

Amendments to Christian Marriage Laws



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The Christian Marriage Act 1872 and the Divorce Act 1869, which govern the matrimonial affairs of roughly 3-4 million Christians in Pakistan are now likely to be amended on recurring demands primarily from the community concerned. In 2011, the National Commission on the Status of Women had also worked on draft bills concerning marriage divorce law which the government then failed to present in the parliament. Finally, the UN monitoring Committee on Convention on the Elimination of all forms of Discrimination Against Women specifically recommended in its review in 2012, that the laws should be updated.

In fact, the antiquity of these laws has made them inconsistent with contemporary social needs therefore a thorough review is in order. For instance, marriages solemnised after sunset are illegal whereas solemnising marriage between person(s) below the age of 18 is admissible under the Christian Marriage Act in force. The Divorce Act provides for six grounds for dissolution of marriage to a husband including; conversion to another religion, committing of adultery, bigamy and cruelty, whereas a wife may initiate proceedings for divorce only if the husband has committed adultery, coupled with cruelty. The laws are not only stringent but also inconsistent with standards of gender parity in marriage and other social and legal developments that have taken place.

Federal Minister for Human Rights Mr Kamran Michael held a consultative meeting with leaders of different churches in Pakistan in August 2016 in order to solicit their opinion on two separate draft amendment bills concerning the aforementioned laws. Hence consensus building is continuing within the community though more involvement of the rights based groups would be logical.

A few delicate issues have emerged which need a nuanced treatment. The first is about the interpretation of the Christian norms about divorce or dissolution of marriage. Many Christians

consider it indissoluble, though nearly all civil laws in the world, including the countries with majority Christian populations, provide for divorce as an option for ending troubled marriages. This opinion shared by some Christian parliamentarians as well who expect that the amendments should regard the indissolubility interpretation.

These people need to be educated rather than alienated. After all, a legislation confirming to the international human rights standards, particularly in family laws, receives better compliance when the members understand the importance of equality and justice in marriage.

Bishop Alexander John Malik, the Bishop Emeritus of Lahore, raised extremely pertinent point in the aforementioned meeting with Ministry about the lacuna regarding the registration of marriages. The NADRA had been refusing to register marriages or change the marital status of citizens belonging to religious minorities and certify them for Christians on the grounds that doing so needed a legal basis. Although the situation has slightly improved after the Supreme Court's consistent reminders in 2015, the vacuum in the legal framework needs to be addressed. The amendment to Christian Marriage laws should obligate the local government to keep a record of Christian marriages and update the status for NADRA, as it does for the majority population.

The other issue is about authorisation of persons who will solemnise the marriages or the pastors, which is also linked to the registration of churches. Most of the churches are registered under Societies Act 1860, which is an obsolete and inappropriate law even for the NGOs and madrassas using this law for registration. Societies Act is meant for educational societies etc., but the law certainly does not cover the functions of a church aptly. Though most of its subsidiary bodies are registered under Societies Act, the Catholic Church, the largest in Pakistan, could not become a body corporate under the Act due to inappropriate law.

Therefore an accompanying legislation that defines the space and role of churches in Pakistan, besides the procedures and standards of performing marriages, seems necessary. The intersectionality and interdependence of laws needs due consideration, because the compliance of the laws hinges on their practicability.

It is encouraging that the government is taking interest in affairs concerning religious minorities yet it would be more appropriate that the Ministry for Human Rights takes some more time and measures to address a host of issues that the decades of neglect has left along with complications. Learning from examples of laws that lay dormant because of their inapplicability, the government needs to put more efforts to understand the complexities and come up with solutions providing remedies for a long time to come.

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