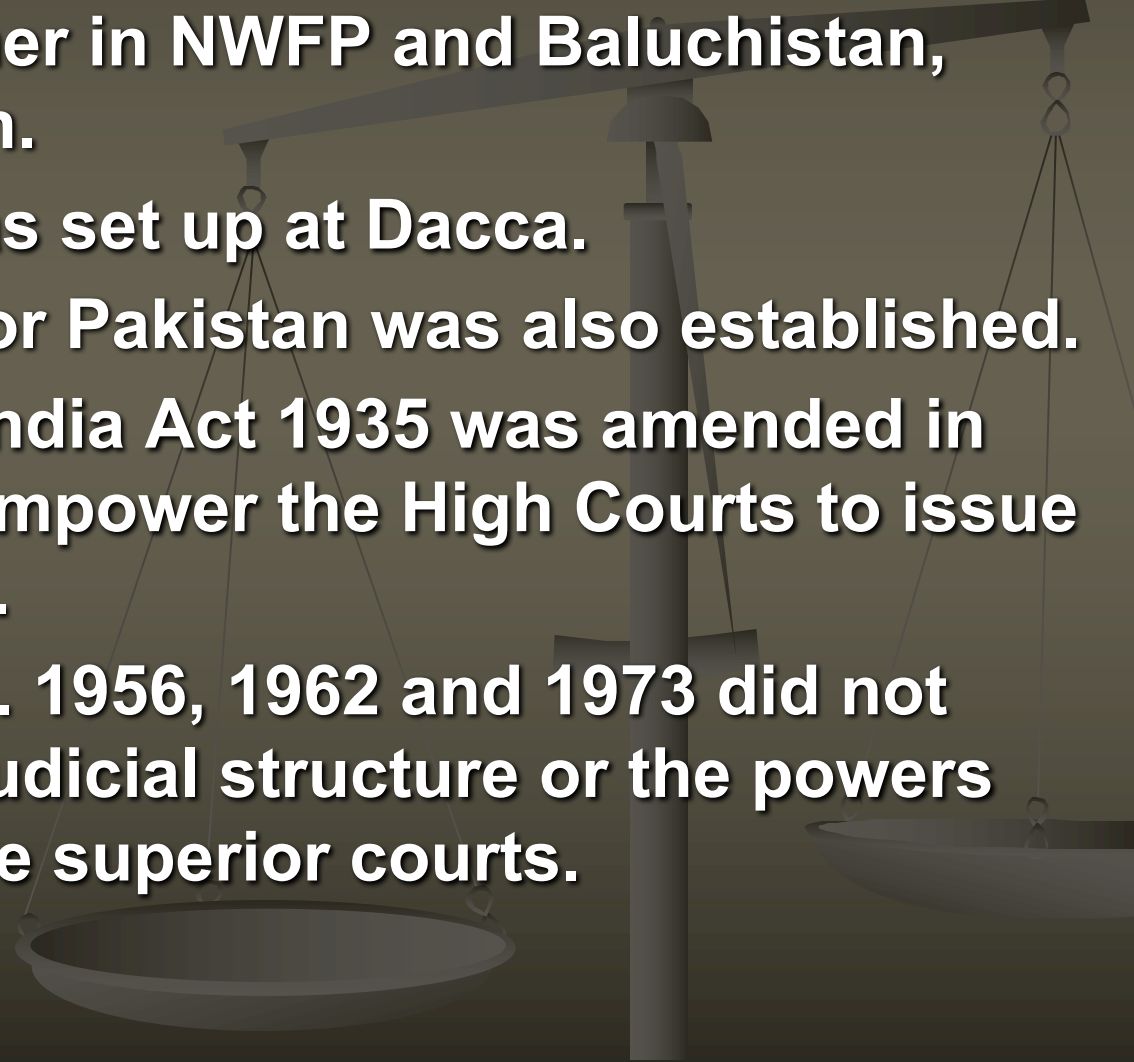
- **Supreme Court of Calcutta was established under the Regulating Act 1773.**
 - **1798, Recorders Courts were established at Madras and Bombay with powers identical to the Supreme Court of Calcutta.**
 - **Recorder's Court at Madras was substituted by the Supreme Court (under the Parliament Act 1800).**
 - **Recorder's Court at Bombay was also replaced by the Supreme Court (under the Parliament Act 1823).**
 - **High Court Act 1861 abolished the Supreme Courts as well as the Sadar Adalats and in their place constituted the High Court of Judicature for each Presidency-town.**
 - **Court consisted of a Chief Justice and such other number of Judges, not exceeding 15. The High Courts exercised original as well as appellate jurisdiction in civil and criminal matters.**
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- Besides the Presidency-towns, High Courts were also established in Allahabad in 1866, Patna in 1919, Lahore in 1919 and Rangoon in 1936. The Sind Chief Court was established under the Sind Courts Act 1926. Similarly, under the NWFP Courts Regulation 1931 and the British Baluchistan Courts Regulation 1939, the Court of Judicial Commissioner was created in each such area.
- The Government of India Act 1935 retained the High Courts and also provided for the creation of a Federal Court.
- The Federal Court was established in 1937



Post-Independence Evolution:

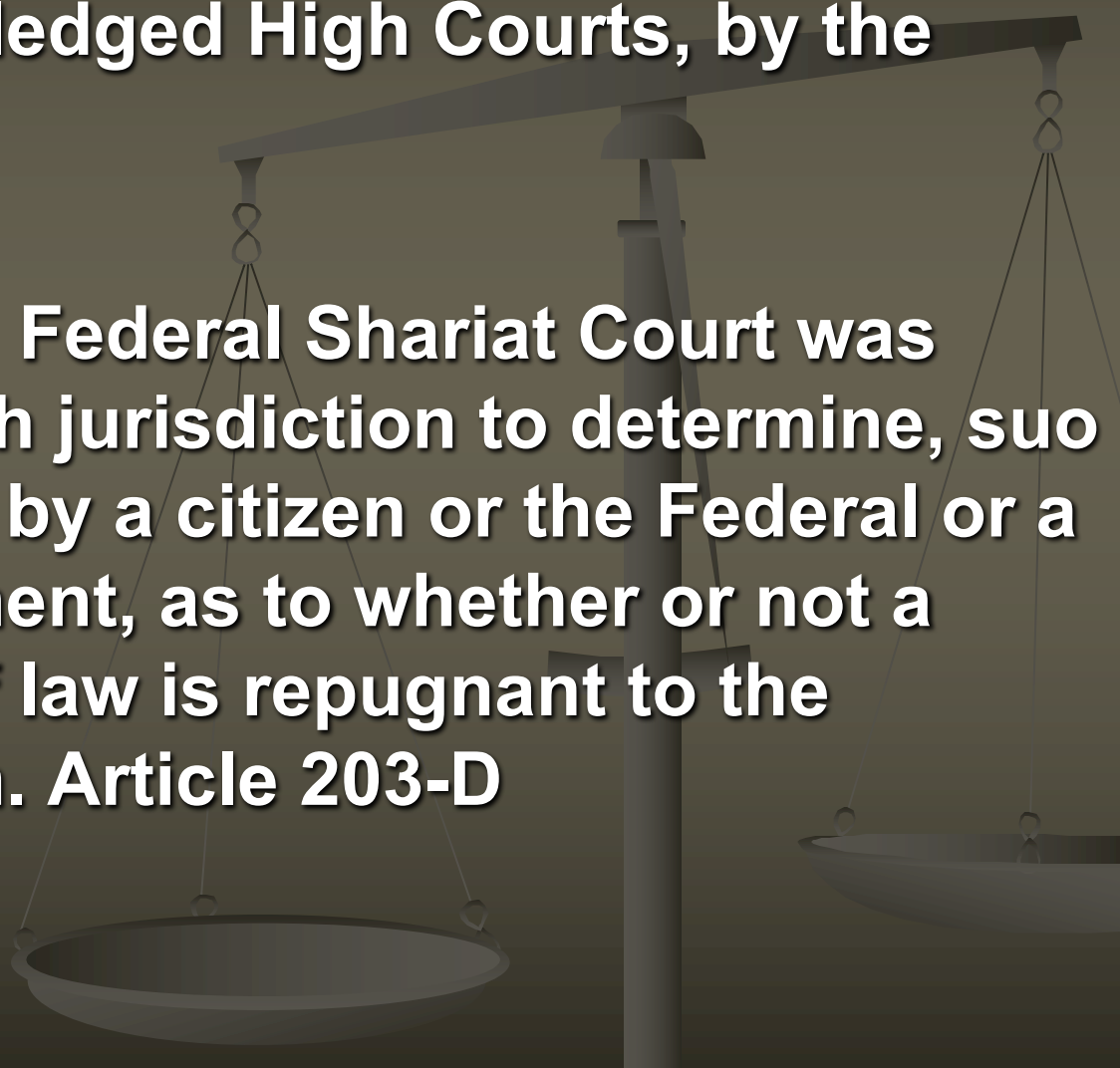
- Government of India Act 1935 was retained as a provisional Constitution.
- Lahore High Court, Sindh Chief Court, Courts of Judicial Commissioner in NWFP and Baluchistan, continued to function.
- A new High Court was set up at Dacca.
- New Federal Court for Pakistan was also established.
- The Government of India Act 1935 was amended in 1954 with a view to empower the High Courts to issue the prerogative writs.
- The Constitutions i.e. 1956, 1962 and 1973 did not drastically alter the judicial structure or the powers and jurisdiction of the superior courts.



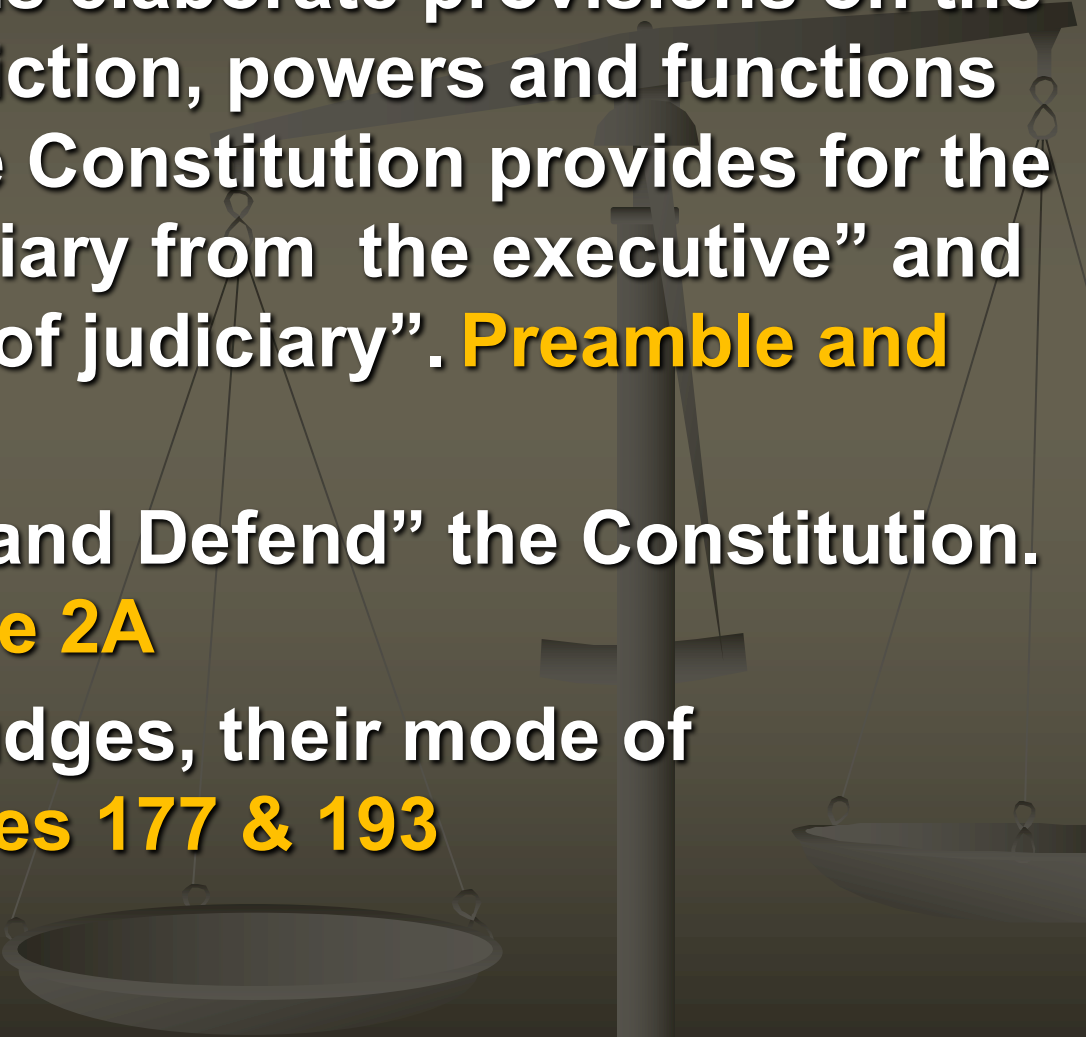
- **Federal Court was renamed as Supreme Court by the 1956 Constitution. Chief Court of NWFP and Judicial Commissioner Court of Baluchistan were upgraded into full-fledged High Courts, by the 1973 Constitution.**

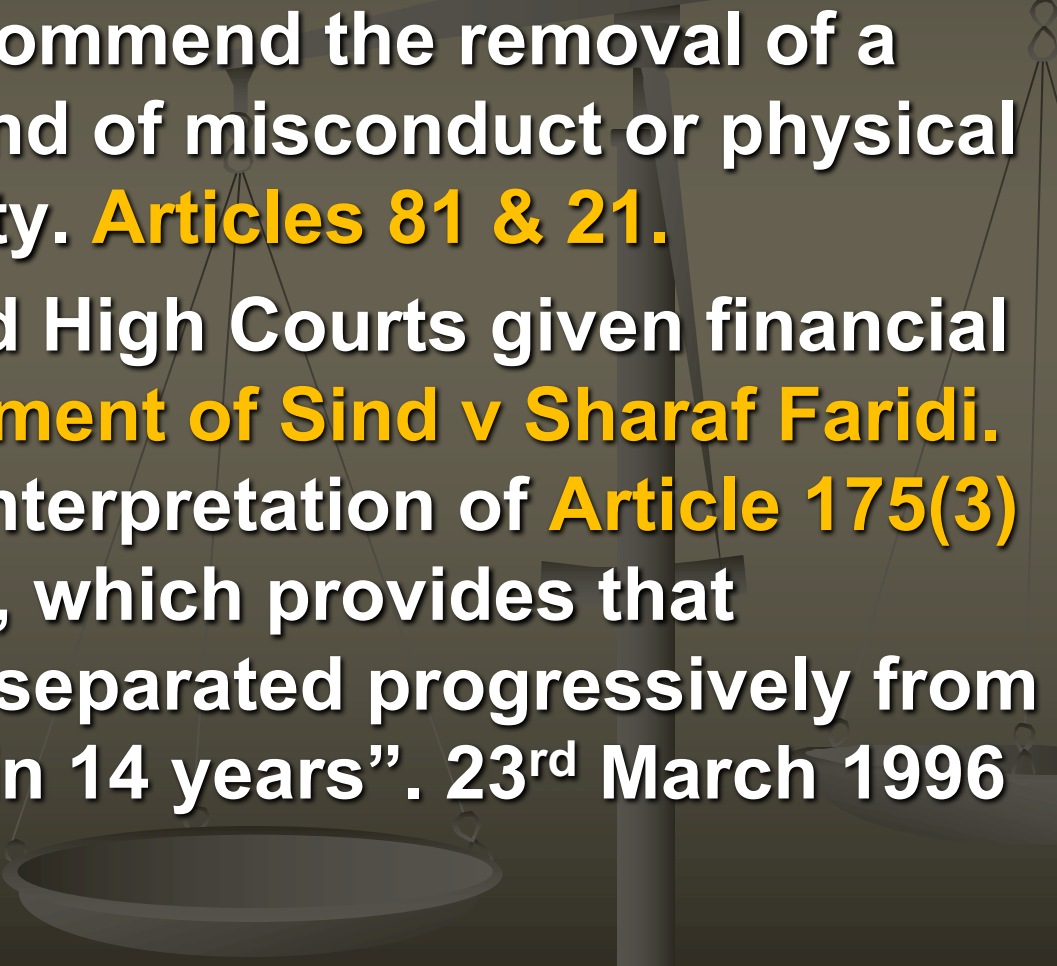
- **A new Court called, Federal Shariat Court was created in 1980, with jurisdiction to determine, suo moto or on petition by a citizen or the Federal or a provincial Government, as to whether or not a certain provision of law is repugnant to the injunctions of Islam. Article 203-D**

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Superior Judiciary

- The Constitution of Pakistan deals with the superior judiciary in a fairly comprehensive manner and contains elaborate provisions on the composition, jurisdiction, powers and functions of these courts. The Constitution provides for the “separation of judiciary from the executive” and the “independence of judiciary”. **Preamble and Article 2A**
 - “Preserve, Protect and Defend” the Constitution. **Preamble and Article 2A**
 - Qualifications of Judges, their mode of appointment. **Articles 177 & 193**
- 

- 
- **Removal of judges of the superior courts.** The Supreme Judicial Council, consisting of the senior judges of the Supreme Court and High Courts, on its own or on a reference made by the President, may recommend the removal of a Judge on the ground of misconduct or physical or mental incapacity. **Articles 81 & 21.**
 - **Supreme Court and High Courts given financial autonomy. Government of Sind v Sharaf Faridi. PLD 1994 SC 105** Interpretation of **Article 175(3)** of the Constitution, which provides that “judiciary shall be separated progressively from the Executive within 14 years”. 23rd March 1996



- **Al-Jehad Trust v Federation**

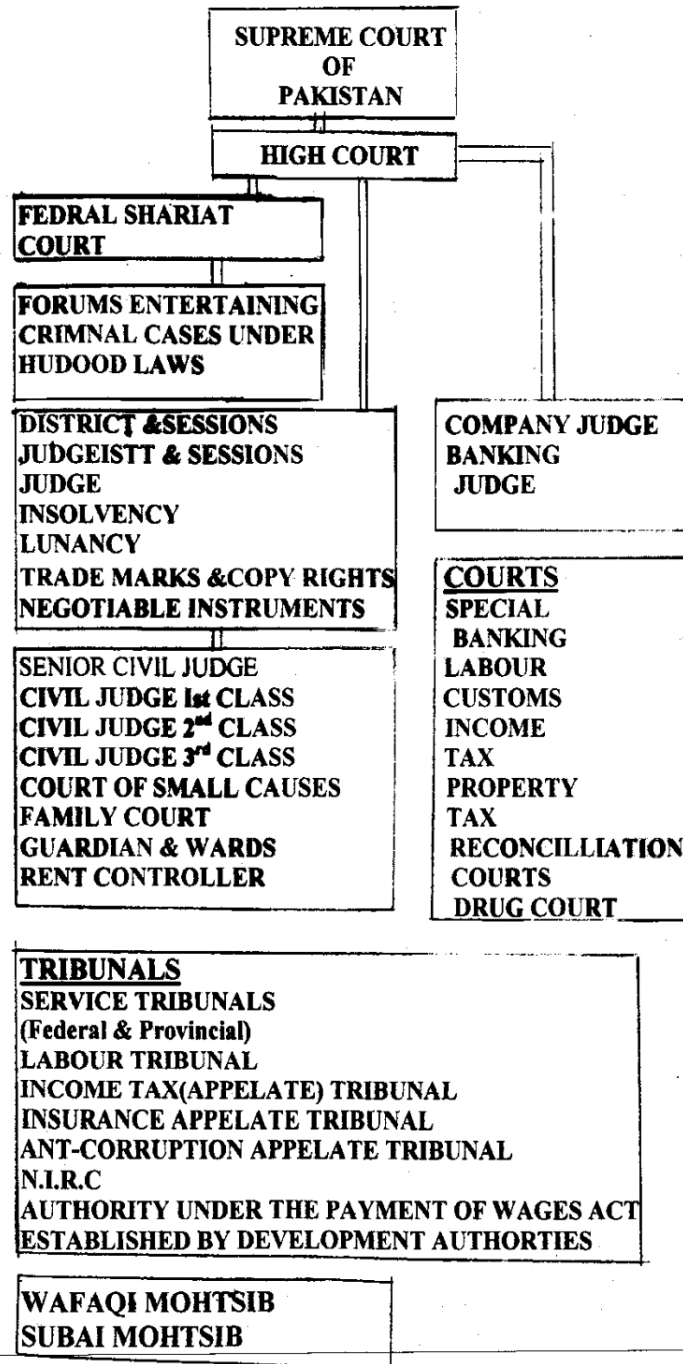
PLD 1996 SC 324

- **Asad Ali v Federation**

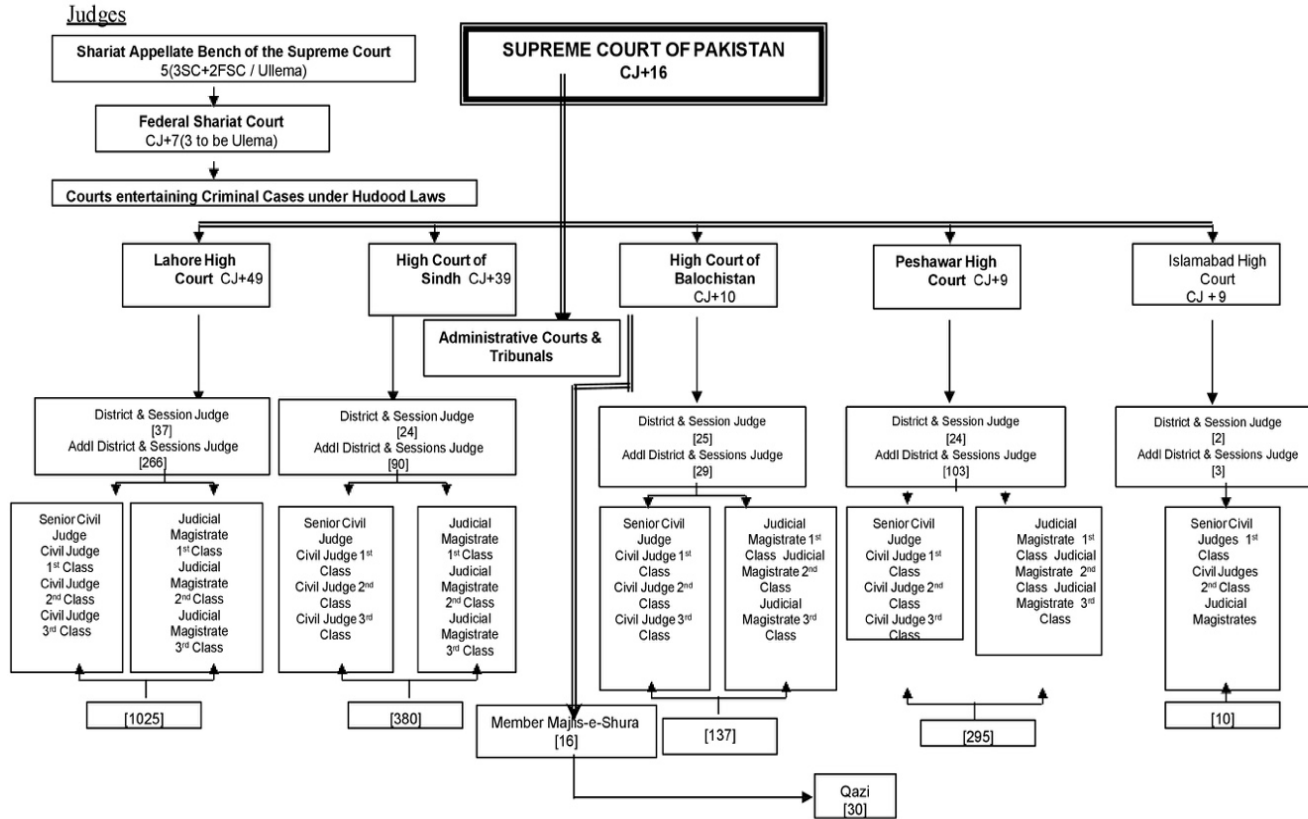
PLD 1998 SC 33

- Interpreted various provisions in the Constitution and clarified the procedure and qualifications for appointment to the Supreme Court and High Court and appointment of the Chief Justices of the said courts.

THE PAKISTAN LEGAL HIERARCHY



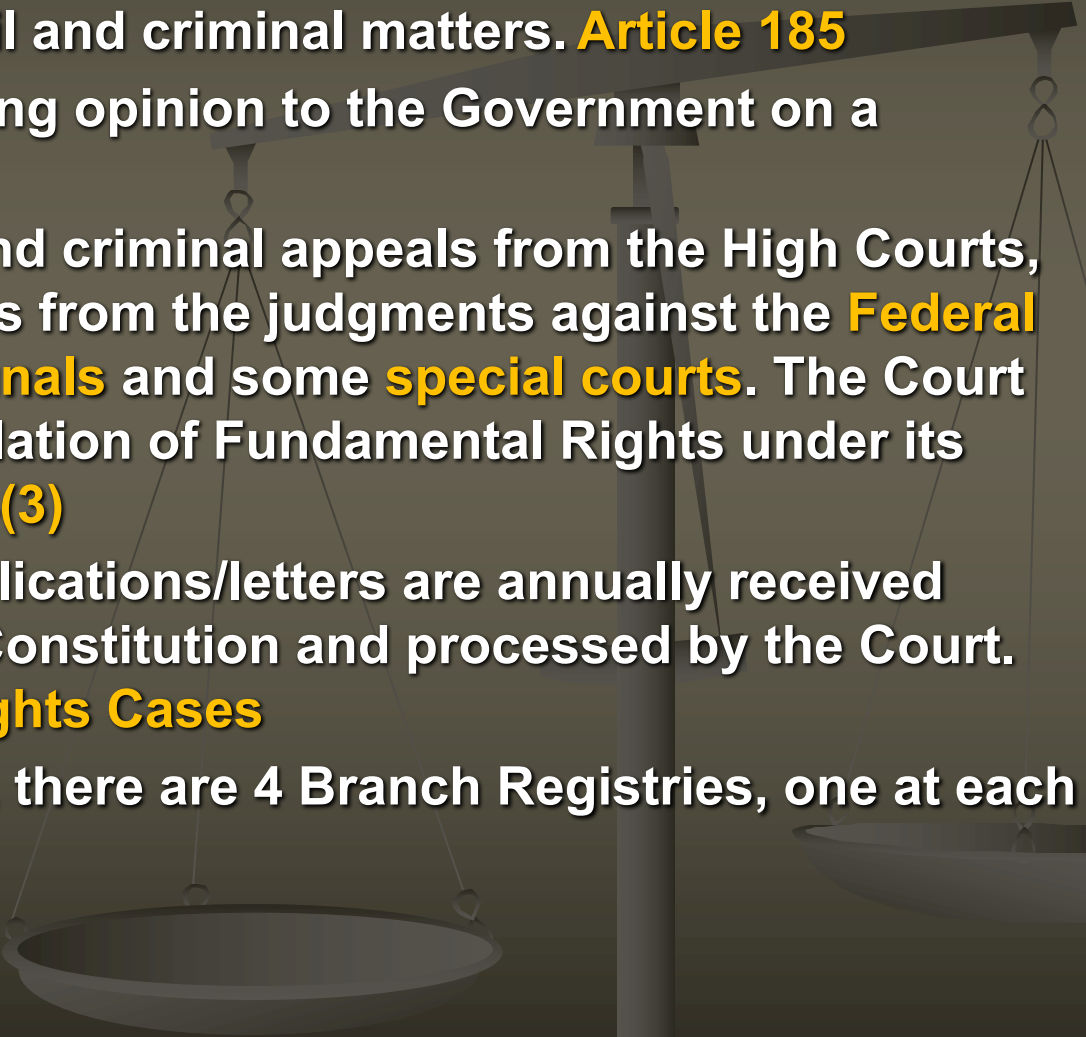
ORGANISATION AND STRENGTH OF JUDICIAL HIERARCHY



(1) Supreme Court

- The Supreme Court is the apex Court of the land, exercising original, appellate and advisory jurisdiction. **Articles 184, 185 & 186 .**
- Court of ultimate appeal and therefore final arbiter of law and the Constitution. Its decisions are binding on all other courts.
Article 189
- Court consists of a Chief Justice and other judges.
Article 176
- Act of Parliament has determined the number of judges. Eligibility for appointment
Article 177



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- **Original** jurisdiction in inter-governmental disputes. **Article 184(1)**
 - **Original** jurisdiction (concurrently with High Courts) for the enforcement of fundamental rights, where a question of ‘public importance’ is involved. **Article 184 (3)**
 - **Appellate** jurisdiction in civil and criminal matters. **Article 185**
 - **Advisory** jurisdiction in giving opinion to the Government on a question of law. **Article 185**
 - Besides entertaining civil and criminal appeals from the High Courts, the Court also hears appeals from the judgments against the **Federal Shariat Court, Service Tribunals** and some **special courts**. The Court also entertains cases of violation of Fundamental Rights under its original jurisdiction. **Art 184(3)**
 - Besides, around 30,000 applications/letters are annually received under **Article 184(3)** of the Constitution and processed by the Court.
Public Interest & Human Rights Cases
 - Principal Seat at Islamabad, there are 4 Branch Registries, one at each provincial metropolis

(2) High Courts

High Court in each province. Each High Court consists of a Chief Justice and other puisne judges. The strength of Lahore high Court is fixed at 50, High Court of Sindh at 28, Peshawar High Court at 16 and High Court of Baluchistan at 9. The Chief Justice is appointed by the President in consultation with the Chief Justice of Pakistan and other judges, in consultation with the Chief Justice of Pakistan, Governor of the Province and the Chief Justice of the concerned High Court. **Article 193**

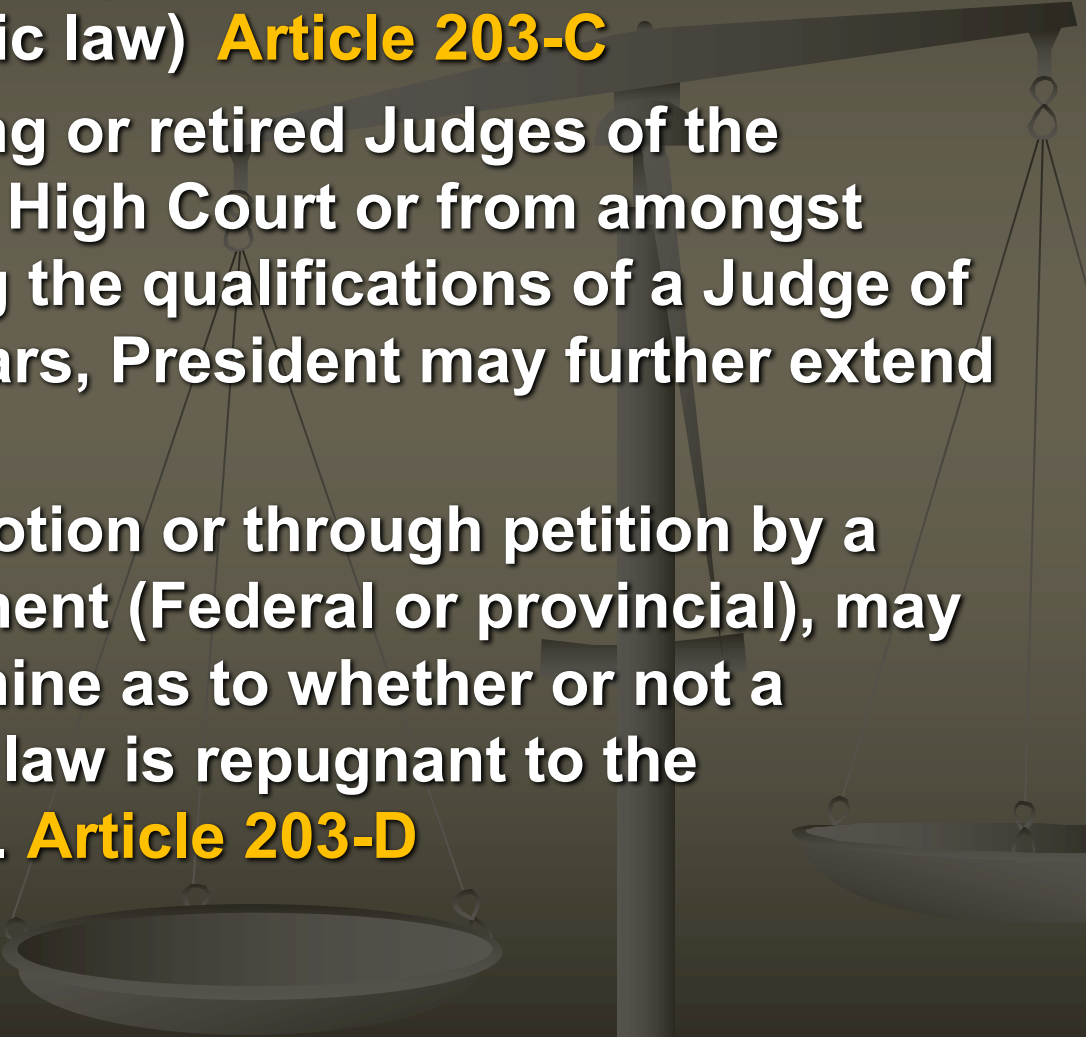
Qualifications **Article 193**

Original jurisdiction in the enforcement of Fundamental Rights **Article 193**

Appellate jurisdiction in judgments/orders of the subordinate courts in civil and criminal matters.

The Court **supervises** and controls all the courts subordinate to it. **Article 203**

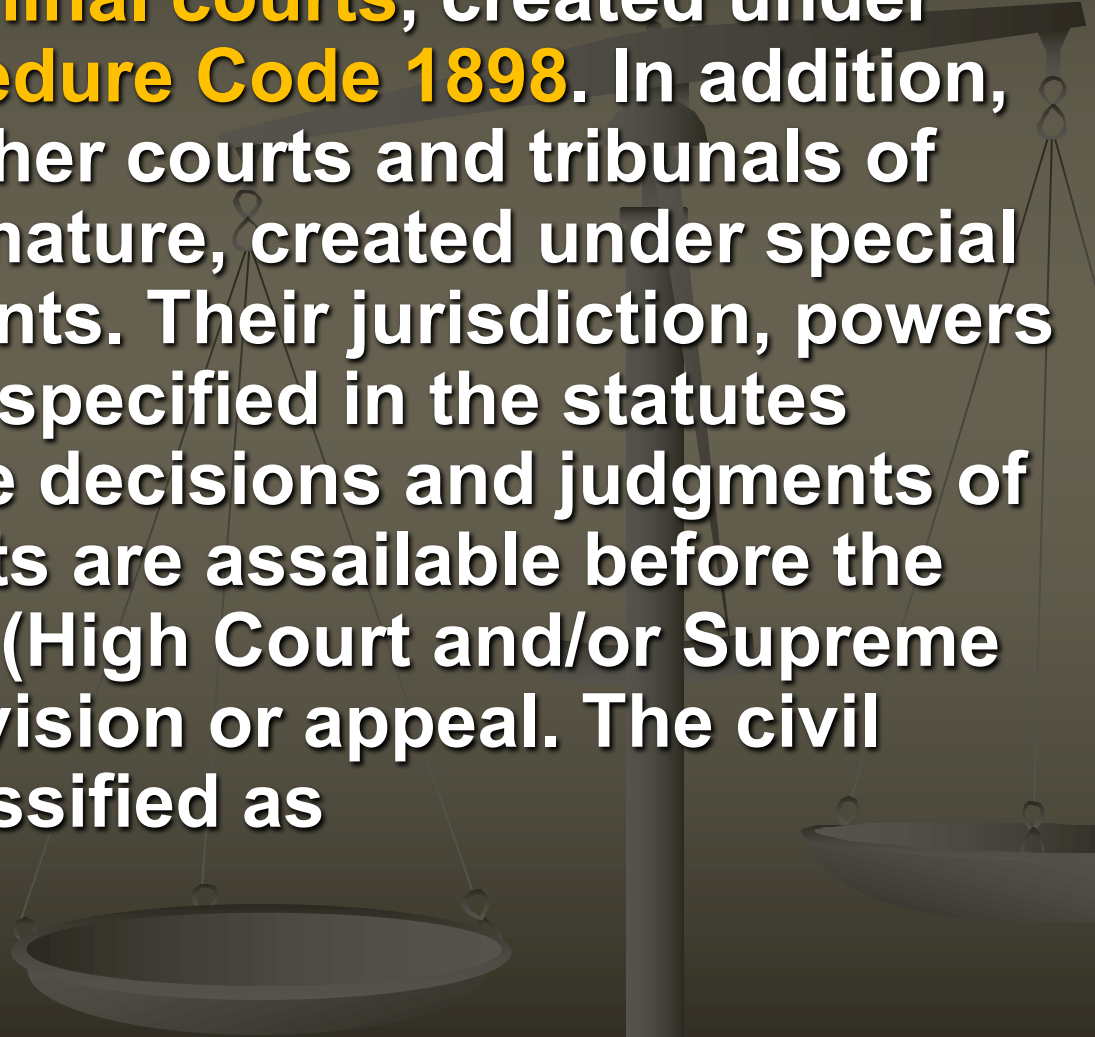
(3) Federal Shariat Court

- Court consists of 8 Muslim Judges including the Chief Justice. (3 are required to be Ulema who are well versed in Islamic law) **Article 203-C**
 - Qualification, Serving or retired Judges of the Supreme Court or a High Court or from amongst persons possessing the qualifications of a Judge of the High Court 3 years, President may further extend such period.
 - Court, on its own 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 Injunctions of Islam. **Article 203-D**
- 

- Appeal against 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 Ulema, appointed by the President. **Article 203-F**
- If a certain provision of law is declared to be repugnant to the Injunctions of Islam, the Government is required to take necessary steps to amend the law so as to bring it in conformity with the injunctions of Islam. The Court also exercises appellate revisional jurisdiction over the criminal courts, deciding **Hudood** cases. **Article 203-D**
- 1980, the Federal Shariat Court has been the subject of criticism and controversy in the society. Created as an Islamisation measure by the Military Regime **Constitution (Amendment) Order 1980** subsequently protected under the controversial **8th Amendment**

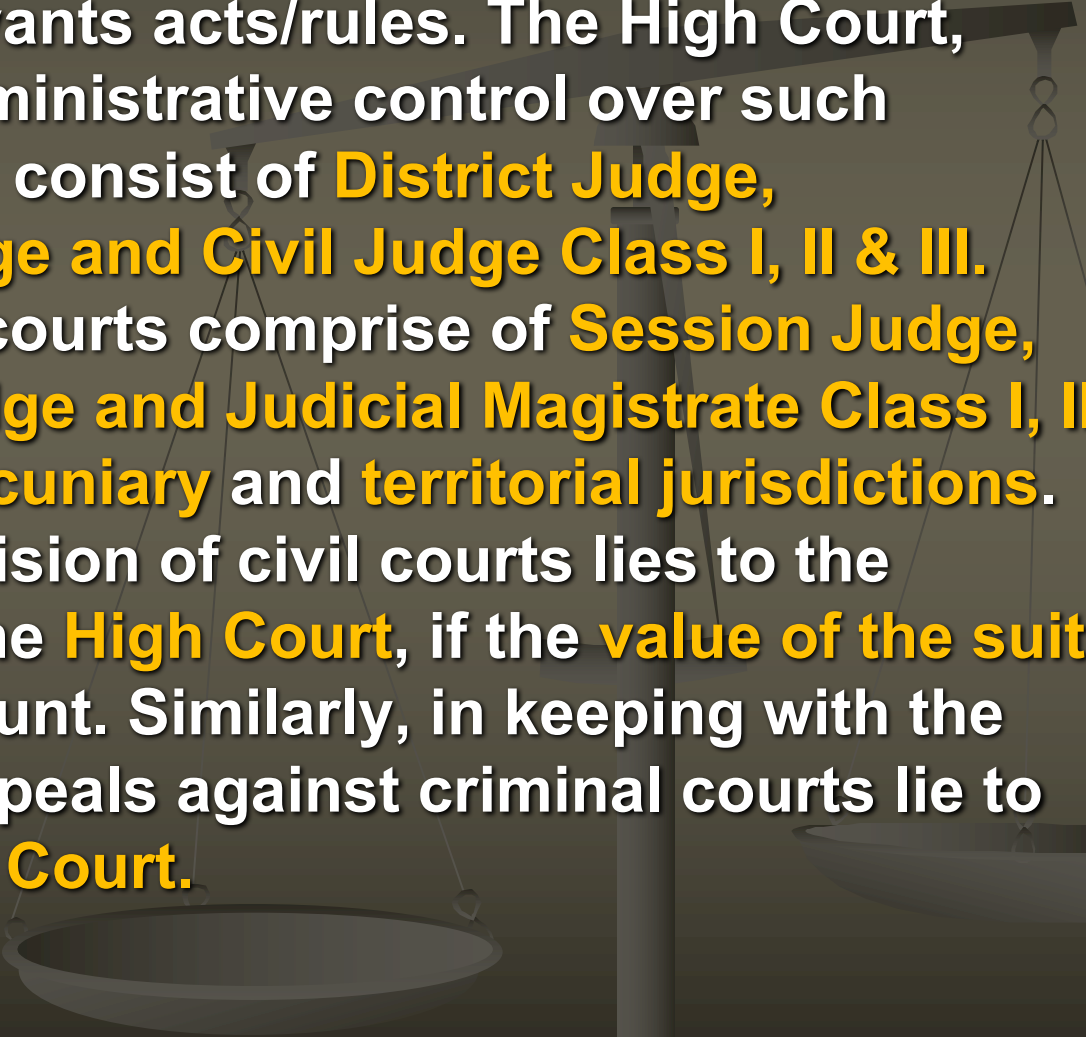
(4) Subordinate Judiciary

Two classes; one, **civil courts**, established under the **West Pakistan Civil Court Ordinance 1962** and two, **criminal courts**, created under the **Criminal Procedure Code 1898**. In addition, there also exist other courts and tribunals of civil and criminal nature, created under special laws and enactments. Their jurisdiction, powers and functions are specified in the statutes creating them. The decisions and judgments of such special courts are assailable before the superior judiciary (High Court and/or Supreme Court) through revision or appeal. The civil courts may be classified as



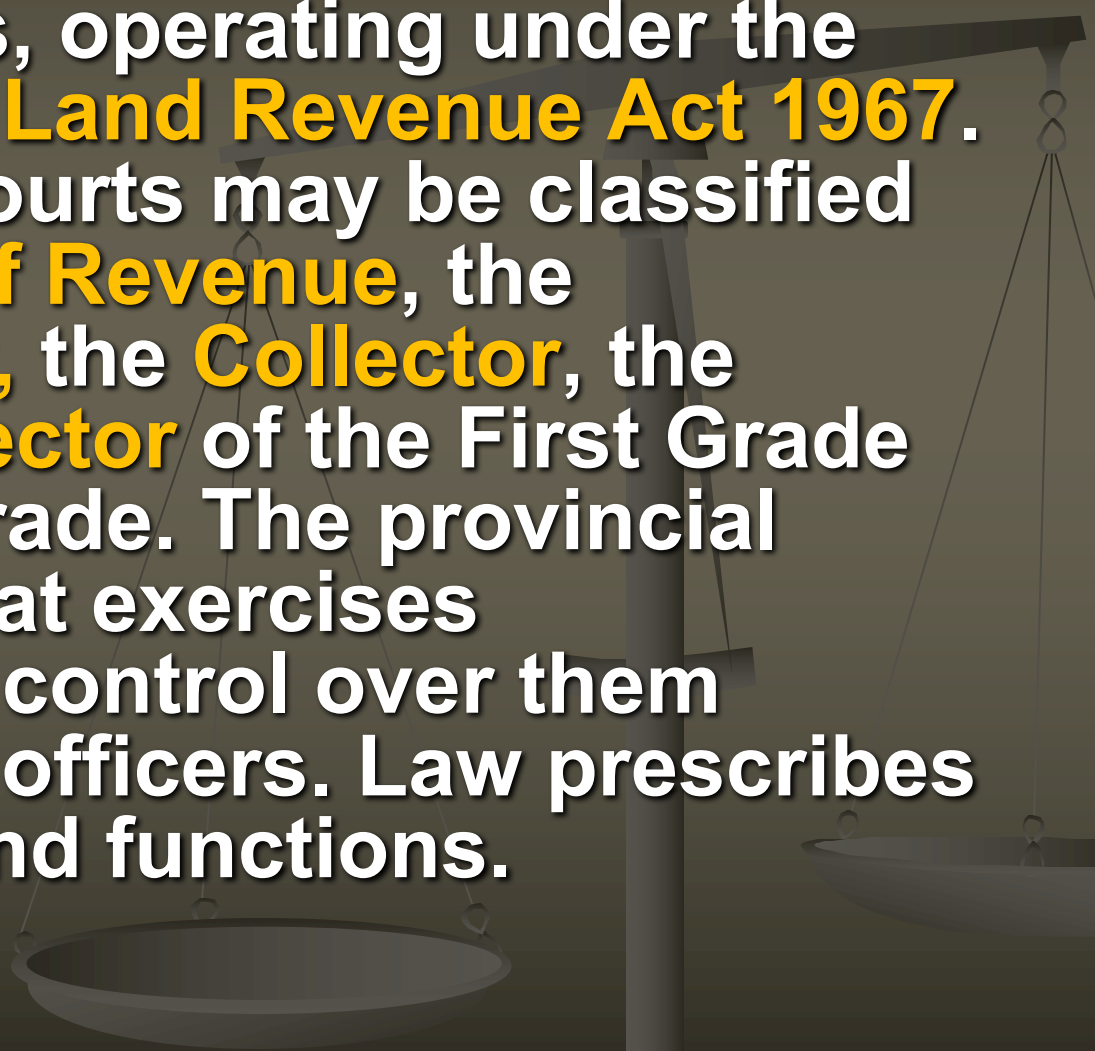
(i) Civil & Criminal Courts

The provincial governments appoint the civil and criminal **judges** and their terms and conditions are regulated under the provincial civil servants acts/rules. The High Court, however, exercises administrative control over such courts. The civil courts consist of **District Judge, Additional District Judge and Civil Judge Class I, II & III**. Similarly, the criminal courts comprise of **Session Judge, Additional Session Judge and Judicial Magistrate Class I, II & III**. Law fixes their **pecuniary** and **territorial jurisdictions**. **Appeal** against the decision of civil courts lies to the **District Judge** and to the **High Court**, if the **value of the suit** exceeds specified amount. Similarly, in keeping with the **quantum of penalty**, appeals against criminal courts lie to **Session Judge or High Court**.



(ii) Revenue Courts

Besides the civil courts, there exist revenue courts, operating under the **West Pakistan Land Revenue Act 1967**. The revenue courts may be classified as the **Board of Revenue**, the **Commissioner**, the **Collector**, the **Assistant Collector** of the First Grade and Second Grade. The provincial government that exercises administrative control over them appoints such officers. Law prescribes their powers and functions.

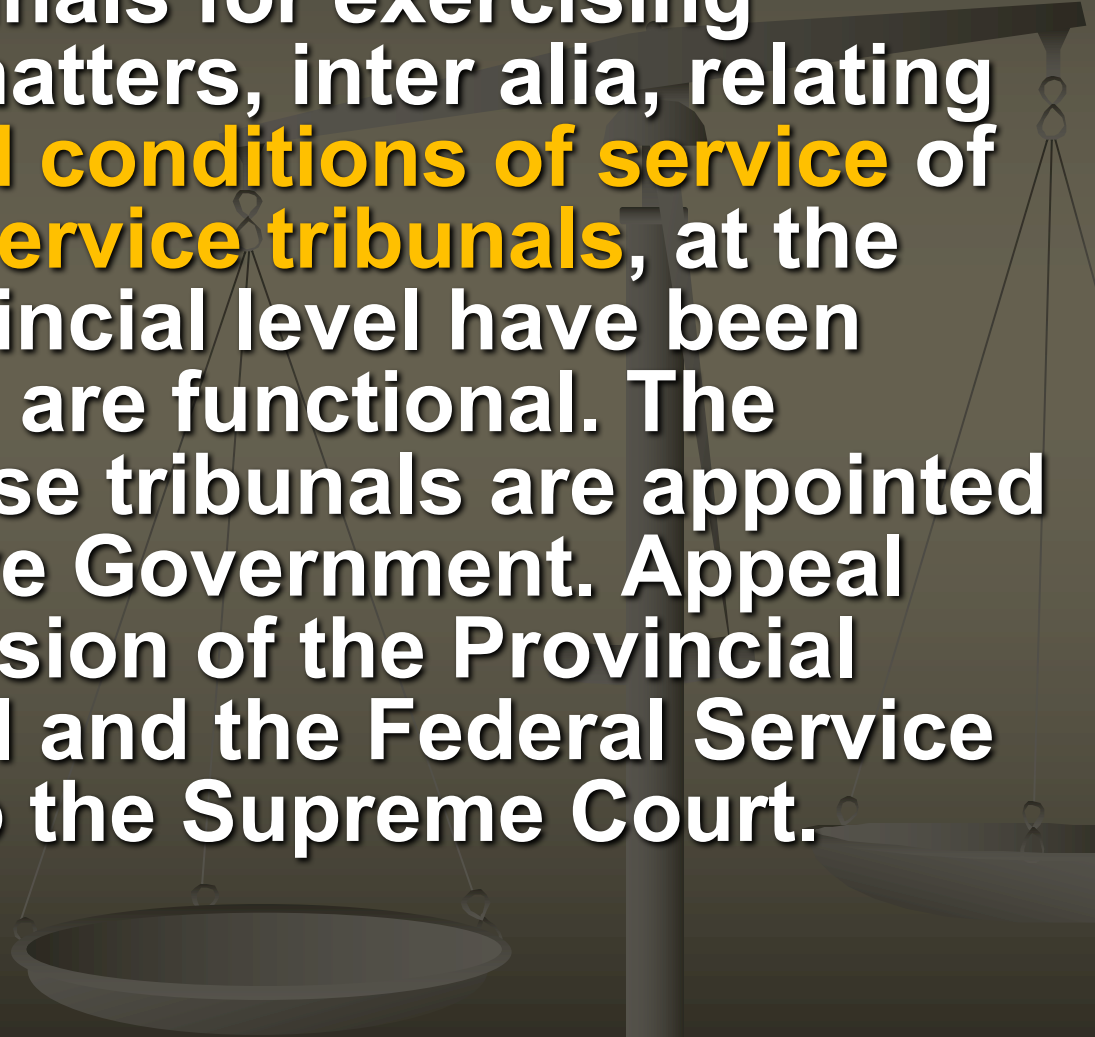


(iii) Special Courts

- The Constitution authorises the federal legislature to establish administrative courts and tribunals for dealing with federal subjects. **Item 14 of the Federal Legislative Act, Part I in the 4th Schedule**
- Most of these courts function under the **Ministry of Law & Justice**, however, certain courts also operate under other **ministries/departments**. Such courts/tribunals include the **Special Banking Court, Special Court Custom, Taxation and Anti-corruption, Income Tax (Appellate) Tribunal, Insurance Appellate Tribunal**, etc etc. The judicial officers presiding over these courts are appointed on deputation from the provincial judicial cadre.

(iv) Service Tribunals

Article 212 of the Constitution, authorizes the Government to set up administrative courts and tribunals for exercising jurisdiction in matters, inter alia, relating to the **terms and conditions of service of civil servants. Service tribunals**, at the centre and provincial level have been established and are functional. The members of these tribunals are appointed by the respective Government. Appeal against the decision of the Provincial Service Tribunal and the Federal Service Tribunals lies to the Supreme Court.



Procedure

- **Code of Civil Procedure 1908** prescribes procedure for proceedings in civil cases. The Code is in two parts i.e. **Sections**, which contain the basic and fundamental principles and can be amended only by the legislature, and **Schedules**, which contain rules of procedure and can be amended by the High Court.
- **Criminal Procedure Code 1898** as well as various other special statutes prescribe criminal procedure. The **Qanun-e-Shahadat 1984** prescribes the **competency of witnesses**, the **examination of witnesses**, **form of evidence** and the **procedure for presenting the same**, etc. The procedure prescribed in the law applies to judicial proceedings and investigations by a court of law in civil or criminal cases.

Organisation of Subordinate Judiciary

The subordinate courts (civil and criminal) have been established and their jurisdiction defined by law **Article 175** Supervised and controlled by the respective High Court **Article 203**. Administration of justice, a **provincial subject** and thus the subordinate courts are organized and the terms and conditions of service of judicial officers determined under the provincial laws and rules.

Initial recruitment as Civil Judge-cum-Judicial Magistrate is made through the **Provincial Public Service Commission** with the active involvement of the High Court. For the provinces of **Punjab, NWFP and Balochistan**, recruitment is made through a **competitive examination** consisting of a **written test and viva voce**. **Sindh** recruitment is made by the High Court itself through a written test followed by viva voce and the names of selected candidates are recommended to the Provincial Government for appointment.

Court Jurisdiction



SUPREME COURT

1. **184(1) Original** jurisdiction in inter-governmental disputes, issues declaratory judgments;
2. **184(3) Enforcement of Fundamental Rights** involving an issue **of public importance**;
3. **Art 185(2) Appeal** from judgment/order of High Court in criminal cases, tried in original and/or appellate capacity and having imposed death penalty or life imprisonment;
4. **Art 185(2) Appeal** in civil cases when the value of claim exceeds fifty thousand rupees;
5. **Art 185(2) Appeal** when High Court certifies that the case involves interpretation of the Constitution;
6. **Art 185(3) Appeal (subject to grant of leave)** from High Court judgment/order;
7. **Art 186 Advisory jurisdiction** on any question of law involving public importance referred by the President;
8. **Art 187** To **issue directions/orders** for doing complete justice in a pending case/matter;
9. **Art 188** To **review** any of its own judgment/order;
10. **Art 204** To **punish** for its **contempt**;
11. **Art 212 Appeal** from **Administrative courts/tribunals**; and
12. **Art 203F** Its **Shariat Appellate Bench** hears appeals from judgments/orders of Federal Shariat Court.



FEDERAL SHARIAT COURT

1. **Art 203-D** To determine whether a provision of **law is repugnant to the Injunctions of Islam**;
2. **Art 203 DD Revisional Jurisdiction** in cases under **Hudood laws**;
3. **Art 203 E** To **review** its judgment/order;
4. **Art 203 E** To punish for its **contempt**; and
5. **Under Hudood laws**, hears **appeals** from judgment/order of criminal courts.



HIGH COURT

1. Art 199(1) to issue 5 writs namely **mandamus, prohibition, certiorari, habeas corpus, certiorari and quo warranto**;
2. Art 199(2) Enforcement of **Fundamental Rights**;
3. Art 203: To **supervise/control** subordinate courts;
4. Art 204: To punish for its **contempt**;
5. To hear **appeal** under **S.96 &100** of **CPC**;
6. To decide **reference** under **S.113** of **CPC**;
7. Power of **review** under **S.114** of **CPC**;
8. Power of **revision** under **S.115** of **CPC**;
9. **Appeals** under **S.410** of **Cr.P.C**;
10. **Appeals** against **acquittal** under **S.417** of **Cr.P.C**;
11. **Appeals** against **judgment/decreed/order** of **tribunals** under special laws;
12. To issue directions of the nature of ***habeas corpus*** under **S.491** of **Cr.P.C**;
13. **Banking & Company** Judge Jurisdiction
14. **Inter-Court appeal** at Lahore High Court and High Court of Sindh,
{High Court of Sindh has original jurisdiction in civil cases of the value of above 3 million}.

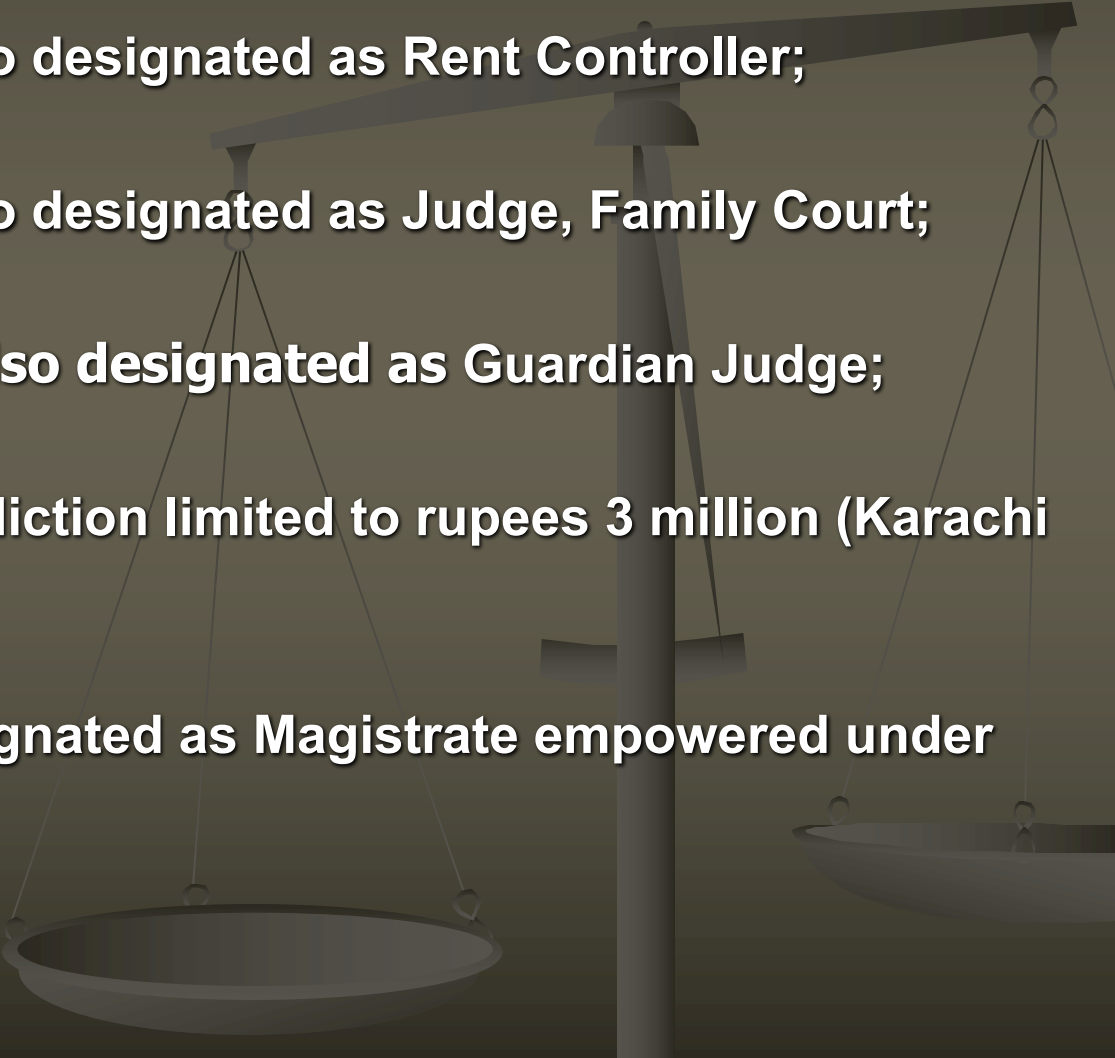


DISTT. & SESSIONS JUDGE/ADDL. DISTT. & SESSIONS JUDGE

1. **Appeal** against judgment/decreed of a Civil Judge under **S.96 of CPC**;
 2. **Appeal** against order under **S.104 of CPC**;
 3. Power of **revision** under **S.115 of CPC**;
 4. **Original jurisdiction** in suits upon bills of exchange, hundies or promissory notes under **Order XXXVII of CPC**;
 5. **Murder trial** under **S.265 A of the Cr.P.C**;
 6. **Criminal trial** under **Hudood laws**;
 7. **Appeals** under **S.423 of Cr.P.C**;
 8. Power of **revision** under **S.435 of Cr.P.C**;
 9. To issue directions of the nature of ***habeas corpus*** under **S.491 of Cr.P.C**; and
 10. As **Justice of Peace** issue directions under **S.22 A \$ 22 B of Cr.P.C**.
 10. Decides **pre-arrest bail** applications under **S 498 of the Cr. PC**.
- (In Karachi District, the original jurisdiction of Distt Judge is limited to Rupees 3 million)**



CIVIL JUDGE 1ST CLASS

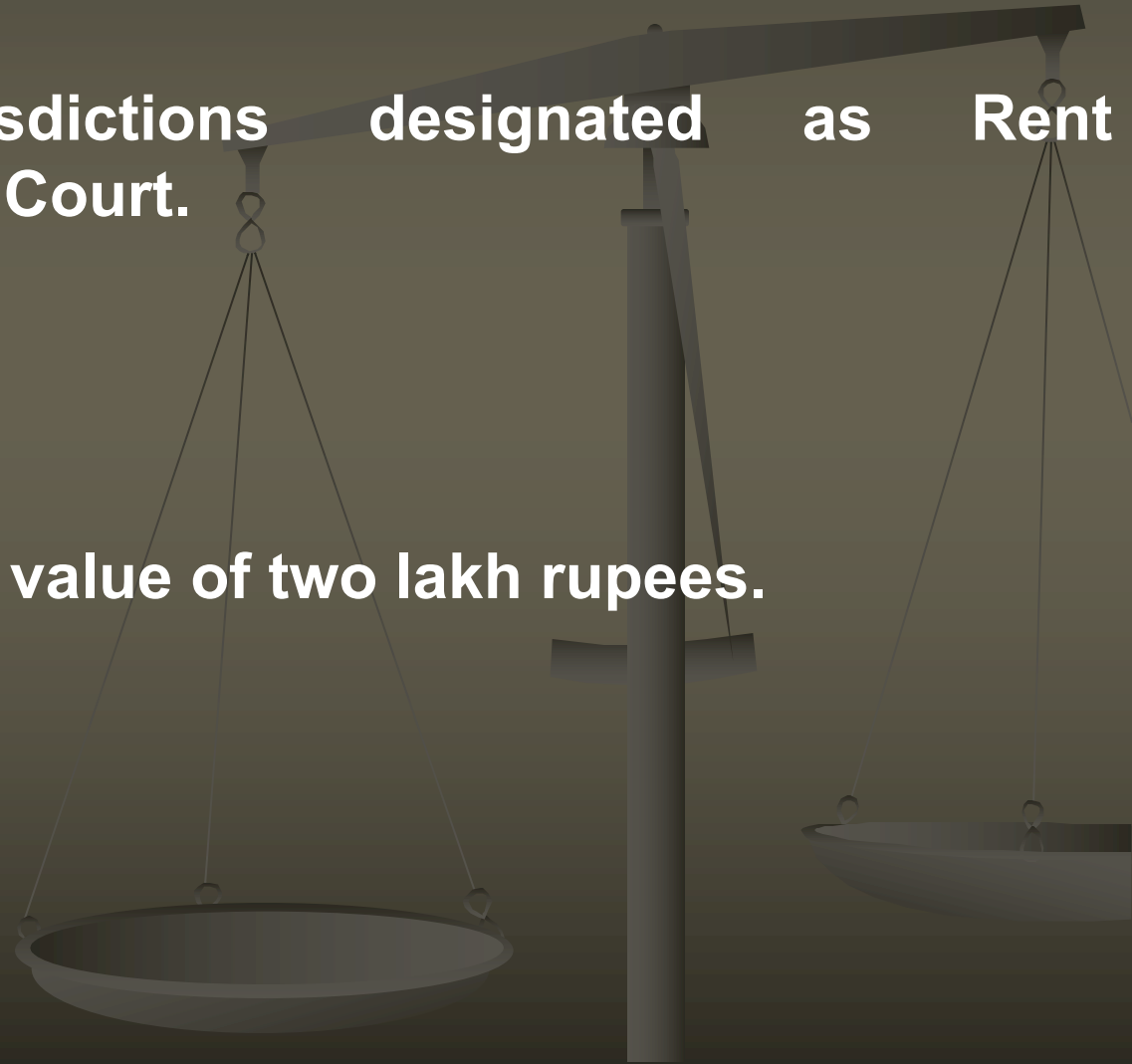
1. To try all civil suits, there is no pecuniary limit on its jurisdiction;
 2. In certain jurisdictions also designated as Rent Controller;
 3. In certain jurisdictions also designated as Judge, Family Court;
 4. In certain jurisdictions also designated as Guardian Judge;
 5. At Karachi, pecuniary jurisdiction limited to rupees 3 million (Karachi Courts Order 1956); and
 6. In certain jurisdictions designated as Magistrate empowered under S.30 of Cr.P.C.
- 

CIVIL JUDGE 2ND CLASS

1. To try civil suit up to the value of five lakh rupees; and
2. In certain jurisdictions designated as Rent Controller/Judge, Family Court.

CIVIL JUDGE 3RD CLASS

To try civil suit up to the value of two lakh rupees.



MAGISTRATE 1ST CLASS

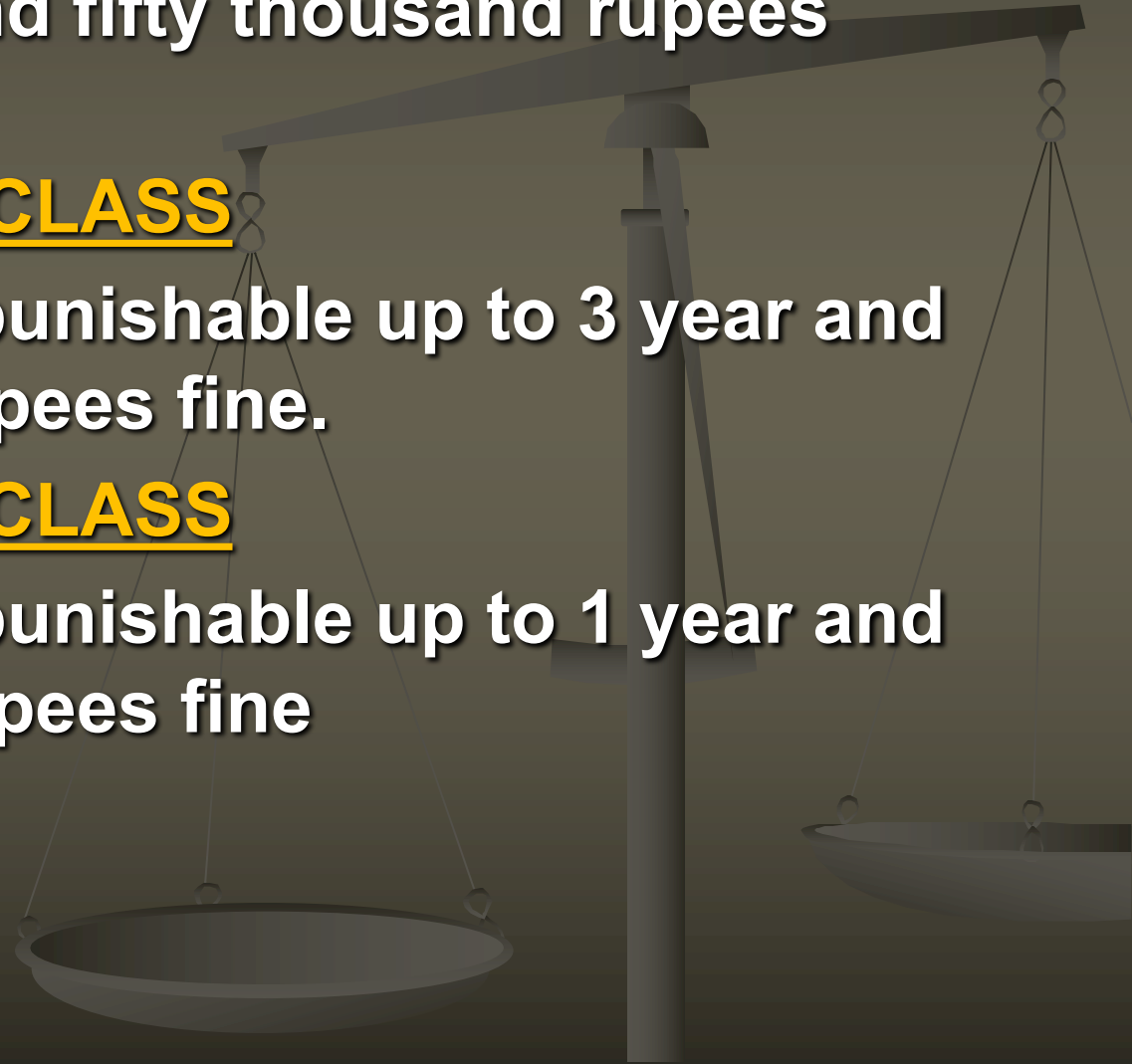
- To try offences punishable up to 7 years imprisonment and fifty thousand rupees fine.

MAGISTRATE 2ND CLASS

- To try offences punishable up to 3 year and five thousand rupees fine.

MAGISTRATE 3RD CLASS

- To try offences punishable up to 1 year and one thousand rupees fine



THE PROCEDURE OF THE CRIMINAL COURTS.

- **Occurrence** of an event (fighting, murder, theft, adultery etc.)
 - **Investigation**
 - **F.I.R.** (First Information Report), Physical Remand (upto 14-days), Judicial Remand.
 - **Medical Forensic Report, Map of the location, Statements of the witnesses, Objects recovered like weapons, stained clothes, Chemical reports, Report on the body and the judicial remand documents and material helpful for the trial and investigation, Challan (Report of the Police investigations)** is processed by the prosecution section working under the police, Prosecution branch helps in the legal investigation of the case.
 - **Inquiry**
 - It is the pre-trial proceeding conducted by the Magistrate to determine if, how and where the case to be tried.
 - **Sessions procedure.**
 - **Warrant procedure** (serious offences)
 - **Summons procedure** (punishment upto six months)
 - **Trial**
 - Acquisition being put, the accused questioned and the defence evidence, if any, recorded.
- (Under the warrant procedure, first there is preliminary inquiry to determine whether the facts would justify the framing of a charge. Whether the accused pleads guilty or not? If he pleads not guilty, the trial proceeds Right to record any of the prosecution witnesses before the charge for further examination. On conclusion of the prosecution evidence, the statement of the accused is taken and then the defence evidence is recorded).



THE PROCEDURE OF THE CIVIL COURTS.

- **Suit** (statement of claim) by the plaintiff
- **Based on all documents** relevant to the case, (copies or original) documents are either attached with the suit or relied upon along with Fard Pata (address of the plaintiff(s), Fard-e-Dastawaizat (list of documents), Fard-e-Inhesar (list of reliance), list of legal heirs of the plaintiff (s), Fard Talbana (court fee for issuance of summons/notices to the defendants), notices and summons and Wakalat Nama (Power of Attorney). Along with lifa-e-Dastawaizat is filed before the **Senior Civil Judge** who allocates these suits to different Civil Judges according to their jurisdiction and work load.
- **Summons** are issued which are brought to the defendant(s) by the Piadas (Notice servers).
- The **Written Statement** on behalf of the defendant(s) based on all relevant documents to the case together with all the civil forms mentioned above is filed.
- **Issues** are framed.
- **List of witnesses** is filed.
- **Evidence** is recorded first by the plaintiff, then by the defendant(s) and finally evidence in rebuttal by the plaintiff. Witnesses can be summoned by intervention of the court, a special commission for local examination and investigation might be set up. Expert witnesses can also be summoned for seeking their expert opinion.
- **Arguments** by the Lawyers.
- **Decision (Judgment & Decree)** by the Court.
- Execution of the Judgment.



FIR

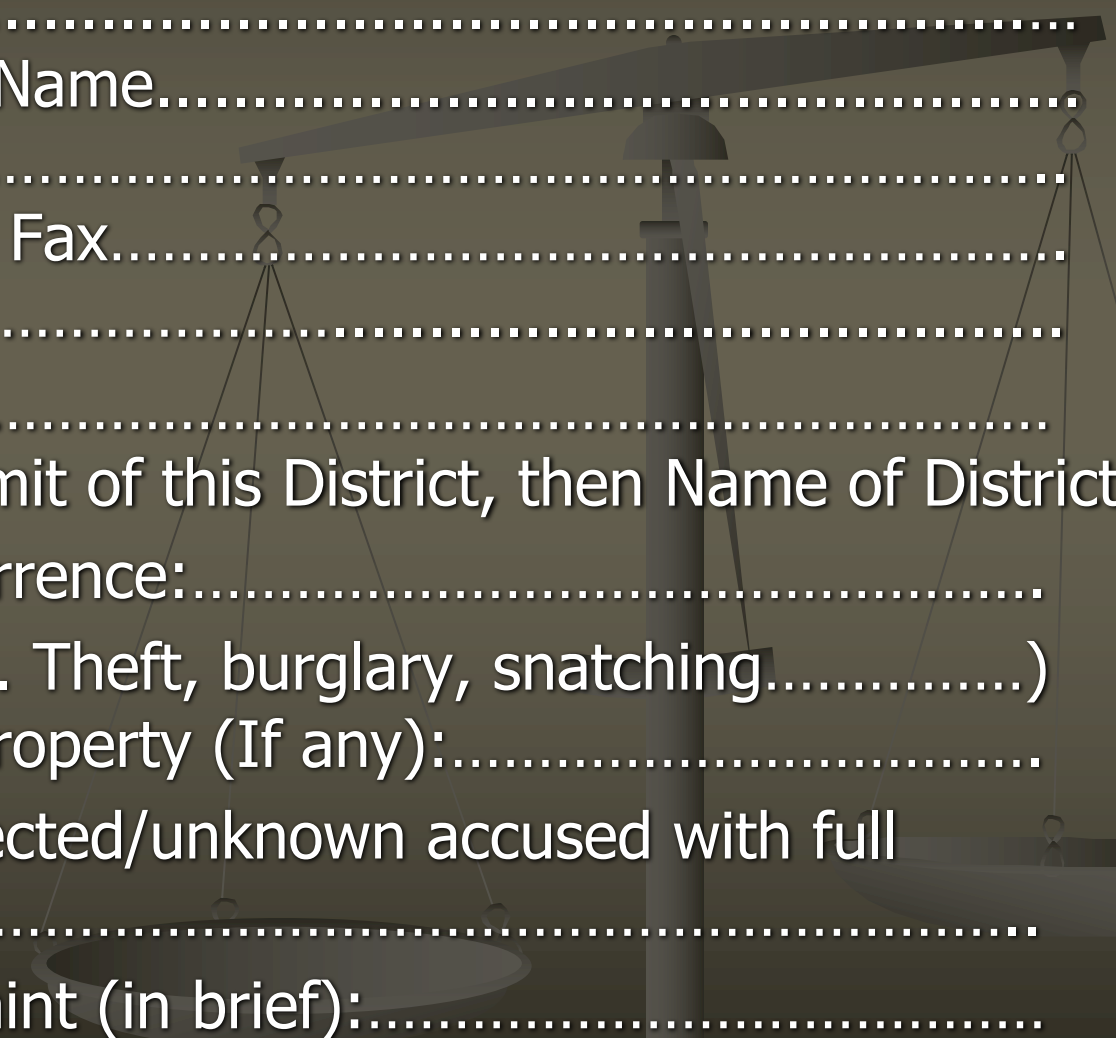
اللہ کی اعلیٰ رحمت سے نرا حق میں دست برداری پس میں نے شہداء کے ساتھ ان کا خود مہیا کر دیا ہے اور
نمبر _____ ملک _____ شہر _____ دروازہ نمبر _____

درجہ اولیٰ درجہ	آئینہ نگاری کے ساتھ
1۔ نام و پتہ اور پتہ	
2۔ شہداء کے نام اور پتہ اور پتہ	
3۔ شہداء کے نام اور پتہ اور پتہ	
4۔ شہداء کے نام اور پتہ اور پتہ	

میں نے اپنے حق میں شہداء کے ساتھ ان کا خود مہیا کر دیا ہے اور
نمبر _____ ملک _____ شہر _____ دروازہ نمبر _____



FIRST INFORMATION REPORT (Under Section 154 Cr.P.C.)

1. Complainant / Informant:
 2. (a) Name
 - (b) Father's/Husband's Name.....
 - (c) Address.....
 - (d) Phone number and Fax.....
 - (e) E-mail:.....
 3. Place of Occurrence:.....
In case, outside the limit of this District, then Name of District
 4. Date and Time of occurrence:.....
 5. Nature of offence (e.g.. Theft, burglary, snatching.....)
Description of Stolen property (If any):.....
 6. Details of known/suspected/unknown accused with full particulars.....
 7. Contents of the complaint (in brief):.....
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THANK YOU!

