

National Parliaments: Pakistan

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National Parliaments: Pakistan

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SUMMARY Pakistan is an Islamic federal republic with a multiparty parliamentary system of government largely based on the UK model pursuant to the 1973 Constitution of Pakistan. Pakistan's federal legislative branch consists of the President, the National Assembly as the lower house, and the Senate as the upper house. The National Assembly and Senate constitute Pakistan's bicameral Parliament.

The National Assembly has 342 seats, including seats reserved for women and non-Muslims. The Senate of Pakistan consists of 104 members elected indirectly by the members of the National Assembly and the members of the provincial assemblies. Members of the National Assembly are elected through a mixed electoral system, also known as a "parallel system."

In order for a bill to become law in Pakistan, it must undergo a legislative procedure in each house of Parliament that involves twelve or thirteen steps, including three readings in both the National Assembly and the Senate, followed by presidential assent. This procedure is regulated by Pakistan's Constitution and the Rules of Procedure of the relevant house.

I. Background

A. Creation of Pakistan and its Parliament

The State of Pakistan was created under the Independence Act of 1947, an Act of the UK Parliament, which partitioned British India into two independent dominions of India and Pakistan.¹ According to the National Assembly website,

[t]he Act made the existing Constituent Assemblies, the dominion legislatures. These Assemblies were allowed to exercise all the powers which were formerly exercised by the Central Legislature, in addition to the powers regarding the framing of a new Constitution, prior to which all territories were to be governed in accordance with the Government of India Act, 1935.²

Pakistan has been governed by multiple Constitutions since its founding³ and has been under military rule for a significant portion of its turbulent political history.⁴ Pakistan's current

¹ Indian Independence Act, 1947, http://www.legislation.gov.uk/ukpga/1947/30/pdfs/ukpga_19470030_en.pdf, archived at <https://perma.cc/2NEX-7SCY>.

² *Parliamentary History*, NATIONAL ASSEMBLY OF PAKISTAN, <http://www.na.gov.pk/en/content.php?id=75> (last visited Feb. 6, 2017), archived at <https://perma.cc/NJM4-DHP6>.

³ *Id.*

parliamentary system of government was established pursuant to article 50 of the 1973 Constitution of Pakistan,⁵ which stipulates that “[t]here shall be a Majlis-e-Shoora (Parliament) of Pakistan consisting of the President and two Houses to be known respectively as the National Assembly and the Senate.”⁶

Pakistan’s first Constituent Assembly was dissolved by the then Governor-General of Pakistan, Ghulam Muhammad, on October 24, 1954, just before the final draft of the Constitution could be “placed in the House for approval.”⁷ The second Constituent Assembly, which was convened on May 28, 1955, drafted the first (1956) Constitution of Pakistan. That Constitution, which was promulgated on March 23, 1956, established Pakistan as an Islamic Republic and established a parliamentary system of government with a unicameral legislature. On October 7, 1958, martial law was imposed and the Constitution was abrogated by then President Sikandar Mirza before the first general elections could be held.⁸ The military government of General Muhammad Ayub Khan appointed a Constitution Commission in February 1960 that drafted the 1962 Constitution. The 1962 Constitution provided for a federal state and a presidential system of government with a unicameral legislature. The 1962 Constitution was abrogated on March 25, 1969, as a result of martial law being imposed for a second time.

On December 7, 1970, pursuant to a Legal Framework Order (LFO), a decree issued by then President General Agha Muhammad Yahya Khan, Pakistan held its first ever general elections where the Assembly was elected “on the adult franchise and population basis.”⁹ Mujibur Rahman’s nationalist Awami League party from the provincial state of East Pakistan won a majority of the three hundred contested seats in the National Assembly.¹⁰ However, politicians in West Pakistan, namely the Pakistan People’s Party (PPP), joined forces with the military leadership to prevent Mujibur Rahman from forming a government. Already frustrated with “under-representation in all sectors of the government, economic deprivation and then the suppression of the democratic process,”¹¹ East Pakistan seceded and the state of Bangladesh was established in 1971.

On April 17, 1972, an Interim Constitution was adopted by the Pakistan National Assembly, which provided for a presidential form of government.¹² According to the National Assembly website,

⁴ *Pakistan: A Political History*, ASIA SOCIETY’S CENTER FOR GLOBAL EDUCATION, <http://asiasociety.org/education/pakistan-political-history> (last visited Feb. 6, 2017), archived at <https://perma.cc/42MT-6U2S>.

⁵ CONSTITUTION OF THE ISLAMIC REPUBLIC OF PAKISTAN (hereinafter CONSTITUTION), pt. 3, ch. II, art. 50, http://www.na.gov.pk/uploads/documents/1333523681_951.pdf, archived at <https://perma.cc/XER9-V3TZ>.

⁶ *Id.*

⁷ *Parliamentary History*, *supra* note 2.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Pakistan: A Political History*, *supra* note 4.

¹¹ *Id.*

¹² *History*, SENATE OF PAKISTAN, <http://www.senate.gov.pk/en/essence.php?id=1098&catid=4&subcatid=138&cattitle=About%20the%20Senate>, archived at <https://perma.cc/2X29-6TJX>.

[t]he Assembly also formed a Constitution Committee on 17th April 1972 to prepare the first draft for framing a Constitution. The report of the Committee was presented with a draft Constitution on 31st December 1972. It was unanimously passed by the Assembly in its session on 10th April 1973 and was authenticated by the President on 12th April 1973. This Constitution, called the Constitution of the Islamic Republic of Pakistan 1973, was promulgated on 14th August 1973.

Though the 1973 Constitution is the current Constitution, it has gone through a number of significant changes, mostly as a result of two more periods of military rule under Muhammad Zia-ul-Haq and Pervez Musharraf, which turned the parliamentary system into a semi-presidential system.¹³ Significant legal and constitutional changes were also introduced in the 1980s as a result of General Zia-ul-Haq's Islamization process, including the establishment of the Federal Shariat Court and a more enhanced role for the Council of Islamic Ideology, a constitutional advisory body on Shari'a law issues.¹⁴

It was not until the Eighteenth Amendment of the Constitution of Pakistan¹⁵ was passed by the National Assembly of Pakistan on April 8, 2010, that Pakistan's political system was transformed back to a parliamentary system of government.¹⁶ The Amendment was enacted to reverse some of the extensive powers accrued by the presidency under former Presidents General Pervez Musharraf and General Muhammad Zia-ul-Haq, and to empower the role of the Prime Minister and Parliament. The most significant change was the removal of the infamous article 58-2(b), which granted the President discretionary power to dissolve Parliament under "vague emergency provisions."¹⁷ The presidency became more a titular or ceremonial role¹⁸ and the Prime Minister became chief executive.¹⁹ Moreover, the time limit given to the President to grant assent to a bill passed by Parliament was decreased from thirty days to ten days.²⁰ Holding the Constitution in abeyance or suspending it became tantamount to high treason and judges are prohibited from "validating or justifying unconstitutional interventions into the working of an

¹³ *Pakistan: A Political History*, *supra* note 4.

¹⁴ *The Islamization of the Legal System under General Zia ul Haq (1979–1988)*, ISLAMOPEDIA ONLINE (Apr. 13, 2012), <http://www.islamopediaonline.org/country-profile/pakistan/islam-and-legal-system/islamization-legal-system-under-general-zia-ul-haq-1>, archived at <https://perma.cc/SY7Z-3LQA>.

¹⁵ Constitution (Eighteenth Amendment) Act, 2010, GAZETTE EXTRAORDINARY, Apr. 20, 2010, http://www.na.gov.pk/uploads/documents/1302138356_934.pdf, archived at <https://perma.cc/2DSZ-AY7G>.

¹⁶ *Pakistani Stakeholders Take Stock of Country's Sweeping Constitutional Changes*, FORUM OF FEDERATIONS, <http://www.forumfed.org/events/pakistani-stakeholders-take-stock-of-countrys-sweeping-constitutional-changes/>, (last visited Mar. 1, 2017), archived at <https://perma.cc/W74E-JXZV>.

¹⁷ Colin Cookman, *The 18th Amendment and Pakistan's Political Transitions*, CENTER FOR AMERICAN PROGRESS (Apr. 19, 2010), <https://www.americanprogress.org/issues/security/news/2010/04/19/7587/the-18th-amendment-and-pakistans-political-transitions/>, archived at <https://perma.cc/FX92-GKSN>.

¹⁸ Amjad Abbas Magsi, *Balance of Power at the Centre: The President, Prime Minister and Parliament*, in ISLAMABAD POLICY RESEARCH INSTITUTE, EIGHTEENTH AMENDMENT REVISITED 65 (Maqsoodul Hasan Nuri et al. eds., 2014), <http://www.ipripak.org/wp-content/uploads/2014/01/18th-amend.pdf>, archived at <https://perma.cc/3CEQ-S8RN>.

¹⁹ *Id.* at 67.

²⁰ Muhammad Hanif & Muhammad Nawaz Khan, *18th Amendment Revisited*, in EIGHTEENTH AMENDMENT REVISITED, *supra* note 18, at 41.

elected civilian government.”²¹ As a result of the Amendment, the President cannot appoint the Prime Minister; the Prime Minister is now elected with a simple majority of the National Assembly.²²

B. Location of Parliament

The location of Pakistan’s Parliament House has shifted throughout its constitutional history. The first Constitutional Assembly of Pakistan was located in the old Sindh Assembly Building of Karachi, which is the venue where the Objectives Resolution (Pakistan’s first constitutional document) and the 1956 Constitution of the Islamic Republic of Pakistan were adopted.²³ It also housed the first Parliament of Pakistan.

After the adoption of the Second Constitution of 1962, parliamentary sessions were held both at Dhaka and in a newly constructed building at Rawalpindi called Ayub Hall. The Parliament was unicameral under the 1962 Constitution. In October 1966, the Parliament was shifted to Dhaka (which later became the capital of Bangladesh).²⁴

From 1972 onward, the State Bank auditorium in Islamabad functioned as the National Assembly of Pakistan. Under the Interim Constitution of Pakistan, which was adopted in April 1972, Pakistan’s first bicameral legislature was established. The Constitution of the Islamic Republic of Pakistan was later adopted in 1973.²⁵

The Parliament House building in Islamabad, the capital city of Pakistan, was inaugurated on May 28, 1986. It took exactly eleven years to build and was designed by Edward Durel Stone, an American architect.²⁶

II. Constitutional Status and Role

Pakistan is an Islamic federal republic with a multiparty, parliamentary system of government largely based on the UK model.²⁷ Islam is the state religion of Pakistan.²⁸ The country is a

²¹ Babar Sattar, *18th Constitutional Amendment & Need for Passage of the 19th Constitutional Amendment*, in EIGHTEENTH AMENDMENT REVISITED, *supra* note 18, at 74.

²² Constitution (Eighteenth Amendment) Act, 2010, § 29.

²³ *Brief History of Parliament Houses in Pakistan*, NATIONAL ASSEMBLY OF PAKISTAN, <http://www.na.gov.pk/en/content.php?id=25> (last visited Feb. 6, 2017), archived at <https://perma.cc/M9RN-D5Q8>.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *The Parliament House*, SENATE OF PAKISTAN, <http://www.senate.gov.pk/en/parliament.php?id=-1&catid=4&subcatid=267&cattitle=Parliament%20House> (last visited Feb. 6, 2017), archived at <https://perma.cc/TG7U-GENA>.

²⁷ *Parliamentary Institutions*, in HOUSE OF COMMONS PROCEDURE AND PRACTICE (Robert Marleau & Camille Montpetit eds., 2000), <http://www.parl.gc.ca/marleaumontpetit/DocumentViewer.aspx?Sec=Ch01&Seq=2&Language=E>, archived at <https://perma.cc/P8S5-URLE>.

²⁸ POLITICAL SYSTEM AND STATE STRUCTURE OF PAKISTAN, CIDOB INTERNATIONAL YEARBOOK 2012, http://www.cidob.org/en/content/download/32418/526985/file/ANEXO_SISTEMA+POLITICO+Y+ESTRUCTURA+DE+PAKISTAN_ANG.pdf, archived at <https://perma.cc/C8KF-R73M>.

federation with four federating Units or provinces, namely Punjab, Sindh, the Khyber Pakhtunkhwa Province (formerly known as the North-West Frontier Province, NWFP), and Balochistan. Pakistan's federal Parliament, known as the Majlis-e-Shoora, is a bicameral legislature consisting of two houses—the National Assembly and the Senate.²⁹ It makes up the legislative branch of Pakistan's political system. According to the National Assembly's *Handbook for Members*,

[t]he National Assembly is the country's sovereign legislative body. It embodies the will of the people to let themselves be governed under the democratic, multi-party Federal Parliamentary System Through its debates, adjournment motions, question hour and Standing Committees, the National Assembly keeps a check over the Executive, and ensures that the government functions within the parameters set out in the Constitution and does not violate the fundamental rights of the citizens. Only the National Assembly, through its Public Accounts Committee, scrutinizes public spending and exercises control of expenditure incurred by the government.³⁰

Article 90 of the Constitution states that “the executive authority of the Federation shall be exercised in the name of the President by the Federal Government, consisting of the Prime Minister and the Federal Ministers, which shall act through the Prime Minister, who shall be the chief executive of the Federation.”³¹ The Cabinet Ministers are made up of members from both houses of Parliament. According to article 91(4) of the Constitution, the Cabinet “is collectively responsible to the National Assembly, which elects the Prime Minister.”³² However, the number of Cabinet ministers who are members of the Senate must not exceed one-fourth of the number of federal ministers.³³

Article 41(2) of the Constitution stipulates that 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 a member of the National Assembly.³⁴ The President is elected for a term of five years by an Electoral College consisting of the members of both houses of Parliament, as well as members of the provincial assemblies.³⁵ The President is considered the head of state. The Prime Minister, who is the head of Government, typically comes to office as the leader of the majority party of the National Assembly.³⁶

²⁹ *Id.*

³⁰ NATIONAL ASSEMBLY OF PAKISTAN, HANDBOOK FOR MEMBERS 5, http://www.na.gov.pk/uploads/documents/1308927787_544.pdf (last visited Feb. 6, 2017), archived at <https://perma.cc/JJD7-27UN>.

³¹ CONSTITUTION, pt. III, ch. 3, art. 90.

³² HANDBOOK FOR MEMBERS, *supra* note 30, at 6.

³³ *Id.* (citing CONSTITUTION, pt. III, ch. 3, art. 92).

³⁴ CONSTITUTION, pt. III, ch. 1, art. 41(2).

³⁵ *Id.* art. 41(3).

³⁶ Constitution (Eighteenth Amendment) Act, 2010, GAZETTE EXTRAORDINARY, Apr. 20, 2010, http://www.na.gov.pk/uploads/documents/1302138356_934.pdf, archived at <https://perma.cc/2DSZ-AY7G>.

The legislative powers of the federal Parliament are stipulated by the Fourth Schedule of the Constitution of Pakistan, which provides a “Federal Legislative List”³⁷ of matters over which Parliament has exclusive jurisdiction to legislate. Prior to the enactment of the Eighteenth Amendment to Pakistan’s Constitution³⁸ a “Concurrent Legislative List” existed, which enumerated shared or overlapping competencies with the provincial legislatures³⁹ but where federal law prevails.⁴⁰ After the amendment, fifty-three subjects were in the exclusive domain of the federal government; eighteen subjects in the domain of the Council of Common Interests (CCI), a constitutional body that allows “provincial governments to participate in the formulation of policy on a list of matters that fall under the jurisdiction of the federal government but which inevitably concern provinces”;⁴¹ and all residual subjects were devolved to the provincial governments.⁴² Those residual matters include such matters as “marriage, contracts, firearms possession, labor, educational curriculums, environmental pollution, bankruptcy, and 40 other diverse areas.”⁴³ With the Concurrent Legislative List eliminated, each provincial assembly had jurisdiction for drafting its own laws on such matters.⁴⁴

Each province of Pakistan has its own elected legislative body known as a Provincial Assembly, which sits in the provincial capitals of Lahore, Karachi, Peshawar, and Quetta.⁴⁵

III. Structure and Composition

A. Senators and Members

Pakistan’s federal legislative branch consists of the President, the National Assembly as the lower house, and the Senate as the upper house. The National Assembly and Senate constitute Pakistan’s bicameral Parliament.

1. National Assembly

The National Assembly has 342 seats, with sixty of these seats reserved for women and ten for non-Muslims.⁴⁶ Seats are allocated to each province, the Federally Administered Tribal Areas

³⁷ CONSTITUTION, 4th sched.

³⁸ Constitution (Eighteenth Amendment) Act, 2010.

³⁹ *Id.*

⁴⁰ Cookman, *supra* note 17.

⁴¹ *Pakistani Stakeholders Take Stock of Country’s Sweeping Constitutional Changes*, *supra* note 16.

⁴² UNDP Pakistan, *Analysis: Five Years of the 18th Constitutional Amendment: Federalist Imperatives on Public Policy and Planning*, 2(1) DEVELOPMENT ADVOCATE PAKISTAN 3 (Apr. 2015), <http://www.pk.undp.org/content/dam/pakistan/docs/DevelopmentPolicy/DAP%20April%202015%20ENGLISH.pdf?download>, archived at <https://perma.cc/6UVW-FCYU>.

⁴³ Cookman, *supra* note 17.

⁴⁴ *Id.*

⁴⁵ International Foundation of Electoral Systems, *Provincial Assemblies: Pakistan Factsheet 1* (2013), http://www.ifes.org/sites/default/files/the_provincial_assembly.pdf, archived at <https://perma.cc/BL9M-GEJL>.

⁴⁶ CONSTITUTION, pt. III, ch. 2, art. 51.

(FATAs), and the Federal Capital on the basis of population, as officially published in the last preceding census.⁴⁷ The National Assembly must be dissolved at the expiration of a five-year term but can be terminated earlier by the President on the advice of the Prime Minister.⁴⁸ According to an International Foundation of Electoral Systems' fact sheet,

[t]he President may also dissolve the [National Assembly] at his/her own discretion if a motion of no-confidence is passed against the incumbent Prime Minister and no other member of the Assembly commands the confidence of a majority of members.⁴⁹

Therefore, the tenure of a member of the National Assembly "is for the duration of the House, which is five years (Article 52), or sooner, in case the member dies or resigns," or if the Assembly is dissolved.⁵⁰

A political party or a coalition is required to receive 172 seats to have a majority in the National Assembly⁵¹ in order to form a government.⁵² If there is no party that has a majority the political party with a plurality of seats is invited to form a government through coalition partners.

Currently, the Pakistan Muslim League (N) holds the most seats in the National Assembly, with 188. The other major political parties consist of the Pakistan People's Party (PPP) (46), Pakistan Tahreek e Insaf (PTI) (33), Muttahidda Qaumi Movement (MQM) (23), and Jamiat Ulama e Islam (F) (13).

2. Senate

The Senate of Pakistan grants equal representation to all federating units, "which is in line with the constitutional role attributed to the Upper House i.e. promotion of national cohesion and harmony."⁵³ According to the Senate of Pakistan website,

[t]he main purpose for the creation of the Senate of Pakistan was to give equal representation to all the federating units since the membership of the National Assembly was based on the population of each province. Equal provincial membership in the

⁴⁷ *Id.* art. 51(5).

⁴⁸ *Id.* art. 52.

⁴⁹ International Foundation of Electoral Systems, *National Assembly: Pakistan Factsheet 1* (2013), https://www.ifes.org/sites/default/files/the_national_assembly_of_pakistan.pdf, archived at <https://perma.cc/3GWD-WA3E>.

⁵⁰ HANDBOOK FOR MEMBERS, *supra* note 30, at 13.

⁵¹ Country Research Section, Refugee Review Tribunal/Migration Review Tribunal Australia, *The Republic & States of India at a Glance 7* (Dec. 2008), available at <http://www.refworld.org/pdfid/4f4610f62.pdf>, archived at <https://perma.cc/WU5Q-CD5W>.

⁵² *Glossary of Parliamentary Terms for Younger Students*, PARLIAMENT OF CANADA, <http://www.parl.gc.ca/About/Parliament/Education/GlossaryElementary/index.asp?Language=E> (last updated Feb. 2005), archived at <https://perma.cc/E9XG-QB8J>.

⁵³ *Home*, SENATE OF PAKISTAN, <http://www.senate.gov.pk/en/index.php?id=-1&cattitle=Home> (last visited Feb. 6, 2017), archived at <https://perma.cc/Z9G6-MBAH>.

Senate, thus, balances the provincial inequality in the National Assembly and dispels doubts and apprehension, if any, regarding deprivation and exploitation.⁵⁴

The Senate of Pakistan consists of 104 members elected indirectly by the members of the National Assembly and the members of the provincial assemblies.⁵⁵ Each of the four provincial assemblies elects twenty-three members from their respective provinces, including fourteen Senators to general seats, four women, four technical experts including Ulema (religious scholars), and one non-Muslim.⁵⁶ The members of the National Assembly from FATAs elect eight Senators to represent the FATAs. All members of the National Assembly also elect two Senators to general seats, one woman, and one technical expert or Alim (religious scholar) to represent the Federal Capital.⁵⁷ Unlike the National Assembly, which is subject to dissolution, the Senate is a permanent body and the term of its member is six years. One-half of its members retire every three years.⁵⁸

Of the 104 members, the political parties with the most seats consist of the Pakistan People's Party Parliamentarian (PPP-P) (27), Pakistan Muslim League Nawaz (PML-N) (26), Mutahidda Qaumi Movement (MQM) (8), Pakistan Tehreek-e-Insaf (PTI) (7), and Awami National Party (ANP) (6).⁵⁹

3. Basic Qualifications

Basic qualifications to be a member of Parliament are provisioned under article 62 of the Constitution:

- (1) A person shall not be qualified to be elected or chosen as a member of Majlis-e-Shoora (Parliament) unless—
 - (a) he is a citizen of Pakistan;
 - (b) he is, in the case of the National Assembly, not less than twenty-five years of age and is enrolled as a voter in any electoral roll in—
 - (i) any part of Pakistan, for election to a general seat or a seat reserved for non-Muslims; and
 - (ii) any area in a Province from which she seeks membership for election to a seat reserved for women.

⁵⁴ *Purpose & Role*, SENATE OF PAKISTAN, <http://www.senate.gov.pk/en/essence.php?id=1102&catid=4&subcatid=138&cattitle=About%20the%20Senate> (last visited Feb. 6, 2017), archived at <https://perma.cc/7EJA-SCAC>.

⁵⁵ CONSTITUTION, pt. III, ch. 2, art. 59; *see also Composition / Structure*, SENATE OF PAKISTAN, <http://www.senate.gov.pk/en/essence.php?id=10&catid=4&subcatid=138&cattitle=About%20the%20Senate> (last visited Feb. 6, 2017), archived at <https://perma.cc/9GBQ-MMJE>.

⁵⁶ CONSTITUTION, pt. III, ch. 2, art. 59.

⁵⁷ *Id.*

⁵⁸ *Home*, *supra* note 53.

⁵⁹ *Party-wise Senators*, SENATE OF PAKISTAN, http://www.senate.gov.pk/en/party_wise_list.php (last visited Feb. 21, 2017), archived at <https://perma.cc/A2MH-NHX3>.

- (c) he is, in the case of Senate, not less than thirty years of age and is enrolled as a voter in any area in a Province or, as the case may be, the Federal Capital or the Federally Administered Tribal Areas, from where he seeks membership;
- (d) he is of good character and is not commonly known as one who violates Islamic Injunctions;
- (e) he has adequate knowledge of Islamic teachings and practices obligatory duties prescribed by Islam as well as abstains from major sins;
- (f) he is sagacious, righteous, non-profligate, honest and ameen, there being no declaration to the contrary by a court of law;
- (g) he has not, after the establishment of Pakistan, worked against the integrity of the country or opposed the ideology of Pakistan.⁶⁰

Article 62(2) stipulates that the disqualifications mentioned in paragraphs (d) and (e) do not apply to non-Muslims but are expected to have “good moral reputation.”⁶¹ A list of disqualifications for membership in Parliament are enumerated under article 63, including if the person “is of unsound mind and has been so declared by a competent court” or “ceases to be a citizen of Pakistan, or acquires the citizenship of a foreign State.”⁶²

B. Leadership Roles

During the first National Assembly meeting following a general election, members elect a Speaker and Deputy Speaker. The Speaker, and in his or her absence the Deputy Speaker, presides over the sessions of the Assembly.⁶³ The Speaker is regarded as “the most important and the highest office-holder in the National Assembly.”⁶⁴ The Speaker is also considered the principle spokesman of the house in its relations with other parts of the Parliament, and other branches of government.⁶⁵ According to the National Assembly’s *Handbook for Members*, “Speakers are expected to maintain the authority of the House, and to protect its rights and privileges.”⁶⁶ Some of the main functions of the Speaker are to preside over sessions as chair,⁶⁷ preserve order and decorum,⁶⁸ decide points of order,⁶⁹ and interpret and enforce rules relating to the business of the Assembly.⁷⁰

⁶⁰ CONSTITUTION, art. 62(1).

⁶¹ *Id.* art. 62(2).

⁶² *Id.* art. 63.

⁶³ *National Assembly: Pakistan Factsheet*, *supra* note 49.

⁶⁴ HANDBOOK FOR MEMBERS, *supra* note 30, at 17.

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ Rules of Procedure and Conduct of Business in the National Assembly, 2007, Rule 14(1), http://www.na.gov.pk/uploads/publications/rules_procedure.pdf, archived at <https://perma.cc/6J5X-KNCT>.

⁶⁸ *Id.*, Rule 14(2).

⁶⁹ *Id.*, Rule 17.

⁷⁰ *Id.*

The main presiding officers of the Senate are the Chairman and the Deputy Chairman. As presiding officer the Chairman “chairs the meetings of the House and ensures they are conducted in an orderly manner and according to the provisions of the Constitution and the Rules of Procedure and Conduct of Business in the Senate.”⁷¹ The Chairman is elected through a secret ballot system from among the sitting members of the Senate.⁷²

In both the National Assembly and the Senate, the Leader of the House is the Prime Minister or a minister appointed by the Prime Minister to represent Government and regulate Government business.⁷³ In the National Assembly the “Leader of the Opposition” means a member who, in the opinion of the Speaker, is for the time being leader of the majority of members in the Opposition. After each general election, and as early as possible after the election of the Prime Minister, the Speaker must declare the Leader of the Opposition. The Leader is chosen by the majority of the members of the House. The Speaker informs the members about the date, time, and place for submission of a name for the Leader of the Opposition under their signatures. The member having the greatest numerical strength after verification of the signatures of the members is declared the Leader of the Opposition.⁷⁴ Similarly, in the Senate, the Leader of the Opposition is a member of the house who enjoys the support of the majority of the members in opposition to the Government in that house, and is declared as such by the Chairman of the Senate.⁷⁵

Article 87 of the Constitution provides for a separate Secretariat for both houses, to provide required support services to Parliament.⁷⁶

C. Committees

In Pakistan, parliamentary committees are mainly of two types: Select Committees and Standing Committees.⁷⁷ Standing Committees are of a permanent nature and “play an important role of

⁷¹ *The Chairman of the Senate of Pakistan*, SENATE OF PAKISTAN, <http://www.senate.gov.pk/en/chairman.php?id> (last visited Feb. 6, 2017), archived at <https://perma.cc/8UU7-5L2D>.

⁷² *Id.*; Rules of Procedure and Conduct of Business in the Senate, 2012 (as amended to Sept. 27, 2016), Rule 9, <http://www.senate.gov.pk/uploads/documents/updatedrpcb%20upto%2019-01-2017..pdf>, archived at <https://perma.cc/7SR6-25B5>.

⁷³ Rules of Procedure and Conduct of Business in the Senate, 2012, Rule 2(1); *The Leader of the House*, SENATE OF PAKISTAN, <http://www.senate.gov.pk/en/loh.php?id=-1&catid=261&subcatid=264&cattitle=Office of The Leader of the House> (last visited Feb. 6, 2017), archived at <https://perma.cc/UJT3-8R78>.

⁷⁴ Rules of Procedure and Conduct of Business in the National Assembly, *supra* note 67, Rule 39; *Leader of the Opposition*, NATIONAL ASSEMBLY OF PAKISTAN, <http://www.na.gov.pk/en/content.php?id=8> (last visited Feb. 6, 2017), archived at <https://perma.cc/NFM8-QJRZ>.

⁷⁵ *Leader of the Opposition*, SENATE OF PAKISTAN, <http://www.senate.gov.pk/en/loo.php?id=-1&catid=261&subcatid=265&cattitle=Leader of the Opposition Office> (last visited Feb. 6, 2017), archived at <https://perma.cc/W82L-87RU>.

⁷⁶ HANDBOOK FOR MEMBERS, *supra* note 30, at 35.

⁷⁷ *Standing Committees*, NATIONAL ASSEMBLY OF PAKISTAN, <http://www.na.gov.pk/en/cmen.php?type=1> (last visited Feb. 6, 2017), archived at <https://perma.cc/BV3D-ETWY>; *Standing Committees*, SENATE OF PAKISTAN, <http://www.senate.gov.pk/en/standingcommitties.php?type=6&catid=90&subcatid=85&cattitle=Senate%20Committ>

oversight and monitoring the working of the relevant Ministries of the Government.”⁷⁸ Pursuant to Rule 198 of the National Assembly’s Rules of Procedure, a Standing Committee must be established for each ministry of Government.⁷⁹ The National Assembly website states that “[t]he Standing Committees examine Bills referred to them by the House and submit its [sic] reports to the House. Upon introduction, a Bill other than a Finance Bill, shall stand referred to the Standing Committee concerned with the subject matter of the Bill.”⁸⁰ The National Assembly website also states as follows:

The National Assembly Rules of Procedure contain special provisions empowering the Standing Committees to examine the expenditures, administration, delegated legislations [sic], public petitions and policies of the Ministry concerned and its associated public bodies and may forward its report of findings and recommendations to the Ministry and [the] Ministry shall submit its reply to the Committee.⁸¹

Besides departmental committees there are two non-departmental standing committees,⁸² namely the Standing Committee on Public Accounts and the Standing Committee on Government Assurances. There are also three functional committees, namely the Committee on Rules of Procedure and Privileges, the House and Library Committee, and the Business Advisory Committee.⁸³

In addition to standing committees, “the Assembly can constitute, in accordance with the provisions of rule 244, Select Committees on Bills and Special Committees to carry out functions specified in the motion.”⁸⁴

Pakistan’s Constitution used to provide for a mediation committee,⁸⁵ which was made up of eight members from each house, “when a bill [was] rejected or not passed within 90 days by the

ees & <http://www.senate.gov.pk/en/standingcommitties.php?type=6.&catid=&subcatid=&cattitle=&pn=2> (last visited Feb. 6, 2017), archived at <https://perma.cc/PHR7-LKLR> & <https://perma.cc/43WP-4JDU>.

⁷⁸ *Committee System*, NATIONAL ASSEMBLY OF PAKISTAN, <http://www.na.gov.pk/en/content.php?id=63> (last visited Feb. 6, 2017), archived at <https://perma.cc/6SXA-SD8S>.

⁷⁹ Rules of Procedure and Conduct of Business in the National Assembly, 2007, *supra* note 67, Rule 198.

⁸⁰ *Committee System*, *supra* note 78.

⁸¹ *Id.*

⁸² *Non-Ministerial Standing Committees*, NATIONAL ASSEMBLY OF PAKISTAN, <http://www.na.gov.pk/en/cmen.php?type=6> (last visited Feb. 6, 2017), archived at <https://perma.cc/7ZAP-KDJC>.

⁸³ *Committee System*, *supra* note 78.

⁸⁴ *Id.*

⁸⁵ CONSTITUTION art. 71.

second House of the Parliament.”⁸⁶ However, article 71 of Constitution was repealed pursuant to the Eighteenth Amendment to the Constitution.⁸⁷

IV. Elections

Members of the National Assembly of Pakistan are elected through a mixed electoral system (also known as a “parallel system”).⁸⁸ Article 51(6) of the Constitution explains the breakdown of the electoral system, which is applicable to the various classes of seats.⁸⁹ Two hundred seventy-two single-member geographic constituencies represent the general seats in the National Assembly and are elected by direct vote through a first-past-the-post or simple-majority system.⁹⁰ Reserved seats for women and non-Muslims are filled through a separate electoral system based on a closed-list, indirect proportional representation system.⁹¹ Reserved seats for women are “on the basis of [the] total number of general seats secured by each political party from the Province concerned in the National Assembly,”⁹² and for non-Muslims “on the basis of [the] total number of general seats won by each political party in the National Assembly.”⁹³ According to the Constitution, each province is considered a single constituency reserved for women while the whole country is considered a constituency for the seats reserved for non-Muslims.⁹⁴

Elections to fill Senate seats allocated to each Province “shall be held in accordance with the system of proportional representation by means of the single transferable vote.”⁹⁵

The last general elections were held in Pakistan on May 11, 2013, to elect members of the National Assembly and the four provincial assemblies (Punjab, Sindh, Baluchistan, and Khyber-Pakhtunkhwa).⁹⁶ The next general elections are expected to be held in May 2018.⁹⁷

⁸⁶ PARLIAMENT INSTITUTE FOR PARLIAMENTARY SERVICES (PIPS), PARLIAMENT IN BRIEF: PARLIAMENTARIAN’S POCKET GUIDE NATIONAL ASSEMBLY OF PAKISTAN 33, [https://pips.gov.pk/sites/default/files/010.NA Parliament in Brief English.pdf](https://pips.gov.pk/sites/default/files/010.NA%20Parliament%20in%20Brief%20English.pdf) (last visited Feb. 21, 2017), archived at <https://perma.cc/7ERS-WDNA>.

⁸⁷ [Constitution \(Eighteenth Amendment\) Act, 2010](#), § 24.

⁸⁸ Mariam Mufti, *Pakistan: Ministerial Turnover in the Federal Cabinet*, in KEITH DOWDING & PATRICK DUMONT, *THE SELECTION OF MINISTERS AROUND THE WORLD* 120 (2015).

⁸⁹ CONSTITUTION art. 51(6).

⁹⁰ *Id.* art. 51(6)(a); *National Assembly: Pakistan Factsheet*, *supra* note 49, at 1.

⁹¹ CONSTITUTION art. 51(6)(d)–(e).

⁹² *Id.* art. 51(6)(d).

⁹³ *Id.* art. 51(6)(e).

⁹⁴ *Id.* art. 51(6)(b)–(c).

⁹⁵ *Id.* art. 59(2).

⁹⁶ JOINT INTERNATIONAL ELECTION OBSERVATION MISSION, NATIONAL DEMOCRATIC INSTITUTE & ASIAN NETWORK FOR FREE ELECTIONS, FINAL REPORT: THE 2013 NATIONAL AND PROVINCIAL ASSEMBLY ELECTIONS IN PAKISTAN 14 (2013), <https://www.ndi.org/sites/default/files/NDI-ANFREL-Pakistan-EOM-Final-Report.pdf>, archived at <https://perma.cc/D2YW-YEHE>.

⁹⁷ *Pakistan National Assembly: Last Elections*, PARLINE DATABASE ON NATIONAL PARLIAMENTS, http://www.ipu.org/parline-e/reports/2241_E.htm, archived at <https://perma.cc/Q268-C7P3>.

V. Legislative Process

In order for a bill to become law in Pakistan, it undergoes a legislative procedure in each house of Parliament. This procedure is regulated by Pakistan's Constitution and the Rules of Procedure of the relevant house, and involves twelve or thirteen steps.⁹⁸ Unless both houses pass a bill and it receives the President's assent, it cannot become a law, with the exception of a money bill, "which is the sole prerogative of the National Assembly."⁹⁹

The steps to passage involve introduction of the bill, a first reading, the select committee stage, a second reading, a third reading, and presidential assent. More generally, article 70 of the Constitution provides the following rules on the introduction and passage of bills:

- (1) A Bill with respect to any matter in the Federal Legislative List may originate in either House and shall, if it is passed by the House in which it originated, be transmitted to the other House; and, if the Bill is passed without amendment, by the other House also, it shall be presented to the President for assent.
- (2) If a Bill transmitted to a House under clause (1) is passed with amendments it shall be sent back to the House in which it originated and if that House passes the Bill with those amendments it shall be presented to the President for assent.
- (3) If a Bill transmitted to a House under clause (1) is rejected or is not passed within ninety days of its laying in the House or a Bill sent to a House under clause (2) with amendments is not passed by that House with such amendments, the Bill, at the request of the House in which it originated, shall be considered in a joint sitting and if passed by the votes of the majority of the members present and voting in the joint sitting it shall be presented to the President for assent.¹⁰⁰

A. Types and Forms of Bills

Generally there are two forms of bills: new legislation sponsored by Government ministers are called Government bills and bills that originate with a member of Parliament are known as private members' bills.¹⁰¹ Both can be passed by a simple majority.

Bills are also classified by type, according to the subject matter addressed. For example, a constitutional amendment bill, which can originate in either house, is intended to amend the Constitution and requires a two-thirds majority of both houses to pass. However, a constitutional bill that "would have the effect of altering the limits of a Province shall not be presented to the

⁹⁸ *Bill to an Act*, THE PARLIAMENT WATCH AND REFORMS PROJECT (PWRP), <http://openparliament.pk/how-parliament-functions/bill-to-an-act> (last visited Feb. 6, 2017), archived at <https://perma.cc/LR2N-7ZN3>.

⁹⁹ HANDBOOK FOR MEMBERS, *supra* note 30, at 6.

¹⁰⁰ CONSTITUTION art. 70.

¹⁰¹ PIPS, *supra* note 86, at 16.

President for assent unless it has been passed by the Provincial Assembly of that Province by the votes of not less than two-thirds of its total membership.”¹⁰²

A money bill is a Government bill that deals “with matters of revenues and expenditures, and it originates in the National Assembly.”¹⁰³ According to Pakistan’s Constitution, a bill or amendment is deemed to be a money bill if it contains provisions dealing with any or all of the following matters:

- (a) the imposition, abolition, remission, alteration or regulation of any tax;
- (b) the borrowing of money, or the giving of any guarantee, by the Federal government, or the amendment of the law relating to the financial obligations of that Government;
- (c) the custody of the Federal Consolidated Fund, the payment of moneys into, or the issue of moneys from, that Fund;
- (d) the imposition of a charge upon the Federal Consolidated Fund, or the abolition or alteration of any such charge;
- (e) the receipt of moneys on account of the Public Account of the Federation, the custody or issue of such moneys;
- (f) the audit of the accounts of the Federal Government or a Provincial Government; and
- (g) any matter incidental to any of the matters specified in the preceding paragraphs.¹⁰⁴

If any question arises as to whether a bill is a money bill, the decision of the Speaker of the National Assembly determines the matter.¹⁰⁵ It is the “prerogative of the National Assembly to pass the [money] bill with or without incorporating recommendations of the Senate.”¹⁰⁶

B. Overview of the Process

A federal bill must pass three readings in both the National Assembly and the Senate before it is passed into law.

1. Introduction, Order of the Day, and First Reading

The legislative process is initiated by the introduction of a bill. Any matter on the Federal Legislative List may originate in either house of Parliament—the National Assembly or the Senate.¹⁰⁷ According to the National Assembly’s Rules of Procedure, a minister must give

¹⁰² CONSTITUTION art. 239(4).

¹⁰³ PIPS, *supra* note 86, at 17.

¹⁰⁴ CONSTITUTION art. 73(2).

¹⁰⁵ *Id.* art. 73(4).

¹⁰⁶ PIPS, *supra* note 86, at 18.

¹⁰⁷ CONSTITUTION art. 70(1).

notice when introducing a Government bill. The notice must “be accompanied by a copy of the Bill, along with a Statement of Objects and Reasons signed by the Minister. A certificate whether it is a Money Bill or not shall also be attached with the notice.”¹⁰⁸ Subsequently, when the item is called, “the Minister shall move to introduce the Bill, thereupon the Bill shall stand introduced.”¹⁰⁹ A copy of the bill must be supplied to the members upon its introduction.¹¹⁰ Ten-days’ written notice is required before introduction of a private member’s bill.¹¹¹ A motion for leave to introduce a private member’s bill must be set down in the Orders of the Day on private members’ day.¹¹² Rule 119 of the National Assembly’s Rules of Procedure lays out the following rules that must be followed for private member’s bills:

(2) If a motion for leave to introduce a private member’s Bill is opposed, the Speaker may without further debate put the question. When the leave is granted, the member-in-charge shall move to introduce the Bill forthwith, and the Bill shall stand introduced. Copy of the Bill shall be supplied to the members:

Provided that when the Bill is opposed at its introduction, the Speaker may permit a brief statement to the mover and the Minister [sic] opposing it.¹¹³

After a bill is introduced it is published in the official gazette as early as possible.¹¹⁴ It is at this point a bill (not a finance bill)¹¹⁵ and must be referred to a standing committee unless a motion is carried to dispense with this rule.¹¹⁶ When a bill has been received back from the standing committee, or deemed to have been received back as a result of suspension of the above rule, it must be set down in the Orders of the Day for a motion in regard to the bill. The following motions may be made:

- (a) that it be taken into consideration at once; or
- (b) that it be taken into consideration on a date to be fixed forthwith;
- or
- (c) that it be referred to a Select Committee; or
- (d)
- (e) that it be circulated for the purpose of eliciting opinion thereon.¹¹⁷

¹⁰⁸ Rules of Procedure and Conduct of Business in the National Assembly, 2007, *supra* note 67, Rule 120.

¹⁰⁹ *Id.*, Rule 120.

¹¹⁰ *Id.*

¹¹¹ *Id.*, Rule 118.

¹¹² *Id.*, Rule 119(1).

¹¹³ *Id.*, Rule 119(2).

¹¹⁴ *Id.*, Rule 121(1). Rule 121(2) stipulates that “[t]he Speaker may order the publication of any Bill together with the Statement of Objects and Reasons accompanying it before its introduction and, if it is so published, it shall not be necessary to publish it again after its introduction.”

¹¹⁵ In Rule 122, the term “finance bill” means “the Bill introduced each year to give effect to the financial proposals of the Government for the next following financial year and includes a Bill to give effect to the supplementary financial proposals for any period during the financial year.” *Id.*, Rule 122, *Explanation*.

¹¹⁶ *Id.*, Rule 122.

¹¹⁷ *Id.*, Rule 124 (item (d) blank in original).

2. *Bills Repugnant to the Injunctions of Islam*

Before its first reading, a member may raise an objection that the bill in question is “repugnant to the Injunctions of Islam.” The National Assembly may then, by a motion supported by at least two-fifths of its members, “refer the question to the Council of Islamic Ideology for advice as to whether the Bill is or is not repugnant to the Injunctions of Islam.”¹¹⁸ The Council of Islamic Ideology is a constitutional advisory body on Islamic law (Shari‘a) issues. Article 227 of the Constitution stipulates that “[a]ll 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.”¹¹⁹ Article 229 further states, “the President or 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.”¹²⁰

However, the Assembly may at any time proceed with a bill even without the advice of the Islamic Council, if it considers that quick passage of the bill is in the public interest.¹²¹ If the advice of the Council is provided after a bill referred to that body has been enacted and such advice is to the effect that the law is repugnant to the injunctions of Islam, the Minister concerned must move to have the law considered for further action within seven days of receiving the Council’s advice.¹²²

The bill then goes through its first reading, where it is circulated to members for discussion. The principles of the bill and its general provisions may be discussed, but according to the rules, “the details of the Bill shall not be discussed further than is necessary to explain its principles.”¹²³ Moreover, “[a]t this stage amendments to the Bill may not be moved.”¹²⁴ Subsequently a bill may be considered and referred to a select committee or the opinions of all members may be elicited. The Rules of Procedure on how a bill may be handled at this stage provide as follows:

(2) . . . if the member-in-charge moves that the Bill be taken into consideration or referred to a Select Committee, any member may move as an amendment that Bill be circulated for the purpose of eliciting opinion thereon by a date to be specified in the motion.

(3) Where a motion that a Bill be circulated for the purpose of eliciting opinion thereon is carried and the Bill is circulated in accordance with that direction and opinions are

¹¹⁸ *Id.*, Rule 125(2).

¹¹⁹ CONSTITUTION art. 227.

¹²⁰ *Id.* art. 229.

¹²¹ Rules of Procedure and Conduct of Business in the National Assembly, 2007, *supra* note 67, Rule 125(3).

¹²² *Id.*, Rule 125(5).

¹²³ *Id.*, Rule 126(1).

¹²⁴ *Id.*, Rule 126(2).

received thereon, the member-in-charge may, if he wishes to proceed with his Bill thereafter, may move that the Bill be referred to the Standing Committee concerned or a Select Committee or that it be taken into consideration.¹²⁵

3. *Select Committee Stage*

The National Assembly may constitute select committees on bills under Rule 244. These committees “may allow the bill to be taken into consideration as a whole, with respect to particular clauses or amendments only or with instruction to make some particular or additional provision in the bill.”¹²⁶ The committee presents a final report to the National Assembly.¹²⁷

4. *Second Reading*

After a bill has been circulated, it then undergoes a second reading, which consists of reading the entire bill, clause by clause. According to the Parliament Watch and Reforms Project (PWRP), “[t]he member(s) give one-day notice of amendments from the day a bill is to be considered. The whole bill, clause by clause, goes through the second reading and the Speaker decides if amendment(s) proposed meet conditions of admissibility.”¹²⁸ The National Assembly Rules of Procedure provide that “[t]he Speaker may call each clause separately, and when the amendments relating to it have been dealt with, he shall put the question: ‘That this clause (or, as the case may be, that this clause as amended) do stand part of the Bill.’”¹²⁹

5. *Third Reading & Passage of Bill*

When a motion that a bill be taken into consideration has been carried and no amendment is made, the minister who introduced the bill may immediately move for the bill’s passage. No amendments may be made at this point “except verbal amendments, which are of a formal or consequential nature.”¹³⁰ Debate on a motion that a bill be passed must be of a general character, confined to arguments supporting or rejecting the measure.”¹³¹

6. *Repeated in Other House*

After a bill is passed in one house of Parliament, it is sent to the other house for agreement. The legislative process of the Senate is very similar to the one in the National Assembly described above. According to the PWRP,

¹²⁵ *Id.*, Rule 126(2)–(3).

¹²⁶ *Id.*, Rule 224.

¹²⁷ *Id.*

¹²⁸ *Bill to an Act*, *supra* note 98.

¹²⁹ Rules of Procedure and Conduct of Business in the National Assembly, 2007, *supra* note 67, Rule 133.

¹³⁰ *Id.*, Rule 137(4).

¹³¹ *Id.*, Rule 138.

[b]ill(s) except the Money or Finance Bill is sent to the Senate for its consideration after its successful passage from the National Assembly. The same process is followed in the Senate. Bill(s) passed from the Senate are sent to the President for his assent.¹³²

7. *Presidential Assent*

Presidential Assent is the last stage that a bill must complete before officially becoming an Act of Parliament and part of Pakistan's laws. According to the National Assembly website,

[i]f the Bill is presented to the President for assent, he shall assent to the Bill in not later than ten days. If it is not a Money Bill, the President may return the Bill to the Majlis-e-Shoora with a message requesting that the Bill be reconsidered and that an amendment specified in the message be considered. The Majlis-e-Shoora shall reconsider the Bill in a joint sitting. If the Bill is passed again, with or without amendment, by vote of the majority of the members present and voting, it shall be presented to the President and the President shall give his assent within ten days; failing which such assent shall be deemed to have been given.¹³³

¹³² *Bill to an Act*, *supra* note 98.

¹³³ *Observance of the Rules of Procedure*, NATIONAL ASSEMBLY OF PAKISTAN, <http://www.na.gov.pk/en/content.php?id=1> (last visited Feb. 8, 2017), archived at <https://perma.cc/45RH-Q8PG>.