

**REPORT NO. 2 OF 2020**



**SENATE OF PAKISTAN**

**REPORT OF THE  
SENATE STANDING COMMITTEE ON RELIGIOUS AFFAIRS AND INTER-FAITH HARMONY**

**"THE MUSLIM FAMILY LAWS (AMENDMENT) BILL, 2020"**

**PRESENTED BY**

**SENATOR MOLANA ABDUL GHAFOOR HAIDERI  
Chairman  
Standing committee on Religious Affairs and Inter-Faith Harmony**

**SENATE SECRETARIAT**

**REPORT OF THE SENATE STANDING COMMITTEE ON RELIGIOUS AFFAIRS AND INTER-FAITH HARMONY ON "THE MUSLIM FAMILY LAWS (AMENDMENT) BILL, 2020" INTRODUCED BY SENATOR ENGR. RUKHSANA ZUBERI IN THE HOUSE ON 20<sup>TH</sup> JULY, 2020.**

1. I, Senator Molana Abdul Ghafoor Haideri, Chairman, Standing Committee on Religious Affairs and Inter-faith Harmony, have the honour to present report on the Bill "The Muslim Family Laws (Amendment) Bill, 2020" introduced by Senator Engr. Rukhsana Zuberi in the House on 20<sup>th</sup> July, 2020.

2. The Bill, upon introduction in the Senate, was referred to the Standing Committee for consideration and report back to the House.

3. The composition of the Standing Committee on Religious Affairs and Inter-faith Harmony as under:-

|   |                          |
|---|--------------------------|
| 1. Senator Molana Abdul Ghafoor Haideri                           | Chairman                 |
| 2. Senator Raja Muhammad Zafar-ul-Haq                             | Member                   |
| 3. Senator Siraj ul Haq   | Member                   |
| 4. Senator Professor Sajid Mir                                    | Member                   |
| 5. Senator Hafiz Abdul Karim                                      | Member                   |
| 6. Senator Islamuddin Shaikh                                      | Member                   |
| 7. Senator Brig. (R) Mr. John Kenneth Williams                    | Member                   |
| 8. Senator Kamran Michael   | Member                   |
| 9. Senator Haji Momin Khan Afridi                                 | Member                   |
| 10. Senator Manzoor Ahmed Kakar                                   | Member                   |
| 11. Senator Abida Muhammad Azeem                                  | Member                   |
| 12. Senator Keshoo Bai  | Member                   |
| 13. <u>Minister for Religious Affairs and Inter-Faith Harmony</u> | <u>Ex-Officio Member</u> |
| 14. Senator Engr. Rukhsana Zuberi                                 | Mover                    |

3. The Committee considered the Bill in its meeting held on 24<sup>th</sup> September, 2020. The following attended the Committee:-


|   |          |
|---|----------|
| 1) Senator Molana Abdul Ghafoor Haideri | Chairman |
| 2) Senator Raja Muhammad Zafar-ul-Haq   | Member   |
| 3) Senator Haji Momin Khan Afridi       | Member   |
| 4) Senator Manzoor Ahmed Kakar          | Member   |
| 5) Senator Hafiz Abdul Karim            | Member   |
| 6) Senator Keshoo Bai                   | Member   |
| 7) Senator Abida Muhammad Azeem         | Member   |
| 8) Senator Muhammad Javed Abbasi        | Mover    |

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4. The Committee deliberated upon the bill titled "The Muslim Family Laws (Amendment) Bill, 2020". The bill seek to substitute section 5 of the Muslim Family Law Ordinance, 1961 by providing that the Family Courts shall act as Nikah Registrars and shall register Muslim Marriages. According to the bill, every marriage for registration be reported to the nearest Nikah Registrar within 30 days. The Nikah Registrar (Family Court) shall record the statements of the spouses, if satisfied, shall issue Nikah Cards, as a proof of marriage and the Family Courts shall also report the registration of the marriages to Union Council concerned. Punishment for non-compliance is simple imprisonment extending to one year or fine extending to Rs. 10,000/- or both;

5. Senator Raja Zafar ul Haq was of the opinion that this bill will make the registration process more complicated rather than facilitating the spouses. Even if confined to the extent of Family Court, it will invite a number of issues for both Judge and spouses. Senator Hafiz Abdul Karim was of the view that the process of Nikah Registration should be made easy instead of making it complicated. He cited examples of various countries like UK and Saudi Arabia, whereby, the Registration process of marriage has been made easy by empowering Nikah Registrar. Senator Haji Momin Khan Afridi was also of the view that Nikah Process comprises of "Eejab-o-Qabool" and Shariah has made this process simple and easy, therefore, it should not be made complicated. Senators Manzoor Ahmed and Senator Abida Muhammad Azeem also endorsed this view point.

6. Federal Minister for Religious Affairs and Interfaith Harmony opined that the proposed bill will not only complicate the Nikah process but also affect the other legal issues related to Nikah like Inheritance, Hizanat, Iddat, Mahr etc. All these issues required proof of Nikah and in those cases mostly woman is petitioner. Moreover, Ministry of Religious Affairs and Interfaith Harmony has also drafted a registration mechanism, whereby, the process of Registration of Nikah has been made simple. The draft is pending with M/o Law and Justice for vetting. The Minister further stated that all relevant stake holders i.e. Ministry of Law and Justice, Ministry of Human Rights, Ministry of Religious Affairs and Interfaith Harmony and Law and Justice Commission of Pakistan has opposed the bill on the grounds that as per Constitution of Islamic Republic of Pakistan, Executive and Judiciary have different powers and functions. The act like Registration of Nikah is the responsibility of Executive and not of Judiciary. If executive Powers are entrusted to Judiciary, it will be against the principle of Separation of Powers and create more burden on Judiciary.



7. Chairman, Standing Committee on Religious Affairs and Interfaith Harmony stated that as per Islamic injunctions, Nikah is the process of "Eejab-o-Qabool ba Hazoor-e-Shahid" whereby, two witnesses are required. For spouses to present before Judge and satisfy him about their Nikah will not only difficult for spouses but also put extra responsibility on Judge of Family Court. Moreover, in case of non-registration of Nikah within 30 days will result in fine and imprisonment or both. On the other hand, this complicated process will make youth deviated from Islamic injunctions. Unless some concrete measures are proposed to simplify the registration process, the current process may be continued as both Nikah Khwan and Union Council are easy to approach.

8. Based on the viewpoints of Ministry of Religious Affairs and Interfaith Harmony, Ministry of Human Rights, Ministry of Law and Justice, Law and Justice Commission of Pakistan and Members of the Standing Committee on Religious Affairs and Interfaith Harmony, the Committee unanimously decided to reject the bill with the comments that unless some concrete measures are proposed to simplify the registration process of Nikah, the current process of Registration of Nikah may be continued.

**Recommendations / Directives / Decisions of the Committee:-**

- i. The Standing Committee on Religious Affairs and Interfaith Harmony, after deliberations and keeping in view the view point of relevant stakeholders i.e. Ministry of Law and Justice, Ministry of Human Rights, Ministry of Religious Affairs and Interfaith Harmony and Law and Justice Commission of Pakistan, unanimously rejected the bill titled "The Muslim Family Laws (Amendment) Bill, 2020" and decided that Unless some concrete measures are proposed to simplify the registration process, the current process of Registration of Nikah may be continued.

  
(Syed Khurram Hussain Naqvi)  
Secretary Committee

  
(Senator Molana Abdul Ghafoor Haideri)  
Chairman

**Islamabad, the**  
**12<sup>th</sup> November, 2020**

~~AS~~  
**[TO BE INTRODUCED IN THE SENATE]**

**A**

**BILL**

*further to amend the Muslim Family Laws Ordinance, 1961*

**WHEREAS** it is expedient to amend the provisions of the Muslim Family Laws Ordinance, 1961 (Ordinance No. VIII of 1961) for the purposes hereinafter appearing;

It is hereby enacted as follows:-

**1. Short title, extent and commencement.**- (1) This Act may be called the Muslim Family Laws (Amendment) Act, 2020.

(2) It shall extend to the Islamabad Capital Territory.

(3) It shall come into force at once.

**2. Substitution of section 5 of Ordinance No. VIII of 1961.**- In the Muslim Family Laws 1961 (Ordinance No. VIII of 1961), for section 5, the following shall be substituted, namely:-

**"5. Compulsory registration of marriages.**- (1) Every marriage solemnized under Muslim Law shall be registered in accordance with the provisions of this Ordinance.

(2) For the purposes of registration of marriages under this Ordinance, the Family courts shall act as Nikkah Registrars.

(3) Every marriage shall, for the purpose of registration under this Ordinance, be reported to the nearest Nikkah Registrar by the person who has solemnized such marriage within thirty days of its having done so.

(4) Whoever contravenes the provisions of sub-section (3) shall be punishable with simple imprisonment for a term which may extend to one year, or with fine which may extend to ten thousand rupees, or with both.

(5) The Nikkah Registrar to whom marriage is reported shall record the statements of the spouses to satisfy himself/herself as to solemnization of marriage.

(6) Once the Nikkah Registrar is satisfied as to existence of marriage, he shall issue a Nikkah card to each of the spouses, on payment of requisite fee, and the Nikkah card so issued shall be conclusive proof of the existence of a valid marriage.

(7) The Nikkah Registrar shall also report the registration of marriage to the Union Council concerned.

(8) The form of Nikkah card, the registers to be maintained by Nikah Registrars, the records to be preserved by Union Councils, the manner in which marriages shall be registered and the Nikkah cards shall be supplied to the parties, and the fees to be charged therefor, shall be such as may be prescribed.

(9) Any person may, on payment of the prescribed fee, if any, inspect at the office of the Union Council the record preserved under subsection (8), or obtain a copy of any entry therein."

### **STATEMENT OF OBJECTS AND REASONS**

In Pakistan, many marriages are not registered. Even if they were the registration process is so casual and performed before such ordinary office bearers that it leaves enough space for retraction. As a result, all women, those who are married and those who may marry, are vulnerable to being betrayed by men who manipulate the technicality of marital requirements to suit their desires for new or more wives. The marriages are entered into and then denounced as a matter of routine. Leaving alone general public, this trend of denying marriages has also been witnessed in the political circles. It not only damages future life of women but also amounts to mockery of the Muslim Family Law according to which marriage is a sacred contract.

2. A revival of love and compassion as the foundation of all marriages would require an end to such secrecy and denial in marriages. It is, therefore, imperative to have marriages registered in the courts instead of its registration before the ordinary Nikkah-Registrars. The sanctity and presumption of correctness attached to proceedings of the court would be a better check on repudiation of marriages.

3. This Bill is designed to achieve above objective.

**SENATOR ENGR. RUKHSANA ZUBERI  
MEMBER-IN-CHARGE**