



MINISTRY OF PLANNING
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LEGISLATION REVIEW FOR CRVS IN PAKISTAN



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REVIEW OF CURRENT LEGISLATION FOR

CIVIL REGISTRATION & VITAL STATISTICS (CRVS) TOWARDS A UNIFORM CRVS LAW IN PAKISTAN

Mr. Saqib Aleem (Consultant CRVS - Law) has prepared this report with the funding support by the UNICEF under the Technical Support Unit for CRVS, Ministry of Planning, Development and Special Initiatives.



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Executive Summary

The process of civil registration is an important aspect of an individual's status in society for recording vital events in his, or her, life regarding births, marriages, adoptions, deaths, and causes of death. It provides an individual with the official recognition of his, or her, legal identity, citizenship and the fundamental rights associated with it, family relationships, and necessary documents to establish legal identity, consequential privileges and civil status in the society. Vital statistics constitute the collection of statistics available in a lifetime of a person as well as the relevant characteristics of the events themselves and the person and persons concerned. Vital statistics provide crucial and critical information on the population in the country. The combination of these two terms results in civil registration and vital statistics (CRVS)—an activity which is an essential ingredient of any modern-day country. It provides an identity; legal status; citizenship and human rights as per the constitution and Universal Declaration of Human Rights; a system for certification of this information that can withstand judicial scrutiny before a court and provide adequate evidentiary value before it and be continuous at a minimum cost. It also ensures keeping the individual information confidential; stores this information permanently; and provides vital statistics regularly as per the policy of the government and its institutions about various characteristics of the population.

An effective CRVS system requires a robust legal mandate through appropriate legislation. Pakistan has a number of laws, both dating back to its pre-independence and post-independence periods that cover this activity. Some of them were enacted by the federal Parliament, whereas the provincial assemblies for their respective provinces passed the others. This study covers the relevant provisions of all CRVS laws, including the important ones that have now been repealed. It examines their strengths and weaknesses towards efficient conduct of civil registrations and production of vital statistics.

This study begins with an introductory chapter on CRVS and its legislation. It is followed by a section on the constitutional provisions mandating the jurisdiction on the passage of these laws, either with the parliament or the provincial assemblies, in accordance with the two parts of the Federal Legislative List if the subject is mentioned in them, or is a residual subject falling in the virtual provincial list. Different chapters of this report cover the pre-independence and post-independence laws separately; the legislations for registration of births, deaths, marriages and divorces followed by a section on any laws on registration of adoptions, causes of death, and stillbirths. There is also a chapter on the citizenship laws detailing the ones providing the legal mandate for registration of births, deaths, marriages and divorces of the citizens of, and foreign residents in, Pakistan.

The study delineated the relevant pre-independence laws that are still available on the federal repository of legislations and include the Christian Marriage Act, 1872; the Births, Deaths and Marriages Registration Act, 1886; and the Parsi Marriage and Divorce Act, 1936. The laws that were enacted after the independence of the country on CRVS at the federal level mainly include the citizenship laws—the Citizenship Act, 1951; the now repealed, National Registration Act, 1973; and the National Database and Registration Authority Ordinance, 2000. Introduction of the registration of all citizens, creation of the office of the registrar general for the entire country and making the national identity cards for all citizens over 18 years of age mandatory was the hallmark of the National Registration Act, 1973. Also, its scope has been expanded by the National Database and Registration Authority Ordinance, 2000. The General Statistics (Reorganisation) Act, 2011 is the most prestigious law for the generation of vital statistics in the country, including the conduct of population census after every ten years. This Act has created the Pakistan Bureau of Statistics and the office of the chief statistician as the principal officer for generation, maintenance, and issuance of vital statistics.

The post-independence federal legislation on CRVS also includes certain marriage laws, which is now a provincial subject as per the scheme of the constitution, and were passed by the prior mandate of the respective provincial assemblies as per article 144 of the constitution. The most important among them is the Hindu Marriage Act, 2017.

As making laws that are essentially provincial in character in the cantonment areas and the Federal Capital Territory, fall in the Federal Legislative List, the Cantonments Ordinance, 2002 and the Islamabad Capital Territory Local Government Act, 2015 provide the legal mandate to make civil registrations and produce vital statistics to the union committees in case of the former law and to the union councils in case of the latter legislation.

The main provincial laws about civil registrations consist of the local government laws creating the local bodies in the provinces of Punjab, Sindh, Khyber Pakhtunkhwa, and Balochistan, the special areas of Azad Jammu and Kashmir, and Gilgit-Baltistan. These laws include the Punjab Local Government Act, 2013; the Sindh Local Government Act, 2013; the Khyber Pakhtunkhwa Local Government Act, 2013; the Balochistan Local Government Act, 2010; the Azad Jammu and Kashmir Local Government Act, 1990; and the Gilgit-Baltistan Local Government Act, 2014. According to these laws, mostly the union councils in the rural areas, or the union committees in the urban areas of Sindh, as the lowest tier of the local governments, are responsible for making civil registrations and generating vital statistics out of them. However, the municipal committees in case of Punjab, Sindh, Balochistan, AJ&K, and Gilgit-Baltistan or town committees in case of Sindh, Balochistan, AJK, and Gilgit-Baltistan or municipal corporations in case of Sindh and Balochistan; and village or neighbourhood councils in case of Khyber Pakhtunkhwa are also responsible for making these registrations. However, this legislation is sketchy, inadequate, and contradictory in certain instances, lacks in registration of the divorces, stillbirths, causes of death, etc. and does not have any role for the healthcare establishments where most of the births and deaths take place, and mostly consists of the subordinate legislation of regulations, rather than substantive provisions of the statutes.

The Muslim Family Laws Ordinance, 1961, the Punjab Sikh Anand Karaj Marriage Act, 2018, and the Sindh Hindus Marriage Act, 2016 are some important laws on registration of marriages and divorces.

Finally, various issues that have cropped up regarding the strengths and weaknesses of these laws during this study have been detailed: with an examination of the strategy that needs to be applied to bridge the gaps in the existing legislation through incorporating amendments in the individual laws, or passage of an umbrella CRVS law, with appropriate recommendations and a way forward for further course of action.

1. Introduction

This is a study of the existing laws of civil registration and vital statistics (CRVS) that are currently available in Pakistan on the statute books. However, there is a need to look into the terms of civil registration and vital statistics and why these terms are essential from the standpoint of Pakistan's population and society.

1.1. What is Civil Registration?

Civil registration is defined as the continuous, permanent, compulsory and universal recording of the occurrence and characteristics of vital events (live births, deaths, marriages and divorces) and other civil status events pertaining to the population as provided by decree, law or regulation, in accordance with the legal requirements of each country (United Nations Department of Economic and Social Affairs, 2013).

The process of civil registration is an essential aspect of an individual's status in society. It provides with the official recognition of his, or her, legal identity, citizenship, and the fundamental rights associated with it, family relationships, and necessary documents to establish legal identity, consequential privileges and a civil status in society.

1.2. What are the Vital Statistics?

Vital statistics constitute the collection of statistics available in a lifetime of a person as well as the relevant characteristics of the events themselves and the person and persons concerned. They provide crucial and critical information on the population in the country.

1.3. Civil Registration and Vital Statistics (CRVS) as a combined term

The combination of these two terms results in civil registration and vital statistics (CRVS)—an activity that is an essential ingredient of any modern-day country to provide an identity, legal status, citizenship, and human rights as per its constitution and Universal Declaration of Human Rights. It is a system for certification of this information that can withstand judicial scrutiny before a court and provides adequate evidentiary value before it. It is continuous at a minimum cost and ensures



keeping the individual information confidential. It stores this information permanently and provides vital statistics regularly as per the policy of the government and its institutions about various characteristics of the population.

The foremost amongst vital events is the registration of births and deaths. Then comes the registration of marriages and an associated outcome of the failure of the marriage resulting in a divorce, or annulment of marriage, that also need to be registered. An accurate recording of these events with precise dates and associated particulars is a prerequisite to ensure the protection of civil rights of the concerned individual and other individuals interacting with him or her. Similarly, recording of stillbirths, or fetal deaths, and causes of deaths is also crucial for the synthesis of vital statistics of these individual events in the lives of the citizens.

The efficiency of making civil registrations and generation of vital statistics out of them mainly depends on the laws that provide the legal basis and requirement for efficient and timely recording of these events. The efficiency of these laws primarily depends on various features that, among other things, include compulsion, limitations by time, without incurrance of any cost to the concerned individuals, continuity of recordings without any interruptions, and a system incentivising the timely recording of the vital events in an individual's life.

Pakistan has several laws on its statute books that deal with civil registrations and vital statistics. Some of these laws date back to the pre-partition united British India while the others were enacted after the founding of Pakistan in 1947. These laws include both the federal and provincial laws, and have strengths and gaps that need bridging through further legislation.

This study is an attempt to identify all those existing federal and provincial laws that provide legal cover and basis to the civil registration processes and synthesis of vital statistics out of those operations. All the relevant laws have been listed in some detail with their legal terminology and CRVS provisions.

The role of the existing institutions performing the CRVS functions along with their respective laws, have also been examined. These institutions are mainly composed of the local bodies at the grassroots level charged with making civil registrations of births, deaths, marriages, and divorces taking place in their respective jurisdictions, keeping their records permanently and issuance of certificates thereof. On the other hand, sophisticated organisations like the National Database and Registration Authority (NADRA) and Pakistan Bureau of Statistics at the federal level having countrywide presence exist at the other end of the spectrum to perform the same function in case of the former, and generation of vital statistics in the example of the latter.

The study concludes with posing some questions relating to the laws, along with providing answers while keeping the current legislative environment of the country in view. Pakistan being a federation with its constitutional arrangement containing a Federal Legislative List and a virtual provincial list encompassing all the residual subjects, has also been covered. It is viewed in the context of the need for passage of an umbrella CRVS law linking the existing legislation while concurrently covering its gaps.



THE CRVS LAWS IN THE CONTEXT OF PAKISTAN'S CONSTITUTIONAL FRAMEWORK

2. The CRVS Laws in the Context of Pakistan's Constitutional Framework

According to the Constitution of Pakistan, enacted in 1973, certain subjects are within the ambit of the federal parliament, consisting of the national assembly and the senate, for making of laws. The remaining subjects are within the domain of the respective provincial assemblies for passage of laws relating to the provinces of Punjab, Sindh, Khyber Pakhtunkhwa, and Balochistan.

2.1 Federal Domain of CRVS Laws

A Federal Legislative List, which is defined by Article 70 (4), is given in the constitution as its Fourth Schedule. This list comprises Part I and Part II. The first part deals with the subjects that are the exclusive domain of the federation and the parliament. Part II includes the federal subjects in which the provinces also have deep interests. Therefore, as per Article 153 of the constitution, a Council of Common Interests has been created. It functions under the provisions of Article 154 of the basic law of Pakistan. Under this article, the council formulates and regulates policy concerning matters in Part II of the Federal Legislative List and exercises supervision and control over the related institutions.

As the matters relating to the Pakistani nationality, citizenship, and naturalisation are within the domain of the parliament for legislation, all issues about registration of births and deaths come under the purview of the federal legislature. Similarly, as the migration from and into, or settlement in a province or the federal capital and all matters relating to that, and admission into Pakistan, immigration, and exclusion from Pakistan of persons not domiciled in Pakistan, etc. are federal subjects. Therefore registration of births and deaths and other vital events relating to the lives of the citizens are in the federal domain. Thus, the laws can be made about them by parliament. As per serial No. 35 of Part I of the Federal Legislative List, a federal survey, including geological surveys, relating to the federal subjects are also included in the legislative functions of the parliament. They provide it with the necessary jurisdiction to legislate about the synthesis of vital statistics about Pakistan's population, including the citizens, the aliens living in the country, and persons of its diaspora living abroad.

Entries in Part I of the Federal Legislative List related to the CRVS

4. Nationality, citizenship and naturalisation.
5. Migration from and into, or settlement in, a Province or the Federal Capital.
6. Admission into, and emigration and expulsion from Pakistan, including in relation to that the regulation of the movements in Pakistan of persons not domiciled in Pakistan, pilgrimages to places beyond Pakistan.
35. Federal surveys, including geological surveys and federal meteorological organisations.
56. Offences against laws concerning any of the matters in this part.
57. Inquiries and statistics for any of the matters in this part.
59. Matters incidental or ancillary to any matter enumerated in this part.

The conduct of “Census” is included as serial no. 9 at Part II of the Federal Legislative List. Accordingly, the matters relating to the conduct of census come under the purview of the Council of Common Interests (CII), which includes the prime minister as its chairman, four chief ministers of the provinces and three federal ministers who are nominated by the prime minister as its members. As conduct of census after every ten years generates mammoth data and vital statistics about the population of the country and various facets of its growth, it is an integral part of the CRVS.

Entries in Part II of the Federal Legislative List related to the CRVS

9. Census
16. Offences against laws concerning any of the matters in this part.
17. Inquiries and statistics for any of the matters in this part.
18. Matters incidental or ancillary to any matter enumerated in this part.

2.2 The Jurisdiction of the Provincial Assemblies on the CRVS Legislation

The Constitution of 1973 also envisages the lawmaking functions to the four provincial assemblies of the Punjab, Sindh, Khyber Pakhtunkhwa, and Balochistan all those subjects that are not mentioned in Federal Legislative List constituting the virtual Provincial Legislative List. Its Article 142(c) provides that all residual subjects constitute the provincial list. It states that “a Provincial Assembly shall, and Majlis-e-Shoora (Parliament) shall not, have power to make laws with respect to any matter not enumerated in the Federal Legislative List.”

Concerning registration of marriages and divorces, this function belongs to both the federation and the provinces. These are part of the Federal Legislative List being matters incidental and ancillary to the registration of nationality, citizenship, naturalization, and inter-provincial and international migrations. But they are also part of the virtual Provincial Legislative List as the legislative powers about civil laws, that include marriage and divorce laws, pertain to the domain of the respective provincial assembly.

The Issues of CRVS Legislation belonging to both the Parliament and the Provincial Assemblies

As far as the registration of causes of death is concerned, the same belong to both the federal and provincial domain as these particulars belong to the citizenship issues of the federal parliament, but originate from the health establishments that are mainly in the provincial hierarchy. Finally, the registration of stillbirths, or fetal deaths, again being related to citizenship, is also in the federation’s domain, but mainly come from the health establishments under the overall control of the provinces. It emerges from this discussion that the CRVS registrations cannot solely depend on an umbrella federal law or a model provincial law to be passed by the four provincial assemblies and the legislatures of Azad Jammu and Kashmir and Gilgit-Baltistan.



PRE-INDEPENDENCE LAWS

3. Pre-Independence Laws

Before the creation of Pakistan on August 14, 1947, some laws on the registration of births, deaths, marriages, and divorces had already been enacted by the British in the areas of united British India that presently comprise Pakistan. It was done concurrently with the creation of a registrar's office responsible for making and supervising such registrations.

3.1 The Christian Marriage Act, 1872

One of the earliest legislation in respect of CRVS in pre-partition India was the Christian Marriage Act, 1872 (Act No. XV of 1872), whereby the marriage registrars and a senior marriage registrar, if there were more than one marriage registrars in a district, (section 7) were appointed from among Christians. The same section provided for the magistrate of the district, or the district magistrate, to act as, and to be the marriage registrar; if there was only one marriage registrar in a district and he was unable to perform his functions due to his absence from the district, illness, or office being vacant temporarily; during that absence, illness or the temporary vacancy.

According to its Section 31, every clergyman of the Church of Scotland is required to keep a register of marriages, and to register therein, according to the tabular form set forth in the third schedule of this Act, every marriage which he solemnises under this Act and he is bound to forward quarterly to the Registrar General of Births, Deaths and Marriages through the senior Chaplain of the Church of Scotland, returns, similar to those described in section 29, of all such marriages.

According to Section 32 of this Act, every marriage solemnised by any person who has received episcopal ordination, but who is not a Clergyman of the Church of England, or of the Church of Rome, or by any Minister of Religion licensed under this Act, similar to those prescribed in section 29, of all such marriages, shall, immediately after this solemnization thereof, be registered in duplicate by the person solemnizing the same; in a marriage-register-book to be kept by him for that purpose, according to the form contained in the fourth schedule of this Act in a certificate attached to the marriage-register-book as a counterfoil.

3.2 The Births, Deaths and Marriages Registration Act, 1886

The second comprehensive law in this respect was enacted in 1886 in the form of the Births, Deaths and Marriages Registration Act, 1886 (Act No. VI of 1886). Its preamble provided that this was "An Act to provide for the voluntary Registration of certain Births and Deaths, for the establishment of General Registry Offices for keeping Registers of certain Births, Deaths and Marriages, and for certain other purposes".

After the enactment of this law, a general registry office was to be established by each provincial government [under section 6(1) (a)] for keeping such certified copies of registers of births and deaths registered under this Act, or marriages registered under Act III of 1872 (XV of 1872), or Christian Marriage Act, 1872 (XV of 1872), or under the Parsi Marriage and Divorce Act, 1865 (XV of 1865).

This Act also enabled each provincial government to appoint a Registrar of Births, Deaths and Marriages [section 6(1) (b)]; and provided (vide section 7) for such Registrar General of Births, Deaths and Marriages for indices, to be made and keep in the prescribed form, of all the certified copies of registers sent to his office under this Act, or under Act III of 1872 (XV of 1872), the Christian Marriage Act, 1872 (XV of 1872), or the Parsi Marriage and Divorce Act, 1865 (XV of 1865), as amended by this Act. These indices were open to inspection (vide section 8) to any person applying to inspect them, and it was provided that, upon payment, copies of the entries in the certified copies of the registers to which the indices relate shall be given to such persons applying for them.

An important provision (section 9) made any entry given under section 8 to be certified by the Registrar General of Births, Deaths and Marriages, or by any officer authorised on this behalf by the provincial government, admissible in evidence to prove the birth, death or marriage to which the entry relates.

Sub-section (1) of section 11, under Chapter III of this Act, provides that the persons whose births and deaths, in the first instance, shall be registerable, are: (a) in the Provinces, the members of every race, sect or tribe to which the Indian Succession Act, 1865 (X of 1865), applies, and in respect of which an order under section 332 of that Act is not for the time being in force, and all persons professing the Christian religion; and (b) in the Acceding States, such citizens of Pakistan who are members of a like race, sect or tribe or are professing the Christian religion.

Section 11(2) of this Act empowers the provincial government, by notification in the official gazette, to extend the operation of Chapter III of this Act to any other class of persons generally or in any local area.

Section 12 of this Act enables any Provincial Government to appoint, either by name or by virtue of their office, so many persons as it thinks necessary to be the Registrars of Births and Deaths, for such local areas within the territories under its administration as it may define, for any class of persons within any part of those territories. Section 13 of this Act gives the same powers to the Federal Government, by notification in the official Gazette, to appoint, either by name or by virtue of their office, so many persons as it thinks necessary to be Registrars of Births and Deaths, for such local areas within an Acceding State as it may define, for any class of persons within any part of those States.

Every Registrar of Births and Deaths shall be deemed to be a public servant within the meaning of Pakistan Penal Code (XLV of 1860) vide section 14 of this Act and shall have an office in the local areas, or within the part of the territories or dominions, for which he is appointed [section 16(1)]. Every Registrar of Births and Deaths, to whom the Provincial Government shall direct this sub-section to apply, attend his office for the purpose of registering births, deaths on such days and at such hours as the Registrar General of Births, Deaths and Marriages may direct, and shall cause to be placed at a conspicuous place the days and hours of his attendance [Section 16(2)].

Section 17(1) of this Act provides that when any Registrar of Births and Deaths, to whom the provincial Government may direct this section to apply, is absent, or when his office is temporarily vacant, any person appointed by the Registrar General of Births, Deaths and Marriages in this behalf, or, in default of such appointment, the judge of the District Court within the local limits of whose jurisdiction the Registrar's Office is situated, or such other officer as the Provincial Government appoints in this behalf, to be the Registrar of Births and Deaths during such absence or until the Provincial Government fills the vacancy. Section 17(3) provides that the Registrar General of Births, Deaths and Marriages shall report to the Provincial Government all appointments made by him under this section.

To facilitate the day-to-day working of every Registrar of Births and Deaths, the Provincial Government shall supply to him with sufficient number of register books of births and of register books of deaths, and shall make suitable provision for the preservation of the records connected with the registration of births and deaths.

3.3 The Parsi Marriage and Divorce Act, 1936

Another pre-independence legislation regarding CRVS was the Parsi Marriage and Divorce Act, 1936 (Act No. III of 1936), whereby the registrations of Parsi marriages (section 6) and Parsi divorces and annulment of marriages (section 7) were made mandatory by a Registrar to be appointed within the local limits of the original civil jurisdiction of a High Court, by the Chief Justice of that High Court, and without such limits, by the Provincial Government (section 7). The same section 7 empowers the Chief Justice, or the Provincial Government, to remove every Registrar so appointed by the respective such authority.



POST-INDEPENDENCE LAWS

4. Post-Independence Laws on CRVS

After the creation of Pakistan in 1947, the laws inherited from the British period about the registrations of births, deaths and marriages continued with the change that these laws previously extended to entire British India. However, the same were now amended and enforced for the areas comprising the newly created country of Pakistan. At the time of independence, Pakistan was being governed by the Government of India Act, 1935, until enforcement of the first constitution in 1956 which continued till 1958, followed by the constitution of 1962 till its abrogation in 1969, and finally, the present constitution that was passed and enforced in 1973. These inherited legislations continued with these constitutions, and most of them are applicable even today despite the fact that new improved laws have been enacted besides continuing with the pre-partition laws.

4.1 Federal Post-Independence Laws on CRVS

The major laws that were enacted after the founding of the country related to the creation of local bodies; whereby the registration of births, deaths, marriages, and divorces were entrusted to these institutions at the lowest tier of the government, functioning in their local areas in the provinces.

Besides these local bodies' laws, the citizenship laws, the marriage laws and the family laws mainly consisting of the Muslim Family Laws Ordinance, 1961, that introduced some changes in the law of inheritance, which was previously based entirely on the edicts of the Islamic fiqh, and to the Muslim marriages and their registrations, are among the important post-independence civil registration laws currently enforced in the country: while the General Statistics Reorganization Act, 2011 is an important prevailing law for generation of vital statistics.

4.2 The Citizenship Act, 1951

The foremost law amongst them was the Citizenship Act of 1951 (Act No. II of 1951). The enactment of this Act defined various categories of Pakistan's citizenship and the requirement of their registrations with the relevant offices. In this manner, this law can very conveniently be termed as the first post-independence law directly relating to some aspects of the civil registrations.

4.2.1 The National Database and Registration Authority Ordinance, 2000

The National Database and Registration Authority Ordinance, 2000 (Ordinance No. VIII of 2000) is the most important prevailing federal law on civil registrations and vital statistics of Pakistan's population. This law has created an autonomous organisation, namely the National Database and Registration Authority. It requires registration of all citizens of, all emigrants from, and all foreigners living in Pakistan within one month of their births with this authority and issuance of national identity cards by it to all citizens who have attained the age of 18 years. It also provides for certain registrations by this authority of some other classes of citizens and non-citizens having an origin in Pakistan but currently living out of the country, and of the foreigners currently residing in Pakistan, both legally and illegally. This law has created a vast citizens' database with the authority that is the most essential source of vital statistics about the country's population.

4.2.2 The Cantonments Ordinance, 2002

The Cantonments Ordinance, 2002 (Ordinance No. CXXXVII of 2002) is a federal law providing local bodies' functions in all cantonments of the country, including civil registration functions about the recording of births, deaths, marriages, and divorces occurring in the respective cantonment areas.

4.2.3 The Islamabad Capital Territory Local Government Act, 2015

The Islamabad Capital Territory Local Government Act, 2015 is a federal law providing local bodies' functions in the capital territory of the country, including civil registration functions about the recording of births, deaths, marriages, and divorces occurring in the

respective union councils.

4.2.4 The Local Bodies Acts of the Provinces and Special Areas

The Local Bodies Acts of the four provinces and two special areas of Azad Jammu and Kashmir and Gilgit-Baltistan are the major laws in the provinces relating to the civil registrations. These laws are listed below:

- i. The Punjab Local Government Act, 2013
- ii. The Sindh Local Government Act, 2013
- iii. The Khyber Pakhtunkhwa Local Government Act, 2013
- iv. The Balochistan Local Government Act, 2010
- v. The Azad Jammu and Kashmir Local Government Act, 1990
- vi. The Gilgit Baltistan Local Government Act, 2014



LAWS FOR REGISTRATION OF BIRTHS

5. Laws for Registration of Births

5.1 Federal Laws on Registrations of Births

5.1.1 A Comprehensive Pre-Independence Law for Registration of Births, Deaths and Marriages

As stated earlier in this report, an all-pervasive comprehensive law in CRVS was enacted in 1886 in the form of the Births, Deaths and Marriages Registration Act, 1886 (Act No. VI of 1886). After the enactment of this law, a general registry office was established by each provincial government [under Section 6(1) (a)] for keeping certified copies of registers of births and deaths registered under this Act.

This legislation also enabled each Provincial Government to appoint a Registrar of Births, Deaths and Marriages [Section 6(1) (b)]. This law provides, under section 7, for the maintenance in the prescribed form, by the Registrar General of Births, Deaths and Marriages indices of all the certified copies of registers sent to his office under this Act. These indices are open to inspection (vide Section 8) to any person applying to inspect them, and it is provided that, upon payment, copies of the entries in the certified copies of the registers to which the indices relate shall be given to such persons applying for them.

An important provision (section 9) makes any entry given under section 8 to be certified by the Registrar General of Births, Deaths and Marriages, or by any officer authorised in this behalf by the Provincial Government, admissible in evidence to prove the birth, death or marriage to which the entry relates.

Section 11 of this Act provides that the persons whose births and deaths, in the first instance, shall be registerable under Chapter III of this Act, are: in the Provinces, the members of every race, sect or tribe to which the Indian Succession Act, 1865 (X of 1865) applies, and in respect of which an order under section 332 of that Act is not for the time being in force, and all persons professing the Christian religion; and in the Acceding States, citizens of Pakistan being members of a like race, sect or tribe or professing the Christian religion.

Section 11(2) of this Act empowers the provincial government, by notification in the official gazette, to extend the operation of Chapter III of this Act to any other class of persons generally or in any local area.

Section 12 of this Act enables any Provincial Government to appoint, either by name or by virtue of their office, so many persons as it thinks necessary to be Registrars of Births and Deaths, for such local areas within the territories under its administration as it may define, for any class of persons within any part of those territories. Section 13 of this Act gives the same powers to the Federal Government, by notification in the official Gazette, to appoint, either by name or by virtue of their office, so many persons as it thinks necessary to be Registrars of Births and Deaths for such local areas within an Acceding State as it may define, for any class of persons within any part of those States.

Every Registrar of Births and Deaths shall be deemed to be a public servant within the meaning of Pakistan Penal Code (XLV of 1860) vide Section 14 of this Act and shall have an office in the local areas, or within the part of the territories or dominions, for which he is appointed [Section 16(1)]. Every Registrar of Births and Deaths, to whom the Provincial Government shall direct this sub-section to apply, attend his office for the purpose of registering births and deaths on such days and at such hours as the Registrar General of Births, Deaths and Marriages may direct, and shall cause to be placed at a conspicuous place the days and hours of his attendance [Section 16(2)].

Section 17(1) of this Act provides for that when any Registrar of Births and Deaths to whom the Provincial Government may direct this section to apply, is absent, or when his office is temporarily vacant, any person to whom the Registrar General of Births, Deaths and Marriages appoints in this behalf, or, in default of such appointment, the judge of the District Court within the local limits of whose jurisdiction the Registrar's Office is situated, or such other officer as the Provincial Government appoints in this behalf, to be the Registrar of Births and Deaths during such absence or until the Provincial Government fills the vacancy. Section 17(3) provides that the Registrar General of Births, Deaths and Marriages shall report to the Provincial Government all appointments made by him under this section.

To facilitate the day-to-day working of every Registrar of Births and Deaths, the Provincial Government shall supply to him with sufficient number of register books of births, and shall make suitable provision for the preservation of the records connected with the registration of births (section 18). It is the duty of a Registrar of Births and Deaths to register a birth in the local area for which he has been appointed in the prescribed time and mode, on a notice given by a person authorised by this Act to give such notice (section 19). A provision to this section provides that if such Registrar of Births and Deaths has reason to believe that notice to be false in any respect, he may refuse to register the birth until he receives an order from the Judge of the District Court to register that birth in the manner as prescribed in that order. This Act is still operative and is available on the statute books regarding registration of births, but is mainly applicable to the Christians, Parsis and Scheduled Castes.

5.1.2 Pakistan's Citizenship Laws

As per sub-section (1) of section 21 of Chapter VII titled "INFORMATION TO THE AUTHORITY" of the National Database and Registration Authority Ordinance, 2000, the birth of a newly born Pakistani citizen, or any other prescribed persons or class thereof, shall be reported to the District Registrar by such Authority or officer in such manner as the Authority may, by regulations, prescribe.

This provision of the Ordinance provides the legal basis whereby all authorities in Pakistan may be made bound, through the issuance of regulations by the National Database and Registration Authority (NADRA), to provide information about the birth of a citizen in such manner as those regulations prescribe. Furthermore, as per sub-section (1) of Section 9 of this Ordinance, a parent or guardian of every citizen, in or out of Pakistan, who has not attained the age of eighteen years, shall, not later than one month after the birth of such citizen, get such citizen registered in accordance with the provisions of this Ordinance; provided that the Authority may, on case-to-case basis, extend the period for registration of a citizen who has not attained the age of eighteen years.

In this manner, this Ordinance provides an alternate method, besides registrations of all births of citizens and non-citizens being done by the local bodies in their local areas, for registration of all births of Pakistan's citizens, whether in or out of Pakistan within one month of such births. As per sub-section (5) of section 9 of this Ordinance, the Authority may issue to a citizen who has not attained the age of eighteen years but is registered under sub-section (1), such certificate of registration in such form and manner and containing such information relating to such registered citizen as may be prescribed. Sub-section (6) provides that a certificate issued under sub-section (5) shall be admissible in evidence for proving the identity of, and other information or particulars contained in such certificate, relating to a citizen to whom such certificate refers.

As far as the federal laws are concerned, the National Database and Registration Authority Ordinance provides a comprehensive legal requirement for registration of all births of Pakistan's citizens within one month of their birth. As far as the registrations of births among foreigners and aliens living or temporarily residing in Pakistan are concerned, such legal cover is not that pronounced. Such registrations, per se, have to be made with the relevant local body in whose local area such births take place as per the concerned

law of that local body.

5.1.3 Registration of Births in Cantonment Areas

As far as the provisions of the Cantonments Ordinance, 2002, currently in vogue in all the military cantonments of the country, are concerned, its section 32 provides the functions of the Union Administration and its clause (c) provides that these functions shall include registration of births, deaths and marriages and issuance of certificates thereof. Serial No. 77 of the Third Schedule of this Ordinance provides that the failure of the head of the family to report a birth to a local government, or a person appointed in this behalf, within a reasonable time, would be included in the list of offences under this Ordinance, commitment of which may entail penalties and initiation of legal proceedings as given in the same legislation. Sub-section (1) of section 28 of this Ordinance defines powers of Union Councils in the Cantonment Areas to make bye-laws to carry out the purposes of this Ordinance. This authority to make bye-laws specifically includes all the matters included in the Fifth Schedule of this Ordinance, which, vide the entry at serial No. 50, includes registration of births.

5.1.4 Actual registration of births and issuance of birth certificates

To ascertain the actual implementation of these provisions of the Cantonments Ordinance, 2002, for registration of births, the Clifton Cantonment in Karachi was visited to find out the requirements for registration of a birth and issuance of a certificate thereof. It was found that the following documents/information are required for issuance of a birth certificate by the relevant union administration:-

- vii. Application form duly completed and signed (obtainable on payment of Rs25).
- viii. Birth report from the hospital (if situated within the limits of Clifton Cantonment).
- ix. Affidavit on non-judicial stamped paper of Rs20 duly attested by oath commissioner/ first class magistrate, if the case is late by more than one month.
- x. If the birth takes place at home (only situated within the limits of Clifton Cantonment) verification from the area councillor. Affidavit on non-judicial stamped paper of Rs20 to the effect, duly attested by an oath commissioner/first class magistrate, L.H.V./ doctor's report.



- xi. Copies of the national identity card of the child's father and mother, and the person making the report.
- xii. In case of birth of foreigners, photocopies of passports of the parents of the child are required to be attached.
- xiii. Copy of NIC of the grandfather father (if alive).

- xiv. In case of late information by more than 30 days, Rs200 per annum is being charged as fine along with certificate fee of Rs100.

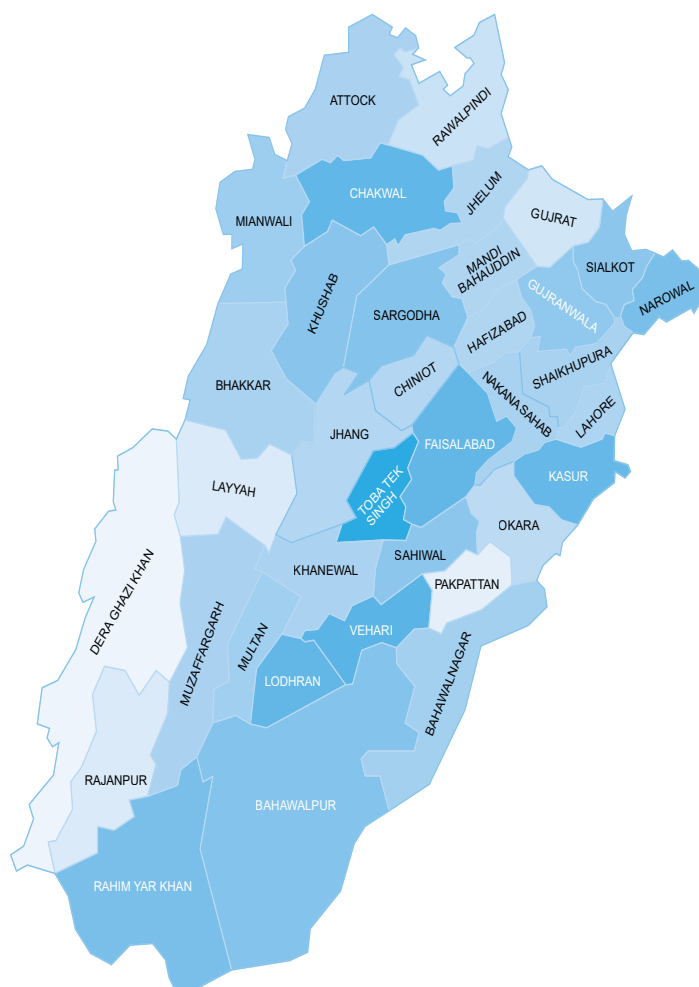
5.1.5 Birth Registrations in Islamabad Capital Territory

As per section 71(1) of the Islamabad Capital Territory Local Government Act, 2015, a Union Council shall, subject to the provisions of the Capital Development Authority Ordinance, 1960, perform functions specified in the Second Schedule. As per serial (j), detailing the functions of a Union Council in Islamabad Capital Territory, it is provided that such a Council shall arrange for registration of births and pass on such information about births in the Union Council to such persons and institutions as may be prescribed. As per section 88(1) of this Act, a Union Council in Islamabad Capital Territory may, by notification in the official Gazette, levy any tax, fee, rate, rent, toll, charge or surcharge specified in the Fourth Schedule. Entry (2) of Part-I of Fourth Schedule of this Act, detailing the taxes and other levies chargeable by the Union Councils, includes fees for registration and certification of births.

5.2 Provincial Laws on Registrations of Births

5.2.1 Punjab

As per section 72 (1)(m) of the Punjab Local Government Act, 2013, Union Councils shall arrange for registration of births, deaths, marriages and divorces and pass on such



information about births, deaths, marriages and divorces and pass on such information about births, deaths, marriages and divorces in the Union Council to such persons and

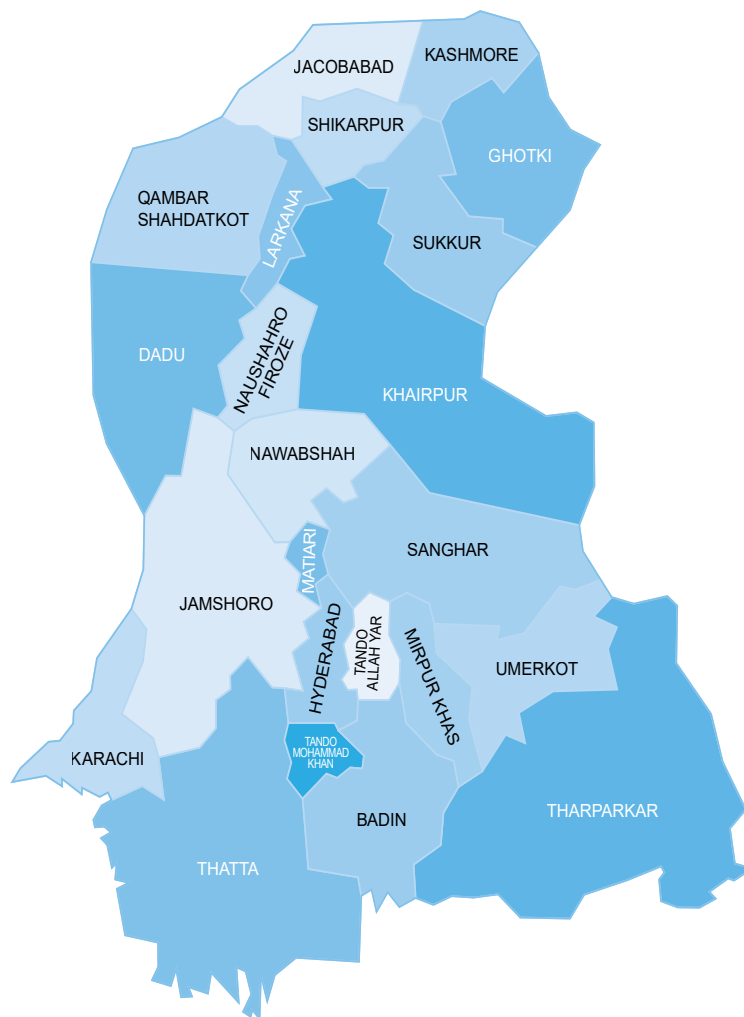
institutions as may be prescribed. Similarly, vide section 81(2)(x), a Municipal Committee shall arrange registration of births, deaths, marriages and divorces and pass on such information about births, deaths, marriages and divorces in its territorial jurisdiction to such persons and institutions as may be prescribed.

As per section 144(1), the Government may, subject to previous publication and by notification in the official Gazette, make rules for carrying out the purposes of this Act. As per section 144(2) of this Act, in particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the matters specified in Part-I of Seventh Schedule.

As per section 145(3) of this Act, a local government may, and if required by the Government, shall make bye-laws not inconsistent with this Act, and in particular and without prejudice to the generality of the foregoing power, the bye-laws may provide for all or any of the matters specified in Part-II of Seventh Schedule. As per serial No. 16 of Part-I of the Seventh Schedule, the rules may be made for registration of births, deaths, marriages and divorces. All union councils of Punjab have adopted the model bye-laws prepared by the government for registration of births, deaths, marriages, and divorces.

5.2.2 Sindh

As per section 72 of the Sindh Local Government Act, 2013; a Council, subject to rules and directions given by the Government and within the limits of the funds at its disposal, undertake all or any of the functions, given in Schedule II in the case of a Corporation, a



District Municipal Corporation, Municipal Committee and a Town Committee, and given

in Schedule IV in the case of a Union Council, and such other functions as are entrusted to these local bodies by the Government. According to sub-section (1) of Section 14 of this Act, rules and bye-laws made under this Act shall deem to be part of this Act. According to section 150 of the same Act, records prepared or registers maintained under this Act shall be deemed to be public documents within the meaning of the Qanoon-e-Shahadat Order, 1984 and shall be presumed to be genuine until the contrary is proved.

As per Part 1-A of Schedule II of the Sindh Local Government Act, 2013, the District Municipal Corporations of Karachi shall perform all the functions of the Municipal Committees established in other areas of Sindh except those being performed by the Karachi Metropolitan Corporation.

As per serial No.4 of Part II of the same Act giving compulsory functions of the District Municipal Corporations of Karachi; Municipal Corporations of Hyderabad, Sukkur and Larkana; Municipal Committees and Town Committees; such local bodies shall, subject to any other law for the time being in force, register births, deaths and marriages within a Local Area and information of such births, deaths and marriages shall be given by such persons or authorities and shall be registered in such manner as the bye-laws may provide. Serial No. (34) of Schedule IV of the same Act details the functions of union councils and union committees whereby registration and computerisation of data regarding births and deaths, marriages and divorces, and the maintenance of such vital statistics as may be prescribed, is a function of the union councils which are working in the rural areas of Sindh, and of union committees working in urban areas of municipal corporations. Serial No. 1 of Schedule VIII of this Act authorises the concerned local councils to approve bye-laws for registration of births, deaths, and marriages.

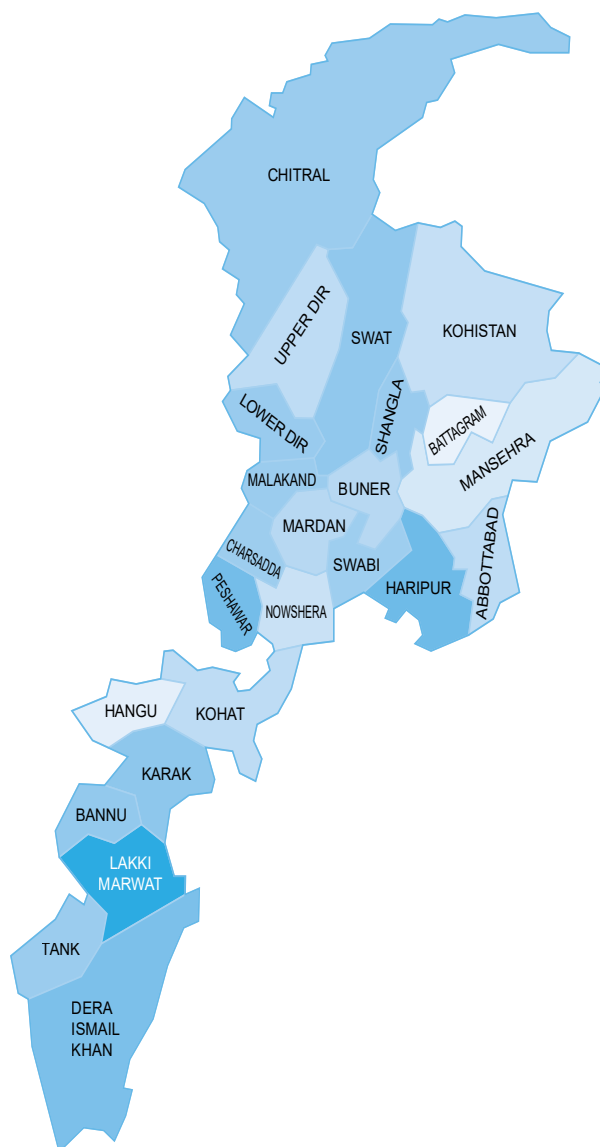
As per an amendment made in 2013 to the Sindh Local Government Act, 2013, the lowest tier of the local bodies, i.e. union committees, have been created in the local areas comprising the urban district municipal corporations of Karachi and in municipal corporations of Hyderabad, Sukkur and Larkana and all functions of the union councils working in the rural areas of Sindh have been entrusted to these union committees.

As a consequence of this amendment and creation of the municipal committees, the registration of births, deaths, and marriages is now performed by the union committees in all districts of Karachi Division; and areas of Municipal Corporations of Hyderabad, Sukkur and Larkana; and by the municipal committees and town committees in other urban areas of Sindh; and by the union councils in all rural areas of Sindh.

Making these registrations a function of the District Municipal Corporations of Karachi and Municipal Corporations of Hyderabad, Sukkur, and Larkana is still part of the Sindh Local Government Act, 2013. However, practically these corporations are not performing these functions, and this provision of this legislation needs to be amended by the provincial legislature to remove this contradiction in law and duality of functions in the same municipal areas of Karachi Division, and Hyderabad, Sukkur, and Larkana Municipal Corporations.

5.2.3 Khyber Pakhtunkhwa

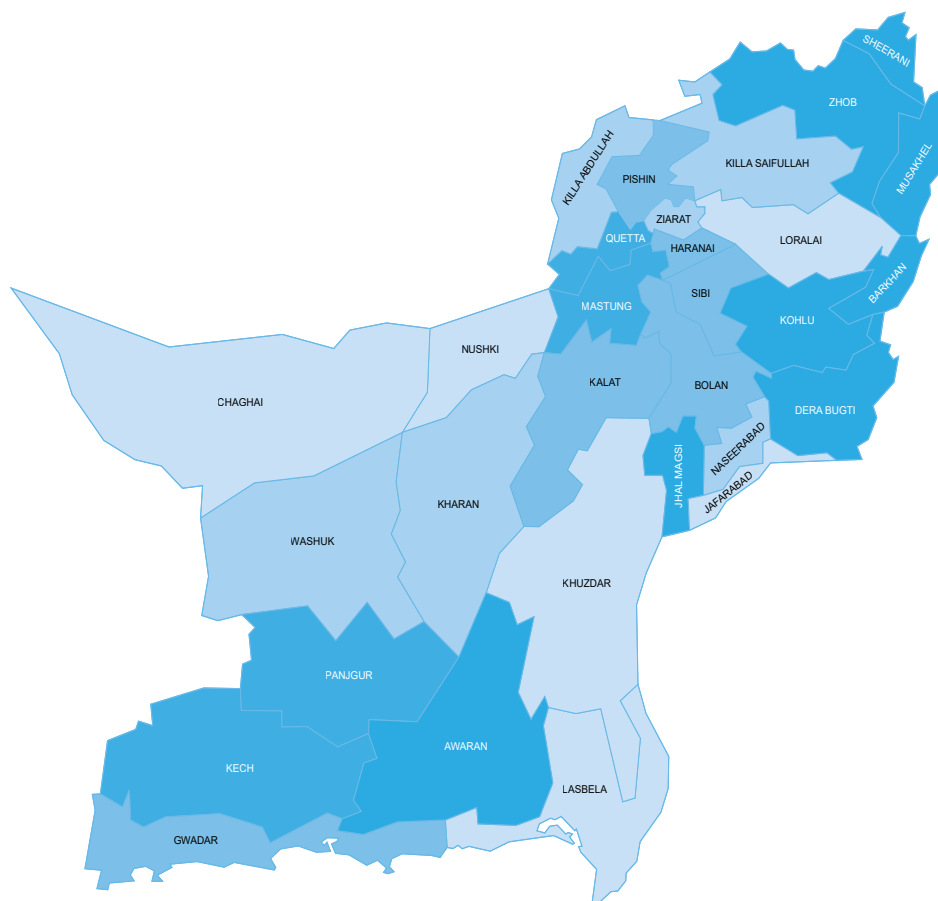
As per Sections 26 and 27 of the Khyber Pakhtunkhwa Local Government Act, 2013, village councils in the rural areas and neighbourhood councils in the urban areas have been established. Section 29 describes the functions of the village councils and neighbourhood councils and clause (c) of its sub-section (1) provides that these Councils shall perform registration of births, deaths and marriages. As per serial No. 2 of Part-V



of Third Schedule of this Act, the village and neighbourhood councils are authorised to charge prescribed fees for registration and certification of births, deaths, and marriages. As per Section 112(1), rules may be made by the Government by notification in the official Gazette, and as per serial No. 17 of Part-I of Seventh Schedule, rules for registration of births, deaths, and marriages may be made. Similarly, as per section 113(1), a Village Council or a Neighbourhood Council may make bye-laws, in its ambit of responsibilities, to carry out the purposes of this Act; provided that the Government may make model bye-laws on any, some, or all of the relevant subjects for the sake of uniformity.

5.2.4 Balochistan

As per section 78(1) of the Balochistan Local Government Act, 2010, a Local Council shall undertake the functions provided in this Act: and as per sub-section 3 of the same section, may, subject to rules, regulations and through its bye-laws, and if the Government so directs shall, subject to allocation of funds, undertake all or any of the functions enumerated in the Fifth Schedule. As per serial No. 5 of the Fifth Schedule of this Act, an



Urban Council (Quetta Metropolitan Corporation, Municipal and Town Committees) may, and if the Government so directs, shall undertake registration of births and deaths in its local area. Similarly, as per serial No. (14) of the Fifth Schedule of this Act, a Union Council may, and if the District Council or the Government so directs, shall perform registration of births, deaths and marriages and a District Council through bye-laws may regulate registration of births, deaths and marriages in its local area.

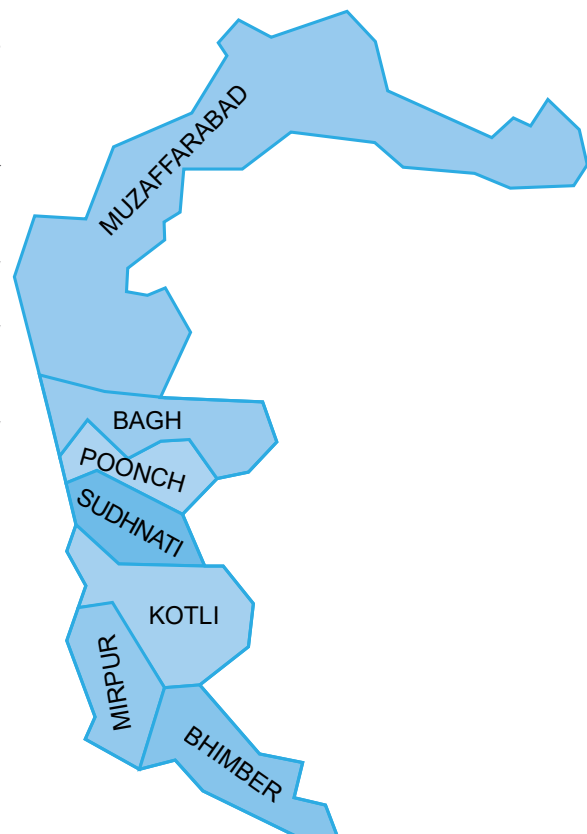
As per sub-section (1) of Section 78 of this Act, a Local Council shall undertake the functions provided in this Act. Sub-section (2) of Section 78 provides that a Local Council may, and if the Government so directs, shall declare any of its functions as essential services, and impose such restrictions on its officers or servants as it deems appropriate for the efficient delivery of such services. As per sub-section (3) of Section 78 of this Act, a Local Council may, subject to rules, regulations and through its bye-laws, and if the Government so directs, shall, subject to allocation of funds, undertake all or any of the functions enumerated in the Fifth Schedule.

As per Part II-A of the Fifth Schedule detailing the functions of union councils, a Union Council may, and if the District Council or the Government so directs, shall perform all or any of the functions enumerated in the Fifth Schedule showing functions of the District Council.

As per serial No. (14) of Part III of the Fifth Schedule of this Act, an Urban or a Rural Council may, through approval of its bye-laws, may regulate its procedure for registration of births, deaths and marriages. In consequence of Section 133 of this Act, and serial No. 37 of Part-II of the Third Schedule of this Act, failure of the head of the family to report the birth or death to a Local Council, or a person appointed in this behalf within a reasonable time, may entail a punishment with fine which may extend to five thousand rupees and if the offence is a continuing one, with further fine which may extend to two hundred rupees for every day after the date of the first commission during which period the offender has persisted in the offence.

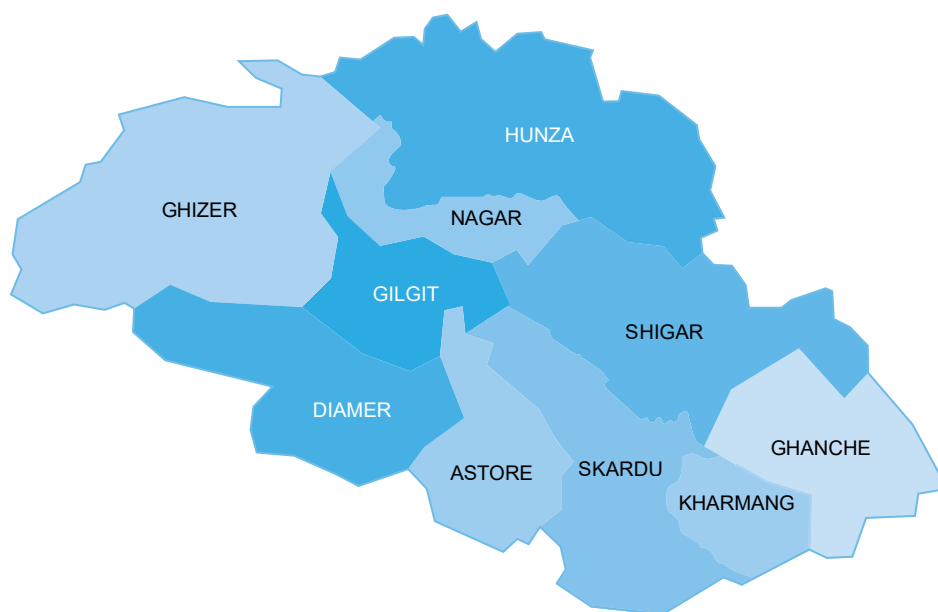
5.2.5 Azad Jammu and Kashmir

In the Azad Jammu and Kashmir, registration of births and deaths in the rural areas is done by the union councils vide entry at serial No. 11 of Part II of Third Schedule of the Azad Jammu and Kashmir Local Government Act, 1990. In contrast, the same function in the urban areas is performed by the municipal committees and the town committees vide entry at serial No. 5 of Fifth Schedule of the same Act where it has been described as a compulsory function of these committees. According to the same part of the law, such persons or authorities shall give information of such births, and such births shall be registered in such manner as the bye-laws may provide. The Eighth Schedule of the same enactment details matters to be explained by the bye-laws and regulations. Serial No. 1 of its Part I describes the registration of births and deaths to be made as per the bye-laws.



5.2.6 Gilgit-Baltistan

Section 73 of the Gilgit-Baltistan Local Government Act, 2014, giving responsibilities and functions of the union councils, provides in its sub-section (1)(p) that a Union Council shall arrange for registration of births, deaths, marriages and divorces and pass on such information about births, deaths, marriages and divorces in the Union Council to such persons and institutions as may be prescribed: and further provides, through its clause (t), that the Union Council shall maintain such statistics and socio-economic baseline data as may be prescribed, and disseminate information on matters of public interest.



The same Act in its Section 84(1)(v) states that a City Metropolitan Corporation, Municipal Corporation, Municipal Committee and Town Committee shall undertake the registration of births, deaths, marriages and divorces and pass on such information about births, deaths, marriages and divorces in its territorial jurisdiction to such persons and institutions as may be prescribed.

Section 103(1) provides that a city metropolitan corporation, municipal corporation, municipal committee, town committee and a union council, may, by notification in the official Gazette, levy any tax, fee, charge or surcharge specified in the Third Schedule. Serial No. (2) of Part-I of the Third Schedule detailing taxes of Union Councils and serial No. (18) of Part-III of the Third Schedule describing taxes of a City Metropolitan Corporation, Municipal Corporation, Municipal Committee and Town Committee lists fees for registration and certification of births and marriages.



LAWS FOR
REGISTRATION OF
DEATHS

6. Laws for Registration of Deaths

6.1 Federal Laws on Registrations of Deaths

6.1.1 A Comprehensive Pre-Independence Law for Registration of Deaths

The first comprehensive law for the registration of deaths was enacted in the pre-partition India in 1886 in the form of the Births, Deaths and Marriages Registration Act, 1886 (Act No. VI of 1886). After the enactment of this law, a general registry office was to be established by each provincial government [under Section 6(1) (a)] for keeping such certified copies of registers of deaths that are registered under this Act. This Act also enabled each provincial government to appoint a Registrar of Births, Deaths and Marriages [Section 6(1) (b)]. This law provides, under Section 7, for the maintenance in the prescribed form, by the Registrar General of Births, Deaths and Marriages indices of all the certified copies of registers sent to his office under this Act. These indices are open to inspection (vide Section 8) to any person applying to inspect them, and it is provided that, upon payment, copies of the entries in the certified copies of the registers to which the indices relate shall be given to such persons applying for them. An important provision (Section 9) made any entry given under Section 8 to be certified by the Registrar General of Births, Deaths and Marriages, or by any officer authorised on this behalf by the Provincial Government, admissible in evidence for the purpose of proving the death to which the entry relates.

Section 11 of this Act provides that the persons whose deaths, in the first instance, shall be registerable under Chapter III of this Act, are: in the Provinces, the members of every race, sect or tribe to which the Indian Succession Act, 1865 (X of 1865), applies, and in respect of which an order under section 332 of that Act is not for the time being in force, and all persons professing the Christian religion and in the Acceding States, citizens of Pakistan being members of a like race, sect or tribe or professing the Christian religion.

Section 11(2) of this Act empowers the provincial government, by notification in the official Gazette, to extend the operation of Chapter III of this Act to any other class of persons generally or in any local area.

Section 12 of this Act enables any Provincial Government to appoint, either by name or by virtue of their office, so many persons as it thinks necessary to be Registrars of Births and Deaths for such local areas within the territories under its administration as it may define for any class of persons within any part of those territories. Section 13 of this Act gives the same powers to the federal government, by notification in the official Gazette, to appoint, either by name or by virtue of their office, so many persons as it thinks necessary to be Registrars of Births and Deaths for such local areas within an Acceding State as it may define for any class of persons within any part of those States.

Every Registrar of Births and Deaths shall be deemed to be a public servant within the meaning of Pakistan Penal Code (XLV of 1860) vide Section 14 of this Act and shall have an office in the local areas, or within the part of the territories or dominions, for which he is appointed [Section 16(1)]. Every Registrar of Births and Deaths, to whom the Provincial Government shall direct this sub-section to apply, attend his office for the purpose of registering births and deaths on such days and at such hours as the Registrar General of Births, Deaths and Marriages may direct, and shall cause to be placed at a conspicuous place the days and hours of his attendance [Section 16(2)].

Section 17(1) of this Act provides that when any Registrar of Births and Deaths to whom the provincial Government may direct this section to apply, is absent, or when his office is temporarily vacant, any person to whom the Registrar General of Births, Deaths and Marriages appoints in this behalf, or, in default of such appointment, the judge of the District Court within the local limits of whose jurisdiction the Registrar's Office is situated, or such other officer as the Provincial Government appoints in this behalf, to be the

Registrar of Births and Deaths during such absence or until the Provincial Government fills the vacancy. Section 17(3) provides that the Registrar General of Births, Deaths and Marriages shall report to the Provincial Government all appointments made by him under this section.

To facilitate the day-to-day working of every Registrar of Births and Deaths, the Provincial Government shall supply to him with sufficient number of register books of deaths, and shall make suitable provision for the preservation of the records connected with the registration of deaths (section 18). It is the duty of a Registrar of Births and Deaths to register a death in the local area for which he has been appointed in the prescribed time and mode, on a notice given by a person authorised by this Act to give such notice (Section 19). A proviso to this section provides that if such Registrar of Births and Deaths has reason to believe that notice to be false in any respect, he may refuse to register the death until he receives an order from the Judge of the District Court to register that death in the manner as prescribed in that order. This Act, is still operative and is available on the statute books regarding registrations, among other things, of deaths, but is mainly applicable to the Christians, Parsis and Scheduled Castes.

6.1.2 Pakistan's Citizenship Laws

As per sub-section (1) of Section 21 of Chapter VII titled "INFORMATION TO THE AUTHORITY" of the National Database and Registration Authority Ordinance, 2000, the death of a Pakistani citizen, or any other prescribed persons or class thereof, shall be reported to the District Registrar by such authority or officer in such manner as the Authority may, by regulations, prescribe. This provision of the Ordinance provides the legal basis whereby all authorities in Pakistan may be made bound, through the issuance of regulations by NADRA, to provide information about the death of a citizen in such manner as those regulations prescribe.

As far as the federal laws are concerned, the National Database and Registration Authority Ordinance provides a comprehensive legal requirement for registration of all deaths of Pakistan's citizens within one month of their death. As far as the registration of deaths among foreigners and aliens, living or temporarily residing in Pakistan is concerned, such legal cover is not that pronounced. Such registrations, per se, have to be made with the relevant local body in whose local area such death takes places as per the law of that local body.

6.1.3 Death Registrations in the Cantonment Areas

The Cantonments Ordinance, 2002 currently in vogue in all the military cantonments of the country, in its Section 32, provides the functions of the union administration and its clause (c) provides that these functions shall include registration of deaths and issuance of certificates thereof. Serial No. 77 of the Third Schedule of this Ordinance provides that the failure of the head of the family to report the death to a local government, or a person appointed in this behalf, within a reasonable time, would be included in the list of offences under this Ordinance, commitment of which may entail penalties and initiation of legal proceedings as given in the same legislation. Sub-section (1) of Section 28 of this Ordinance defines powers of union councils in the cantonment areas to make bye-laws to carry out the purposes of this Ordinance. This authority to make bye-laws specifically includes all the matters included in the Fifth Schedule of this Ordinance, which, vide the entry at serial No. 50, includes registration of deaths.

6.1.3.1 Actual registration of deaths and issuance of death certificates

To ascertain the actual implementation of these provisions of the Cantonments Ordinance, 2002, for registration of deaths, the Clifton Cantonment in Karachi was visited to find out the requirements for registration of a death by the union administration and issuance of a certificate thereof. The following documents/information are required for issuance of a death certificate:

- xv. Application form duly completed and signed (obtainable from the office on payment of Rs25).
- xvi. Death report from the hospital (if situated within the limits of Clifton Cantonment).
- xvii. Affidavit on non-judicial stamped paper of Rs20 duly attested by an oath commissioner/first class magistrate, if the case is late by more than one month.
- xviii. If the death takes place at home (only situated within the limits of Clifton Cantonment) verification from the area councilor. Affidavit on non-judicial stamped paper of Rs20 to the effect, duly attested by an oath commissioner/first class magistrate, doctor's report and graveyard report.
- xix. Photocopies of NIC of the deceased and the person making the report.
- xx. In case of death of foreigners, a photocopy of the passport of the deceased is required to be attached.
- xxi. In case of late information by more than 30 days, Rs200 per annum is charged as fine.

6.1.4 Death Registrations in Islamabad Capital Territory

As per section 71(1) of the Islamabad Capital Territory Local Government Act, 2015, a Union Council shall, subject to the provisions of the Capital Development Authority Ordinance, 1960, perform functions specified in the Second Schedule. As per serial (j), detailing the functions of a Union Council in Islamabad Capital Territory, it is provided that such a Council shall arrange for registration of deaths and pass on such information about deaths in the Union Council to such persons and institutions as may be prescribed. As per section 88(1) of this Act, a Union Council in Islamabad Capital Territory may, by notification in the official gazette, levy any fee, charge or surcharge specified in the Fourth Schedule.

Entry (2) of Part-I of Fourth Schedule of this Act, detailing the taxes and other levies chargeable by the Union Councils, includes fees for registration and certification of births and marriages, but does not include any fees for registration of deaths.

6.1.5 Provincial Laws on Registrations of Deaths

6.1.6 Punjab

As per Section 72 (1)(m) of the Punjab Local Government Act, 2013, Union Councils shall arrange for registration of deaths and pass on such information about deaths in the Union Council to such persons and institutions as may be prescribed. Similarly,

vide section 81(2) (x), a Municipal Committee shall arrange registration of deaths and pass on such information about deaths in its territorial jurisdiction to such persons and institutions as may be prescribed. As per section 144(1), the Government may, subject to previous publication and by notification in the official Gazette, make rules for carrying out the purposes of this Act. As per section 144(2) of this Act, in particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the matters specified in Part-I of Seventh Schedule. As per section 145(3) of this Act, a local government may, and if required by the Government, shall, make bye-laws not in consistent with this Act and in particular and without prejudice to the generality of the foregoing power, the bye-laws may provide for all or any of the matters specified in Part-II of the Seventh Schedule. As per serial No. 16 of Part-I of the Seventh Schedule, the rules may be made for registration of deaths.

All union councils of the Punjab have adopted the model bye-laws prepared by the government for registration of deaths.

6.1.7 Sindh

As per Section 72 of the Sindh Local Government Act, 2013, a Council, subject to rules and directions given by the Government and within the limits of the funds at its disposal, undertake all or any of the functions, given in Schedule II in the case of a Corporation, a District Municipal Corporation, Municipal Committee and a Town Committee; and as given in Schedule IV in the case of a Union Council; and such other functions as are entrusted to these local bodies by the Government. According to sub-section (1) of Section 14 of this Act, rules and bye-laws made under this Act shall deem to be part of this Act. According to Section 150 of the same Act, records prepared or registers maintained under this Act shall be deemed to be public documents within the meaning of the Qanoon-e-Shahadat Order, 1984 and shall be presumed to be genuine until the contrary is proved.

As per Part 1-A of Schedule II of the Sindh Local Government Act, 2013, the District Municipal Corporations of Karachi shall perform all the functions of the Municipal Committees established in other areas of Sindh except those being performed by the Karachi Metropolitan Corporation. As per serial No. 4 of Part-II of the same Act giving compulsory functions of the District Municipal Corporations of Karachi; Municipal Corporations of Hyderabad, Sukkur and Larkana; Municipal Committees and Town Committees; such local bodies shall, subject to any other law for the time being in force, register deaths within a Local Area and information of such deaths shall be given by such persons or authorities and shall be registered in such manner as the bye-laws may provide. Serial No. (34) of Schedule IV of the same Act details the functions of union councils and union committees whereby registration and computerisation of data, regarding deaths and the maintenance of such vital statistics as may be prescribed, is a function of the Union Councils which are working in the rural areas of Sindh, and of Union Committees working in urban areas of Municipal Corporations. Serial No. 1 of Schedule VIII of this Act authorises the concerned Local Councils to approve bye-laws for registration of deaths.

As per an amendment made in 2013 in the Sindh Local Government Act, 2013, the lowest tier of the local bodies, i.e. union committees, have been created in the local areas comprising the urban district municipal corporations of Karachi; and in Municipal Corporations of Hyderabad, Sukkur, and Larkana, and all functions of the union councils working in the rural areas of Sindh have been entrusted to these union committees. As a consequence of this amendment, the registration of deaths is now being performed by the union committees in all the districts of Karachi Division, and areas of Municipal Corporations of Hyderabad, Sukkur and Larkana, and by the municipal committees and town committees in the other urban areas of Sindh; and by the union councils in all rural areas of Sindh. Making these registrations a function of the District Municipal Corporations of Karachi and Municipal Corporations of Hyderabad, Sukkur, and Larkana is still part of the Sindh Local Government Act, 2013, but practically these corporations

are not performing these functions, and this provision of the legislation needs to be amended by the provincial legislature to remove this contradiction in law; and duality of functions in the same municipal areas of Karachi Division, and Hyderabad, Sukkur, and Larkana Municipal Corporations.

6.1.8 Khyber Pakhtunkhwa

As per Sections 26 and 27 of the Khyber Pakhtunkhwa Local Government Act, 2013, village councils in the rural areas and neighbourhood councils in the urban areas have been established. Section 29 describes their functions and clause (c) of its sub-section (1) provides that these councils shall perform registration of deaths. As per serial No. 2 of Part-V of Third Schedule of this Act, the village and neighbourhood councils are authorised to charge prescribed fees for registration and certification of deaths.

As per section 112(1), rules may be made by the Government by notification in the official Gazette, and as per serial No. 17 of Part-I of Seventh Schedule, rules for registration of deaths may be made. Similarly, as per section 113(1), a Village Council or a Neighbourhood Council may, in their ambit of responsibilities, make bye-laws to carry out the purposes of this Act; provided that the Government may make model bye-laws on any, some, or all of the relevant subjects for the sake of uniformity.

6.1.9 Balochistan

As per section 78(1) of the Balochistan Local Government Act, 2010, a Local Council shall undertake the functions provided in this Act; and as per sub-section 3 of this section may, subject to rules, regulations and through its bye-laws, and if the Government so directs shall, subject to allocation of funds, undertake all or any of the functions enumerated in the Fifth Schedule. As per serial No. 5 of the Fifth Schedule of this Act, an Urban Council (Quetta Metropolitan Corporation, Municipal and Town Committees) may, and if the Government so directs, shall undertake registration of deaths in its local area. Similarly, as per serial No. (14) of the Fifth Schedule of this Act, the Union Council may, and if the District Council or the Government so directs, shall perform registration of deaths and a District Council through bye-laws may regulate registration of deaths in its local area. As per sub-section (1) of Section 78 of this Act, a Local Council shall undertake the functions provided in this Act. Sub-section(2) of section 78 provides that a Local Council may, and if the Government so directs, shall declare any of its functions as essential services, and impose such restrictions on its officers or servants as it deems appropriate for the efficient delivery of such services. As per sub-section(3) of section 78 of this Act, a Local Council may, subject to rules, regulations and through its bye-laws, and if the Government so directs, shall, subject to allocation of funds, undertake all or any of the functions enumerated in the Fifth Schedule. As per Part II-A of the Fifth Schedule detailing the functions of union councils, a Union Council may, and if the District Council or the Government so directs, shall perform all or any of the functions enumerated in the Fifth Schedule showing functions of the District Council. As per serial No. (14) of Part-III of the Fifth Schedule of this Act, an Urban or a Rural Council may, through approval of its bye-laws, regulate its procedure for registration of deaths. In consequence of section 133 of this Act, and serial No. 37 of Part-II of the Third Schedule of this Act, failure of the head of the family to report the death to a Local Council, or a person appointed in this behalf within a reasonable time, may entail a punishment with fine which may extend to five thousand rupees and if the offence is a continuing one, with further fine which may extend to two hundred rupees for every day after the date of the first commission during which period the offender has persisted in the offence

6.1.10 Azad Jammu and Kashmir

In Azad Jammu and Kashmir, registration of deaths in the rural areas is done by the union councils vide entry at serial No. 11 of Part-II of Third Schedule of the Azad Jammu and Kashmir Local Government Act, 1990. In contrast, the same function in urban areas is performed by the municipal committees, and the town committees vide entry at serial No. 5 of Fifth Schedule of the same Act where it has been described as a compulsory function of these committees. The Eighth Schedule of the same enactment details matters to be explained by the bye-laws and regulations. Serial No. 1 of its Part-I describes the registration of deaths to be made as per the bye-laws.

6.1.11 Gilgit-Baltistan

Section 73 of the Gilgit-Baltistan Local Government Act, 2014, giving responsibilities and functions of the union councils, provides in its sub-section (1)(p) that a Union Council shall arrange for registration of deaths and pass on such information about deaths in the Union Council to such persons and institutions as may be prescribed. It further provides, through its clause (t), that the Union Council shall maintain such statistics and socio-economic baseline data as may be prescribed and disseminate information on matters of public interest. The same Act in its Section 84(1)(v) states that a City Metropolitan Corporation, Municipal Corporation, Municipal Committee and Town Committee shall undertake the registration of deaths and pass on such information about deaths in its territorial jurisdiction to such persons and institutions as may be prescribed.

Section 103(1) provides that a City Metropolitan Corporation, Municipal Corporation, Municipal Committee, Town Committee and a Union Council, may, by notification in the official Gazette, levy any tax, fee, charge or surcharge specified in the Third Schedule. Serial No. (2) of Part-I of the Third Schedule detailing taxes of Union Councils; and serial No. (18) of Part-III of the Third Schedule describing taxes of City Metropolitan Corporation, Municipal Corporation, Municipal Committee and Town Committee lists fees for registration and certification of births and marriages, but does not provide any fees to be charged for registration and certification of deaths.



LAWS FOR REGISTRATION OF MARRIAGES

7. Laws for Registration of Marriages

7.1 Federal Laws on Registration of Marriages

7.1.1 An Early Law for Registration of Marriages of the Christians

As far as the Christian Marriage Act, 1872 (Act No. XV of 1872) is concerned, it was one of the earliest laws enacted in pre-partition India by the British for registration of marriages for Christians, both the Europeans and the natives. Through this Act, still operative all over Pakistan, marriages among Christians were bound for registration by the respective marriage registrar, or senior registrar, who was appointed in each local area as per Sections 27 and 28 of this Act. According to its Section 31, every clergyman of the Church of Scotland is required to keep a register of marriages and to register therein, according to the tabular form set forth in the Third Schedule of this Act, every marriage which he solemnises under this Act and he is bound to forward quarterly to the Registrar General of Births, Deaths and Marriages through the senior Chaplain of the Church of Scotland, returns, similar to those described in Section 29, of all such marriages. According to Section 32 of this Act, every marriage solemnised by any person who has received episcopal ordination, but who is not a clergyman of the Church of England, or of the Church of Rome, or by any minister of religion licensed under this Act, similar to those prescribed in Section 29, shall, immediately after such solemnisation thereof, be registered in duplicate by the person solemnising the same in a marriage-register-book to be kept by him for that purpose, according to the form contained in the Fourth Schedule of this Act in a certificate attached to the marriage-register-book as a counterfoil. As per Section 33 of this Act, the entry of such marriage in both the certificate and marriage-register-book shall be signed by the person solemnising the marriage, and also by the persons married, and shall be attested by two credible witnesses, other than the person solemnising the marriage, present at its solemnisation. As required by Section 33, the entry of such marriage in both the certificate and marriage-register-book shall be made in order from the beginning to the end of the book, and the number of the certificate shall correspond to the entry in the marriage-register-book. Section 34 requires the person solemnising the marriage to separate the certificate from the marriage-register-book and send that, within one month from the time of this solemnisation, to the marriage registrar of the district in which the marriage was solemnised, or to the senior marriage registrar, if there are more than one marriage registrars in the district. Such marriage registrar or senior marriage registrar as the case may be, shall cause such certificate copied into a book to be kept by him for that purpose, and send such certificates received by him during a month, with such number, signature, or initials added thereto, as required by this Act, to the registrar general of births, deaths and marriages. It is a very comprehensive law for the registration of the marriages of the native and European Christians. It provides foolproof evidentiary value to such marriages before the courts of law.

7.1.2 A Comprehensive Pre-Independence Law for Registration of Births, Deaths and Marriages

The second all-pervasive comprehensive law in this respect was enacted in 1886 in the form of the Births, Deaths and Marriages Registration Act, 1886 (Act No. VI of 1886). Its preamble provided that this was “An Act to provide for the voluntary Registration of certain Births and Deaths, for the establishment of General Registry Offices for keeping Registers of certain Births, Deaths and Marriages and for certain other purposes.” After the enactment of this law, a general registry office was established by each provincial government [under Section 6(1) (a)] for keeping such certified copies of marriages registered under Act III of 1872 (XV of 1872) or Christian Marriage Act, 1872 (Act No. XV of 1872), or, under the Parsi Marriage and Divorce Act, 1865 (XV of 1865). This Act also enabled each Provincial Government to appoint a Registrar of Births, Deaths and Marriages [Section 6(1) (b)]. This law provides, under section 7, for the maintenance in

the prescribed form, by the Registrar General of Births, Deaths and Marriages indices of all the certified copies of registers sent to his office under this Act, or under Act III of 1872 (XV of 1872), the Christian Marriage Act, 1872 (XV of 1872), or the Parsi Marriage and Divorce Act, 1865 (XV of 1865). These indices are open to inspection (vide Section 8) to any person applying to inspect them, and it is provided that, upon payment, copies of the entries in the certified copies of the registers to which the indices relate shall be given to such persons applying for them.

An important provision (Section 9) made any entry given under Section 8 to be certified by the Registrar General of Births, Deaths and Marriages, or by any officer authorized in this behalf by the Provincial Government, admissible in evidence for the purpose of proving the marriage to which the entry relates.

This Act, is still operative and is available on the statute books regarding registration of marriages, but is mainly applicable to the Christians, Parsis and Scheduled Castes.

7.1.3 The Parsi Marriage and Divorce Act, 1936

As per Section 6 of the Parsi Marriage and Divorce Act, 1936 (ACT NO. III OF 1936), every marriage contracted under this Act shall, immediately on solemnisation, be certified by the officiating priest in the form contained in Schedule II. The certificate shall be signed by the said priest, the contracting parties, or their fathers or guardians when they shall not have attained the age of twenty-one years, and two witnesses present at the marriage; and the said priest shall send such certificate together with a fee of two rupees to be paid by the husband to the Registrar of the place at which such marriage is solemnised. The Registrar on receipt of the certificate and fee shall enter the certificate in a register to be kept by him for that purpose and shall be entitled to retain the fee. As per Section 7 of this Act, a Registrar shall be appointed within the local limits of the civil jurisdiction of a High Court and the Chief Justice of that Court shall appoint that Registrar. Every Registrar so appointed is also removable by the Chief Justice of that High Court.

As per Section 8 of this Act, the register of marriages mentioned in Section 6 shall, at all reasonable times, be open for inspection, and certified extracts therefrom shall, on application, be given by the Registrar on payment of two rupees to him by the applicant for each such extract. Every such register shall be evidence of the truth of the statements contained therein. As per Section 9 of this Act, every Registrar shall, at such intervals as may be prescribed by the Provincial Government, send to the Registrar-General of Births, Deaths and Marriages all certificates entered by him in the said register of marriages since the last of such intervals.

Various penalties have been stipulated in this Act for certain violations in the registration of Parsi marriages under its Sections 11, 12, 13, 14, 15 and 16. Section 14 prescribes a penalty for making, signing or attesting any false certificate of marriage, which a person either knows or believes to be false. Furthermore, a penalty for any registrar who makes a false entry in such certificate pursuant to Section 6; and another one under Section 16 that specifies a punishment for any person hiding, destroying, or dishonestly or fraudulently altering the said register or any part thereof; are among the ingredients of this law.

7.1.4 Pakistan's Citizenship Laws and Registration of Marriages

As far as the federal laws are concerned, the National Database and Registration Authority Ordinance, 2000 (Ordinance No. VIII of 2000) provides a legal requirement through its Section 21 (2) for reporting to the District Registrar of all marriages of Pakistan's citizens, or any other prescribed persons or class thereof by such authority or officer as may be ordained. However, the law is silent on registration of such a marriage by NADRA and any evidentiary value before the courts of law attached to such registration. For the registration of marriages among foreigners and aliens, living or temporarily residing in

Pakistan, such legal requirement even weakens further. Moreover, such registration, per se, is to be made with the concerned local body in whose local area such person(s) are residing as per the particular law of that local body and the applicable marriage law(s) of the persons getting married.

7.1.5 The Hindu Marriage Act, 2017

The parliament passed the Hindu Marriage Act, 2017 (Act No. VII of 2017) to give legal cover to the Hindu marriages. The preamble of this law states that “AND WHEREAS it is expedient to have a consolidated law providing for solemnization of marriages by Hindu families and the matters connected therewith and incidental thereto; AND WHEREAS the Provincial Assemblies of Balochistan, Khyber Pakhtunkhwa and Punjab have passed Resolutions under Article 144 of the Constitution of the Islamic Republic of Pakistan to the effect that Majlise Shoora (Parliament) may, by law, regulate solemnization of marriages by Hindu families and for matters connected therewith and incidental thereto.” As per sub-section (2) of its Section 1, it extends to the Islamabad Capital Territory and the provinces of Balochistan, Khyber Pakhtunkhwa, and Punjab. It may be noted here that it is a provincial law that was to be enacted by the respective provincial assemblies of the four provinces. However, it has been enacted under article 144 of the constitution whereby the provincial assemblies of Punjab, Khyber Pakhtunkhwa and Balochistan had abdicated their authority to legislate themselves and had given it to the parliament through passing separate resolutions to legislate on the subject on their behalf. On the other hand, the provincial Sindh Assembly did not give this authority to the parliament, had decided to legislate itself, and had already passed the Sindh Hindus Marriage Act, 2016 (Sindh Act No. IX of 2016) for the marriages of individuals belonging to Hindu, Jain and Sikh religions.

As per sub-section (1) of Section 6 of this Act, the solemnisation of every Hindu marriage shall be registered in accordance with the provisions of this Act within a period of 15 days of such solemnisation. As per sub-section (2) of Section 6, the marriage register shall be open for inspection and shall be admissible as evidence of the contents contained therein, or certified extracts therefrom, and the Marriage Registrar on payment of the prescribed fee shall on application, give these particulars. The marriage registrars for Hindu marriages are to be appointed by the government as per Section 7 of this Act. As per sub-section (1) of Section 7, the Government shall appoint one, or more than one, Marriage Registrars in the district or such other areas as would be convenient for the Hindu population living in the said district, or such other areas. As per sub-section (2) of section 7, the Marriage Registrar or a person duly authorized by him from amongst the local Hindu community in the manner as may be prescribed, shall be responsible to register the marriage.

The parties to Hindu marriage shall give their particulars to the respective registrar, or his authorised person, for entry thereof in “Shaadiparat,” which means a certificate of marriage as per section 2(i) of this Act, issued by the marriage registrar who certifies the solemnisation of Hindu marriage. As per sub-section (3) of Section 7, the form of “Shaadiparat,” the record to be preserved and maintained by the marriage registrar, shall be as such as may be prescribed and until the rules are made, the “Shaadiparat,” annexed as Schedule A of this Act, shall be used. As per sub-section (4) of Section 7, the Marriage Registrar shall prepare such number of copies as may be prescribed and unless the rules are made, he shall prepare three copies thereof. One copy each be given to the respective two parties and one copy shall be kept in the office of Marriage Registrar as a public record.

7.1.6 Marriages Being Solemnized in Cantonment Areas

As far as the provisions of the Cantonments Ordinance, 2002 (Ordinance No. CXXXVII), currently in vogue in all the military cantonments of the country, are concerned, its Section 32 provides the functions of the union administration and its clause (c) provides that these functions shall include registration of marriages and issuance of certificate thereof. Serial No. 77 of the Third Schedule of this Ordinance stipulates that the failure of the head of the family to report the marriage to a local government, or a person appointed in this behalf, within a reasonable time, would be included in the list of offences under this Ordinance, commitment of which may entail penalties and initiation of legal proceedings as given in it. Sub-section (1) of Section 28 of this Ordinance defines powers of union councils in the cantonment areas to make bye-laws to carry out the purposes of this Ordinance. This authority to make bye-laws includes specifically all the matters included in the Fifth Schedule of this Ordinance which, vide the entry at serial No. 50, includes registration of marriages.

7.1.7 Marriages Taking Place in Islamabad Capital Territory

As per section 71(1) of the Islamabad Capital Territory Local Government Act, 2015, a Union Council shall, subject to the provisions of the Capital Development Authority Ordinance, 1960, perform functions specified in the Second Schedule. As per serial (j), detailing the functions of a union council in Islamabad Capital Territory, it is provided that such a Council shall arrange for registration of marriages and divorces and pass on such information about marriages and divorces in the Union Council to such persons and institutions as may be prescribed. As per section 88(1) of this Act, a Union Council in Islamabad Capital Territory may levy, by notification in the official Gazette, any tax, fee, rate, rent, toll, charge or surcharge specified in the Fourth Schedule. As per entry (2) of Part-I of Fourth Schedule of this Act detailing the taxes and other levies chargeable by the Union Councils, fees for registration and certification of marriages are chargeable.

7.2 Provincial Marriage Registrations Laws

7.2.1 The Muslim Family Laws Ordinance, 1961

The former West Pakistan Muslim Family Laws Ordinance, 1961 (Ordinance No. VIII of 1961) has now become the Muslim Family Laws Ordinance, 1961 of the provinces of Punjab, Sindh, Khyber Pakhtunkhwa, and Balochistan and the federal area of Islamabad Capital Territory. As per sub-section (1) of Section 5 of the Muslim Family Laws Ordinance, 1961, every marriage solemnised under the Muslim Law shall be registered under the provisions of this Ordinance. As per sub-section (2) of its Section 5, the Union Council shall grant licenses to one or more persons, to be called Nikah Registrar for the purpose of marriages under this Ordinance, but in no case shall more than one Nikah Registrar be licensed for any one Ward of the Union Council. According to sub-section (3) of Section 5, the person who has solemnised such marriage shall report every marriage not solemnised by the Nikah Registrar to him for registration. Furthermore, sub-section (4) of the same section lays down that if any person contravenes the provisions of sub-section (3), he shall be punishable with simple imprisonment which may extend to three months, or with fine which may extend to one thousand rupees, or with both. As per sub-section (5) of Section 5, the form of Nikahnama, the registers to be maintained by Nikah Registrars, the records to be preserved by the Union Council, the manner in which the marriage shall be registered, and copies of Nikahnama shall be supplied to the parties and the fees to be charged therefor, shall be such as may be prescribed. Sub-section (6) of Section 5 stipulates that any person may, on payment of the prescribed fee, inspect, at the office of the Union Council, the record preserved under sub-section (5), or obtain a copy of any entry therein.

7.2.2 Punjab Marriage Registration Laws

7.2.2.1 Punjab Local Government Act, 2013

As per Section 72 (1)(m) of the Punjab Local Government Act, 2013, Union Councils shall arrange for registration of marriages and pass on such information about marriages in the Union Council to such persons and institutions as may be prescribed. Similarly, vide Section 81(2)(x), a Municipal Committee shall arrange registration of marriages and pass on such information about marriages in its territorial jurisdiction to such persons and institutions as may be prescribed. As per Section 144(1), the Government may, subject to previous publication and by notification in the official Gazette, make rules for carrying out the purposes of this Act. Section 144(2) of this Act stipulates that in particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the matters specified in Part-I of the Seventh Schedule. As per Section 145(3) of this Act, a local government may, and if required by the Government, shall, make bye-laws not in consistent with this Act and in particular and without prejudice to the generality of the foregoing power, the bye-laws may provide for all or any of the matters specified in Part-II of Seventh Schedule. As per serial No. 16 of Part-I of the Seventh Schedule, the Government may make rules for registration of marriages. All union councils of Punjab have adopted the model bye-laws prepared by the government for registration of marriages.

7.2.2.2 The Punjab Sikh Anand Karaj Marriage Act, 2018

The Punjab Sikh Anand Karaj Marriage Act, 2018 (Act No.VI of 2018) was passed by the Punjab Assembly and notified in the Punjab Gazette on March 20, 2018 for solemnisation and registration of Sikh marriages commonly known as Anand Karaj. As per Section 2(b) of this Act, “Anand Karaj” means the lawful union of a Sikh male and a Sikh female solemnized under the Act and conducted in accordance with the practices of the Sikh religion. As per Section 2(c), “Anand Karaj Certificate” means the certificate of a marriage issued by the Anand Karaj Registrar. As per sub-section (1) of Section 5, every marriage between Sikhs shall be a marriage under this Act and as per sub-section (2), the Government shall grant license to one or more persons professing Sikh religion to be called Anand Karaj Registrar authorizing them to grant Anand Karaj certificate.

As per sub-section (3) of Section 5, the bridegroom and the bride, or a “Granthi” as per Section 2(f) a “Granthi” means a Sikh who recites the Guru Granth Sahib and solemnises a marriage between Sikhs, shall fill the Anand Karaj form, and present it, within thirty days of the marriage, to the Anand Karaj Registrar for registration of the marriage; and a copy thereof shall be sent to the Chairman of the Union Council, or the Municipal Committee, as the case may be. Sub-section (5) of Section 5 lays down that on receipt of the Anand Karaj form, the Anand Karaj Registrar, having been satisfied that the marriage has been duly solemnized under the Act, shall register the marriage and issue the Anand Karaj Certificate. Section 5(6) ordains that a marriage that is not solemnized by the Anand Karaj Registrar, for the purpose of registration under the Act, shall be reported within thirty days of its solemnization, to him by the Granthi or the person who solemnized the marriage. As per section 5(7): The Anand Karaj form, the register to be maintained by the Anand Karaj Registrar, the records to be preserved by a Union Council, the manner in which the Anand Karaj shall be registered, supply of the copies of Anand Karaj Certificate, and

the fees to be charged therefor shall be such as may be prescribed. As per sub-section (8) of Section 5, whoever contravenes the provisions of this section shall be punished, in the prescribed manner, with fine, which may extend to ten thousand rupees.

7.2.2.3 The Punjab Muslim Family Laws (Amendment) Act, 2015

The Punjab Muslim Family Laws (Amendment) Act, 2015 (XIII OF 2015), has made some amendments in the Muslim Family Laws Ordinance, 1961. As per sub-section (b) of its Section 3, “Chairman” means the Chairman of the Union Council, Union Administration or Municipal Committee or any other officer authorized by the Government to discharge the functions of the Chairman under the Ordinance. Furthermore, it also lays out that where the Chairman is a non-Muslim or he himself wishes to make an application to the Arbitration Council, or owing to illness or any other reason, is unable to discharge the functions of the Chairman the Arbitration Council shall select one of its Muslim members as Chairman. According to this Act; the Union Council means a Union Council, Municipal Committee, Cantonment Board, and a Union Administration; or, in case of absence of any of these local governments in a local area, any other comparable body constituted under any law relating to the local governments, or local authorities. As per Section 4(a), amending section 5(2) of the Ordinance, for the purpose of registration of marriages under this Ordinance, the Union Council shall grant licenses to one or more persons, to be called Nikah Registrars. Insertion of a new sub-section (2A) in Section 2 of the Ordinance stipulates that the Nikah Registrar, or the person who solemnises a Nikah, shall accurately fill all the columns of the Nikahnama form with specific answers of the bride or the bridegroom.

7.2.3 Sindh Marriage Registration Laws

7.2.3.1 Sindh Local Government Act, 2013

Section 72 of the Sindh Local Government Act, 2013 lays down that a Council, subject to rules and directions given by the Government, and within the limits of the funds at its disposal, undertake all or any of the functions, given in Schedule II, in the case of a Municipal Corporation, District Municipal Corporation, Municipal Committee, and a Town Committee; and as given in Schedule IV in the case of a Union Council and such other functions as are entrusted to these local bodies by the Government. According to sub-section (1) of Section 14 of this Act, rules and bye-laws made under this Act shall deem to be part of this Act. According to Section 150 of the same Act, records prepared or registers maintained under this Act shall be deemed to be public documents within the meaning of the Qanoon-e-Shahadat Order, 1984 and shall be presumed to be genuine until the contrary is proved.

As per Part 1-A of Schedule II of the Sindh Local Government Act, 2013, the District Municipal Corporations of Karachi shall perform all the functions of the Municipal Committees established in other areas of Sindh except those being performed by the Karachi Metropolitan Corporation. Serial No. 4 of Part II of the same Act gives compulsory functions of the District Municipal Corporations of Karachi, Municipal Corporations of Hyderabad, Sukkur, and Larkana; Municipal Committees and Town Committees, and

ordains that such local bodies, subject to any other law for the time being in force, shall register marriages within a Local Area. Furthermore, the bye-laws may provide the persons or authorities who may give information about solemnisation of the marriages and the manner in which these marriages shall be registered.

Serial No. (34) of Schedule IV of the same Act details the functions of union councils and union committees whereby registration and computerisation of data regarding marriages, and the maintenance of such vital statistics as may be prescribed, is a function of the union councils which are working in the rural areas of Sindh, and of union committees working in urban areas of municipal corporations. Serial No. 1 of Schedule VIII of this Act authorises the concerned local councils to approve bye-laws for registration of marriages.

An amendment made in 2013 in the Sindh Local Government Act, 2013 has created the lowest tier of the local bodies, i.e. union committees in the local areas comprising the urban District Municipal Corporations of Karachi and in Municipal Corporations of Hyderabad, Sukkur, and Larkana and all functions of the union councils working in the rural areas of Sindh have been entrusted to these union committees.

Because of this amendment creating the union committees, this lowest tier of the local government, in all the districts of Karachi Division, and areas of Municipal Corporations of Hyderabad, Sukkur, and Larkana, is now performing the registration of marriages. The municipal committees and town committees in the other urban areas and the union councils in all rural areas of Sindh are performing this task. However, making these registrations a function of the District Municipal Corporations of Karachi and Municipal Corporations of Hyderabad, Sukkur, and Larkana is still part of the Sindh Local Government Act, 2013. Nevertheless, practically these corporations are not performing these functions; and this provision of the legislation needs amendment by the provincial legislature to remove this contradiction in law, and the duality of functions in the same municipal areas of Karachi Division, and Hyderabad, Sukkur and Larkana Municipal Corporations.

7.2.3.2 The Sindh Hindus Marriage Act, 2016

Although the Sindh Hindus Marriage Act, 2016 (Sindh Act No. IX of 2016), because of its name, implies that its enactment is solely for the marriages of the people belonging to the Hindu religion. It is in fact a combined law for the marriages of the persons belonging to three creeds—Hindu, Jain, and Sikh religions, as its Section 2(1)(vi) defines a “Hindu” as any person who practices the Hindu, Jain, or Sikh religions in any of the forms or developments

As per Section 2(1)(i) of this Act the “Certificate of marriage” means the document provided in Schedule A. Section 3 of this Act defines the objective of this law as an enactment that provides a formal process of registration of marriages for Hindus. Its Section 6 provides that every marriage solemnised under this Act shall be registered with the union council/ward or any other municipal authority, where the marriage ceremony took place, within 45 days of the solemnisation.

Its Section 7(1) lays down that there shall be four copies of the certificate of marriage, as provided in its Schedule A, all of which after being filled out shall be provided to the Concerned Officer. Its section 2(1)(ii), defines the

“Concerned Officer” as the officer duly authorized in the Union Council, Ward or any other Municipal Authority where the marriage ceremony takes place.

Section 7(2) of this law lays down that the Concerned Officer after satisfying himself that all conditions of marriage set out in Section 4 have been met, shall certify/endorse the certificate of marriage and keep one copy of the certificate for his record, and return the remaining copies to the parties. As per sub-section (3) of Section 7, the Concerned Officer shall maintain a Marriage Register for the purposes of this Act as per rules or directions issued by the Government.

Sub-section (4) of the same section provides that all the entries in the Marriage Register shall bear the official stamp of the Concerned Officer and shall be signed by the person solemnizing the marriage, both parties to the marriage, two credible witnesses to the solemnization of the marriage, and the Concerned Officer.

As per Section 9 of this Act, the Provincial Government through a notification in the official Gazette shall prescribe a fee for registering marriages and issuing certified copies thereof. Its Section 11(1) ordains that this Act shall have retrospective effect for the purposes of validation and registration of the marriages solemnized prior to its commencement and its sub-section (2) provides that such marriages after enactment of this Act are registerable with the Concerned Officer with the same procedure as prescribed under this Act.

7.2.4 Registration of Marriages in Khyber Pakhtunkhwa

Sections 26 and 27 of the Khyber Pakhtunkhwa Local Government Act, 2013 define the village councils in the rural areas and neighbourhood councils in the urban areas that have since been established. Section 29 describes the functions of the village councils and neighbourhood councils and clause (c) of its sub-section (1) provides that these councils shall perform registration of marriages.

As per serial No. 2 of Part-V of Third Schedule of this Act, the village and neighbourhood councils have the authority to charge prescribed fees for registration and certification of marriages. Its Section 112(1), read with serial No. 17 of Part-I of Seventh Schedule, lays down that the Government, by notification in the official Gazette, may make the rules for registration of marriages. Similarly, as per Section 113(1) of this law, a village council or a neighbourhood council may, in its ambit of responsibilities, make bye-laws to carry out the purposes of this Act, provided that the Government may make model bye-laws on any, some, or all of the relevant subjects for the sake of uniformity.

7.2.5 Balochistan Marriage Registrations

Section 78(1) of the Balochistan Local Government Act, 2010, stipulates that a local council shall undertake the functions provided in this Act. Its Section 3 ordains that subject to rules, regulations and through its bye-laws; and if the Government so directs, and subject to allocation of funds, shall undertake all or any of the functions enumerated in the Fifth Schedule. As per serial No. 5 of the Fifth Schedule of this Act, an Urban Council (Quetta Metropolitan Corporation, Municipal and Town Committees) may, and if the Government so directs, shall undertake registration of births and deaths in its local area. There is no mention, however, as per serial No. 5 of the Fifth Schedule of this Act, for registration of marriages.

Similarly, as per serial No. (14) of the Fifth Schedule of this Act, the Union Council may, and if the District Council or the Government so directs, shall perform registration of marriages; and a District Council through bye-laws may regulate the registration of marriages in its local area.

As per sub-section (1) of Section 78 of this Act, a Local Council shall undertake the functions provided in this Act. Sub-section (2) of Section 78 provides that a Local Council may, and if the government so directs, shall declare any of its functions as essential services, and impose such restrictions on its officers or servants as it deems appropriate for the efficient delivery of such services.

Sub-section (3) of Section 78 of this Act lays down that a Local Council may, subject to rules, regulations, and through its bye-laws, and if the Government so directs and subject to allocation of funds, shall undertake all or any of the functions enumerated in the Fifth Schedule.

As per Part II-A of the Fifth Schedule detailing the functions of union councils, a Union Council may and if the District Council or the Government so directs, shall perform all or any of the functions of a District Council enumerated in the Fifth Schedule.

Serial No. (14) of Part III of the Fifth Schedule of this Act provides that an urban, or a rural council, through approval of its bye-laws, may regulate its procedure for registration of marriages. In consequence of Section 133 and serial No. 37 of Part-II of the Third Schedule of this Act, failure of the head of the family to report the birth, or death, to a Local Council, or a person appointed in this behalf within a reasonable time, may entail a punishment with fine which may extend to five thousand rupees; and if the offence is a continuing one, with further fine which may extend to two hundred rupees for every day after the date of the first commission during which period the offender has persisted in the offence. There is no punishment prescribed, however, in this provision of law for failure to register a marriage solemnised in the local area of a local body.

7.2.6 Marriage Registrations in Azad Jammu and Kashmir

The registration of births and deaths in the rural areas of the AJ&K. is done by the union councils, vide entry at serial No. 11 of Part II of the Third Schedule of the Azad Jammu and Kashmir Local Government Act, 1990. The municipal committees and the town committees perform the same function in the urban areas. It is a compulsory function of these committees.

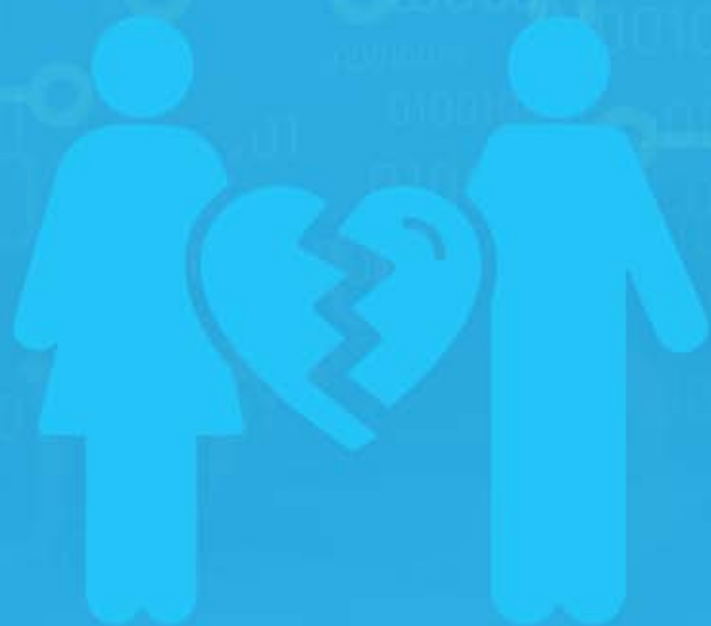
On the other hand, marriages in AJ&K are registered through the Azad Jammu and Kashmir Nikah Registration Act, 1986, and the Nikah Registration Rules, 1985, made in pursuance of Section 10 of the Nikah Registration Ordinance, 1985.

7.2.7 Gilgit-Baltistan's Law on Registration of Marriages

Section 73 of the Gilgit-Baltistan Local Government Act, 2014, giving responsibilities and functions of the Union Councils, provides in its sub-section (1)(p), that a Union Council shall arrange for registration of marriages and pass on such information about marriages in the Union Council to such persons and institutions as may be prescribed. It further lays down, through its clause (t), that the Union Council shall maintain such statistics and socio-economic baseline data as may be prescribed and disseminate information on matters of public interest.

The same Act in its Section 84(1)(v) states that a City Metropolitan Corporation, Municipal Corporation, Municipal Committee and a Town Committee shall undertake the registration of marriages and pass on such information about marriages in its territorial jurisdiction to such persons and institutions as may be prescribed. Section 103(1) provides that a City Metropolitan Corporation, Municipal Corporation, Municipal Committee, Town Committee and a Union Council, by notification in the official Gazette, may levy any tax, fee, charge or surcharge specified in the Third Schedule.

Serial No. (2) of Part-I of the Third Schedule detailing taxes of union councils and serial No. (18) of Part-III of the Third Schedule describing taxes of city metropolitan corporation, municipal corporation, municipal committee and town committee, lists fees for registration and certification of marriages



LAWS FOR REGISTRATION OF DIVORCES

8. Laws for Registration of Divorces

The courts generally decide the divorces as per the personal law of the parties to the marriage by issuing decrees. Therefore, the existing laws for the registration of divorces require the relevant family court to send a copy of such a decree for divorce or annulment of the marriage to the concerned registrar, who is generally the same official performing the functions of the registrar of marriages under the relevant applicable personal law. The relevant provisions for registration of divorces in the existing laws are examined below.

8.1 Registration of Divorces in Federal Laws

8.1.1 The Parsi Marriage and Divorce Act, 1936

Section 10 of the Parsi Marriage and Divorce Act, 1936 (Act No. III of 1936) prescribes that when a Court is passing a decree for divorce, nullity or dissolution of a marriage; the Court shall send a copy of the decree for registration to the Registrar of Marriages within its jurisdiction appointed under section 7. The Registrar shall enter the same in a register to be kept by him for the purpose and the provisions of sections 6, 8 and 9 would be applicable to the Registrars and registers of marriages. The register in this case shall become the register of divorces and decrees of nullity, or dissolution of marriages.

As per Section 7 of this Act, a Registrar shall be appointed within the local limits of the civil jurisdiction of a High Court and the Chief Justice of such Court shall appoint the Registrar. The Chief Justice of that High Court may remove every Registrar so appointed. As per Section 8, read with Section 10 of this Act, the register of divorces and decrees of nullity or dissolution of marriages shall, at all reasonable times, be open for inspection, and certified extracts therefrom shall, on application, be given by the Registrar on payment of two rupees to him by the applicant for each such extract. Every such register shall be evidence of the truth of the statements contained therein. As per Section 9, read with Section 10, of this Act, every Registrar shall, at such intervals as may be prescribed by the Provincial Government send to the Registrar General of Births, Deaths and Marriages all certificates entered by him in the said register of divorces and decrees of nullity or dissolution of marriages since the last of such intervals.

8.1.2 The Christian Marriage Act, 1872

No specific provision for registration of divorces among the Christians is available in the Christian Marriage Act, 1872 (Act No. XV OF 1872). Therefore the provisions of the relevant Local Government Act are applicable for such registration.

8.1.3 Divorce Registrations in Pakistan's Citizenship Laws

Among the federal laws, the National Database and Registration Authority Ordinance, 2000 (Ordinance No. VIII of 2000) provides a legal requirement, as per its section 21 (2), for reporting to the District Registrar all divorces of Pakistan's citizens, or any other prescribed persons or class thereof by such authority or officer as may be prescribed. However, the law is silent on registration of such a divorce by NADRA in its database and any evidentiary value attached to such registration before the courts. For the registration of divorces among foreigners and aliens, living or temporarily residing in Pakistan, such legal requirement dilutes even further and such registration, per se, is to be made with the concerned local body in whose local area such person(s) is/are residing as per the relevant law of that local body and the applicable marriage law(s) of the persons getting divorced. Such registration also depends on the jurisdictional area of the concerned Family Court issuing the decree for such divorce or annulment of marriage.

8.1.4 The Hindu Marriage Act, 2017

As per sub-section (1) of Section 12 of the Hindu Marriage Act, 2017 (Act No. VII of 2017),

any Hindu marriage solemnized whether before or after the commencement of this Act, may on a petition presented to the Family Court (as defined under the West Pakistan Family Courts Act, 1964) by either a husband or a wife be terminated by decree of termination of marriage on the ground as given in this section.

The family court may grant an alternate relief in termination of marriage proceedings as per Section 14 of this Act and may while having regard to the circumstances of the case, pass a decree for judicial separation instead of termination of the marriage.

As per sub-section (2) of Section 15 of this Act, the Court may while considering the case's circumstances, pass a decree of termination of the marriage with effect from the date of the decree. No specific mention is available in the Hindu Marriage Act, 2017 about the method of the registration of a divorce effected among a Hindu couple. Consequently, for such registration, the provisions of the relevant Local Government Act of the province shall apply.

8.1.5 Registration of Divorces in Cantonment Areas

The Cantonments Ordinance, 2002, currently in vogue in all the military cantonments of the country through its Section 32 provides the functions of the union administration, and its clause (c) stipulates that these functions shall include registration of births, deaths and marriages and issuance of certificate thereof. However, it does not mention the registration of divorces. Sub-section (1) of Section 28 of this Ordinance defines powers of union councils in the cantonment areas to make bye-laws to carry out the purposes of this Ordinance.

This authority to make bye-laws includes specifically all the matters included in the Fifth Schedule of this Ordinance; which, vide the entry at serial No. 50, includes the registration of births, deaths, and marriages, but does not mention registration of divorces.

8.1.6 Registration of Divorces in Islamabad Capital Territory

Section 71(1) of the Islamabad Capital Territory Local Government Act, 2015, provides that a Union Council, subject to the provisions of the Capital Development Authority Ordinance, 1960, shall perform functions specified in the Second Schedule.

As per serial (j), detailing the functions of a union council in Islamabad Capital Territory, provides that such a Council shall arrange for registration of divorces and pass on such information in the Union Council to such persons and institutions as may be prescribed. Section 88(1) of this Act authorizes a Union Council in Islamabad Capital Territory, by notification in the official Gazette, to levy any tax, fee, rate, rent, toll, charge or surcharge specified in the Fourth Schedule: Entry (2) of Part-I of Fourth Schedule of this Act details the taxes and other levies chargeable by the union councils. It includes fees for registration and certification of births and marriages but does not include any fees for registration and certification of divorces.

8.1.7 Divorce Registrations in Provincial Laws

8.1.8 The Muslim Family Laws Ordinance, 1961

Under the provisions of Sections 7 and 8 of the Muslim Family Laws Ordinance, 1961 (Ordinance No. VIII of 1961), a divorce between a Muslim man and a woman can be effected. This Ordinance, however, contains no specific provision for registration of a “talaq,” or a divorce, making the provisions of the relevant Local Government Act of the province applicable for such registration.

8.1.9 The West Pakistan Family Courts Act, 1964

According to section 21B of the West Pakistan Family Courts Act, 1964 (XXXV of 1964), if a Family Court decrees dissolution of a Muslim marriage, the Family Court shall immediately but not later than three days from the decree send by registered post or other means a certified copy of the decree to the concerned Chairman of the Arbitration Council. Upon receipt of such decree, the Chairman shall proceed as if he had received intimation of Talaq under the Muslim Family Laws Ordinance, 1961 (VIII of 1961)]. Section 23 of this Act stipulates that a Family Court shall not question the validity of any marriage registered in accordance with the provisions of the Muslim Family Laws Ordinance, 1961; nor shall any evidence in regard thereto be admissible before such Court. Its Section 24 provides that if in any proceedings before a Family Court, it is brought to the notice of the Court that a marriage solemnized under the Muslim Law after the coming into force of the Muslim Family Laws Ordinance, 1961, has not been registered in accordance with the provisions of the said Ordinance and the rules framed thereunder; the Court shall communicate such fact in writing to the Union Council for the area where the marriage was solemnized.

8.1.10 Punjab Divorce Registration Laws

8.1.10.1 Punjab Local Government Act, 2013

Section 72 (1)(m) of the Punjab Local Government Act, 2013, stipulates that Union Councils shall arrange for registration of divorces and pass on such information about divorces in the Union Council to such persons and institutions as may be prescribed. Similarly, vide section 81(2)(x), a Municipal Committee shall arrange registration of divorces and pass on such information about divorces in its territorial jurisdiction to such persons and institutions as may be prescribed. As per Section 144(1), the Government, subject to previous publication and by notification in the official Gazette, may make rules for carrying out the purposes of this Act. Section 144(2) of this Act provides that, in particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the matters specified in Part-I of the Seventh Schedule. As per Section 145(3) of this Act, a local government may, and if required by the Government, shall make bye-laws not inconsistent with this Act, and in particular and without prejudice to the generality of the foregoing power, the bye-laws may provide for all or any of the matters specified in Part-II of the Seventh Schedule. Serial No. 16 of Part-I of the Seventh Schedule ordains that the rules may be made for registration of divorces.

8.1.10.2 The Punjab Sikh Anand Karaj Marriage Act, 2018

Sub-section (1) of Section 6 of the Punjab Sikh Anand Karaj Marriage Act, 2018 (Act No.VI of 2018) stipulates that any party that wishes to dissolve the marriage shall give to the Chairman, of the Union Council or the Municipal Committee as the case may be, the notice in writing of his or her intention to do so and shall supply a copy thereof to the other party.

As per sub-section (2) of its Section 6, the Chairman shall constitute an Arbitration Council in the prescribed manner, within thirty days of the receipt of the notice under sub-section(1), for effecting reconciliation between the parties and the Council shall take all steps necessary to that effect. Sub-section (3) of Section 6 provides that if the reconciliation is not effected within ninety days from the date of the notice, the Chairman, after the lapse of ninety days, shall declare the marriage to have been dissolved and issue the certificate of the dissolution of marriage in the prescribed manner.

8.1.11 Sindh Divorce Registration Laws

8.1.11.1 Sindh Local Government Act, 2013

Section 72 of the Sindh Local Government Act, 2013, ordains that a Council, subject to rules and directions given by the Government and within the limits of the funds at its disposal, undertake all or any of the functions given in Schedule II in the case of a Corporation, a District Municipal Corporation, Municipal Committee and a Town Committee, and given in Schedule IV in the case of a Union Council and such other functions as are entrusted to these local bodies by the Government. According to sub-section (1) of Section 14 of this Act, rules and bye-laws made under this Act shall deem to be part of this Act. Section 150 of the same Act provides that the records prepared or registers maintained under this Act shall be deemed to be public documents within the meaning of the Qanoon-e-Shahadat Order, 1984 and shall be presumed to be genuine until the contrary is proved.

Part 1-A of Schedule II of the Sindh Local Government Act, 2013 stipulates that the District Municipal Corporations of Karachi shall perform all the functions of the municipal committees established in other areas of Sindh except those being performed by the Karachi Metropolitan Corporation. Serial No. 4 of Part II of the same Act gives compulsory functions of the District Municipal Corporations of Karachi, Municipal Corporations of Hyderabad, Sukkur, and Larkana, municipal committees and town committees and provides that such local bodies shall, subject to any other law for the time being in force, register births, deaths and marriages within a Local Area and information of such births, deaths and marriages shall be given by such persons or authorities and shall be registered in such manner as the bye-laws may provide. However, this provision of the law does not make any mention of registration of divorces. Serial No. (34) of Schedule IV of the same Act details the functions of union councils and union committees whereby registration and computerisation of data regarding births and deaths, marriages, and divorces, and the maintenance of such vital statistics as may be prescribed, is a function of the Union Councils which are working in the rural areas of Sindh, and of Union Committees working in urban areas of Municipal Corporations. Serial No. 1 of Schedule VIII of this Act authorises the concerned local councils to approve bye-laws for registration of births, deaths, and marriages but does not specifically mention registration of divorces.

8.1.11.2 The Sindh Hindus Marriage Act, 2016

No specific provision for registration of divorces among the Hindus, as defined in the Act, is available in the Sindh Hindus Marriage Act, 2016 (Sindh Act No. IX of 2016) and therefore the provisions of the Sindh Local Government Act, 2013 are applicable for such registrations.

8.1.12 Khyber Pakhtunkhwa Divorce Registration Laws

Sections 26 and 27 of the Khyber Pakhtunkhwa Local Government Act, 2013, provide the legal basis whereby the village councils in the rural areas and the neighbourhood councils in the urban areas have been established. Its Section 29 describes the functions of the village councils and neighbourhood councils and clause (c) of its sub-section (1) provides that these Councils shall perform registration of births, deaths and marriages, but does not mention registration of divorces. As per serial No. 2 of Part-V of Third Schedule of this Act authorises the village and neighbourhood councils to charge prescribed fees for the registration and certification of births, deaths, and marriages, but there is no mention in this law for charging of such fees for registration of divorces.

This Act's Section 112(1) authorises the government to make rules by notification in the official Gazette, and as per serial No. 17 of Part-I of its Seventh Schedule rules for registration of births, deaths and marriages may be made. But again there is no mention in the law for making of rules for registration of divorces. Similarly, as per section 113(1), a Village Council or a Neighbourhood Council may, in their ambit of responsibilities, make bye-laws to carry out the purposes of this Act, provided that the Government may make model bye-laws on any, some, or all of relevant subjects for the sake of uniformity.

8.1.13 Balochistan Divorce Registration Laws

Section 78(1) of the Balochistan Local Government Act, 2010 mandates that a Local Council shall undertake the functions provided in this Act: and as per its section 78(3), may, subject to rules, regulations and through its bye -laws, and if the Government so directs shall, subject to allocation of funds, undertake all or any of the functions enumerated in the Fifth Schedule. As per serial No. 5 of the Fifth Schedule, detailing the compulsory functions of the urban councils, of this Act, an Urban Council (Quetta Metropolitan Corporation, Municipal and Town Committees) may, and if the Government so directs, shall undertake registration of births and deaths in its local area, but the law does not mention registration of marriages and divorces. Similarly, as per serial No. (14) of the Fifth Schedule of this Act, a Union Council may, and if the District Council or the Government so directs, shall perform registration of births, deaths and marriages: and a District Council through bye-laws may regulate registration of births, deaths and marriages in its local area. This provision of law again does not mention registration of divorces.

Part II of the Fifth Schedule, read with Section 78 of this Act, details the functions of rural councils and its sub-part 'A' describes the functions of the union councils and stipulates that a Union Council may, and if the District Council or the Government so directs, shall perform all or any of the functions enumerated in the Part II B of the Fifth Schedule containing functions of the District Council. Finally, serial No. (14) of Part II B 'I' of the Fifth Schedule of this Act provides that a District Council may, and if the Government so directs, shall regulate the procedure through bye-laws for registration of births, deaths and marriages. However, again this legal provision does not mention the registration of divorces.

8.1.14 Azad Jammu and Kashmir Divorce Registration Laws

In Azad Jammu and Kashmir, registration of births and deaths in the rural areas is done by the union councils vide entry at serial No. 11 of Part II of Third Schedule of the Azad Jammu and Kashmir Local Government Act, 1990. The same function in urban areas is performed by the municipal committees and the town committees vide entry at serial No. 5 of Fifth Schedule of the same Act where it has been described as a compulsory function of these committees. However, this law does not mention registration of marriages and divorces by the local bodies.

The divorces are registered in Azad Jammu and Kashmir through the Talaq Registration Act, 2017. Its Section 4 stipulates registration of a talaq (divorce), with the sub-registrar who is required to register a talaq on submission of an application as per rules and to prepare and maintain the record of such registrations. Section 5 of this Act provides that a certificate shall be issued in proof of the registration of talaq, and a copy of this talaq certificate shall be given to the divorcer and the divorcee, while a copy thereof shall be kept in the record.

8.1.15 Gilgit-Baltistan Divorce Registration Laws

Section 73 of the Gilgit-Baltistan Local Government Act, 2014, giving responsibilities and functions of the union councils, provides in its sub-section (1)(p) that a Union Council shall arrange for registration of divorces and pass on such information about divorces in the Union Council to such persons and institutions as may be prescribed; and further provides, through its clause (t), that the Union Council shall maintain such statistics and socio-economic baseline data as may be prescribed and disseminate information on matters of public interest.

The same Act in its Section 84(1)(v) states that a City Metropolitan Corporation, Municipal Corporation, Municipal Committee and Town Committee shall undertake the registration of divorces and pass on such information about divorces in its territorial jurisdiction to such persons and institutions as may be prescribed. Its Section 103(1) provides that a City Metropolitan Corporation, Municipal Corporation, Municipal Committee, Town Committee and a Union Council, may, by notification in the official Gazette, levy any tax, fee, charge or surcharge specified in the Third Schedule. Serial No. (2) of Part-I of the Third Schedule detailing taxes of Union Councils and serial No. (18) of Part-III of the Third Schedule describing taxes of City Metropolitan Corporation, Municipal Corporation, Municipal Committee and Town Committee list fees for registration and certification of births and marriages, but does not mention any fees for registration and certification of divorces.



LAWS ON REGISTRATION OF
ADOPTIONS, CAUSES OF DEATH, ETC.

9. Laws on Registration of Adoptions, Causes of Death, etc.

9.1 Registrations of Adoptions

No substantive law currently exists in Pakistan that provides any legal recourse for adopting a child. Consequently, any legal provision for registration of adoptions is also not present in the existing legislation. Adoptions in the country can still be made with the consent of the parents of the child through an adoption deed issued by a civil court in favour of adopting parents. For adopting parents to be appointed guardians of the child, the provisions of the Guardians and Wards Act, 1890, a pre-partition law, are applicable.

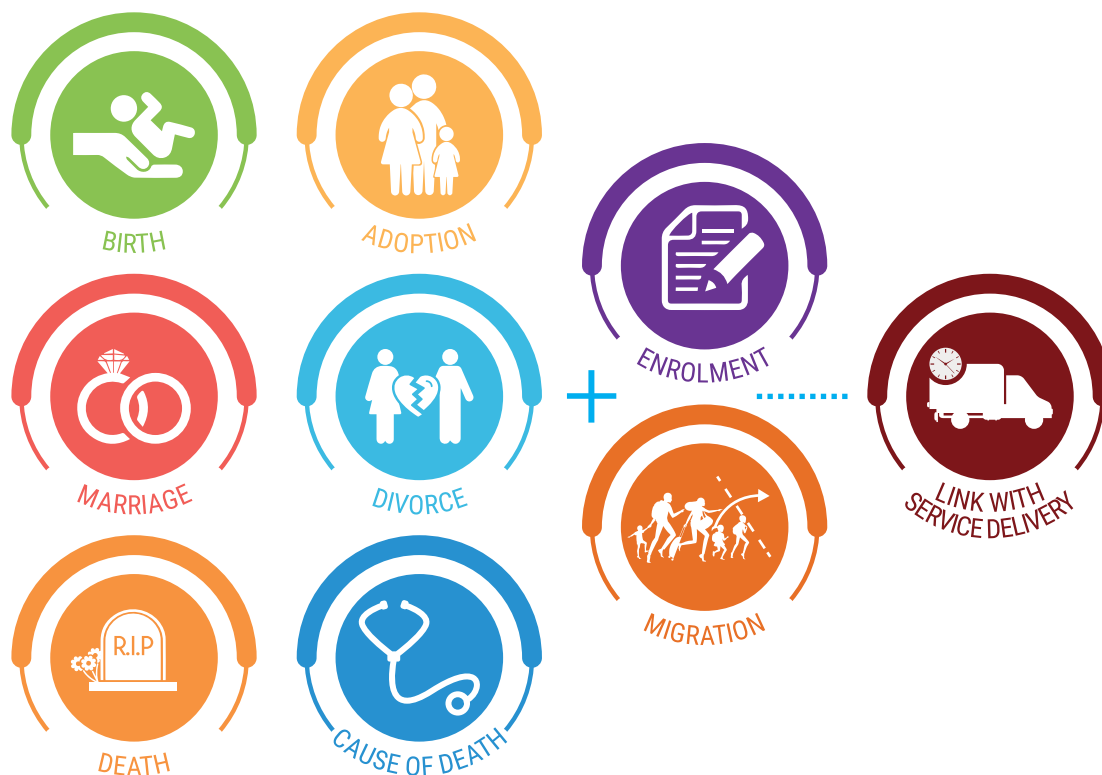
9.2 Registrations of Causes of Death

Similarly, no existing law specifically requires registering the cause of death. Although it stands scantily mentioned in some subordinate legislation of bye-laws, it is not specifically covered in any of the substantive laws of the country. For example, if we take the case of cantonments, the Clifton Cantonment stipulates that the death report from the hospital, if situated within the limits of Clifton Cantonment, is also, among other things, a requirement for registration of a death as per entry ii of the pro forma that is required to be filled for registration of a death that has occurred in the local limits of the cantonment. This example amply shows that the cause of death, albeit, finds a mention in the peripheral procedures of death registrations in some local bodies, it is not an essential requirement nevertheless.

9.3 Registrations of Stillbirths

So is the case for fetal deaths as the registration of birth generally means the registration of live birth, as registration of a stillbirth, is also specifically not mentioned in any existing substantive law. It is a scenario that is too complicated for any existing CRVS legislation to cope within its present scope, envisioning an event that needs concurrent recording in a register of births and a register of deaths loosely interpreting the current legal provisions.

These gaps in existing laws for civil registrations need bridging in any future legislative effort.





THE CITIZENSHIP LAWS

10. The Citizenship Laws

As discussed in Chapter 2 regarding the constitutional framework of CRVS legislation in Pakistan, all matters relating to nationality, citizenship, and naturalisation, migration from or out of the country, settlement in a province or the capital belong to the federal domain of legislation. Therefore, the citizenship laws of the country and their provisions for registration of various aspects of citizenship constitute an important aspect of CRVS legislation that currently exists in the federal list of laws.

10.1 The Citizenship Act, 1951

The Citizenship Act of 1951 (Act No. II of 1951) was among the first laws passed by the then Constituent Assembly of the newly created country of Pakistan. The enactment of this Act defined various categories of Pakistan's citizenship that includes the citizenship at the date of commencement of this Act, citizenship by birth, citizenship by descent, citizenship by migration and citizenship by naturalisation. It excluded the right of citizenship for the persons who had, after the first day of March 1947, migrated from the territories now comprising Pakistan to the territories now included in India.

This Act also provides the rights of Pakistan's citizenship to certain individuals residing abroad. It bestowed Pakistan's citizenship to any woman, who because of her marriage to a British subject before the first day of January 1949, had acquired the status of a British subject, if her husband becomes a citizen of Pakistan. This Act also provides for the registration of minors by stipulating that the Federal Government may, upon application to it in this behalf in the prescribed manner by a parent or guardian of a minor child of a citizen of Pakistan, register the child as a citizen of Pakistan.

Sub-section 2 of Section 11 of this law empowers the federal government to register, in such circumstances as it thinks fit, any minor as a citizen of Pakistan. Section 12 of this law provides that the citizenship by registration of any person shall begin from the date of that registration. This Act also ordains that if any territory becomes a part of Pakistan, the President may, by order, specify the persons who shall be citizens of Pakistan because of their connection with that territory; and those persons shall be citizens of Pakistan from such date and upon such conditions, if any, as may be specified in the order.

It is evident from the provisions of the Citizenship Act, 1951, that the registration of Pakistani citizens, both adults and minors, is an important legal requirement regarding the citizenship of Pakistan. As the nationality and citizenship of Pakistan and all the matters allied thereto are part of the Federal Legislative List of the constitution as per its serial number 4; registration of all births and deaths of all Pakistani citizens is an important function of the federal government to grant the identity and proper citizenship rights to every man, woman, and child who is living in Pakistan, or out of Pakistan as an overseas Pakistani. This legal compulsion was fulfilled by Pakistan's parliament in 1973 by passing the National Registration Act, 1973 (now defunct), whereby registration of every Pakistani citizen was made mandatory along with the issuance of national identity cards for all Pakistani citizens who are more than 18 years of age.

10.2 The National Registration Act, 1973 (Now Repealed)

Subsequently repealed by the National Database and Registration Authority Ordinance, 2000, the National Registration Act, 1973 (Act No. LVI of 1973) made the registration of every citizen of Pakistan mandatory by its provisions contained in its Section 4. An office of the registrar general was created by Section 3(1) (a) of this Act, to be appointed by the federal government for the whole of Pakistan. Furthermore, the offices of a joint registrar general, and as many deputy registrars general, assistant registrars general, district registrars, registrars and inspectors were created by this Act by its Section 3(1)(b) as the federal government considered appropriate; and were to be appointed by it. Every birth and death of Pakistani citizens under 18 years was also to be reported to the district registrar under the provisions of this now-defunct Act.

Every citizen of Pakistan, on attaining the age of 18 years, was to be issued a national identity card under Section 6 of this Act and its surrender to the district registrar on the death of a holder of that card within 60 days of that death by the next of kin of the deceased citizen. Similarly, the owner of the identity card in case of cessation of his, or her, citizenship was also required to give up the identity card to the concerned district registrar within 60 days of such cessation to be a citizen. In this manner, vide subsection 4 of Section 8 of this Act, the national identity card issued to any person was the proof of his identity for any purpose, for which the identity was required to be established.

10.3 The National Database and Registration Authority Ordinance, 2000

The National Database and Registration Authority Ordinance, 2000, (Ordinance No. VIII of 2000) succeeded and repealed the National Registration Act, 1973 through subsection (1) of its Section 48. Its preamble provides that this is “An Ordinance to provide for the establishment of the National Database and Registration Authority so as to facilitate the registration of all persons and the establishment and maintenance of multipurpose databases, data warehouses, networking, interfacing of databases and related facilities.” Through this Ordinance, an autonomous National Database and Registration Authority (NADRA) has been established for carrying out the purposes of this law.

Vide sub-section (1) of Section 7 of this Ordinance, one of the functions of NADRA is the development and establishment, or causing the development and establishment of a central database by collection and collation of multi-faceted data regarding citizens thereby establishing the database of multi-purpose information relating to citizens to be known as Citizen Database. Similarly, subsection (1) of Section 8 of this Act provides that the federal government may by rules provide for the registration of different persons or classes thereof wherever they may be, including citizens, foreigners, and immigrants.

Sub-section (1) of Section 9 of this Ordinance mandates that every citizen of Pakistan, in or out of the country, on attaining the age of 18 years shall get himself registered; and a parent or guardian of every citizen who has not attained that age shall, not later than one month after the birth of such citizen, get such citizen registered in accordance with the provisions of this legislation. Similarly, subsection (1) of Section 10 of this Ordinance provides that the Authority shall issue or renew, or cause to be issued or renewed, in such manner and on terms and conditions, subject to every citizen who has attained the age of 18 years and got himself registered under Section 9, a card to be called the National Identity Card in such form, with such period of validity upon payment of such fee in such form and manner as may be prescribed.

The NADRA is also responsible for issuing Pakistan Origin Cards to those prescribed class of foreigners and such prescribed class of citizens with dual nationality who have got themselves registered in the prescribed manner, with such periods of validity thereof upon payment of such fee in such a manner as may be prescribed, under Section 11 of this Ordinance.

Similarly, the Authority is responsible for issuing Overseas Identity Cards to Pakistani citizens living abroad as provides Section 12 of this Ordinance. In a similar fashion, NADRA is responsible for issuing Alien Registration Cards to such prescribed class of foreigners who are residents in Pakistan, whether

legally or otherwise, who get themselves registered in the prescribed manner, in such form with such periods of validity thereof and upon payment of such fee in such form and manner as may be prescribed. All of these provisions for the registration of all live births occurring in Pakistan and of all the Pakistani citizens out of Pakistan by a parent or a guardian within one month of the birth as per the provisions of this Ordinance indirectly covers the registration of births.

As for the registration of deaths, subsection (1) of Section 17 provides for the surrender of a national identity card or a certificate issued under this Ordinance in case of the death of the holder of that card, or the certificate, by the spouse, heir, next of kin, parent or guardian, as the case may be, to the District Registrar. A strict application of this provision of law may lead to an indirect method of the registration of all deaths occurring in Pakistan and of all deaths of Pakistani citizens living abroad.

As far as the Citizen Database maintained by NADRA is concerned, it is a very precious database of Pakistani citizens, the aliens living in Pakistan, and members of Pakistan's diaspora living abroad containing vital statistics about various segments of Pakistan's population. It is a treasure trove of information about its characteristics that need to be protected, kept confidential, and shielded against its leakage to potential hackers, to unauthorised persons, and forces hostile to Pakistan.



LAWS ON NATIONAL CENSUS, PERIODICAL SURVEYS AND OTHER VITAL STATISTICS

11. Laws on National Census, Periodical Surveys and Other Vital Statistics

Execution of a population census and generation of related statistics is usually carried out in the country after every ten years. For the conduct of this exercise and related activities, the Census Ordinance, 1959, was promulgated, to be repealed and substituted by the General Statistics (Reorganisation) Act, 2011, that is currently the most important prevailing law on vital statistics in Pakistan.

11.1 The Census Ordinance, 1959 (Now Repealed)

The Census Ordinance, 1959 defined various terms relating to census. It included among other things, declaration for taking the census, census officers, and discharge of duties by these officers in certain cases, call upon certain persons to give assistance, and procedure for grant of statistical abstracts, etc whereby these defined terms were incorporated in a legal framework. “Census”, vide Section 2(a) of this Act, was meant to include population and housing census and the federal government, vide Section 3, through notification in the official Gazette from time to time, was authorised to declare that a census for Pakistan shall be taken during such period as may be specified in that declaration.

A National Census Organisation with the chief census commissioner as its head at the national level and provincial census organisations, headed by the respective provincial census commissioners in the provinces were established in consonance with this law. Various offences relating to obstruction to the conduct of the census, refusal to give the required information, or giving false information, or attempts to give a false return to a census officer were defined in this law along with determining the penalties for them. This law was repealed in 2011 through the enactment of the General Statistics (Reorganisation) Act, 2011, succeeding legislation passed by the parliament.

11.2 The General Statistics (Reorganization) Act, 2011

The General Statistics (Reorganisation) Act, 2011 (Act No. XIV of 2011) provides a comprehensive legal mandate to conduct the national census, an agricultural census and conduct periodical surveys on various national issues from time to time. An autonomous national organisation with the name of Pakistan Bureau of Statistics, and the chief statistician as its head, has been established through this law (Section 3) at the national level with adequate powers (Section 4) to be exercised by the chief statistician on behalf of the bureau.

The bureau is mandated and has the powers, vide Section 4(2)(a) of this Act to collect, compile, analyse, abstract, publish, market, and disseminate statistical information relating to the commerce and trade, industrial, financial, social, economic, demographic, agriculture and any other area to be specified by the federal government; and conditions of the people of Pakistan; and to foster the evolution of product lines in response to pressing needs of society. As per clause (b) of sub-section 2 of Section 4 of this Act, the bureau is tasked to plan, execute, and publish the census of population and housing of Pakistan, the census of agriculture of Pakistan, or other censuses at the national level, as required from time to time. Facilitation of policy-making by undertaking planning, coordination, and annual performing of surveys and censuses in Pakistan is another function of this bureau.

The same entity is tasked to develop programmes for national census and surveys with the policy priorities of the federal government, and plan and coordinate adequate activities for them, and publish the results accordingly. In a nutshell, this bureau has the mandate and adequate legal powers to conduct the requisite censuses, generate vital statistics, and draw consequential results as per the emerging needs of the federal government, and various cross-sections of the people of Pakistan.

The chief statistician is the chief executive of the bureau, vide Section 16 of the Act, and has many functions to perform as per clauses (a) to (r) of sub-section 1 of the same section. These functions, among other things, include ensuring coordination with all other statistical agencies, authorities and bodies; promoting developing and maintaining a strong analytical and research capacity within the bureau; asking for any information or calling for the statistical records from any federal ministry,

or a provincial department, statutory body, corporation or association pertaining to statistical data subject to the constitutional and legal requirements for review, if necessary. As per Section 19 of this Act, the federal government is required, by notification in the official Gazette, to appoint the Chief Statistician as the Federal Statistical Authority to oversee, coordinate, monitor and assess independently all official statistics and the statistical systems in the country and the Provincial Governments are required, again by notification in the official Gazette, a Provincial Statistical Authority, for carrying out the purposes of this Act and to supervise statistical activities.

The functions of provincial statistical authorities are given in Section 20 of this Act. They comprise almost similar functions in a province as given to the chief statistician at the national level. Section V, consisting of Sections 23, 24, 25, 26, 27, 28, 29 and 30 of this Act, provides the procedure for formulation of questionnaires; gives powers of calls for returns and information, and grants the right to access records or documents; and ways and means for dissemination of statistical data. Sections 28 and 29 provide the legal mandate to keep the answers given by various respondents confidential and not to be used for any purpose other than the compilation of statistics under this Act.

Section 29 authorises the disclosure of information if it has been made public through any authorised means, or with the prior written consent of the person answering the questions. Section 31 of this Act, provides a mandate to the federal government, through notification in the official Gazette, to declare that a census of population and housing conditions of the country shall be taken by the Pakistan Bureau of Statistics during such periods as may be specified therein, along with designation of the chief statistician as the chief census commissioner for the entire country.

Similarly, this Act grants powers, through Section 32, for appointing a provincial census commissioner in a province to supervise the census throughout a province and to appoint the census officers to take, aid in, or supervise the taking of census within any specified area.

The local councils, in consultation with the respective provincial census commissioner, or any officer authorised in this behalf by the federal government, are required to conduct censuses in a manner authorised or required under this Act. Penalties for offences defined in this Act and the procedure for their imposition are also included in this Act to provide a comprehensive legal framework for the generation of vital statistics for among other things, Pakistan's population and its various cross-sections.

It may be noted here that although NADRA collects comprehensive information about vital events occurring in the lives of the citizens and non-citizens residing in Pakistan; or persons of Pakistan's diaspora residing out of Pakistan through the mandate given to it by its law, and through signing of memorandums of understanding (MoUs) with the concerned local bodies registering the births, deaths, marriages, etc., it is not generating any vital statistics about various aspects of Pakistan's population. This activity is the primary mandate of the Pakistan Bureau of Statistics, although NADRA too has the same mandate under the provisions of its law. It is an anomaly and a duplication. It needs rectification through harmonisation of the activities of these national organisations to generate well-coordinated vital statistics about Pakistan's population in line with the prevailing national policy.



CONCLUSION & RECOMMENDATIONS

12. Is a New Law Needed for Universal Registration of Births, Deaths, Marriages and Vital Statistics in Pakistan?

As has been described in the earlier chapters, enough legislation is already available for the registration of births, deaths, and marriages in the form of some federal laws and a number of provincial laws covering various aspects of this activity. However, the cherished ultimate goal of universal coverage of these events is still elusive, and there does not seem to be any breakthrough achieved during the recent years towards that end. Keeping the provisions of these laws in view, two questions naturally crop up. First, whether the same are adequate or need to be further strengthened, and second, are these laws sufficient to cover all the vital events occurring in the life of a citizen. Closely related to these are further questions about whether the data, which is available about these events with the federal entities and the local bodies is properly maintained, efficiently utilised and adequately protected to ensure against leakage, hacking, and going into the hands of unauthorised people, or potential hackers who could play havoc with the lives of the concerned individuals by illegally using it.

Before finding answers to these questions, it would be appropriate to list all of them to pinpoint the inadequacy of these laws before one can attempt to suggest ways and means to plug these gaps. Accordingly, the resulting questions are listed below:

1. Are the existing CRVS laws comprehensive enough to facilitate the registration of births, deaths, marriages, divorces and other vital events in the life of a citizen, or a non-citizen, living in Pakistan?
2. Can all the vital events in an individual's life be appropriately recorded through the use of these laws?
3. Do these laws encourage and provide a mandate to the existing institutions, like the healthcare establishments, where most of the births and deaths take place, to register the events along with the consequential data like stillbirths and causes of deaths?
4. As far as registration of marriages and divorces is concerned, the same is done by the registrars belonging to different religions through a mandate provided by a number of federal and provincial laws. Is any umbrella legislation needed to coordinate a universal registration activity of these vital events?
5. Can a new comprehensive law covering all aspects of the CRVS legislation be made within the framework of Pakistan's constitution?
6. Pakistan being a federation, if new legislation has to be made, what aspects of the new federal legislation have to be passed by the parliament and what purely provincial mandates need to be covered by the respective provincial assemblies?
7. Local bodies being a de facto third tier of the government—can this tier adequately register these events and establish a system of properly maintaining this data permanently?
8. Due to a vast number of these local bodies tasked with the job of registration of vital events, how can new legislation provide a nationwide system of maintaining the data about them, its comprehensive protection and generation of vital statistics for use by the concerned national institutions?
9. If different dates and other particulars of a birth, death, marriage and divorce, etc. are registered by two different agencies; how this anomaly can be removed to provide redress to the concerned individual under law, and how these contradictions or duplications in recording data about these events can be minimised or removed through legislation?
10. Are the existing institutions, carrying out various activities relating to the civil registration? and generation of vital statistics, enough or more need to be created?
11. Does the constitutional framework allow the parliament to legislate on behalf of the provincial assemblies on a provincial subject?

Let us try to find answers to these questions while looking at various provisions of the existing federal and provincial laws for registration of births, deaths, marriages and divorces.

12.1 Are Existing CRVS Laws Comprehensive?

As far as the federal laws are concerned, the Births, Deaths and Marriages Registration Act, 1886 is a very comprehensive law for these registrations. However, its scope is minimal as it only covers the Christians, Parsis and persons belonging to the Scheduled Castes. It does not apply to the Muslims, Hindus, Sikhs, and others. The present implementation of this law, except for the Islamabad Capital Territory, is concerned with the respective provincial governments, as the federal government is required to implement this law only in the acceding states. However, as all the former states, which acceded to Pakistan, have since been abolished and their territories have become parts of the concerned provinces, this role of the federal government has therefore extinguished.

- The importance of this law as the first law for the registration of births, deaths, and marriages remains because of its comprehensive provisions, albeit on a minimal scale.
- Although various federal laws relating to registration of marriages are also quite comprehensive, their implementation again mainly relates to the respective provincial governments.
- As far as the citizenship laws are concerned, the Pakistan Citizenship Act, 1951 and National Database and Registration Authority Ordinance, 2000, are very comprehensive laws. They cover the registration of all citizens of Pakistan, non-citizens living in Pakistan, legally or illegally, and members of Pakistan's diaspora living abroad but having dual nationality. However, NADRA has not issued detailed regulations for registration of all newly born citizens, within one month of that birth, including particulars of that birth, in furtherance of Section 9(1) of its Ordinance. Furthermore, NADRA has also not made detailed regulations for making registrations of all births and deaths of citizens and non-citizens. A report about them is required to be given to its districts registrars by such authority or officer as the NADRA regulations prescribe, as per Section 21(1) of its Ordinance. Similarly, it has also not issued the regulations for use and management of information it is authorised to receive under Section 21(2) of its Ordinance about the marriages or divorces of citizens and other prescribed persons. Furthermore, as the concerned local bodies are doing these registrations as per their respective local bodies' laws of the provinces, there is a strong possibility of complications arising due to duplications and change in particulars of the recording of these vital events in a citizen's life. Therefore, requiring NADRA to issue regulations and start registering births and deaths in the spirit of Section 9(1) of its Ordinance, does not seem to be a viable option. Moreover, without the parliament amending the NADRA's Ordinance, the evidentiary value of these registrations may be rather weak before the courts. Consequently, as per the prevailing practice, and under the respective Local Government Act, whereby such events are registerable by the concerned registrar, a continuation of the prevailing system, with its strengthening and removal of defects, is a viable option. Presently, the union councils in the rural areas of the provinces, and union committees in the urban areas of Sindh and the cantonments, and certain other urban councils in the provinces, are currently registering these events in the lives of citizens and non-citizens. However, most of these local bodies do not have any efficient systems of keeping the statistics of these registrations in digital formats. Most of them have adopted the same model bye-laws provided by the respective provincial government for making these registrations. Even these model bye-laws are primitive and do not adequately cover various intricacies involved in these processes. Furthermore, although most of these local councils have signed MoUs with NADRA for transmission of the particulars of these registrations to the latter for maintenance in an efficient centralised digital system to adequately provide sufficient and comprehensive database covers to these registrations. A comprehensive legal framework still lacks in this system. A new comprehensive federal law, or separate provincial laws for each of the provinces, on the pattern of the Registration of Births, Deaths and Marriages Act, 1886, is/are therefore needed to fill this void. Those comprehensive umbrella law/s may also contain and refer to all the separate applicable marriage laws and provide a legal basis for maintenance of the particulars of these registrations by NADRA in a modern 21st-century national database.

12.2 Can these Laws Record the Vital Events in an Individual's Life?

As stated earlier, the existing provincial laws for the registration of all the vital events in a person's life are not comprehensive enough to include all the relevant happenings in the life span. Although these laws provide for the registration of marriages, most of them do not refer to the registration of divorces. Furthermore, no law has any provision for registration of stillbirths, as all of them provide for the registration of live births. Similarly, the cause of death is either missing or not adequately covered in most of these laws. Finally, there is seldom any role for the healthcare establishments where most of the births and deaths usually take place. All of these deficiencies need to be covered through new legislation or making amendments in the existing laws.

12.3 Do these Laws Encourage and Provide a Mandate to the Existing Institutions?

Again, as already stated, there is hardly any role for the health care establishments where most of the births and deaths take place, to register the events along with the consequential data like stillbirths or causes of deaths. These institutions need to be incorporated in a comprehensive arrangement for registration of these vital events through making amendments in the existing laws, or enactment of an umbrella act: as a new substantive law for this purpose – as against assigning roles to these institutions through subordinate legislation consisting of bye-laws that has to be made and approved by the concerned local body itself.

12.4 Is any Umbrella Legislation Needed to Coordinate a Universal Registration Activity of these Vital Events?

A plethora of federal and provincial laws that currently exist on the statute books for registration of marriages and divorces of persons belonging to different religions are complex and challenging in practical situations to apply. Therefore, an umbrella law may make specific references to each of these legislations for filling up the information gap that currently exists in this regard.

12.5 Can a New Comprehensive Law Covering All Aspects of the CRVS Legislation be Made?

As far as the question of the mandate of the parliament for passing an umbrella federal legislation for making civil registrations and generation of vital statistics is concerned, it does exist as per the provisions of the constitution, provided the provincial governments are allowed to implement the same through their respective provincial jurisdictions and incorporating in it the authority of the respective provincial assembly to modify, alter, or make amendments in those laws as per the specific requirements of the province. The examples of such laws already exist in the form of the Registration of Births, Deaths and Marriages Registration Act, 1886, which, despite being placed in the category of a federal law, is essentially a provincial law, as it has to be enacted by each provincial government in its own area and can be amended by the respective provincial assembly. The registrar general for registration of births, deaths and marriages has to be appointed for each province by the respective provincial government, along with registration hierarchy working under him in each province. Similarly, all marriage laws along with their provisions for registration of marriages, whether federal or provincial, are mostly provincial as their provisions have to be met by the respective provincial government and the same can be amended by the respective provincial assembly. Another comprehensive federal law covering collection, registration, interpretation and dissemination of vital statistics is the General Statistics (Reorganisation) Act, 2011. This law, though federal, depends on the provincial government for most of its provisions while providing the missing gaps in various aspects of these activities including confidentiality of the data so gathered and dissemination of the universal vital statistics as per the prevalent policies of the federal and the

provincial governments.

12.6 What Aspects of the New Federal Legislation have to be passed by the Parliament and what Purely Provincial Mandate Needs to be covered by the respective Provincial Assemblies?

As already discussed, the Parliament may pass an umbrella comprehensive federal law on CRVS covering the provinces and the Islamabad Capital Territory. The respective provincial assembly can, however, alter, amend, or tailor that law subsequently as per its requirements. All the provinces may be taken on board before the passage of such comprehensive law. The available forum of the Council of Common Interests, as per article 154(1) of the constitution, may also be used for this purpose.

12.7 Can Local Bodies Adequately Register these Events and Establish a System of Properly Maintaining this Data Permanently?

As far as the current capacity of the local bodies doing the work of civil registrations is concerned, most of them being the lowest tier of the local government hierarchy are ill equipped. They lack capacity, both in resources and workforce, and lack the system for maintenance of a comprehensive database of these registrations that can be linked to a national database to produce vital statistics as per the current needs of the country. On the other hand, these lowest tiers of the local government are available to a common man at his doorsteps for registration of these vital events in his life. It is a big plus point for making these registrations universal, continuous, and timely. These weaknesses and strengths of the local bodies for registration of these vital events can be balanced through proper legislation and through the provision of the means to plug the gaps that currently exist in this entire hierarchy. The proposed legislation may include the principle of compulsoriness of registration and proper legal status of the entries that would be admissible in evidence in a court of law as per the Qanoon-e -Shahadat Order, 1984. It should also include a right to access to the entries contained in the system for the concerned individuals and issuance of necessary certificates thereof. This legal framework should be devised as per an individual's requirements against nominal fees while maintaining the confidentiality of the data concerning that person's life. The proposed law may also provide legal validity to the registration of a marriage or a divorce. Providing proper scrutiny of these events before registration; continuation of the registrations without any interruptions; discouraging late registrations to avoid fraud and manipulation of data, but at the same time providing a conduit for registration of time barred vital events through a verifiable process, may be another attribute of the proposed law. Finally, a provision of the proposed law may cover the periodic communication of large-scale data about the characteristics of the population in a local area to a national database for generation of vital statistics as per the policy in vogue of the federal and the concerned provincial governments.

12.8 How Can a New Legislation Provide a Nationwide System of Maintaining the Data about them , its Comprehensive Protection and Generation of Vital Statistics for Use?

The civil registrations currently made by the local bodies in the length and breadth of the country may be linked to the respective provincial and national databases through a central database connected to the local databases of all these local institutions. As cellular phones have made a high penetration amongst all segments of the society, digital apps may be made available on the respective digital system for the households to download and communicate the preliminary particulars of an individual's birth or death, to be followed by a written request by the parent, head of the family, or the individual himself herself to the concerned registrar. This information, if not corroborated, however, by requisite proofs or related supplementary information within a specific period, may not be registered as a valid entry in the register or database. The proposed law may provide some preliminary legal status to conveying of such electronic information, but requires additional documentation/proofs for giving it a proper legal evidentiary value in terms of Qanoon-e-Shahadat Order, 1984 for presentation before the courts.

12.9 If Different Dates and Other Particulars of a Birth, Death, Marriage and Divorce, etc. are Registered by Two Different Agencies, how this Anomaly Can be Removed to Provide Redress to the Concerned Individual Under Law?

In case of different particulars of the births, deaths, marriages and divorces, etc. registered by a local body and the NADRA, the proposed comprehensive law may prescribe a procedure for the ascendancy of the information being maintained by one of these establishments while taking into consideration the related supplementary events and documents. The law may also time limit these duplications, or variance of particulars, to discourage and block the possible subsequent afterthoughts for manipulation of the dates and other supplemental information for the concerned individual's advantage. A presumption of truth must be attached about registration of these events, after a specified reasonable period, to discourage and prevent the subsequent attempts for its doctoring for the would-be beneficiaries. The competent civil courts may be made the ultimate arbiters of these time-barred claims to plug any manipulated deviations from the legally prescribed procedures.

12.10 Are the Existing Institutions Carrying out Various Activities Relating to the Civil Registration and Generation of Vital Statistics Enough and Adequate, or More Need to be created?

As far as the role of institutions carrying out various responsibilities relating to the civil registrations is concerned, given the variegated nature of current institutions ranging from the rudimentary union councils and union committees to a sophisticated well equipped NADRA with a countrywide database of biometric data and large scale databases, the addition of any new institution in this maze would further complicate the process of integration of data. Therefore, setting up of an altogether new institution through the proposed umbrella legislation relating to the civil registrations and generation of vital statistics may not be a feasible option. However, the role of the Pakistan Bureau of Statistics may also be roped in this system of digital networking for the final generation of vital statistics as per the current public policy of the federal governments and respective provincial governments. Such a comprehensive networking of national institutions is expected to provide synergies to these institutions. It will wipe out wasteful expenditures, duplication of efforts, elimination of legal predicaments, and easing the turf wars, etc. while defining the jurisdiction, along with limits of the existing institutions towards achievement of a rather cherished system of giving identity, citizenship with fundamental rights as enshrined in the constitution, human rights as per the Universal Declaration of Human Rights, and equality before law in the life of a common man.

12.11 Does the Constitutional Framework Allow the Parliament to Legislate on behalf of the Provincial Assemblies on a Provincial Subject?

The Constitution in its article 144 (1) states that if one or more Provincial Assemblies pass resolutions to the effect that the Majlis-e-Shoora (Parliament)] may by law regulate any matter not enumerated in the Federal Legislative List in the Fourth Schedule, it shall be lawful for Majlis-e-Shoora (Parliament)] to pass an Act for regulating that matter accordingly, but any Act so passed may, as respects any Province to which it applies, be amended or repealed by Act of the Assembly of that Province. The enactment of the Hindu Marriage Act, 2017 provides an example in this regard. In its case, the provincial assemblies of Punjab, Khyber Pakhtunkhwa, and Balochistan had passed resolutions mandating the Parliament to legislate on the Hindu marriages. As a consequence of this authorisation, the Hindu Marriage Act, 2017 was passed by the parliament and is currently in vogue in Punjab, Khyber Pakhtunkhwa, and Balochistan, and the Islamabad Capital Territory. The provincial assemblies of the respective provinces are authorised to make amendments in or abrogate the statute altogether. The same strategy can be adopted by the proposed umbrella CRVS law by the parliament to include the purely provincial subjects of the registration of marriages and divorces, and the concurrent role of the healthcare institutions towards civil registration of births (including stillbirths), and deaths, (including causes of deaths) of the citizens and the non-citizens.

13. Way Forward

In case it is decided to enact an umbrella CRVS law for the entire country, the enabling strategy that can be applied may include achievement of a consensus within the federation and the provinces through the Council of Common Interests on the provisions of the proposed law falling in the ambit of Part II of the Federal Legislative List of the Fourth Schedule of the Constitution; passing of resolutions by the provincial assemblies of Punjab, Sindh, Khyber Pakhtunkhwa, and Balochistan allowing the parliament to legislate on parts of the proposed legislation in the remit of the provinces; and subsequent passage of the proposed statute by the parliament for the entire country. The draft umbrella law can subsequently be passed separately by the assemblies of Azad Jammu and Kashmir and Gilgit-Baltistan for its enactment in their respective special areas.

Annexures

Annexure 1 - Federal Laws on CRVS

- i. The Christian Marriage Act, 1872
- ii. The Special Marriage Act, 1872
- iii. The Births, Deaths and Marriages Registration Act, 1886
- iv. The Marriages Validation Act, 1892
- v. The Marriages Validity Act, 1892
- vi. The Anand Marriages Act, 1909
- vii. The Cantonments Act, 1924 (Now repealed)
- viii. The Parsi Marriage and Divorce Act, 1936
- ix. The Arya Marriage Validation Act, 1937
- x. The Dissolution of Muslim Marriages Act, 1939
- xi. The Citizenship Act, 1951
- xii. The Census Ordinance, 1959 (now repealed)
- xiii. The National Registration Act, 1973 (now repealed)
- xiv. The General Statistics Act, 1975 (now repealed)
- xv. The National Database and Registration Authority Ordinance, 2000
- xvi. The Cantonments Ordinance, 2002
- xvii. The General Statistics (Reorganization) Act, 2011
- xviii. The National Database and Registration Authority Ordinance, 2000
- xix. The General Statistics (Reorganization) Act, 2011
- xx. The Islamabad Capital Territory Local Government Act, 2015
- xxi. The Hindu Marriage Act, 2017

Annexure 2 – Provincial Laws on CRVS

- xxii. The West Pakistan Muslim Family Laws Ordinance, 1961
- xxiii. The West Pakistan Family Courts Act, 1964
- xxiv. The Azad Jammu and Kashmir Nikah Registration Act, 1986
- xxv. The Azad Jammu and Kashmir Local Government Act, 1990
- xxvi. The Balochistan Local Government Act, 2010
- xxvii. The Punjab Local Government Act, 2013
- xxviii. The Sindh Local Government Act, 2013
- xxix. The Khyber Pakhtunkhwa Local Government Act, 2013
- xxx. The Gilgit Baltistan Local Government Act, 2014
- xxxi. The Punjab Muslim Family Laws (Amendment Act), 2015
- xxxii. The Sindh Hindus Marriage Act, 2016
- xxxiii. The Punjab Sikh Anand Karaj Marriage Act, 2018

