

Student Learning Outcomes

After studying this chapter students will be able to:

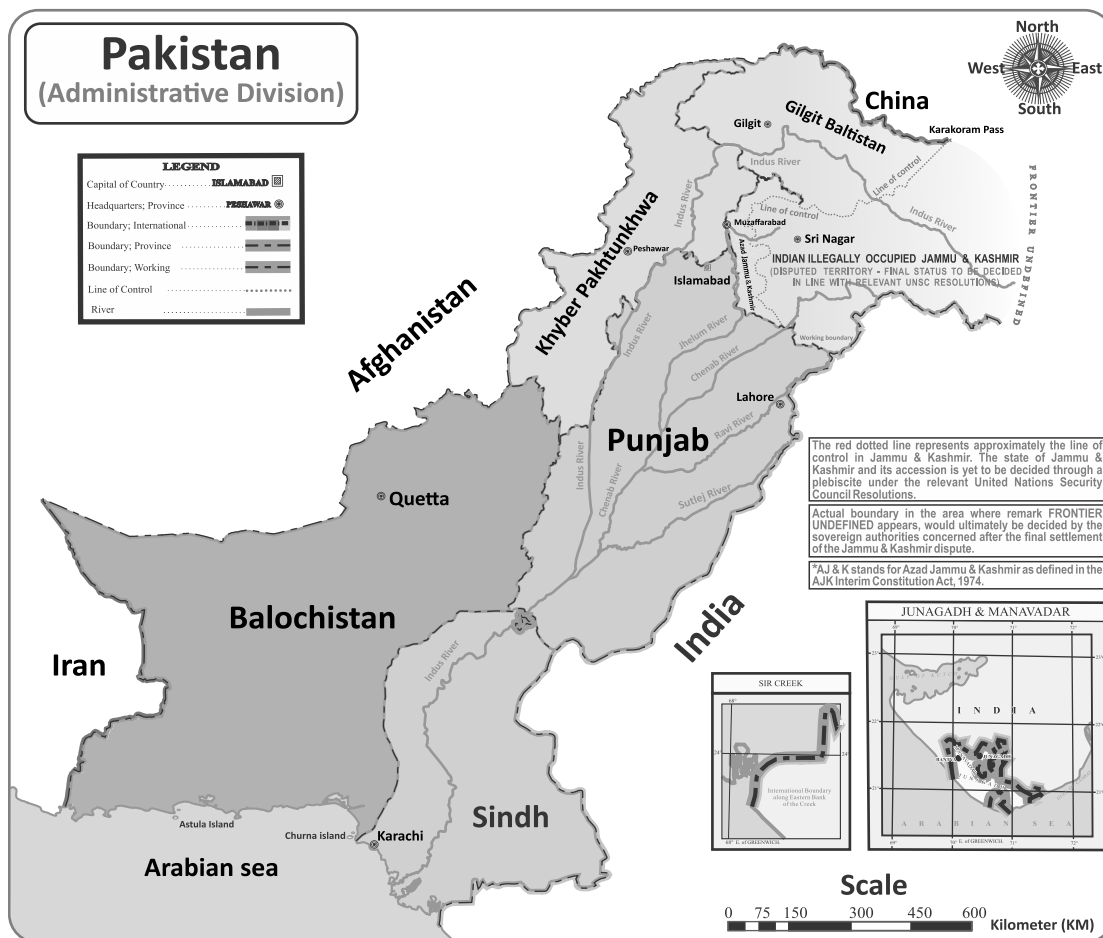
1. explain the Federal and Provincial structure of Pakistan and its functioning in the light of the Constitution of 1973.
2. differentiate the functioning of Central Government and Provincial Government.
3. describe the provincial structure and functioning of administrative units of Azad Jammu & Kashmir and Northern Areas.
4. identify the nature of relationship between the Federal and Provincial Governments.
5. explain the nature of relationship between the Federation and the Provinces.
6. examine the relationship between the Provincial Government and Local Self-Government.
7. describe the structure of different tiers of local self-government.
8. examine the functioning of various levels of local self-government.

Functions of Federation and Provinces in the Light of the Constitutions of 1973

The duties of the federation and the provinces under the constitution of 1973 are as follows:

A. Functions of Federation

- i. Federation exercises all its duties in the name of the President of Pakistan and only he decides all the duties.
- ii. All the duties of federation are performed through Prime Minister and his Cabinet.
- iii. The Majlis-e-Shura (Parliament) legislates laws for the fulfillment of all the duties of Federation.
- iv. Federation maintains the union and secures the interests of all its units.
- v. Federation advises all its units in policy making and provides all the information.
- vi. Federation maintains national economy and imposes taxes.
- vii. Federation organizes internal and external trade.
- viii. Federation is responsible for internal law and order and secures independence of the country.
- ix. Federation establishes judicial system and provides justice to all its units.
- x. Federation has army for the defence of the country and declares war at the time of need.



B. Functions of Provinces

- Provinces exercise all their duties in the name of the Governor and only he decides all the affairs of the Province.
- Provinces exercise all their powers through Chief Minister and his cabinet.
- Concerned Provincial Assemblies legislate laws for the fulfillment of provincial duties.
- Provinces are responsible for internal law and order.
- Provinces perform duties of social services i.e. education, health and social development.
- Provinces perform agriculture and irrigation duties for economic development and construct roads etc.
- Provinces are responsible for provincial administrative affairs and improve them.
- Provinces are responsible for financial matters.
- Provinces establish and maintain Local Governments. Provinces are also responsible for poverty reduction.
- Provinces cooperate with the Federation.

Difference between Functions of Central and Provincial Governments

- i. Jurisdiction of the Federal Government extends to the whole country while the jurisdiction of the provincial government is limited to the province concerned.
- ii. Head of the Federation is elected President while head of the province is Governor who is nominated by the President. Prime Minister and his cabinet run administrative affairs of Federal Government while Chief Minister and his cabinet run the administrative affairs of the provinces
- iii. Prime Minister is elected by the National Assembly while Chief Minister is elected by the concerned Provincial Assembly.
- iv. Prime Minister is answerable to National Assembly while the Chief Minister is answerable to concerned Provincial Assembly.
- v. There is only one federal government in Federation while Pakistan has four Provincial Governments; Punjab, Sindh, Balochistan, Khyber Pakhtunkhwa and governments of federating units i.e. Azad Jammu and Kashmir and Gilgit-Baltistan.
- vi. Chief Minister performs same duties in his province as Prime Minister does in the country.
- vii. Federal Cabinet works under the supervision of the Prime Minister and is accountable before him. Provincial Cabinet works under the supervision of the concerned Chief Minister and is accountable before him.
- viii. Federal organizations operate under the federal laws legislated by Majlis-e-Shura, while the provincial organizations operate under the provincial and local laws legislated by Provincial Assemblies.

Do you know?

President of Pakistan is the head of Federation. In a parliamentary system, it is a non-executive post because the President is bound to follow the advice of the Prime Minister.

Administrative Structure and Functions of Azad Jammu and Kashmir and Gilgit Baltistan

A. Azad Jammu and Kashmir

Azad Jammu and Kashmir has its own elected President, Prime Minister, Legislative Assembly and Supreme Court which govern the system of the state.

Kashmir Council

Kashmir Council is the apex institution of the state which comprises 14 members. Of which eight members are from Azad Jammu and Kashmir and six are representatives of Government of Pakistan. Members of Azad Jammu and Kashmir include its President, Prime Minister and six members of the Kashmir Legislative Assembly. It is

chaired by Prime Minister of Pakistan. Council owns high administrative authority in Azad Jammu and Kashmir.

President

President is the constitutional head of Azad Jammu and Kashmir who is elected by the Kashmir Legislative Assembly for five years.

Prime Minister

Prime Minister is administrative head of the state. Council of Ministers works under the supervision of the Prime Minister and is accountable before him. The Prime Minister is responsible for all the administrative affairs of the state and can hold his office till the confidence of the Assembly.

Legislative Assembly

Azad Kashmir Legislative Assembly comprises single house, which is located in Muzaffarabad. This house comprises 53 members, of which 45 members are directly elected by the vote of people of Azad Kashmir. One seat is for Ulama, one for technocrat, one for overseas Kashmiri and five seats are reserved for women. The assembly elects Prime Minister, Speaker and Deputy Speaker from its members. The Assembly performs three types of duties: legislation, policy making and budgeting. Assembly is directly elected for five years.

Judiciary

- i. Azad Jammu and Kashmir has its own Supreme Court comprising Chief Justice and three judges. It decides all appeals.
- ii. Azad Jammu and Kashmir has a High Court which has three circuit benches which operate in Kotli, Mirpur and Rawlakot. Upper court hears appeals against decisions of the lower courts.

B. Gilgit Baltistan

In 2009, Pakistan People's Party delegated limited autonomy to the northern areas by naming them as Gilgit-Baltistan. Legislative Assembly was constituted and elections were held and Gilgit-Baltistan Council was constituted. Its structure is as follows:

Gilgit Baltistan Council

Council comprises 12 members. In which 6 members are nominated by the Prime Minister of Pakistan and 6 members are elected by the Legislative Assembly of Gilgit-Baltistan. It is an administrative institution. Gilgit-Baltistan Council is chaired by the Prime Minister of Pakistan.

Governor

Governor is constitutional head of the province who is appointed by the Government of Pakistan and can hold his office till the pleasure of the Government.

Chief Minister

Chief Minister is administrative head who is elected by the majority vote of Legislative Assembly of Gilgit-Baltistan. He is the leader of the house in assembly and

head of his cabinet.

Legislative Assembly

Gilgit-Baltistan Legislative Assembly comprises one house. It has 33 members. Of these, 24 are directly elected, 6 women and 3 technocrats. Legislative Assembly elects Chief Minister, Speaker and Deputy Speaker from its members and makes all kinds of legislation relating to Gilgit-Baltistan.

Judiciary

Judiciary of Gilgit-Baltistan consists of Chief Court and the Supreme Appellate Court.

Chief Court

Under Presidential Order 2009, Chief Court was given authorities. It is also called Chief Court of Appeal. It hears appeals from all regions. Its status is equal to High Court. Its decisions can be challenged in Appellate Court.

Supreme Appellate Court

Supreme Appellate Court consists of one Chief Judge and two judges. They are appointed by Prime Minister of Pakistan for three years. Its status is equal to Supreme Court and it decides appeals against the decisions of Chief Court.

Do you know?

Gilgit-Baltistan now consists of 14 districts. This region is famous for its beautiful scenery, picturesque valleys and towering snow-capped mountains.

Nature of the Relationship Between the Federal and Provincial Governments

Pakistan is a federal parliamentary republic with federal and provincial governments. Articles 141 to 159 of Constitution 1973 clarify the nature of relationship between the federal and provincial governments.

1- Council of Common Interest

Council of Common Interests consists of Prime Minister, all Chief Ministers and three Federal Ministers nominated by Federal Government that resolves the disputes among federal and provincial governments and distributes resources. It issues NFC Awards. If any provincial government objects the council's decisions, it may refer them to a joint session of parliament. If there is a dispute over water distribution, the case is referred to the Council of Common Interests for the solution. If it could not be solved, the president has the power to form a commission which solves it.

2- National Economic Council

President of Pakistan has authority of forming National Economic Council. Prime Minister is its Chairman and all the Chief Ministers are its members who review the economic condition of the country and direct federal and provincial governments to take appropriate action. They formulate economic, social and trade policies.

3-National Security Council

National Security Council is presided by the Prime Minister, that looks the security matters of all the country including provinces, and formulates national security policies that must be implemented by federal and provincial governments.

Other Relations Between Federation & Provinces

- ☆ According to Article 147 of the Constitution, any provincial government can delegate its authority to federal government or federal organization. Federal government or federal organization may exercise that authority if it is ratified by the concerned provincial assembly within six days
- ☆ Similarly, a federal government can delegate its authority to provincial governments provided the provincial government approves it.
- ☆ According to Article 148 of the Constitution, administrative powers of the provinces can be exercised by the federal government provided they are not against the interests of the provincial governments.
- ☆ According to Article 149 of the Constitution, provincial governments may exercise administrative powers provided there is no conflict with the administrative powers of federal government.
- ☆ According to Article 151 of the Constitution, trade activities can be carried out freely throughout Pakistan and provincial governments cannot interfere with them. Majlis-e-Shura (Parliament) can formulate free trade policy and impose taxes which are equally applicable in all the provinces
- ☆ According to Article 152 of the Constitution, federal government can acquire land for national projects in all the provinces in which provincial governments cannot interfere.
- ☆ According to Article 159 of the Constitution, federal government cannot refuse the provincial governments for setting up radio and TV channels, but in that case the government can impose its own conditions.

Relations Between the Federation and the Provinces

- ☆ Federation legislates through Majlis-e-Shura (Parliament) while the provinces legislate through concerned Provincial Assemblies. Under the 1973 constitution, federal and provincial lists have been made for legislation.
- ☆ After the 18th amendment, the list of common affairs was abolished and all its affairs were handed over to the provinces. Majlis-e-Shura can legislate from the federal list while Provincial Assemblies can legislate from the provincial list. Majlis-e-Shura will have the power to legislate from federal list in any matter without any interference and the provincial assemblies will have the power to legislate in all those matters which are not included in the federal list.

Majlis-e-Shura will have the power to legislate in all such matters which belong to those federal areas which are not the part of any province.

- ☆ If one or more Provincial Assemblies pass a resolution on the subject that, if the parliament takes up any matter which is not the part of the federal list included in the fourth schedule provided by the constitution, so to solve the said issue, it will be legal for the parliament to pass an act. But in this way, the assembly of the province upon which the act is applicable, may amend or dismiss that act.
- ☆ Every province will exercise administrative powers in such a way that guarantees compliance with federal laws that apply to that province. Federation will consider the interests of the province while exercising administrative powers in some province. Federation also appoints a central bureaucracy in each province so that the interests of the federation may be protected.
- ☆ Through the laws of Majlis-e-Shura, Federation might impose restrictions on freedom of trade, commerce or communication from one province to another or in any part of Pakistan which are necessary in the public interest. Federation may make such a law or take any administrative action against the import or export of any kind or type of goods that have been prohibited in the province.
- ☆ With the consent of federation, a province can approve from its assembly such act which is intended to protect public health, law and order, public morals, animals or plants from disease or to prevent or reduce the shortage of any essential commodity in that province.

Mutual Relationship Between Provincial and Local Governments

- ☆ Local governments in Pakistan have been protected under Article 140-A of Constitution 1973. According to this provision, every provincial government must establish local governments and distribute political, administrative and economic powers and responsibilities among them.
- ☆ In August 2001, during Musharraf era, local governments were established under the presidential orders and political, administrative and economic powers were transferred to local governments to empower the common man in the provision of essential services.
- ☆ In local governments system, powers of federal government remained same. While the powers and responsibilities of provincial governments were divided among the local governments. Under this system, the posts of Commissioner, Deputy Commissioner and District Magistrate were abolished and the powers were transferred to Nazim and Naib Nazim. However, the Commissioner, Deputy Commissioner and District Magistrate had been acting as representatives of the provincial governments. In this way, instead of the provinces, local governments gained control over the district administration.

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- ☆ Under the power-sharing scheme, provincial governments delegated their powers to local governments, so provincial governments had the power to suspend local governments, meaning they could withdraw their powers. To increase their resources, to impose or increase taxes, the local governments also had to get permission from provincial governments. Similarly, the provincial governments used to appoint officers at important posts in the local governments.
 - ☆ Under the power-sharing scheme, there was no autonomous district government or over which the provincial government had no authority. Therefore, local governments were soon abolished and the posts of commissioner, deputy commissioner and district magistrate were restored and all powers were returned to the provincial governments.
 - ☆ The role of district Nazim was also very important in the power-sharing scheme. He was affiliated with one or the other political party and therefore he distributed funds at his own or his party's discretion. This had harmful effects on local governments. If there had been a government of different political party in the province, the district Nazim could not continue his work and he had to resign.
 - ☆ Under the power-sharing scheme, district police officers were also appointed by the provincial governments and the officers were never given the impression that they were employees of the local government nor were they compelled to obey the orders of the local government. The provincial governments also had the power to transfer them. Therefore, they continued to work as loyalists of the provincial governments.
 - ☆ In June 2005, system of local governments was changed and the powers of local government were given to the provinces. Chief Minister was given full authority and he also had the power to reject the suggestions of District Nazim or District Government and to remove District Nazim.
 - ☆ With these changes, provincial governments were no longer bound to distribute provincial resources among the local governments, whereas local governments needed financial resources (funds) to complete their projects. Owing to lack of resources, local government projects were stalled.
 - ☆ Under the power-sharing scheme, many departments were not handed over to district governments e.g. police department and agriculture department, which led to a power conflict between local and provincial

governments and strained their mutual relations. In fact, the two governments were not ready to work together.

Structure of Different Levels of Local Government

Under the Article 140-A of the Constitution of 1973, the provincial governments must establish local governments and give them financial and administrative powers. In 2013, all the provinces approved acts for the establishment of local governments, according to which a two-tier system in rural areas and a three-tier system in Khyber Pakhtunkhwa was established. In which, district and tehsil union council governments are included while a three-tier system was established in the urban areas, which includes metropolitan corporation, municipal corporation and municipal committees. The details are as under:

Rural Areas

1. Village Neighborhood / Union Council

Union Council comprises the chairman, vice chairman and six general councilors who are directly elected by the people for four years in Punjab, Sindh and Balochistan and for three years in Khyber Pakhtunkhwa. In addition, one seat for each women, peasant, youth, and non-Muslim are reserved. Chairman is the head of the Council and in his absence the Vice-Chairman acts in his place.

2. District Council / Tehsil Council

The directly elected chairmen of all the union councils or village Neighbourhood councils of Tehsil or district are the ex-officio members of the district council. In addition, 15 seats for women, 3 for peasants, 5 for non-Muslim, one for youth and one technocrat. Instead of district council, Tehsil council has been adopted in Khyber Pakhtunkhwa. Its members and chairman are directly elected.

Its members elect chairman and vice chairman. The district council has a cabinet. Chairman is the head of the cabinet and its members include Education, Health and Administration experts and a Religious (Scholar).

Chief Officer

Chief officer serves as the secretary of the district council. He is a senior government servant. He supervises all the departments of the district and the supervision of all the developments of the district is also his responsibility.

Urban Areas

1. Municipal or Town Committee

Directly elected members (councilors) from all the (Wards) in the municipality or town are members of the committee. In addition, 5 from women, 3 for non-Muslims and 2 of workers and one representative from youth is also included.

In the first meeting of the committee, chairman and vice chairman are elected. Chairman is the head of the Committee and in his absence the Vice-Chairman acts.

Chief Officer

He is government servant of lower level who coordinates among all the departments and supervises all matters of the committee.

2. Municipal Corporation

The directly elected chairmen of all municipal or town in the municipal corporation are ex-officio members of the municipal corporation. In addition, 5 from women, 5 from non-Muslims, 2 from workers, 2 from technocrats and a youth as members.

The corporation elects mayor and deputy mayor in its first session. The deputy mayor acts in the absence of the mayor.

Chief Officer

He is a middle-level government servant. He coordinates with all the departments and also supervises developments.

3. Metropolitan Corporation

The directly elected chairmen of all town committees in the metropolitan corporation are ex-officio members of the corporation in addition to these there are reserved seats. 25 for women, 5 for workers, 2 for youth and 10 for non-Muslims. In the first session of metropolitan corporation, majority of the existing members of the corporation in the joint panel elect lord mayor and deputy mayor. Lord Mayor is the administrative head of the Metropolitan and in his absence Deputy Mayor acts.

Chief Officer

He is a high ranked government servant. He coordinates and supervises all the departments. Supervision of all the development works is also his responsibility

Functions of Local Governments at Various Levels

1. Functions of the Union Council / Village Neighborhood Council

- (i) To approve the budget of union council and to approve taxes or fees.
- (ii) To appoint the members of Panchayat and supervise their performance.
- (iii) To maintain the public ways, streets, graveyards, gardens and playgrounds.
- (iv) To arrange light in public ways and streets.

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- (v) To develop and maintain wells, tube wells and water tanks etc. for drinking water.
 - (vi) To manage cattle ponds and grazing areas.
 - (vii) To provide health facilities and public security to the inhabitants of area concerned.
 - (viii) To arrange industry, agriculture and commercial markets by the approval of the district council.
 - (ix) To enforce Union or Village Council rules, regulations and by laws.

2. Functions of District or Tehsil Council

- (i) To approve laws and taxes, and to approve and implement annual budget.
- (ii) To encourage the citizens for welfare work and social reforms.
- (iii) To review the performance of district or Tehsil officers.
- (iv) To remove the encroachments on public roads and ways and to arrange light.
- (v) To organize the cattle markets, public fairs and to arrange sports.
- (vi) To help the people in hailstorms, flood, earthquake and other natural disasters.
- (vii) To help orphans, widows, needy and the disable people.
- (viii) To help the union councils in provision of drinking water and supply water to the fields in rural areas.
- (ix) To construct bridges and other public buildings.
- (x) To provide land for industries, agriculture purposes and commercial markets.
- (xi) To perform other activities for development of the district.

3. Functions of Municipal or Town Committee

- (i) To formulate development plans, approve them and arrange finances for them.
- (ii) To arrange distribution of local lands and their use.
- (iii) To provide and arrange land for industry, agriculture and commercial markets.
- (iv) To develop parks and provide land for playgrounds and graveyards.
- (v) To arrange for roads and streets and maintain them.
- (vi) To arrange for drinking water, sewerage and water disposal.
- (vii) To approve and collect taxes and fees.
- (viii) To establish cattle markets and organize cattle shows.
- (ix) To arrange playgrounds and organize cultural shows.
- (x) To punish the violators of municipal laws.
- (xi) To frame and implement laws and by laws for Municipal Committee.

Functions of the Metropolitan / Municipal Corporation

- (i) To approve land plans, environmental plans and urban plans.
- (ii) To approve and implement laws and by-laws.

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- (iii) To make and implement plans of residential colonies, markets, roads, plans of public interest.
 - (iv) To improve system of public transport, to construct and maintain bridges, flyovers and underpasses, to beautify and maintain the area.
 - (v) To construct and maintain drinking water reservoirs, to arrange sewerage system
 - (vi) To provide land for industry, agriculture and markets, to make and maintain parks and to arrange transport.
 - (vii) To frame and implement municipal laws and by-laws
 - (viii) To remove encroachments from the roads and ways in urban areas and maintain the environment.
 - (ix) To establish and maintain libraries, museums and galleries.
 - (x) To prepare and approve budget, development plans and provide finance for them to approve and collect taxes and fees.
 - (xi) To arrange and organize sports, cultural fairs and cattle markets.
 - (xii) To issue all types of licenses and permits.
 - (xiii) To provide relief to widows, orphans, disable and affectees in natural disasters.
 - (xiv) To punish the violators of municipal laws.

Questions

1. Mark (✓) the correct one of the four answers given below.

- i. Federation performs its duties in the name of :
 - (a) Governor (b) President (c) Lord Mayor (d) Mayor
- ii. For the performance of provincial duties the organization makes laws
 - (a) National Assembly (b) Senate
 - (c) Provincial Assembly (d) Local Governments
- iii. The number of Kashmir Council members is:
 - (a) 12 (b) 14 (c) 16 (d) 18
- iv. The number of Gilgit-Baltistan Council members is:
 - (a) 12 (b) 14 (c) 16 (d) 18
- v. The number of judges in the Supreme Court of Azad Jammu and Kashmir is:
 - (a) 3 (b) 4 (c) 5 (d) 6
- vi. Presides over the National Security Council of Pakistan:
 - (a) President (b) Prime Minister
 - (c) Chief of Army Staff (d) Chief of Air Staff
- vii. The provision of the 1973 constitution under which local governments are protected:
 - (a) 140-A (b) 140-B (c) 140-C (d) 140-D

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- viii. Change in the system of local government in Pakistan was brought in:
(a) 2001 (b) 2003 (c) 2005 (d) 2007
- ix. National Finance Commission (NFC) award is awarded by:
(a) Council of Common Interest (b) National Economic Council (c) National Security Council (d) Local Government
- x. The head of the Metropolitan Corporation is:
(a) Chairman (b) Chairperson (c) Lord Mayor (d) Mayor

2. Write short answers.

- State the number of Kashmir Council members?
- Who is the Chairman of Gilgit-Baltistan Council?
- Under which article do provincial governments exercise administrative power? Analyze.
- Where are circuit benches of Azad Jammu and Kashmir High court established?
- Describe the different levels of local governments.
- What duties do the Chief Officer perform?
- State the status of the President of Azad Jammu and Kashmir.
- Where has the Supreme Appellate Court been established?

3. Give answers in detail.

- Describe the duties of the Federation under the 1973 Constitution.
- Describe the administrative structure and functions of Gilgit-Baltistan.
- Analyze the nature of the relationship between the federal and provincial governments.
- Explain the relationship between provincial and local governments.
- Review the duties of the provinces in Pakistan.
- Describe the duties of District or Tehsil Council in Pakistan.
- Explain the duties of a metropolitan corporation in Pakistan

Activities

- Discuss the duties of the Municipal Corporation in Pakistan. Show the students the proceedings of the District Council and make them prepare a report on it.
- Make two groups of students and make them chart the structures of federal and provincial governments.