

THE BALOCHISTAN CIVIL DISPUTES
(SHARIAT APPLICATION)
REGULATION, 1976

(Bal Regulation of 1976)

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A, dated 5" December, 1976.

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[5 December, 1976]

A Regulation to provide for the adjudication of certain
civil disputes in the Tribal Areas of Balochistan according to
Muslim (Shariat) Law.

WHEREAS it is expedient ta provide for the
adjudicatiian of certain civil disputes in the Tribal Areas of
Balochistan according to Muslim (Shariat) Law;

Now, THEREFORE, in exercise of the powers
conferred by clause (4) of Article 247 of the Constitution of the
Islamic Republic of Pakistan*, the Governor of Balochistan,
with the prior approval of the President, is pleased to make the
fallowing Regulation: —

1. (1) This Regulation may be called the Balochistan
Civil Disputes (Shariat Application) Regulation, 1976.

(2) It extends to the Tribal Areas of Balochistan.

(3) It shall come into force in such area or areas and
on such date or dates as the Provincial Government may, by
notification in the official Gazette, appoint in this behalf.

2. (1) Notwithstanding anything to the contrary
contained in any law for the time being in force or any custom
or usage, all disputes of a civil nature, where the parties are

Muslims, shall be decided in accordance with Muslim (Shariat) Law; Provided that nothing in this Sub-section shall apply to cases by or against the Federal Government or a Provincial Government or a local authority or a public corporation or a public servant acting in the discharge of his duty.

(2) If all the parties to a dispute of a civil nature any of whom is a non-Muslim agree to the dispute being

This Regulation was promulgated by the Governor of Balochistan; published in the Balochistan Gazette (Extraordinary) No. 50

Spelling of the word "Baluchistan", wherever it appears in this Regulation, is corrected by insertion of letter "o" instead of "u"; a

per Government of Balochistan, S&GAD's Notification No. SORI (4) 6/ S&GAD-89, dated 18" June, 1989.

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That is Constitution of Islamic Republic of Pakistan 1973; published in the Gazette of Pakistan, dated 12 April, 1973.

Act V of 1908, Act
of 1872 and
Act IX of 1908

to apply.

Courts for
Adjudication
of disputes
under this
Regulation.

Constitution of
Courts of Qazi
and Majalis-e-
Shura, their
territorial
jurisdiction,
etc.

adjudicated upon under this Regulation, such dispute shall, as far as practicable, be adjudicated upon accordingly.

3. Notwithstanding anything contained in this Regulation the provisions of Code of Civil Procedure, 1908, hereinafter referred to as the Cod, the Evidence Act, 1872, and the Limitation Act, 1908, shall mutatis mutandis apply to the proceedings under this Regulation.

4. (1) Notwithstanding anything contained in section 3, there shall be the following Courts, namely: —

(a) the Court of Qazi, which shall be the Court of original jurisdiction in respect of disputes wherein the subject-matter in amount or value does not exceed fifty thousand rupees; and

(b) the Majalis-e-Shura, which shall be the first appellate respect of judgements, decrees and orders of the Court of Qazi, and shall also be the court of original jurisdiction in respect of all disputes wherein the subject matter in amount or value exceeds fifty thousand

court in

rupees.

(2) | Every Majalis-e-Shura shall be deemed to be a

District Court within the meaning of the Code.

(3) An appeal from a judgement, decree or order of the Majalis-e-Shura shall lie to the High Court.

5. (1) The Provincial Government may, by notification in the official Gazette, constitute such number of Courts of Qazi and Majalis-e-Shura as it may deem appropriate, and may, whenever it so considers necessary, specify the class of dispute in respect of which a particular Court of Qazi or Majalts-e-Shura shall have jurisdiction under this Regulation.

(2) A Majalis-e-Shura shall consist of not less than two members, one of whom shall be designated by the Provincial Government to be the Chairman.

(3) The qualifications of Qazis and members of Majahs-e-Shura shall be such as maybe prescribed by rules made under section 6.

(4) The territorial limits of jurisdiction of the Courts

of Qazi and Majalis-e-Shura shall be such as may be determine by the Provincial Government; and, until so determined, the territorial limits of a Majalis-e-Shura shall be the same as those of the District Court, and those of a court of Qazi the same as of the Civil Court of original jurisdiction irrespective of its pecuniary limits.

(5) In the case of a difference of opinion between the members of a Majalis-e-Shura in any case: —

(a) if the Mayalis-e-Shura is exercising its original jurisdiction, the case shall be decided in accordance with the opinion of the Chairman; and

(b) if the Mayalis-e-Shura is exercising its appellate jurisdiction, the decision of the Court of Qazi in the case shall be deemed to be the decision of the Majalis-e-Shura.

Power to make 6. (1) The Provincial Government may, by notification tules. in the official Gazette, make rules¹ to carry into effect the purposes of this Regulation.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: —

(a) the qualifications of Qazis and members of Mayalis-e-Shura;

(b) seal of the Court of Qazi and Majalis-e-Shura;

(c) the places where and the time when Courts of Qazi and Majalis-e-Shura shall sit and hold proceedings;

(d) the fees to be paid to the Courts of Qazi and Majalis-e-Shura, and for processes issued therefrom, and the manner in which such fees shall be levied; and

(e) the language and manner in which proceedings of the Courts of Qazi and Majalis-e-Shura shall be recorded and kept.

1 For Rules see "The Balochistan Qazi and Members, Majalis- e-Shura (Appointment and Conditions of Service) Rules, 1980"

published in the Balochistan Gazette (Extraordinary) No. 67, dated 7" April, 1980.

Transfer of pending 7. Upon the coming into force of this Regulation in any cases to Courts area, all suits and appeals pending in any District Court or a

of Qe and Civil Court subordinate thereto, or in any tribunal, involving a wae dispute which under this Regulation is to be adjudicated upon

by a Court of Qazi or Mayalis- e-Shura, shall stand transferred to the Court of Qazi or Majalis-e-Shura, as the case may be, having jurisdiction in the matter under this Regulation; and, upon such transfer, shall be deemed to have been instituted therein, and shall be heard and determined accordingly.