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THE CONSTITUTION OF THE ISLAMIC  
REPUBLIC OF PAKISTAN<sup>1</sup>

April 12, 1973, as modified up to April 30, 1981

(In the name of Allah the Beneficent, the Merciful)

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 practise 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;

Wherein 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 honored 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.

Conscious of our responsibility before Almighty Allah and men;

<sup>1</sup>Prepared by Library Staff of the Lahore High Court under the guidance of Sheikh Ebrahim, Research and Reference Officer, Lahore High Court. Supplied by the Ministry of Law and Parliamentary Affairs in September 1982. Ed.

Cognizant 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 Muhammad Ali Jinnah, that Pakistan would be a democratic State 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.

## PART I

### INTRODUCTORY

#### 1. The Republic and its territories.

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

(2) The territories of Pakistan shall comprise

- (a) the Provinces of Baluchistan, the North-West Frontier, 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) Parliament may by law admit into the Federation new States or areas on such terms and conditions as it thinks fit.

#### 2. Islam to be State Religion.

Islam shall be the State religion of Pakistan.

#### 3. Elimination of exploitation.

The state shall ensure the elimination of all forms of exploitation and the gradual fulfilment of the fundamental principle, from each according to his ability to each according to his work.

#### 4. Right of individuals to be dealt with in accordance with law, etc.

(1) To enjoy the protection of law and to be treated in accordance with law is the inalienable right of every citizen, wherever he may be, and of every other person for the time being within Pakistan.

(2) In particular

- (a) no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law;
- (b) no person shall be prevented from or be hindered in doing that which is not prohibited by law; and
- (c) no person shall be compelled to do that which the law does not require him to do.

5. Loyalty to State and obedience.

(1) Loyalty to the State is the basic duty of every citizen.

5. (2) 6. to 40. *In abeyance.*

41. The President.

(1) There shall be a President of Pakistan who shall be the Head of State and shall represent the unity of the Republic.

(2) A person shall not be qualified for election as President unless he is a Muslim of not less than forty-five years of age and is qualified to be elected as member of the National Assembly.

41. (3) to (6), to 44. *In abeyance.*

45. President's power to grant pardon etc.

The President shall have power to grant pardon, reprieve and respite, and to remit, suspend or commute any sentence passed by any court, tribunal or other authority.

46. to 77. *In abeyance.*

78. Federal Consolidated Fund and Public Account.

(1) All revenues received by the Federal Government, all loans raised by that Government, and all moneys received by it in repayment of any loan shall form part of a consolidated fund, to be known as the Federal Consolidated Fund.

(2) All other moneys

(a) received by or on behalf of the Federal Government; or

(b) received by or deposited with the Supreme Court or any other court established under the authority of the Federation;

shall be credited to the Public Account of the Federation.

79. Custody, etc., of Federal Consolidated Fund and Public Account.

The custody of the Federal Consolidated Fund the payment of moneys into that Fund, the withdrawal of moneys therefrom, the custody of other moneys received by or on behalf of the Federal Government, their payment into, and withdrawal from, the Public Account of the Federation, and all matters connected with or ancillary to the matters aforesaid shall be regulated by Act of Parliament or, until provision in that behalf is so made, by rules made by the President.

80 to 88. *In abeyance.*

89. Power of President to promulgate ordinances.

(1) The President may, except when the National Assembly is in session, if satisfied that circumstances exist which render it necessary to take immediate action, make and promulgate an Ordinance as the circumstances may require.

(2) An Ordinance promulgated under this Article shall have the same force and effect as an Act of Parliament and shall be subject to like restrictions as the power of Parliament to make law, but every such Ordinance

(a) shall be laid

(i) before the National Assembly if it is with respect to a matter in Part I of the Federal Legislative List, and shall stand repealed at the expiration of four months from its promulgation or, if before the expiration of that period a resolution disapproving it

is passed by the Assembly, upon the passing of that resolution;

- (ii) before both Houses if it is with respect to a matter in Part II of the Federal Legislative List or a matter in the Concurrent Legislative List, and shall stand repealed at the expiration of four months from its promulgation or, if before the expiration of that period a resolution disapproving it is passed by either House, upon the passing of that resolution; and

(b) may be withdrawn and at any time by the President.

(3) Without prejudice to the Provisions of clause (2), an Ordinance laid before the National Assembly shall be deemed to be a Bill introduced in the National Assembly.

90. to 96. *In abeyance.*

97. Extent of executive authority of Federation.

Subject to the Constitution, the executive authority of the Federation shall extend to the matters with respect to which Parliament has power to make laws, including exercise of rights, authority and jurisdiction in and in relation to areas outside Pakistan:

Provided that the said authority shall not, save as expressly provided in the Constitution or in any law made by Parliament, extend in any Province to a matter with respect to which the Provincial Assembly has also power to make laws.

98. Conferring of functions on subordinate authorities.

On the recommendation of the Federal Government, Parliament may by law confer functions upon officers or authorities subordinate to the Federal Government.

99. Conduct of Business of Federal Government.

(1) Orders and other instruments made and executed in the name of the President shall be authenticated in such manner as may be specified in rules to be made by the Federal Government, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the President.

(2) The Federal Government may regulate the allocation and transaction of its business and may for the convenient transaction of that business delegate any of its functions to officers or authorities subordinate to it.

100. Attorney General for Pakistan.

(1) The President shall appoint a person, being a person qualified to be appointed a Judge of the Supreme Court, to be the Attorney General for Pakistan.

(2) The Attorney General shall hold office during the pleasure of the President.

(3) It shall be the duty of the Attorney General to give advice to the Federal Government upon such legal matters, and to perform such other duties of a legal character, as may be referred or assigned to him by the Federal Government, and in the performance of his duties he shall have the right of audience in all courts and tribunals in Pakistan.

(4) The Attorney General may, by writing under his hand addressed to the President, resign his office.

**101. Appointment of Governor.**

There shall be a Governor for each Province, who shall be appointed by President.

**102. Oath of office.**

Before entering upon office, the Governor shall make before the Chief Justice of the High Court oath in the form set out in the Third Schedule.

**103. to 117. In abeyance.****118. Provincial Consolidated Fund and Public Account.**

(1) All revenues received by the Provincial Government, all loans raised by that Government, and all moneys received by it in repayment of any loan, shall form part of a consolidated fund, to be known as the Provincial Consolidated Fund.

(2) All other moneys

(a) received by or on behalf of the Provincial Government; or

(b) received by or deposited with the High Court or any other court established under the authority of the Province;

shall be credited to the Public Account of the Province.

**119. Custody, etc., of Provincial Consolidated Fund and Public Account.**

The Custody of the Provincial Consolidated Fund, the payment of moneys into that Fund, the withdrawal of moneys therefrom, the custody of other moneys received by or on behalf of the Provincial Government, their payment into, and withdrawal from, the Public Account of the Province, and all matters connected with or ancillary to the matters aforesaid, shall be regulated by Act of the Provincial Assembly or, until provision in that behalf is so made, by rules made by the Governor.

**120. to 127. In abeyance.****128. Power of Governor to promulgate ordinance.**

(1) The Governor may, except when the Provincial Assembly is in session, if satisfied that circumstances exist which render it necessary to take immediate action, make and promulgate an Ordinance as the circumstances may require.

(2) An Ordinance promulgated under this Article shall have the same force and effect as an Act of the Provincial Assembly and shall be subject to like restrictions as the power of the Provincial Assembly to make laws, but every such Ordinance

(a) shall be laid before the Provincial Assembly and shall stand repealed at the expiration of three months from its promulgation if before the expiration of that period a resolution disapproving it is passed by the Assembly, upon the passing of that resolution; and

(b) may be withdrawn at any time by the Governor.

(3) Without prejudice to the provisions of clause (2), an Ordinance laid before the Provincial Assembly shall be deemed to be a Bill introduced in the Provincial Assembly.

**129. to 136. In abeyance.****137. Extent of Executive Authority of Province.**

Subject to the Constitution, the executive authority of the Province shall extend to the matters with respect to which the Provincial Assembly has power to make laws:

Provided that, in any matter with respect to which both Parliament and the Provincial Assembly of a Province have power to make laws, the executive authority of the Province shall be subject to, and limited by, the executive authority expressly conferred by the Constitution or by law made by Parliament upon the Federal Government or authorities thereof.

*138. Conferring of functions on subordinate authorities.*

On the recommendation of the Provincial Government, the Provincial Assembly may by law confer functions upon officers or authorities subordinate to the Provincial Government.

*139. Conduct of Business of Provincial Government.*

(1) Order and other instruments made and executed in the name of the Governor shall be authenticated in such manner as may be specified in rules to be made by the Provincial Government, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Governor.

(2) The Provincial Government may regulate the allocation and transaction of its business and may for the convenient transaction of that business delegate any of its functions to officers or authorities subordinate to it.

*140. Advocate General for a Province.*

(1) The Governor of each Province shall appoint a person, being a person qualified to be appointed a Judge of the High Court, to be the Advocate General for the Province.

(2) It shall be the duty of the Advocate General to give advice to the Provincial Government upon such legal matters, and to perform such other duties of legal character, as may be referred or assigned to him by the Provincial Government.

(3) The Advocate General shall hold office during the pleasure of the Governor.

(4) The Advocate General may, by writing under his hand addressed to the Governor, resign his office.

*141. Extent of Federal and Provincial Laws;*

Subject to the Constitution, Parliament may make laws (including laws having extra-territorial operation) for the whole or any part of Pakistan, and a Provincial Assembly may make laws for the Province or any part thereof.

*142. Subject-matter of Federal and Provincial Laws. Subject to the Constitution*

- (a) Parliament shall have exclusive power to make laws with respect to any matter in the Federal Legislative List;
- (b) Parliament, and a Provincial Assembly also shall have power to make laws with respect to any matter in the Concurrent Legislative List;
- (c) a Provincial Assembly shall, and Parliament shall not, have power to

- make laws with respect to any matter not enumerated in either the Federal Legislative List or the Concurrent Legislative List; and
- (d) Parliament shall have exclusive power to make laws with respect to matters not enumerated in either of the Lists for such areas in the Federation as are not included in any Province.

**143. Inconsistency between Federal and Provincial Laws.**

If any provision of an Act of a Provincial Assembly is repugnant to any provision of an Act of Parliament which Parliament is competent to enact, or to any provision of any existing law with respect to any of the matters enumerated in the Concurrent Legislative List, then the Act of Parliament, whether passed before or after the Act of the Provincial Assembly, or, as the case may be, the existing law, shall prevail and the Act of the Provincial Assembly shall, to the extent of the repugnancy, be void.

**144. In abeyance.**

**145. Power of President to direct Governor to discharge certain function as his agent.**

(1) The President may direct the Governor of any Province to discharge as his Agent, either generally or in any particular matter, such functions relating to such areas in the Federation which are not included in any Province as may be specified in the direction.

(2) The provisions of Article 105 shall not apply to the discharge by the Governor of his functions under clause (1).

**146. Power of Federation to confer powers etc., on Provinces, in certain cases.**

(1) Notwithstanding anything contained in the Constitution, the Federal Government may with the consent of the Government of a Province, entrust either conditionally or unconditionally to that Government or to its officers; functions in relation to any matter to which the executive authority of the Federation extends.

(2) An Act of Parliament may, notwithstanding that it relates to a matter with respect to which a Provincial Assembly has no power to make laws confer powers and impose duties upon a Province or officers and authorities thereof.

(3) Where by virtue of this Article powers and duties have been conferred or imposed upon a Province or officers or authorities thereof, there shall be paid by the Federation to the Province such sum as may be agreed or, in default of agreement as may be determined by an arbitrator appointed by the Chief Justice of Pakistan, in respect of any extra costs of administration incurred by the Province in connection with the exercise of those powers or the discharge or those duties.

**147. Power of the Provinces to entrust functions to the Federation.**

Notwithstanding anything contained in the Constitution, the Government of a Province may, with the consent of the Federal Government, entrust, either conditionally or unconditionally, to the Federal Government, or to its officers, functions in relation to any matter to which the executive authority of the Province extends.

**148. Obligation of Provinces and Federation.**



(1) The executive authority of every Province shall be so exercised as to secure compliance with Federal laws which apply in that Province.

(2) Without prejudice to any other provision of this Chapter, in the exercise of the executive authority of the Federation in any Province regard shall be had to the interests of that Province.

(3) It shall be the duty of the Federation to protect every Province against external aggression and internal disturbances and to ensure that the Government of every Province is carried on in accordance with the provisions of the Constitution.

149. Directions to Provinces in certain cases.

(1) The executive authority of every Province shall be so exercised as not to impede or prejudice the exercise of the executive authority of the Federation, and the executive authority of the Federation shall extend to the giving of such directions to a Province as may appear to the Federal Government to be necessary for that purpose.

(2) The executive authority of the Federation shall also extend to the giving of directions to a Province as to the carrying into execution therein of any Federal law which relates to a matter specified in the Concurrent Legislative List and authorizes the giving of such directions.

(3) The executive authority of the Federation shall also extend to the giving of directions to a Province as to the construction and maintenance of means of communication declared in the direction to be of national or strategic importance.

(4) The executive authority of the Federation shall also extend to the giving of directions to a Province as to the manner in which the executive authority thereof is to be exercised for the purpose of preventing any grave menace to the peace or tranquillity or economic life of Pakistan or any part thereof.

150. Full faith and credit for public acts, etc.

Full faith and credit shall be given throughout Pakistan to public acts and records, and judicial proceedings of every Province.

151. Inter-provincial trade.

(1) Subject to clause (2), trade, commerce and intercourse throughout Pakistan shall be free.

(2) Parliament may by law impose such restrictions on the freedom of trade, commerce or intercourse between one Province and another or within any part of Pakistan as may be required in the public interest.

(3) A Provincial Assembly or a Provincial Government shall not have power to

(a) make any law, or take any executive action, prohibiting or restricting the entry into, or the export from, the Province of goods of any class or description, or

(b) impose a tax which, as between goods manufactured or produced in the Province and similar goods not so manufactured or produced, discriminates in favour of the former goods or which, in

the case of goods manufactured or produced outside the Province discriminates between goods manufactured or produced in any area in Pakistan and similar goods manufactured or produced in other area in Pakistan.

(4) An Act of a Provincial Assembly which imposes any reasonable restriction in the interest of public health, public order or morality, or for the purpose of protecting animals or plants from disease or preventing or alleviating any serious shortage in the Province of an essential commodity shall not, if it was made with the consent of the President, be invalid.

*152. Acquisition of land for Federal purposes.*

The Federation may, if it deems necessary to acquire any land situated in a Province for any purpose connected with a matter with respect to which Parliament has power to make laws, require the Province to acquire the land on behalf, and at the expense, of the Federation or, if the land belongs to the Province, to transfer it to the Federation on such terms as may be agreed or, in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of Pakistan.

*153. Council of Common Interests.*

(1) There shall be a Council of Common Interests, in this Chapter referred to as the Council, to be appointed by the President.

(2) The members of the Council shall be

(a) the Chief Ministers of the Provinces, and

(b) an equal number from the Federal Government to be nominated by the Prime Minister from time to time.

(3) The Prime Minister, if he is a member of the Council, shall be the Chairman of the Council but, if at any time he is not a member, the President may nominate a Federal Minister who is a member of the Council to be its Chairman.

(4) The Council shall be responsible to Parliament.

*154. Functions and rules of procedure.*

(1) The Council shall formulate and regulate policies in relation to matters in Part II of the Federal Legislative List and, in so far as it is in relation to the affairs of the Federation, the matter in entry 34 (electricity) in the Concurrent Legislative List, and shall exercise supervision and control over related institutions.

(2) The decisions of the Council shall be expressed in terms of the opinion of the majority.

(3) Until Parliament makes provision by law in this behalf, the Council may make its rules of procedure.

(4) Parliament in joint sitting may from time to time by resolution issue directions through the Federal Government to the Council generally or in particular matter to take action as Parliament may deem just and proper and such directions shall be binding on the Council.

(5) If the Federal Government or a Provincial Government is dissatisfied with a decision of the Council, it may refer the matter to Parliament in a joint sitting whose decision in this behalf shall be final.

155. Complaints as to interference with water supplies.

(1) If the interests of a Province, the Federal Capital or the Federally Administered Tribal Areas, or any of the inhabitants thereof, in water from any natural source of supply have been or are likely to be affected prejudicially by

- (a) any executive act or legislation taken or passed or proposed to be taken or passed, or
- (b) the failure of any authority to exercise any of its powers with respect to the use and distribution or control of water from that source,

the Federal Government or the Provincial Government concerned may make a complaint in writing to the Council.

(2) Upon receiving such complaint, the Council shall, after having considered the matter, either give its decision or request the President to appoint a commission consisting of such persons having special knowledge and experience in irrigation, engineering, administration, finance or law as he may think fit, hereinafter referred to as the Commission.

(3) Until Parliament makes provision by law in this behalf, the provisions of the Pakistan Commissions of Inquiry Act, 1956, as in force immediately before the commencing day shall apply to the Council or the Commission as if the Council or the Commission were a commission appointed under that Act to which all the provision of section 5 thereof applied and upon which the power contemplated by section 10 A thereof had been conferred.

(4) After considering the report and supplementary report, if any, of the Commission, the Council shall record its decision on all matters referred to the Commission.

(5) Notwithstanding any law to the contrary, but subject to the provisions of clause (5) of Article 154, it shall be the duty of the Federal Government and the Provincial Government concerned in the matter in issue to give effect to the decision of the Council faithfully according to its terms and tenor.

(6) No proceeding shall lie before any court at the instance of any party to a matter which is or has been in issue before the Council, or of any person whatsoever, in respect of a matter which is actually or has been or might or ought to have been a proper subject of complaint to the Council under this Article.

156. National Economic Council.

(1) The President shall constitute a National Economic Council consisting of the Prime Minister who shall be its Chairman, and such other members as the President may determine:

Provided that the President shall nominate one member from each Province on the recommendation of the Government of that Province.

(2) The National Economic Council shall review the overall economic condition of the country and shall, for advising the Federal Government and the Provincial Governments, formulate plans in respect of financial, commercial, social and economic policies; and in formulating such plans, it shall be guided by the Principles of Policy set out in Chapter 2 of Part II.

157. Electricity.

(1) The Federal Government may in any Province construct or cause to be constructed hydro-electric or thermal power installations or grid stations for the generation of electricity and lay or cause to be laid inter-provincial transmission lines.

- (2) The Government of a Province may
- (a) to the extent electricity is supplied to that Province from the national grid, require supply to be made in bulk for transmission and distribution within the Province;
  - (b) levy tax on consumption of electricity within the Province;
  - (c) construct power houses and grid station and lay transmission lines for use within the Province; and
  - (d) determine the tariff for distribution of electricity within the Province.

158. Priority of requirements of natural gas.

The Province in which a well-head of natural gas is situated shall have precedence over other parts of Pakistan in meeting the requirements from that well-head, subject to the commitments and obligations as on the commencing day.

159. Broadcasting and telecasting.

(1) The Federal Government shall not unreasonably refuse to entrust to a Provincial Government such functions with respect to broadcasting and telecasting as may be necessary to enable that Government

- (a) to construct and use transmitters in the Province; and
- (b) to regulate, and impose fees in respect of, the construction and use of transmitters and the use of receiving apparatus in the Province:

Provided that nothing in this clause shall be construed as requiring the Federal Government to entrust to any Provincial Government any control over the use of transmitters constructed or maintained by the Federal Government or by persons authorized by the Federal Government, or over the use of receiving apparatus by persons so authorized.

(2) Any functions so entrusted to a Provincial Government shall be exercised subject to such conditions as may be imposed by the Federal Government, including, notwithstanding anything contained in the Constitution, any conditions with respect to finance, but it shall not be lawful for the Federal Government so to impose any conditions regulating the matter broadcast or telecast by, or by authority of, the Provincial Government.

(3) Any Federal law with respect to broadcasting and telecasting shall be such as to secure that effect can be given to the foregoing provisions of this Article.

(4) If any question arises whether any conditions imposed on any Provincial Government are lawfully imposed, or whether any refusal by the Federal Government to entrust functions is unreasonable the question shall be determined by an arbitrator appointed by the Chief Justice of Pakistan.

(5) Nothing in this Article shall be construed as restricting the powers of

the Federal Government under the Constitution for the prevention of any grave menace to the peace or tranquillity of Pakistan or any part thereof.

160. National Finance Commission.

(1) Within six months of the commencing day and thereafter at intervals not exceeding five years, the President shall constitute a National Finance Commission consisting of the Minister of Finance of the Federal Government, the Minister of Finance of the Provincial Government, and such other persons as may be appointed by the President after consultation with the Governors of the Provinces.

(2) It shall be the duty of the National Finance Commission to make recommendations to the President as to

- (a) the distribution between the Federation and the Provinces of the net proceeds of the taxes mentioned in clause (3);
- (b) the making of grant-in-aid by the Federal Government to the Provincial Government;
- (c) the exercise by the Federal Government and the Provincial Governments of the borrowing powers conferred by the Constitution; and
- (d) any other matter relating to finance referred to the Commission by the President.

(3) The taxes referred to in paragraph (a) of clause (2) are the following taxes raised under the authority of Parliament, namely:

- (i) taxes on income, including corporation tax, but not including taxes on income consisting of remuneration paid out of the Federal Consolidated Fund;
- (ii) taxes on the sales and purchases of goods imported, exported, produced, manufactured or consumed;
- (iii) export duties on cotton, and such other export duties as may be specified by the President;
- (iv) such duties of excise as may be specified by the President; and
- (v) such other taxes as may be specified by the President.

(4) As soon as may be after receiving the recommendations of the National Finance Commission, the President shall, by Order, specify, in accordance with the recommendations of the Commission under paragraph (a) of clause (2), the share of the net proceeds of the taxes mentioned in clause (3) which is to be allocated to each Province, and that share shall be paid to the Government of the Province concerned, and, notwithstanding the provision of Article 78 shall not form part of the Federal Consolidated Fund.

Federal Consolidated Fund.

(5) The recommendations of the National Finance Commission, together with an explanatory memorandum as to the action taken thereon, shall be laid before both Houses and the Provincial Assemblies.

(6) At any time before an Order under clause (4) is made, the President may, by Order, make such amendments or modifications in the law relating to the

distribution of revenues between the Federal Government and the Provincial Governments as he may deem necessary or expedient.

(7) The President may, by Order, make grants-in-aid of the revenues of the Province in need of assistance and such grants shall be charged upon the Federal Consolidated Fund.

161. Natural gas and hydro-electric power.

(1) Notwithstanding the provisions of Article 78 net proceeds of the Federal Duty of excise on natural gas levied at well-head and collected by the Federal Government, and of the royalty collected by the Federal Government, shall not form part of the Federal Consolidated Fund and shall be paid to the Province in which the well-head of natural gas is situated.

(2) The net profits earned by the Federal Government, or any undertaking established or administered by the Federal Government from the bulk generation of power at a hydro-electric station shall be paid to the province in which the hydro-electric station is situated.

Explanation.

For the purposes of this clause 'net profits' shall be computed by deducting from the revenues accruing from the bulk supply of power from the bus-bars of a hydro-electric station at a rate to be determined by the Council of Common Interests, the operating expenses of the Station, which shall include any sums payable as taxes, duties, interest or return on investment, and depreciations and element of obsolescence, and over-heads, and provision for reserves.

162. *In abeyance.*

163. Provincial taxes in respect of professions, etc.

A Provincial Assembly may by Act impose taxes, not exceeding such limits as may from time to time be fixed by Act of Parliament, on persons engaged in professions, trades, callings or employments, and no such Act of the Assembly shall be regarded as imposing a tax on income.

#### MISCELLANEOUS FINANCIAL PROVINCES

164. Grants out of Consolidated Fund.

The Federation or a Province may make grants for any purpose, notwithstanding that the purpose is not one with respect to which Parliament or, as the case may be, a Provincial Assembly may make laws.

165. Exemption of certain public property from taxation.

(1) The Federal Government shall not, in respect of its property or income, be liable to taxation under any Act of Provincial Assembly and, subject to clause (2), a Provincial Government shall not, in respect of its property or income, be liable to taxation under Act of Parliament or under Act of the Provincial Assembly of any other Province.

(2) If a trade or business of any kind is carried on by or on behalf of the Government of a Province outside that Province, that Government may, in respect of any property used in connection with that trade or business, or any income

arising from that trade or business, be taxed under Act of Parliament or under Act of the Provincial Assembly of the Province in which that trade or business is carried on.

(3) Nothing in this Article shall prevent the imposition of fees for services rendered.

## Chapter 2. Borrowing and Audit

### 166. Borrowing by Federal Government.

The executing authority of the Federation extends to borrowing upon the security of the Federal Consolidated Fund within such limits, if any, as may from time to time be fixed by Act of Parliament, and to the giving of guarantees within such limits, if any, as may be so fixed.

### 167. Borrowing by Provincial Government.

(1) Subject to the provisions of this Article, the executive authority of a Province extends to borrowing upon the security of the Provincial Consolidated Fund within such limits, if any, as may from time to time be fixed by Act of the Provincial Assembly, and to the giving of guarantees within such limits, if any, as may be so fixed.

(2) The Federal Government may, subject to such conditions, if any, as it may think fit to impose, make loans to, or, so long as any limits fixed under Article 166 are not exceeded give guarantees in respect of loans raised by, any Province, and any sums required for the purpose of making loans to a Province shall be charged upon the Federal Consolidated Fund.

(3) A Province may not, without the consent of the Federal Government, raise any loan if there is still outstanding any part of a loan made to the Province by the Federal Government, or in respect of which guarantee has been given by the Federal Government; and consent under this clause may be granted subject to such conditions, if any, as the Federal Government may think fit to impose.

## AUDIT AND ACCOUNTS

### 168. Auditor General of Pakistan.

(1) There shall be an Auditor General of Pakistan, who shall be appointed by the President.

(2) Before entering upon office, the Auditor General shall make before the Chief Justice of Pakistan oath in the form set out in the Third Schedule.

(3) The terms and conditions of service, including the term of office, of the Auditor General shall be determined by Act of Parliament and, until so determined, by Order of the President.

(4) A person who has held office as Auditor General shall not be eligible for further appointment in the service of Pakistan before the expiration of two years after he has ceased to hold that office.

(5) The Auditor General shall not be removed from office except in the like manner and on the like grounds as a Judge of the Supreme Court.

(6) At any time when the office of the Auditor General is vacant or the Auditor General is absent or is unable to perform the functions of his office due to any cause, such other person as the President may direct shall act as Auditor General and perform the functions of that office.

*169. Functions and powers of Auditor General.*

The Auditor General shall, in relation to

(a) the accounts of the Federation and of the Provinces; and

(b) the accounts of any authority or body established by the Federation or a Province,

perform such functions and exercise such powers as may be determined by or under Act of Parliament and, until so determined, by Order of the President.

*170. Power of Auditor General to give directions as to accounts.*

The accounts of the Federation and of the Provinces shall be kept in such form and in accordance with such principles and methods as the Auditor General may with the approval of the President, prescribe.

*171. Reports of Auditor General.*

The reports of the Auditor General relating to the accounts of the Federation shall be submitted to the President, who shall cause them to be laid before the National Assembly and the reports of the Auditor General relating to the accounts of a Province shall be submitted to the Governor of the Province, who shall cause them to be laid before the Provincial Assembly.

**Chapter 3. Property, contracts, liabilities and suits.**

*172. Ownerless property.*

(1) Any property which has no rightful owner shall, if located in a Province, vest in the Government of that Province, and in every other case, in the Federal Government.

(2) All lands, minerals and other things of value within the continental shelf or underlying the ocean within the territorial waters of Pakistan shall vest in the Federal Government.

*173. Power to acquire property and to make contracts, etc.*

(1) The executive authority of the Federation and of a Province shall extend, subject to any Act of the appropriate Legislature, to the grant, sale, disposition or mortgage of any property vested in, and to the purchase or acquisition of property on behalf of, the Federal Government or, as the case may be, the Provincial Government, and to the making of contracts.

(2) All property acquired for the purposes of the Federation or of a Province shall vest in the Federal Government or, as the case may be, in the Provincial Government.

(3) All contracts made in the exercise of the executive authority of the Federation or of a Province shall be expressed to be made in the name of the President or, as the case may be, the Governor of the Province, and all such contracts and all assurances or property made in the exercise of that authority shall be



executed on behalf of the President or Governor by such persons and in such manner as he may direct or authorize.

(4) Neither the President, nor the Governor of a Province, shall be personally liable in respect of any contract or assurance made or executed in the exercise of the executive authority of the Federation or, as the case may be, the Province, nor shall any person making or executing any such contract or assurance on behalf of any of them be personally liable in respect thereof.

(5) Transfer of land by the Federal Government or a Provincial Government shall be regulated by law.

*174. Suits and proceedings.*

The Federation may sue or be sued by the name of Pakistan and a Province may sue or be sued by the name of the Province.

## THE JUDICATURE

### Chapter 1. The Courts

*175. Establishment and jurisdiction of courts.*

(1) There shall be a Supreme Court of Pakistan, a High Court for each Province and such other courts as may be established by law.

(2) No court shall have any jurisdiction save as is or may be conferred on it by the Constitution or by or under any law.

(3) The Judiciary shall be separated progressively from the Executive within eight years from the commencing day.

### Chapter 2. The Supreme Court of Pakistan.

*176. Constitution of Supreme Court.*

The Supreme Court shall consist of a Chief Justice to be known as the Chief Justice of Pakistan and so many other Judges as may be determined by Act of Parliament or, until so determined, as may be fixed by the President.

*177. Appointment of Supreme Court Judges.*

(1) The Chief Justice of Pakistan shall be appointed by the President, and each of the other Judges shall be appointed by the President after consultation with the Chief Justice.

(2) A person shall not be appointed a Judge of the Supreme Court unless he is a citizen of Pakistan and

- (a) has for a period of, or for periods aggregating, not less than five years been a judge of a High Court (including High Court which existed in Pakistan at any time before the commencing day); or
- (b) has for a period of, or for periods aggregating, not less than fifteen years been an advocate of a High Court (including a High Court which existed in Pakistan at any time before the commencing day).

178. Oath of office.

Before entering upon office, the Chief Justice of Pakistan shall make before the President, and any other Judge of the Supreme Court shall make before the Chief Justice, oath in the form set out in the Third Schedule.

179. Retiring age.

A Judge of the Supreme Court shall hold office until he attains the age of sixty-five years, unless he sooner resigns or is removed from office in accordance with the Constitution.

180. Acting Chief Justice.

At any time when

(a) the office of Chief Justice of Pakistan is vacant; or

(b) the Chief Justice of Pakistan is absent or is unable to perform the functions of his office due to any other cause,

the President shall appoint one of the Judges of the Supreme Court who have not previously held the office of Chief Justice of Pakistan otherwise than under this Article to Act as Chief Justice of Pakistan.

181. Acting Judges.

(1) At any time when

(a) the office of a Judge of the Supreme Court is vacant; or

(b) a Judge of the Supreme Court is absent or is unable to perform the functions of his office due to any other cause,

the President may, in the manner provided in clause (1) of Article 177, appoint a Judge of a High Court who is qualified for appointment as a Judge of the Supreme Court to act temporarily as a Judge of the Supreme Court.

(2) An appointment under this Article shall continue in force until it is revoked by the President.

182. *In abeyance.*

183. Seat of the Supreme Court.

(1) The permanent seat of the Supreme Court shall, subject to clause (3), be at Islamabad.

(2) The Supreme Court may from time to time sit in such other places as the Chief Justice of Pakistan, with the approval of the President, may appoint.

(3) Until provision is made for establishing the Supreme Court at Islamabad, the seat of the Court shall be at such place as the President may appoint.<sup>1</sup>

184. Original jurisdiction of Supreme Court.

(1) The Supreme Court shall, to the exclusion of every other court, have original jurisdiction in any dispute between any two or more Governments.

Explanation.

In this clause, 'Governments' means the Federal Government and the Provincial Governments.

(2) In the exercise of the jurisdiction conferred on it by clause (1), the Supreme Court shall pronounce declaratory judgments only.

(3) Without prejudice to the provisions of Article 199, the Supreme Court shall, if it considers that a question of public importance with reference to the

<sup>1</sup> In 1974, Rawalpindi became the seat.

enforcement of any of the Fundamental Rights conferred by Chapter 1 of Part II is involved, have the power to make an order of the nature mentioned in the said Article.

185. Appellate jurisdiction of Supreme Court.

(1) Subject to this Article, the Supreme Court shall have jurisdiction to hear and determine appeals from judgements, decrees, final orders or sentences of a High Court.

(2) An appeal shall lie to the Supreme Court from any judgment, decree, final order or sentence of a High Court

- (a) if the High Court has on appeal reversed an order of acquittal of an accused person and sentenced him to death or to transportation for life or imprisonment for life; or, on revision, has enhanced a sentence to a sentence as aforesaid; or
- (b) if the High Court has withdrawn for trial before itself any case from any Court subordinate to it and has in such trial convicted the accused person and sentenced him as aforesaid; or
- (c) if the High Court has imposed any punishment on any person for contempt of the High Court; or
- (d) if the amount or value of the subject-matter of the dispute in the Court of first instance was, and also in dispute in appeal is, not less than fifty thousand rupees or such other sum as may be specified in that behalf by Act of Parliament and the judgment, decree or final order appealed from has varied or set aside the judgment, decree or final order of the court immediately below; or
- (e) if the judgment, decree or final order involves directly or indirectly some claim or question respecting property of the like amount or value and the judgment, decree or final order appealed from has varied or set aside the judgment, decree or final order of the court immediately below; or
- (f) if the High Court certifies that the case involves a substantial question of law as to the interpretation of the Constitution.

(3) An appeal to the Supreme Court from a judgment, decree, order or sentence of a High Court in a case to which clause (2) does not apply shall lie only if the Supreme Court grants leave to appeal.

186. Advisory jurisdiction.

(1) If, at any time, the President considers that it is desirable to obtain the opinion of the Supreme Court on any question of law which he considers of public importance, he may refer the question to the Supreme Court for consideration.

(2) The Supreme Court shall consider a question so referred and report its opinion on the question to the President.

187. Issue and execution of processes of Supreme Court.

(1) Subject to clause (2) of Article 175, the Supreme Court shall have power to issue such directions, orders or decrees as may be necessary for doing

complete justice in any case or matter pending before it, including an order for the purpose of securing the attendance of any person or the discovery or production of any document.

(2) Any such direction, order or decree shall be enforceable throughout Pakistan and shall, where it is to be executed in a Province, or a territory or any area not forming part of a Province, be executed as if it had been issued by the High Court of that Province.

(3) If a question arises as to which High Court shall give effect to a direction, order or decree of the Supreme Court, the decision of the Supreme Court on the question shall be final.

188. Review of judgments or orders by the Supreme Court.

The Supreme Court shall have power, subject to the provisions of any Act of Parliament and of any rules made by the Supreme Court, to review any judgment pronounced or any order made by it.

189. Decisions of Supreme Court binding on other courts.

Any decision of the Supreme Court shall, to the extent that it decides a question of law or is based upon or enunciates a principle of law, be binding on all other courts in Pakistan.

190. Action in aid of Supreme Court.

All executive and judicial authorities throughout Pakistan shall act in aid of the Supreme Court.

191. Rules of procedure.

Subject to the Constitution and law, the Supreme Court may make rules regulating the practice and procedure of the Court.

### Chapter 3. The High Courts

192. Constitution of High Court.

(1) A High Court shall consist of a Chief Justice and so many other Judges as may be determined by law or, until so determined, as may be fixed by the President.

(2) The Sind and Baluchistan High Court shall cease to function as a common High Court for the Provinces of Baluchistan and Sind.

(3) The President shall, by Order, establish a High Court for each of the Provinces of Baluchistan and Sind and may make such provision in the Order for the principal seats of the two High Courts, transfer of the Judges of the common High Court, transfer of cases pending in the common High Court immediately before the establishment of two High Courts and, generally, for matters consequential or ancillary to the common High Court ceasing to function and the establishment of the two High Courts as he may deem fit.

(4) The jurisdiction of a High Court may, by Act of Parliament, be extended to any area in Pakistan not forming part of a Province.

193. Appointment of High Court Judges.

(1) A Judge of a High Court shall be appointed by the President after consultation

- (a) with the Chief Justice of Pakistan;
- (b) with the Governor concerned; and
- (c) except where the appointment is that of Chief Justice, with the Chief Justice of the High Court.

(2) A person shall not be appointed a Judge of a High Court unless he is a citizen of Pakistan, is not less than forty years of age, and

- (a) he has for a period of, or for periods aggregating, not less than ten years been an advocate of a High Court (including a High Court which existed in Pakistan at any time before the commencing day); or
- (b) he is, and has for a period of not less than ten years been, a member of a civil service prescribed by law for the purposes of this paragraph, and has for a period of not less than three years, served as or exercised the functions of a District Judge in Pakistan; or
- (c) he has, for a period of not less than ten years, held a judicial office in Pakistan.

Explanation.

In computing the period during which a person has been an advocate of a High Court or held judicial office, there shall be included any period during which he has held judicial office after he became an advocate or, as the case may be, the period during which he has been an advocate after having held judicial office.

(3) In this Article, 'District Judge' means Judge of a principal civil court of original jurisdiction.

194. Oath of office.

Before entering upon office, the Chief Justice of a High Court shall make before the Governor, and any other Judge of the Court shall make before the Chief Justice, oath in the form set out in the Third Schedule.

195. Retiring age.

A Judge of a High Court shall hold office until he attains the age of sixty-two years, unless he sooner resigns or is removed from office in accordance with the Constitution.

196. *In abeyance.*

197. Additional judges.

At any time when

- (a) the office of a Judge of a High Court is vacant; or
- (b) a Judge of a High Court is absent or is unable to perform the functions of his office due to any other cause; or
- (c) for any reason it is necessary to increase the number of Judges of a High Court,

the President may, in the manner provided in clause (1) of Article 193, appoint a person qualified for appointment as a Judge of the High Court to be Additional Judge of the Court for such period as the President may determine, being a period not exceeding such period, if any, as may be prescribed by law.

198. to 200. *In Abeyance.*

201. Decision of High Court binding on subordinate Courts.

Subject to Article 189, any decision of a High Court shall, to the extent that it decides a question of law or is based upon or enunciates a principle of law, be binding on all courts subordinate to it.

202. Rules of procedure.

Subject to the Constitution and law, a High Court may make rules regulating the practice and procedure of the Court or of any court subordinate to it.

203. High Court to superintend subordinate courts.

Each High Court shall supervise and control all courts subordinate to it.

### Chapter 3A. Federal Shariat Court

203A. Provisions of Chapter to override other provisions of Constitution.

The provisions of this Chapter shall have effect notwithstanding anything contained in the Constitution.

203B. Definitions.

In this Chapter, unless there is anything repugnant in the subject or context,

- (a) 'Chairman' means Chairman of the Court;
- (b) 'Court' means the Federal Shariat Court constituted in pursuance of Article 203C;
- (c) 'Law' includes any custom or usage having the force of law but does not include the Constitution Muslim personal law, any law relating to the procedure of any court or tribunal or, until the expiration of three years from the commencement of this Chapter, any fiscal law or any law relating to the levy and collection of taxes and fees or banking or insurance practice and procedure; and
- (d) 'member' means member of the Court.

203C. The Federal Shariat Court.

(1) There shall be constituted for the purpose of this Chapter a court to be called the Federal Shariat Court.

(2) The Court shall consist of five Muslim members, including the chairman, to be appointed by the President.

(3) & (4). *In abeyance.*

(5) A Judge of a High Court who does not accept appointment as a member shall be deemed to have retired from his office and, on such retirement, shall be entitled to receive a pension calculated on the basis of the length of his service as Judge and total service, if any, in the service of Pakistan.

(6) The Principal seat of the Court shall be at Islamabad, but the Court may from time to time sit in such other places in Pakistan as the Chairman may, with the approval of the President, appoint.

(7) Before entering upon office, the Chairman and a member shall make before the President or a person nominated by him oath in the form set out, in the Third Schedule.

(8) At any time when the Chairman or a member is absent or is unable to perform the functions of his office, the President shall appoint another person qualified for the purpose to act as Chairman or, as the case may be, member.

(9) A Chairman who is not a Judge of the Supreme Court shall be entitled to the same salary, allowances and privileges as are admissible to a Judge of the Supreme Court and a member who is not a Judge of a High Court shall be entitled to the same salary, allowances and privileges as are admissible to a Judge of a High Court.

203CC. Panel of Ulema and Ulema members.

(1) The President may, in consultation with the Chairman, draw up a panel of Ulema who are well-versed in Islamic law for being associated with the Court in cases before it.

(2) The Chairman shall, in all cases before the Court, request the Ulema, not exceeding three, borne on the aforesaid panel to attend the sittings of the Court as Ulema members and, while so sitting, they shall have the same power and jurisdiction, and be entitled to the same privileges, as a member and such allowances as may be determined by the President.

203D. Powers, jurisdiction and functions of the Court.

(1) The Court may, on the petition of a citizen of Pakistan or the Federal Government or a Provincial Government, examine and decide the question whether or not any law or provision of law is repugnant to the Injunctions of Islam as laid down in the Holy Quran and the Sunnah of the Holy Prophet, hereinafter referred to as the Injunctions of Islam.

(2) If the Court decides that any law or provisions of Law is repugnant to the Injunctions of Islam, it shall set out in its decision

(a) the reasons for its holding that opinion; and

(b) the extent to which such law or provision is so repugnant;

and specify the day on which the decision shall take effect.

(3) If any law or provision of law is held by the Court to be repugnant to the Injunctions of Islam,

(a) the President in the case of a law with respect to a matter in the Federal Legislative List or the Concurrent Legislative List, or the Governor in the case of a law with respect to a matter not enumerated in either of those Lists, shall take steps to amend the law so as to bring such law or provision into conformity with the Injunctions of Islam; and

(b) such law or provision shall, to the extent to which it is held to be so repugnant, cease to have effect on the day on which the decision of the Court takes effect.

(4) *Omitted.*

203DD. Further Jurisdiction of the Court.

The Court shall have such other jurisdiction as may be conferred on it or under any law.

203E. Powers and procedure of the Court.

(1) For the purposes of the performance of its functions the Court shall have the powers of a Civil Court trying a suit under the Code of Civil Procedure, 1908 (Act V of 1908), in respect of the following matters, namely:

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits; and
- (d) issuing commissions for the examination of witnesses or documents.

(2) The Court shall have power to conduct its proceedings and regulate its procedure in all respects as it deems fit.

(3) The Court shall have the power of a High Court to punish its own contempt.

(4) A party to any proceedings before the Court under clause (1) of Article 203D. may be represented by a legal practitioner who is a Muslim and has been enrolled as an advocate of a High Court for a period of not less than five years or as an advocate of the Supreme Court or by a juriconsult selected by the party from out of a panel of juriconsults maintained by the Court for the purpose.

(5) For being eligible to have his name borne on the panel of juriconsults referred to in clause (4), a person shall be an *aalim* who, in the opinion of the Court, is well-versed in Shariat.

(6) A legal practitioner or juriconsult representing a party before the Court shall not plead for the party but shall state, expound and interpret the Injunctions of Islam relevant to the proceedings so far as may be known to him and submit to the Court a written statement of his interpretation of such Injunctions of Islam.

(7) The Court may invite any person in Pakistan or abroad whom the Court considers to be well-versed in Islamic law to appear before it and render such assistance as may be required of him.

(8) No court fee shall be payable in respect of any petition or application made to the Court under Article 203D.

(9) The Court shall have power to review any decision given or order made by it.

#### 203F. Appeal to Supreme Court.

(1) Any party to any proceedings before the Court under Article 203D aggrieved by the final decision of the Court in such proceedings may, within sixty days of such decision, prefer an appeal to the Supreme Court.

(2) The provisions of clauses (2) and (3) of Article 203D and clauses (4) and (8) of Article 203E shall apply to and in relation to the Supreme Court as if reference in those provisions to Court were a reference to the Supreme Court.

(3) For the purpose of the exercise of the jurisdiction conferred by this Article, there shall be constituted in the Supreme Court a Bench consisting of three Muslim Judges of the Supreme Court, to be called the Shariat Appellate Bench, and reference in the proceedings clauses to 'Supreme Court' shall be construed as a reference to the Shariat Appellate Bench.



**203G. Bar of Jurisdiction.**

Save as provided in Article 203F, no court or tribunal, including the Supreme Court and a High Court, shall entertain any proceedings or exercise any power or jurisdiction in respect of any matter within the power or jurisdiction of the Court.

**203H. Pending proceedings to continue, etc.**

(1) Subject to clause (2) nothing in this Chapter shall be deemed to require any proceedings pending in any Court or tribunal immediately before the commencement of this Chapter or initiated after such commencement, to be adjourned or stayed by reason only of a petition having been made to the Court for a decision as to whether or not a law or provision of law relevant to the decision of the point in issue in such proceedings is repugnant to the Injunctions of Islam; and all such proceedings shall continue, and the point in issue therein shall be decided, in accordance with the law for the time being in force.

(2) All proceedings under clause (1) of Article 203B of the Constitution that may be pending before any High Court immediately before the commencement of this Chapter shall stand transferred to the Court and shall be dealt with by the Court from the stage from which they are so transferred.

(3) Neither the Court nor the Supreme Court shall in the exercise of its jurisdiction under this Chapter have power to grant an injunction or make any interim order in relation to any proceedings pending in any other court or tribunal.

**203I. Administrative arrangements, etc.**

The Federal Government shall make all such administrative arrangements, and make available to the Court the service of such officers and experts, as it may consider necessary for the convenient performance of the functions of the Court.

**203J. Power to make rules.**

(1) The Court may, by notification in the official Gazette, make rules for carrying out the purposes of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may make provision in respect of all or any of the following matters, namely:

- (a) the scale of payment of honoraria to be made to jurisconsults, experts and witnesses summoned by the Court to defray the expenses, if any, incurred by them in attending for the purposes of the proceedings before the Court;
- (b) the form of oath to be made by a jurisconsult expert or witness appearing before the Court;
- (c) the powers and functions of the Court being exercised or performed by Benches consisting of one or more members constituted by the Chairman;
- (d) the decision of the Court being expressed in terms of the opinion of the majority of its members or, as the case may be, of the members constituting a Bench; and
- (e) the decision of cases in which the members constituting a Bench are equally divided in their opinion.

#### Chapter 4. General provisions relating to the Judicature

##### 204. Contempt of Court.

(1) In this Article, 'Court' means the Supreme Court or a High Court.

(2) A court shall have the power to punish a person for contempt of Court in accordance with law.

##### 205. Remuneration, etc., of Judges.

The remuneration and other terms and conditions of service of a Judge of the Supreme Court or of a High Court shall be as provided in the Fifth Schedule. the Fifth Schedule.

##### 206. Resignation.

(1) A Judge of the Supreme Court or of a High Court may resign his office by writing under his hand addressed to the President.

(2) A Judge of a High Court who does not accept appointment as a Judge of the Supreme Court shall be deemed to have retired from his office and, on such retirement, shall be entitled to receive a pension calculated on the basis of the length of his service as Judge and total service, if any, in the service of Pakistan.

##### 207. Judge not to hold office of profit, etc.

(1) A Judge of the Supreme Court or of a High Court shall not

- (a) hold any other office of profit in the service of Pakistan if his remuneration is thereby increased; or
- (b) occupy any other position carrying the right to remuneration for the rendering of services.

(2) *In abeyance.*

(3) A person who has held office as a permanent Judge

- (a) of the Supreme Court, shall not plead or act in any court or before any authority in Pakistan;
- (b) of a High Court, shall not plead or act in any court or before any authority within its jurisdiction; and
- (c) of the High Court of West Pakistan as it existed immediately before the coming into force of the Province of West Pakistan (Dissolution) Order, 1970, shall not plead or act in any court or before any authority within the jurisdiction of the principal seat of that High Court or, as the case may be, the permanent bench of that High Court to which he was assigned.

##### 208. Officers and servants of Courts.

The Supreme Court, with the approval of the President and a High Court, with the approval of the Governor concerned, may make rules providing for the appointment by the Court of officers and servants of the Court and for their terms and conditions of employment.

##### 209. Supreme Judicial Council.

(1) There shall be a Supreme Council of Pakistan, in this Chapter referred to as the Council.

(2) The Council shall consist of

- (a) the Chief Justice of Pakistan;
- (b) the two next most senior Judges of Supreme Court; and
- (c) the two most senior Chief Justice of High Courts.

*Explanation.*

For the purpose of this clause, the *inter se* seniority of the Chief Justice of the High Courts shall be determined with reference to their dates of appointment as Chief Justice otherwise than as acting Chief Justice, and in case the dates of such appointment are the same, with reference to their dates of appointment as Judges of any of the High Courts.

(3) If at any time the Council is inquiring into the capacity or conduct of a Judge who is a member of the Council, or a member of the Council is absent or is unable to act due to illness or any other cause, then

- (a) if such member is a Judge of the Supreme Court, the Judge of the Supreme Court who is next in seniority below the Judges referred to in paragraph (b) of clause (2), and
- (b) if such member is the Chief Justice of a High Court, the Chief Justice of another High Court who is next in seniority amongst the Chief Justices of the remaining High Courts, shall act as a member of the Council in his place.

(4) If, upon any matter inquired into by the Council, there is a difference of opinion amongst its members, the opinion of the majority shall prevail, and the report of the Council to the President shall be expressed in terms of the view of the majority.

(5) If, on information received from the Council or from any other source, the President is of the opinion that a Judge of the Supreme Court or of a High Court,

- (a) may be incapable of properly performing the duties of his office by reason of physical or mental incapacity; or
- (b) may have been guilty of misconduct, the President shall direct the Council to inquire into the matter.

(6) If, after inquiring into the matter, the Council reports to the President that it is of the opinion

- (a) that the Judge is incapable of performing the duties of his office or has been guilty of misconduct, and
- (b) that he should be removed from office, the President may remove the Judge from office.

(7) A Judge of the Supreme Court or of a High Court shall not be removed from office except as provided by this Article.

(8) The Council shall issue a code of conduct to be observed by Judges of the Supreme Court and of the High Courts.

*210. Power of Council to enforce attendance of persons, etc.*

(1) For the purpose of inquiring into any matter, the Council shall have the same power as the Supreme Court has to issue directions or orders for securing the attendance of any person or the discovery or production of any document; and any such direction or order shall be enforceable as if it had been issued by the Supreme Court.

(2) The provisions of Article 204 shall apply to the Council as they apply to the Supreme Court and a High Court.

211. Bar of Jurisdiction.

The proceedings before the Council, its report to the President and the removal of a Judge under clause (6) of Article 209 shall not be called in question in any court.

212. Administrative Courts and Tribunals.

(1) Notwithstanding anything hereinbefore contained, the appropriate Legislature may by Act provide for the establishment of one or more Administrative Courts or Tribunals to exercise exclusive jurisdiction in respect of

- (a) matters relating to the terms and conditions of persons who are or have been in the service of Pakistan, including disciplinary matters;
- (b) matters relating to claims arising from tortious acts of Government, or any person in the service of Pakistan, or of any local or other authority empowered by law to levy any tax or cess and any servant of such authority acting in the discharge of his duties as such servant; or
- (c) matters relating to the acquisition, administration and disposal of any property which is deemed to be enemy property under any law.

(2) Notwithstanding anything hereinbefore contained, where any Administrative Court or Tribunal is established under clause (1), no other Court shall grant an injunction, make any order or entertain any proceedings in respect of any matter to which the jurisdiction of such Administrative Court or Tribunal extends and all proceedings in respect of any such matter which may be pending before such other court immediately before the establishment of the Administrative Court or Tribunal other than an appeal pending before the Supreme Court, shall abate on such establishment:

Provided that the provisions of this clause shall not apply to an Administrative Court or Tribunal established under an Act of a Provincial Assembly unless, at the request of that Assembly made in the form of a resolution, Parliament by law extends the provisions to such a Court or Tribunal.

(3) An appeal to the Supreme Court from a judgment, decree, order or sentence of an Administrative Court or Tribunal shall lie only if the Supreme Court, being satisfied that the case involves a substantial question of law of public importance, grants leave to appeal.

227. Provisions relating to the Holy Quran and Sunnah.

(1) All existing laws shall be brought in conformity with the Injunctions of Islam as laid down in the Holy Quran and Sunnah, in this Part referred to as the Injunctions of Islam, and no law shall be enacted which is repugnant to such Injunctions.

Explanation.

In the application of this clause to the personal law of any Muslim sect, the

expression 'Quran and Sunnah' shall mean the Quran and Sunnah as interpreted by that sect'.

(2) Effect shall be given to the provisions of clause (1) only in the manner provided in this Part.

(3) Nothing in this Part shall affect the personal laws of non-Muslim citizens or their status as citizens.

228. Composition, etc., of Islamic Council.

(1) There shall be constituted within a period of ninety days from the commencing day a Council of Islamic Ideology, in this part referred to as the Islamic Council.

(2) The Islamic Council shall consist of such members, being not less than eight and not more than twenty as the President may appoint from amongst persons having knowledge of the principles and philosophy of Islam as enunciated in the Holy Quran and Sunnah, or understanding of the economic, political, legal or administrative problems of Pakistan.

(3) While appointing members of the Islamic Council, the President shall ensure that

- (a) so far as practicable various schools of thought are represented in the Council;
- (b) not less than two of the members are persons each of whom is, or has been a Judge of the Supreme Court or of a High Court;
- (c) not less than four of the members are persons each of whom has been engaged, for a period of not less than fifteen years, in Islamic research or instruction; and
- (d) at least one member is a woman.

(4) The President shall appoint one of the members referred to in paragraph (b) of clause (3) to be the Chairman of the Islamic Council.

(5) Subject to clause (6), a member of the Islamic Council shall hold office for a period of three years.

(6) A member may, by writing under his hand addressed to the President, resign his office or may be removed by the President upon the passing of a resolution for his removal by a majority of the total membership of the Islamic Council.

229. Reference by Parliament, etc., to Islamic Council.

The President or the Governor of a Province may, or if two-fifths of its total membership so requires, a House or a Provincial Assembly shall, refer to the Islamic Council for advice any question as to whether a proposed law is or is not repugnant to the Injunctions of Islam.

230. Functions of the Islamic Council.

(1) The functions of the Islamic Council shall be

- (a) to make recommendations to Parliament and the Provincial Assemblies as to the ways and means of enabling and encouraging the Muslims of Pakistan to order their lives individually and collectively in all respects in accordance with the principles and concepts of Islam as enunciated in the Holy Quran and Sunnah;

- (b) to advise a House, a Provincial Assembly, the President or a Governor on any question referred, to the Council as to whether a proposed law is or is not repugnant to the Injunctions of Islam;
- (c) to make recommendations as to the measures for bringing existing laws into conformity with the Injunctions of Islam and the stages by which such measures should be brought into effect; and
- (d) to compile in a suitable form, for the guidance of Parliament and the Provincial Assemblies, such Injunctions of Islam as can be given legislative effect.

(2) When, under Article 229, a question is referred by a House, a Provincial Assembly, the President or a Governor to the Islamic Council, the Council shall, within fifteen days thereof, inform the House, the Assembly, the President or the Governor, as the case may be, of the period within which the Council expects to be able to furnish that advice.

(3) Where a House, a Provincial Assembly, the President or the Governor, as the case may be, considers that, in the public interest, the making of the proposed law in relation to which the question arose should not be postponed until the advice of the Islamic Council is furnished, the law may be made before the advice is furnished:

Provided that, where a law is referred for advice to the Islamic Council and the Council advises that the law is repugnant to the Injunctions of Islam, the House or, as the case may be, the Provincial Assembly, the President or the Governor shall reconsider the law so made.

(4) The Islamic Council shall submit its final report within seven years of its appointment, and shall submit an annual interim report. The report, whether interim or final, shall be laid for discussion before both Houses and each Provincial Assembly within six months of its receipt, and Parliament and the Assembly, after considering the report, shall enact laws in respect thereof within a period of two years of the final report.

231. Rules of procedure.

The Proceedings of the Islamic Council shall be regulated by rules of Procedure to be made by the Council with approval of the President.

#### EMERGENCY PROVISIONS

232. Proclamation of emergency on account of war, internal disturbance etc.

(1) If the President is satisfied that a grave emergency exists in which the security of Pakistan or any part thereof, is threatened by war or external aggression and by internal disturbance beyond the power of a Provincial Government to control he may issue a Proclamation of Emergency.

(2) Notwithstanding anything in the Constitution, while a Proclamation of Emergency is in force,

(a) Parliament shall have power to make laws for a Province, or any part thereof, with respect to any matter enumerated in Part II of the Federal List

or the concurrent Legislative List or with respect to any matter not enumerated in either of those Lists, as if it were a matter specified in Part I of the Federal List;

- (b) the executive authority of the Federation shall extend to the giving of directions to a Province as to the manner in which the executive authority of the Province is to be exercised; and
- (c) the Federal Government may by Order assume to itself, or direct the Governor of a Province to assume on behalf of the Federal Government, all or any of the functions of the Government of the Province, and all or any of the powers vested in, or exercisable by, any body or authority in the Province other than the Provincial Assembly, and make such incidental and consequential provisions as appear to the Federal Government to be necessary or desirable for giving effect to the objects of the Proclamation, including provisions for suspending, in whole or in part, the operation of any provisions of the Constitution relating to any body or authority in the Province:

Provided that nothing in paragraph (c) shall authorize the Federal Government to assume to itself, or direct the Governor of the Province to assume on its behalf, any of the powers vested in or exercisable by a High Court, or to suspend either in whole or in part the operation of any provisions of the Constitution relating to High Courts.

(3) The power of Parliament to make laws for a Province with respect to any matter shall include power to make laws conferring powers and imposing duties, or authorizing the conferring of powers and the imposition of duties upon the Federation, or officers and authorities of the Federation, as respects that matter.

(4) Nothing in this Article shall restrict the power of a Provincial Assembly to make any law which under the Constitution it has power to make, but if any provision of a Provincial law is repugnant to any provision of an Act of Parliament which Parliament has under this Article power to make, the Act of Parliament, whether passed before or after the Provincial law, shall prevail and the Provincial law shall, to the extent of the repugnancy, but so long only as the Act of Parliament continues to have effect, be void.

(5) A law made by Parliament, which Parliament would not but for the issue of a Proclamation of Emergency have been competent to make, shall, to the extent of the incompetency, cease to have effect on the expiration of a period of six months after the Proclamation of Emergency has ceased to be in force, except as respects things done or omitted to be done before the expiration of the said period.

(6) While a Proclamation of Emergency is in force, Parliament may by law extend the term of the National Assembly for a period not exceeding one year and not extending in any case beyond a period of six months after the Proclamation has ceased to be in force.

(7) A Proclamation of Emergency shall be laid before a joint sitting

which shall be summoned by the President to meet within thirty days of the Proclamation being issued and

- (a) shall cease to be in force at the expiration of two months unless before the expiration of that period it has been approved by a resolution of the joint sitting; and
- (b) shall, subject to the provisions of paragraph (a), cease to be in force upon a resolution disapproving the Proclamation being passed by the votes of the majority of the total membership of the two Houses in joint sitting.

(8) Notwithstanding anything contained in clause (7), if the National Assembly stands dissolved at the time when a Proclamation of Emergency is issued, the Proclamation shall continue in force for a period of four months but, if a general election to the Assembly is not held before the expiration of that period, it shall cease to be in force at the expiration of that period unless it has earlier been approved by a resolution of the Senate.

233. *In abeyance.*

234. Power to issue proclamation in case of failure of Constitutional Machinery in a Province.

(1) If the President, on receipt of a report from the Governor of a Province or otherwise, is satisfied that a situation has arisen in which the Government of the Province cannot be carried on in accordance with the provisions of the Constitution, the President may, or if a resolution in this behalf is passed at a joint sitting shall, by Proclamation,

- (a) assume to himself, or direct the Governor of the Province to assume on behalf of the President, all or any of the functions of the Government of the Province and all or any of the powers vested in, or exercisable by, any body or authority in the province, other than the Provincial Assembly;
- (b) declare that the powers of the Provincial Assembly shall be exercisable by or under the authority of Parliament; and
- (c) make such incidental and consequential provisions as appear to the President to be necessary or desirable for giving effect to the objects of the Proclamation, including provisions for suspending in whole or in part the operation of any provisions of the Constitution relating to any body or authority in the Province:

Provided that nothing in this Article shall authorize the President to assume to himself, or direct the Governor of the Province to assume on his behalf, any of the powers vested in, or exercisable by, a High Court, or to suspend either in whole or in part the operation of any provisions of the Constitution relating to High Court.

(2) The provisions of Article 105 shall not apply to the discharge by the Governor of his functions under clause (1).

(3) A Proclamation issued under this Article shall be laid before a joint sitting and shall cease to be in force at the expiration of two months, unless before the expiration of that period it has been approved by resolution of the joint sitting



and may by like resolution be extended for a further period not exceeding two months at a time; but no such Proclamation shall in any case remain in force for more than six months.

(4) Notwithstanding anything contained in clause (3), if the National Assembly stands dissolved at the time when a Proclamation is issued under this Article, the Proclamation shall continue in force for a period of three months but, if a general election to the Assembly is not held before the expiration of that period, it shall cease to be in force at the expiration of that period unless it has earlier been approved by a resolution in the Senate.

(5) Where by a Proclamation issued under this Article it has been declared that the powers of the Provincial Assembly shall be exercisable by or under the authority of Parliament, it shall be competent

- (a) to Parliament in joint sitting to confer on the President the power to make laws with respect to any matter within the legislative competence of the Provincial Assembly;
- (b) to Parliament in joint sitting, or the President, when he is empowered under paragraph (a), to make laws conferring powers and imposing duties, or authorizing the conferring of powers and the imposition of duties, upon the Federation, or officers and authorities thereof;
- (c) to the President, when Parliament is not in session, to authorize expenditure from the Provincial Consolidated Fund, whether the expenditure is charged by the Constitution upon that Fund or not, pending the sanction of such expenditure by Parliament in joint sitting; and
- (d) to Parliament in joint sitting by resolution to sanction expenditure authorized by the President under paragraph (c).

(6) Any law made by Parliament or the President which Parliament or the President would not, but for the issue of a Proclamation under this Article, have been competent to make, shall, to the extent of the incompetency, cease to have effect on the expiration of a period of six months after the Proclamation under this Article has ceased to be in force, except as to things, done or omitted to be done before the expiration of the said period.

235. Proclamation in case of financial emergency.

(1) If the President is satisfied that a situation has arisen whereby the economic life, financial stability or credit of Pakistan, or any part thereof, is threatened, he may, after consultation with the Governors of the Provinces or, as the case may be, the Governor of the Province concerned, by Proclamation make a declaration to that effect, and, while such a Proclamation is in force, the executive authority of the Federation shall extend to the giving of directions to any Province to observe such principles of financial propriety as may be specified in the directions, and to the giving of such other directions as the President may deem necessary in the interest of the economic life, financial stability or credit of Pakistan or any part thereof.

(2) Notwithstanding anything in the Constitution, any such directions may include a provision requiring a reduction of the salary and allowances of all or any class of persons serving in connection with the affairs of a Province.

(3) While a Proclamation issued under this Article is in force the President may issue directions for the reduction of the salaries and allowances of all or any class of persons serving in connection with the affairs of the Federation.

(4) The provisions of clauses (3) and (4) of Article 234 shall apply to a Proclamation issued under this Article as they apply to a Proclamation issued under that Article.

236. Revocation of Proclamation, etc.

(1) A Proclamation issued under this Part may be varied or revoked by a subsequent Proclamation.

(2) The validity of any Proclamation issued or Order made under this Part shall not be called in question in any court.

237. Parliament may make laws of indemnity, etc.

Nothing in the Constitution shall prevent Parliament from making any law indemnifying any person in the service of the Federal Government or a Provincial Government, or any other person, in respect of any act done in connection with the maintenance or restoration of order in any area in Pakistan.

238. and 239. *In abeyance.*

#### MISCELLANEOUS

240. Appointments to service of Pakistan and conditions of service.

Subject to the Constitution, the appointments to and the conditions of service of persons in the service of Pakistan shall be determined

(a) in the case of the service of the Federation, posts in connection with the affairs of the Federation and All-Pakistan Service, by or under Act of Parliament; and

(b) in the case of the service of a Province and posts in connection with affairs of a Province, by or under Act of the Provincial Assembly.

Explanation.

In this Article, 'All-Pakistan Service' means a service common to the Federation and the Province, which was in existence immediately before the commencing day or which may be created by Act of Parliament.

241. Existing rules, etc., to continue.

Until the appropriate Legislature makes a law under Article 240, all rules and orders in force immediately before the commencing day shall, so far as consistent with the provisions of the Constitution, continue in force and may be amended from time to time by the Federal Government or, as the case may be, the Provincial Government.

242. Public Service Commission.

(1) Parliament in relation to the affairs of the Federation, and the Provincial Assembly of a Province in relation to the affairs of the Province, may, by law,

provide for the establishment and constitution of a Public Service Commission.

(2) A Public Service Commission shall perform such functions as may be prescribed by law.

## Chapter 2. Armed Forces

### 243. Command of Armed Forces.

(1) The Federal Government shall have control and command of the Armed Forces.

(2) The President shall subject to law, have power

- (a) to raise and maintain the Military, Naval and Air Forces of Pakistan; and the Reserves of such Forces;
- (b) to grant Commissions in such Forces; and
- (c) to appoint the Chief of the Army Staff, the Chief of the Naval Staff, and the Chief of the Air Staff, and determine their salaries and allowances.

### 244. Oath of Armed Forces.

Every member of the Armed Forces shall make oath in the form set out in the Third Schedule.

### 245. Functions of Armed Forces.

(1) The Armed Forces shall, under the directions of the Federal Government defend Pakistan against external aggression or threat of war, and, subject to law, act in aid of civil power when called upon to do so.

(2) The validity of any direction issued by the Federal Government under clause (1) shall not be called in question in any Court.

(3) A High Court shall not exercise any jurisdiction under Article 199 in relation to any area in which the Armed Forces of Pakistan are, for the time being, acting in aid of civil power in pursuance of Article 245:

Provided that this clause shall not be deemed to affect the jurisdiction of the High Court in respect of any proceeding pending immediately before the day on which the Armed Forces start acting in aid of civil power.

(4) Any proceeding in relation to an area referred to in clause (3) instituted on or after the day the Armed Forces start acting in aid of civil power and pending in any High Court shall remain suspended for the period during which the Armed Forces are so acting.

## Chapter 3. Tribal Areas

### 246. Tribal Areas.

In this Constitution,

- (a) 'Tribal Areas' means the areas in Pakistan which, immediately before the commencing day, were Tribal Areas, and includes
  - (i) the Tribal Areas of Baluchistan and the North-West Frontier Province; and

- (ii) the former States of Amb, Chitral, Dir and Swat;
- (b) 'Provincially Administered Tribal Areas' means
  - (i) the districts of Chitral, Dir and Swat (which includes Kalam) (the Tribal Area in Kohistan district,) Malakand Protected Area, the Tribal Area adjoining Mansehra district and the former State of Amb; and
  - (ii) Zhob district, Loralai district (excluding Duki Tehsi), Dalbandin Tehsil of Chagai district and Marri and Bugti tribal territories of Sibi district; and
- (c) 'Federally Administered Tribal Areas' includes
  - (i) Tribal Areas, adjoining Peshawar district;
  - (ii) Tribal Areas adjoining Kohat district;
  - (iii) Tribal Areas adjoining Bannu district;
  - (iv) Tribal Areas adjoining Dera Ismail Khan district;
  - (v) Bajaur Agency;
  - (vi) Orakzai Agency;
  - (vii) Khyber Agency;
  - (viii) Kurram Agency;
  - (ix) North Waziristan Agency; and
  - (x) South Waziristan Agency.

247. Administration of Tribal Areas.

(1) Subject to the Constitution, the executive authority of the Federation shall extend to the Federally Administered Tribal Areas; and the executive authority of a Province shall extend to the Provincially Administered Tribal Areas therein.

(2) The President may, from time to time, give such directions to the Governor of a Province relating to the whole or any part of a Tribal Area within the Province as he may deem necessary, and the Governor shall, in the exercise of his functions under this Article, comply with such directions.

(3) No Act of Parliament shall apply to any Federally Administered Tribal Area or to any part thereof, unless the President so directs, and no Act of Parliament or a Provincial Assembly shall apply to a Provincially Administered Tribal Area, or to any part thereof, unless the Governor of the Province in which the Tribal Area is situated, with the approval of the President, so directs; and in giving such a direction with respect to any law, the President or, as the case may be, the Governor, may direct that the law shall, in its application to a Tribal Area or to a specified part thereof, have effect subject to such exceptions and modifications as may be specified in the direction.

(4) Notwithstanding anything contained in the Constitution, the President may, with respect to any matter within the legislative competence of Parliament, and the Governor of a Province, with the prior approval of the President, may with respect to any matter within the legislative competence of the Provincial Assembly make regulations for the peace and good government of a Provincially Administered Tribal Area or any part thereof, situated in the Province.

(5) Notwithstanding anything contained in the Constitution, the President

may, with respect to any matter, make regulations for the peace and good government of a Federally Administered Tribal Area or any part thereof.

(6) The President may, at any time, by Order, direct that the whole or any part of a Tribal Area shall cease to be Tribal Area, and such Order may contain such incidental and consequential provisions as appear to the President to be necessary and proper:

Provided that before making any Order under this clause, the President shall ascertain, in such manner as he considered appropriate, the views of the people of the Tribal Area concerned, as represented in tribal jirga.

(7) Neither the Supreme Court nor a High Court shall exercise any jurisdiction under the Constitution in relation to a Tribal Area, unless Parliament by law otherwise provides;

Provided that nothing in this clause shall affect the jurisdiction which the Supreme Court or a High Court exercised in relation to a Tribal Area immediately before the commencing day.

#### Chapter 4. General

##### 248. Protection to President, Governor, Minister, etc.

(1) The President, a Governor, the Prime Minister, a Federal Minister, a Minister of State, the Chief Minister and a Provincial Minister shall not be answerable to any Court for the exercise of powers and performance of functions of their respective offices or for any act done or purported to be done in the exercise of those powers and performance of those functions:

Provided that nothing in this clause shall be construed as restricting the right of any person to bring appropriate proceedings against the Federation or a Province.

(2) No criminal proceedings whatsoever shall be instituted or continued against the President or a Governor in any court during his term of office.

(3) No process for the arrest or imprisonment of the President or a Governor shall issue from any court during his term of office.

(4) No civil proceedings in which relief is claimed against the President or a Governor shall be instituted during his term of office in respect of anything done or not done by him in his personal capacity whether before or after he enters upon his office unless, at least sixty days before the proceedings are instituted, notice in writing has been delivered to him, or sent to him in the manner prescribed by law, stating the nature of the proceedings, the cause of action, the name, description and place of residence of the party by whom the proceedings are to be instituted and the relief which the party claims.

##### 249. Legal proceedings.

(1) Any legal proceedings which, but for the Constitution, could have been brought by or against the Federation in respect of a matter which, immediately before the commencing day, was the responsibility of the Federation and has, under the Constitution, become the responsibility of a Province, shall be brought by

or against the Province concerned; and if any such legal proceedings were pending in any court immediately before the commencing day then, in those proceedings, for the Federation the Province concerned shall, as from that day, be deemed to have been substituted.

(2) Any legal proceedings which, but for the Constitution, could have been brought by or against a Province in respect of a matter which, immediately before the commencing day, was the responsibility of the Federation, shall be brought by or against the Federation; and if any such legal proceedings were pending in any court immediately before the commencing day then, in those proceedings for the Province the Federation shall, as from that day, be deemed to have been substituted.

250. Salaries, allowances, etc., of the President, etc.

(1) Within two years from the commencing day, provision shall be made by law for determining the salaries, allowances and privileges of the President, the Speaker and Deputy Speaker and a member of the National Assembly or a Provincial Assembly, the Chairman and Deputy Chairman and a member of the Senate, the Prime Minister, a Minister of State, a Chief Minister, a Provincial Minister and the Chief Election Commissioner.

(2) Until other provision is made by law,

(a) the salaries, allowances and privileges of the President, the Speaker or Deputy Speaker or a member of the National Assembly or a Provincial Assembly, a Federal Minister, a Minister of State, a Chief Minister, a Provincial Minister and the Chief Election Commissioner shall be the same as the salaries, allowances and privileges to which the President, the Speaker or Deputy Speaker or member of the National Assembly of Pakistan or a Provincial Assembly, a Federal Minister of State, a Chief Minister, a Provincial Minister or, as the case may be, the Chief Election Commissioner was entitled immediately before the commencing day; and

(b) the salaries, allowances and privileges of the Chairman, the Deputy Chairman, the Prime Minister and a member of the Senate shall be such as the President may by Order determine.

(3) The salary, allowances and privileges of a person holding office as

(a) the President;

(b) the Chairman or Deputy Chairman;

(c) the Speaker or Deputy Speaker of the National Assembly or a Provincial Assembly;

(d) a Governor;

(e) the Chief Election Commissioner ; or

(f) the Auditor-General;

shall not be varied to his disadvantage during his term of office,

(4) At any time when the Chairman or Speaker is acting as President, he shall be entitled to the same salary, allowances and privileges as a President but

shall not exercise any of the functions of the office of Chairman or Speaker or a member of Parliament or be entitled to salary, allowances or privileges as Chairman, Speaker or such a member.

251. National language.

(1) The national language of Pakistan is Urdu, and arrangements shall be made for its being used for official and other purposes within fifteen years from the commencing day.

(2) Subject to clause (1), the English language may be used for official purposes until arrangements are made for its replacement by Urdu.

(3) Without prejudice to the status of the national language, a Provincial Assembly may by law prescribe measures for the teaching, promotion and use of a provincial language in addition to the national language.

252. Special provisions in relation to major ports and aerodromes.

(1) Notwithstanding anything contained in the Constitution or in any law, the President may, by public notification, direct that, for a period not exceeding three months from a specified date, a specified law, whether a Federal law or a Provincial law, shall not apply to a specified major port or major aerodrome, or shall apply to a specified major port or major aerodrome subject to specified exceptions or modifications.

(2) The giving of a direction under this Article in relation to any law shall not affect the operation of the law prior to the date specified in the direction.

253. Maximum limits as to property, etc.

(1) Parliament may by law

(a) prescribe the maximum limits as to property or any class thereof which may be owned, held, possessed or controlled by any person; and

(b) declare that any trade, business, industry or service specified in such law shall be carried on or owned, to the exclusion, complete or partial, of other persons, by the Federal Government or a Provincial Government, or by a corporation controlled by any such Government.

(2) Any law which permits a person to own beneficially or possess beneficially an area of land greater than that which, immediately before the commencing day, he could have lawfully owned beneficially or possessed beneficially shall be invalid.

254. When any act or thing is required by the Constitution to be done within a particular period and it is not done within that period, the doing or the act of thing shall not be invalid or otherwise ineffective by reason only that it was not done within that period.

255. Oath of office.

(1) An oath required to be made by a person under the Constitution shall be made in a language that is understood by that person.

(2) Where, under the Constitution, an oath is required to be made before

a specified person and, for any reason, it is impracticable for the oath to be made before that person, it may be made before such other person as may be nominated by that person.

(3) Where, under the Constitution, a person is required to make an oath before he enters upon an office, he shall be deemed to have entered upon the office, on the day on which he makes the oath.

256. Private armies forbidden.

No private organization capable of functioning as a military organization shall be formed, and any such organization shall be illegal.

257. Provisions relating to the State of Jammu and Kashmir.

When the people of the State of Jammu and Kashmir decide to accede to Pakistan, the relationship between Pakistan and that State shall be determined in accordance with the wishes of the people of that State.

258. Government of territories outside Provinces.

Subject to the Constitution until Parliament by law otherwise provides, the President may, by order, make provision for peace and good government of any part of Pakistan not forming part of a Province.

259. Awards.

(1) No citizens shall accept any title, honor or decoration from any foreign State except with the approval of the Federal Government.

(2) No title, honor or decoration shall be conferred by the Federal Government or any Provincial Government on any citizen, but the President may award decorations in recognition of gallantry or meritorious service in the Armed Forces or academic distinction, as provided by Federal law.

## Chapter 5. Interpretation

(3) All titles, honors and decorations awarded to citizens by any authority in Pakistan before the commencing day otherwise than in recognition of gallantry or meritorious service in the Armed Forces or academic distinction shall stand annulled:

260. Definitions.

(1) In the Constitution, unless the context otherwise requires, the following expressions have the meaning hereby respectively assigned to them, that is to say,

‘Act of Parliament’ means an Act passed by Parliament or the National Assembly and assented to, or deemed to have been assented to, by the President;

‘Act of Provincial Assembly’ means an Act passed by the Provincial Assembly of a Province and assented to, or deemed to have been assented to, by the Governor;

‘agricultural income’ means agricultural income as defined for the purposes of the law relating to income tax;

‘Article’ means Article of the Constitution;

‘borrow’ includes the raising of money by the grant of annuities, and ‘loans’ shall be construed accordingly;



‘Chairman’ means the Chairman of the Senate and, except in Article 49, includes a person acting as Chairman of the Senate;

‘Chief Justice’, in relation to the Supreme Court or a High Court, includes the Judge for the time being acting as Chief Justice of the Court;

‘citizen’ means a citizen of Pakistan as defined by law;

‘clause’ means clause of the Article in which it occurs;

‘corporation tax’ means any tax on income that is payable by companies and in respect of which the following conditions apply:

- (a) the tax is not chargeable in respect of agricultural income;
- (b) no deduction in respect of the tax paid by companies is, by any law which may apply to the tax, authorized to be made from dividends payable by the companies to individuals;
- (c) no provision exists for taking the tax so paid into account in computing for the purposes of income-tax the total income of individuals receiving such dividends, or in computing the income tax payable by, or refundable to, such individuals;

‘debt’ includes any liability in respect of any obligation to repay capital sums by ways of annuities and any liability under any guarantee, and ‘debt charges’ shall be construed accordingly;

‘estate duty’ means a duty assessed on, or by reference to, the value of property passing upon death;

‘existing law’ has the same meaning as in clause (7) of Article 268;

‘Federal law’ means a law made by or under the authority of Parliament ;

‘financial year’ means a year commencing on the first day of July;

‘goods’ includes all materials, commodities and articles;

‘Governor’ means the Governor of a Province and includes any person for the time being acting as the Governor of a Province;

‘guarantee’ includes any obligation undertaken before the commencing day to make payments in the event of the profits of an undertaking falling short of a specified amount;

‘House’ means the Senate or the National Assembly;

‘Joint sitting’ means a joint sitting of the two Houses;

‘Judge’ in relation to the Supreme Court or a High Court, includes the Chief Justice of the Court and also includes

- (a) in relation to the Supreme Court, a person who is acting as a Judge of the Court; and
- (b) in relation to the High Court, a person who is an Additional Judge of the Court;

‘members’ of the Armed Forces’ does not include persons who are not, for the time being, subject to any law relating to the members of the Armed Forces;

‘net proceeds’ means, in relation to any tax or duty, the proceeds

thereof, reduced by the cost of collection, as ascertained and certified by the Auditor-General;

'oath' includes affirmation;

'Part' means Part of the Constitution;

'pension' means a pension, whether contributory or not, of any kind whatsoever payable to, or in respect of, any person and includes retired pay so payable, a gratuity so payable, and any sum or sums so payable, by way of the return, with or without interest thereon or any addition thereto, of subscriptions to a provident fund;

'person' includes any body politic or corporate;

'President' means the President of Pakistan and includes a person for the time being acting as, or performing the functions of, the President of Pakistan and, as respects anything required to be done under the Constitution before the commencing day, the President under the Interim Constitution of the Islamic Republic of Pakistan;

'Property' includes any right, title or interest in property, movable or immovable, and any means and instruments of production;

'Provincial law' means a law made by or under the authority of the Provincial Assembly;

'remuneration' includes salary and pension;

'Schedule' means Schedule to the Constitution;

'security of Pakistan' includes the safety, welfare, stability and integrity of Pakistan and of each part of Pakistan, but shall not include public safety as such;

'service of Pakistan' means any service, post or office in connection with the affairs of the Federation or of a Province, and includes an All-Pakistan Service, service in the Armed Forces and any other service declared to be a service of Pakistan by or under Act of Parliament or of a Provincial Assembly, but does not include service as Speaker, Deputy Speaker, Chairman, Deputy Chairman, Prime Minister, Federal Minister, Minister of State, Chief Minister, Provincial Minister, Attorney-General, Advocate-General, Parliamentary Secretary or Chairman or member of a law commission, Chairman or member of the Council of Islamic Ideology, Special Assistant to the Prime Minister, Adviser to the Prime Minister, Special Assistant to a Chief Minister, Adviser to a Chief Minister or member of a House or a Provincial Assembly;

'Speaker' means the Speaker of the National Assembly or a Provincial Assembly, and includes any person acting as the Speaker of the Assembly;

'taxation' includes the imposition of any tax or duty, whether general, local or special, and 'tax' shall be construed accordingly;

'tax on income' includes a tax in the nature of an excess profits tax or a business profits tax.

(2) In the Constitution 'Act of Parliament' or 'Federal law' or 'Act of Provincial Assembly' or 'Provincial law' shall include an Ordinance promulgated by the President or, as the case may be, a Governor.

(3) A person who does not believe in the absolute and unqualified finality of the Prophethood of Muhammed (peace be upon him) the last of the Prophets or claims to be a prophet, in any sense of the word or of any description whatsoever, after Muhammed (peace be upon him), or recognizes such a claimant as a prophet or a religious reformer, is not a Muslim for the purposes of the Constitution or law.

261. Person acting in office not to be regarded as successor to previous occupant of office, etc.

For the purposes of the Constitution, a person who acts in an office shall not be regarded as the successor to the person who held that office before him or as the predecessor to the person who holds that office after him.

262. Gregorian calendar to be used.

For the purposes of the Constitution, periods of time shall be reckoned according to the Gregorian calendar.

263. Gender and number.

In the Constitution,

- (a) words importing the masculine gender shall be taken to include females; and
- (b) words in the singular shall include the plural, and words in the plural shall include the singular.

264. Effect of repeal of laws.

Where a law is repealed, or is deemed to have been repealed, by, under, or by virtue of the Constitution, the repeal shall not, except as otherwise provided in the Constitution.

- (a) revive anything not in force or existing at the time at which the repeal takes effect;
- (b) affect the previous operation of the law or anything duly done or suffered under the law;
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under the law;
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against the law; or
- (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the law had not been repealed.

### Chapter 6. Title, Commencement and Repeal

265. Title of Constitution and commencement.

(1) This Constitution shall be known as the Constitution of the Islamic Republic of Pakistan.

(2) Subject to clauses (3) and (4), the Constitution shall come into force on the fourteenth day of August, one thousand nine hundred and seventy-three or on such earlier day as the President may, by notification in the official Gazette, appoint, in the Constitution referred to as the 'commencing day'.

(3) The Constitution shall, to the extent necessary

(a) for the Constitution of the first Senate;

(b) for the first meeting of a House or a joint sitting to be held;

(c) for the election of the President and the Prime Minister to be held; and

(d) to enable any other thing to be done which, for the purposes of the Constitution, it is necessary to do before the commencing day,

come into force upon the enactment of the Constitution, but the person elected as President or Prime Minister shall not enter upon his office before the commencing day.

(4) Where by the Constitution a power is conferred to make rules or to issue orders with respect to the enforcement of any provision thereof, or with respect to the establishment of any court or office, or the appointment of any Judge or officer thereunder, or with respect to the person by whom, or the time when, or the place where or the manner in which, anything is to be done under any such provision, then that power may be exercised at any time between the enactment of the Constitution and its commencement.

266. Repeal.

The Interim Constitution of the Islamic Republic of Pakistan, together with the Acts and President's Orders making omissions from, additions to, modifications of, or amendments in, that Constitution is hereby repealed.

267. *In abeyance.*

268. Continuance in force, and adaptation of, certain laws.

(1) Except as provided by this Article, all existing laws shall, subject to the Constitution, continue in force, so far as applicable and with the necessary adaptations, until altered, repealed or amended by the appropriate Legislature.

(2) The laws specified in the Sixth Schedule shall not be altered, repealed or amended without the previous sanction of the President.

(3) For the purpose of bringing the provisions of any existing law into accord with the provisions of the Constitution (other than Part II of the Constitution), the President may by Order, within a period of two years from the commencing day, make such adaptations, whether by way of modification, addition or omission, as he may deem to be necessary or expedient, and any such Order may be made so as to have effect from such day, not being a day earlier than the commencing day as, may be specified in the Order.

(4) The President may authorize the Governor of a Province to exercise, in relation to the Province, the powers conferred on the President by clause (3) in respect of laws relating to matters with respect to which the Provincial Assembly has power to make laws.

(5) The powers exercisable under clauses (3) and (4) shall be subject to the provisions of an Act of the appropriate Legislature.

(6) Any court, tribunal or authority required or empowered to enforce an existing law shall, notwithstanding that no adaptations have been made in such law by an Order made under clause (3) or clause (4), construe the law with all such adaptations as are necessary to bring it into accord with the provisions of the Constitution.

(7) In this Article, 'existing laws' means all laws (including Ordinances, Orders-in-Council, Orders, rules, bye-laws, regulations and Letters Patent constituting a High Court, and any notifications and other legal instruments having the force of law) in force in Pakistan or any part thereof, or having extra-territorial validity, immediately before the commencing day.

Explanation.

In this Article, 'in force', in relation to any law, means having effect as law whether or not the law has been brought into operation.

269. Validation of laws, acts, etc.

(1) All Proclamations, President's Orders, Martial Law Regulations, Martial Law Orders and all other laws made between the twentieth day of December, one thousand nine hundred and seventy-one and the twentieth day of April, one thousand nine hundred and seventy-two (both days inclusive), are hereby declared notwithstanding any judgement of any court, to have been validly made by competent authority and shall not be called in question in any court on any ground whatsoever.

(2) All orders made, proceedings taken and acts done by any authority, or by any person, which were made, taken or done, or purported to have been made, taken or done, between the twentieth day of December, one thousand nine hundred and seventy-one, and the twentieth day of April, one thousand nine hundred and seventy-two (both days inclusive), in exercise of the powers derived from any President's Orders, Martial Law Regulations, Martial Law Orders, enactments, notifications, rules, orders or bye-laws, or in execution of any orders made or sentences passed by any authority in the exercise or purported exercise of power as aforesaid, shall, notwithstanding any judgment of any court, be deemed to be and always to have been validly made, taken or done and shall not be called in question in any court on any ground whatsoever.

(3) No suit or other legal proceedings shall lie in any court against any authority or any person for or on account of or in respect of any order made, proceedings taken or act done whether in the exercise or purported exercise of the powers referred to in clause (2) or in execution of or in compliance with orders made or sentences passed in exercise or purported exercise of such powers.

270. to 273. *In abeyance.*

274. Vesting of property, assets, rights liabilities and obligations.

(1) All property and assets which, immediately before the commencing day, were vested in the President or the Federal Government shall, as from that day, vest in the Federal Government unless they were used for purposes which, on that day, became purposes of the Government of a Province, in which case they shall, as from that day, vest in the Government of the Province.

(2) All property and assets which, immediately before the commencing day, were vested in the Government of a Province, shall, as from that day, continue to be vested in the Government of that Province, unless they were used for purposes, which on that day, became purposes of the Federal Government in which case they shall, as from that day, vest in the Federal Government.

(3) All rights, liabilities and obligations of the Federal Government or of the Government of a Province, whether arising out of contract or otherwise, shall as from the commencing day, continue to be respectively the rights, liabilities and obligations of the Federal Government or of the Government of the Province, except that

- (a) all rights, liabilities and obligations relating to any matter which, immediately before that day, was the responsibility of the Federal Government, but which under the Constitution, has become the responsibility of the Government of a Province, shall devolve upon the Government of that Province; and
- (b) all rights, liabilities and obligations relating to any matter which, immediately before that day, was the responsibility of the Government of a Province, but which under the Constitution, has become the responsibility of the Federal Government, shall devolve upon the Federal Government.

275. Continuance in office of persons in service of Pakistan etc.

(1) Subject to the Constitution and until a law is made under Article 240 any person who, immediately before the commencing day, was in the service of Pakistan shall, as from that day, continue in the service of Pakistan on the same terms and conditions as were applicable to him under the Interim Constitution of the Islamic Republic of Pakistan immediately before that day.

(2) Clause (1) shall also apply in relation to a person holding office immediately before the commencing day as

- (a) Chief Justice of Pakistan or other Judge of the Supreme Court, or Chief Justice or other Judge of a High Court;
- (b) Governor of a Province;
- (c) Chief Minister of a Province;
- (d) Speaker or Deputy Speaker of the National Assembly or a Provincial Assembly;
- (e) Chief Election Commissioner;
- (f) Attorney-General for Pakistan or Advocate General of Pakistan.

(3) Notwithstanding anything contained in the Constitution, for a period of six months from the commencing day, a Federal Minister or a Minister of State or

the Chief Minister of a Province or a Provincial Minister may be a person who is not a member of Parliament or, as the case may be, the Provincial Assembly of that Province; and such Chief Minister and Provincial Minister shall have the right to speak and otherwise take part in the proceedings of the Provincial Assembly or any committee thereof of which he may be named a member, but shall not by virtue of this clause be entitled to vote.

(4) Any person who, under this Article, is continued in an office in respect of which a form of oath is set out in the Third Schedule shall, as soon as is practicable after the commencing day make before the appropriate person oath in that form.

(5) Subject to the Constitution and law

- (a) all civil, criminal and revenue courts exercising jurisdiction and functions immediately before the commencing day shall, as from that day, continue to exercise their respective jurisdictions and functions; and
- (b) all authorities and all offices (whether judicial, executive, revenue or ministerial) throughout Pakistan exercising functions immediately before the commencing day shall, as from that day, continue to exercise their respective functions.

276. *In abeyance.*

277. Transitional financial provisions.

(1) The schedule or authorized expenditure authenticated by the President for the financial year ending on the thirtieth day of June, one thousand nine hundred and seventy-four, shall continue to remain a valid authority for expenditure from the Federal Consolidated Fund for that year.

(2) The President may, in respect of expenditure of the Federal Government for any financial year preceding the financial year commencing on the first day of July, one thousand nine hundred and seventy-three (being expenditure in excess of the authorized expenditure for that year), authorized the withdrawal of moneys from the Federal Consolidated Fund.

(3) The provisions of clauses (1) and (2) shall apply to and in relation to a Province, and for the purpose

- (a) any reference in those provisions to the President shall be read as a reference to the Governor of the Province;
- (b) any reference in those provisions to the Federal Government shall be read as a reference to the Government of the Province; and
- (c) any reference in those provisions to the Federal Consolidated Fund shall be read as a reference to the Provincial Consolidated Fund of the Province.

278. Accounts not audited before commencing day.

The Auditor-General shall perform the same functions and exercise the same powers in relation to account which have not been completed or audited before the commencing day as, by virtue of the Constitution, he is empowered to

perform or exercise in relation to other accounts, and Article 171 shall, with the necessary modifications, apply accordingly.

279. Continuance of taxes.

Notwithstanding anything contained in the Constitution, all taxes and fees levied under any law in force immediately before the commencing day shall continue to be levied until they are varied or abolished by Act of the appropriate Legislature.

280. *In abeyance.*

SCHEDULES  
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