

REGULATORY ENVIRONMENT OF THE PROFESSIONS IN PAKISTAN: AN OUTLINE

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INTRODUCTION: WHY STUDY THE PROFESSIONS?

1.1 Background of the Study

Professional services may be defined as services provided by professionals who are (i) compulsorily regulated by law and (ii) whose regulator is based upon the principle of peer-to-peer regulation. These services – such as legal and healthcare services – are an important part of the overall market for professional services, both in terms of the total economic value of this market as well as in terms of the significance of these services for overall societal well-being.

Many professions in Pakistan are presently going through serious crises.¹ The issue has recently gained traction in national press on account of an organized attack launched on Chief Justice Islamabad High Court by a sizeable group of lawyers in Islamabad led by a serving member of the Islamabad Bar Council, the professional services regulator. Engineering consulting firms which prepared the feasibility study and design of the Rawalpindi Ring Road scandal have been accused of having invested in the project's real estate, thus creating a serious conflict of interest. Physicians are regularly accused of prescribing unnecessary diagnostic tests and expensive drugs to patients because of monetary incentives offered to them by pharmaceutical companies and diagnostic labs. Even the erstwhile highly reputed chartered accountants are being accused of figure-fudging in public companies in collusion with corporate managers.

While the professions – especially law and medicine – are often subject to criticism on media, the reform debate remains marred by moralistic prescriptions, knee-jerk reactions and generalizations. Legal and demographic facts are conspicuously missing when people talk about the professions. A serious and informed debate about the “regulatory structure” of the professions is the need of the hour because, like other rational market agents, the behavior of “professionals” is not determined entirely by the values they espouse; the behavior of professionals is also determined, to a very great extent, by the regulatory environment in which they operate. The cost and quality of professional services in any country therefore has a direct relationship with the regulatory environment of the professions.

Till the time of writing of the research report, there is not a single review or report which attempts to take a holistic view of the regulatory structure of the professions in Pakistan. This is a structure which rests upon almost one dozen primary statutes and even more voluminous delegated legislation. The history, structure, powers and behaviour of each of the regulators – Bar Councils, Nursing Councils, Engineering Council etc. – is unique; but there are also some commonalities. Effective public critique and reform of the professions is not possible without taking stock of this complex regulatory structure.

¹ <https://tribune.com.pk/story/2283105/lawyers-ransack-ihc-cjs-chamber-during-protest>

1.2 Objectives of the Study

This study aims to provide, firstly, an accurate description of the law which govern the professions and set up their regulatory structures. After listing the laws down, I also compare them with each other.

Second, this study puts together, for the first time ever, some basic demographics of the professions - for instance, the total number of lawyers, doctors and auditors etc., their gender breakdowns and, in some case, their growth rates too.

Finally, based on the study, I have charted out an agenda for policy debate which is informed by legal and demographic realities, not just anecdotes and personal whims.

This is primarily a descriptive piece rather than a prescriptive one. However, the aim of this descriptive research is to provide a basis for having a more informed policy debate on proposals for reform of the professional regulators. This study is a must read for any political economist, political activist, politician, journalist, judge, lawyer or other interested person who wishes to embark upon the much- needed project of reforming the professions in Pakistan.

Volume II of the study is a compilation of the relevant laws. It is meant to help other researchers who might be interested in carrying out a comparative study of this sort.

THE PROFESSIONS AND THEIR LAWS: A BIRD'S EYE'S VIEW

2.1 The Professions

At the moment, there are a total of 12 autonomous professional regulators in Pakistan, a list of which is provided in the table below. However, some of these are “umbrella regulators”, i.e. they regulate more than one but deeply related set of professionals. Therefore, in the list below we have enumerated not just the professional regulators but also their licensees.

Table 1: Professional Regulators and their Licensees

Sr.	Regulator	Licensees
1)	Pakistan Engineering Council (PEC)	Engineers Constructors Operators
2)	Pakistan Medical Council (PMC)	Medical Practitioners Surgeons Physicians
3)	Pakistan Dental Council (PDC)	Dental Surgeons
4)	Pakistan Council of Architects and Town Planners (PCATP)	Architects Town Planners Architectural Contractors
5)	Institute of Chartered Accountants, Pakistan (ICAP)	Chartered Accountants Management Consultants
6)	Institution of Chartered Management Accountants of Pakistan (ICMAP)	Cost and Management Accountants
7)	Pakistan Bar Council and Provincial Bar Councils	Lawyers
8)	Pakistan Nursing Council (PNC)	Nurses Midwives Health Visitors Nursing Auxiliaries
9)	Pharmacy Council of Pakistan and provincial Pharmacy Councils	Pharmacists
10)	Pakistan Veterinary Medical Council (PVMC)	Veterinarians
11)	National Council for Tibb (NCT)	Tabibs Vaidis
12)	National Council for Homeopathy (NCH)	Homeopaths

2.2 Governing Laws

The titles of principal statutes under which these professional regulators operate are listed below. In legal parlance, one always refers to a statute by its date of promulgation; so, for instance, the PEC Act is referred to as PEC Act, 1976. It may be borne in mind that the date of its principal statute is not necessarily an indication of the founding date of the regulator. In some cases, this may be true; but in other cases, this not so because the present statute only replaces some earlier statute. To illustrate this point, in the list below, I have not only listed the current statutes but tried to trace their precursor documents.

Table 2: Legal Framework of the Professions

	Professional Services Regulator	Relevant Statute	Precursors
i.	Pakistan Engineering Council	PEC Act 1976	Memorandum of Association of Institution of Engineers Pakistan; Association of Consulting Engineers (Pakistan)
ii.	Pakistan Medical Council	PMC Act 2020	PMDC Ordinance, 1962
iii.	Pakistan Council of Architects and Town Plan	PCATP Ordinance 1983	None
iv.	Institute of Chartered Accountants, Pakistan	Chartered Accountants Ordinance, 1961	Auditors Certificate Rules, 1950, under Section 144 of the Companies Act, 1913, Auditors' Certificates Rules, 1932.
v.	Institution of Chartered Management Accountants	ICMA Act, 1966	Memorandum of Association of Pakistan Institute of Industrial Accountants, a company.
vi.	Pakistan Bar Council and Provincial Bar Councils	Legal Professionals and Bar Councils Act, 1974	Legal Professionals and Bar Councils Act, 1965
vii.	Pakistan Nursing Council	Pakistan Nursing Council Act, 1973	Pakistan Nursing Council Act, 1952 West Pakistan Nursing Services Ordinance, 1959
viii.	Pharmacy Council of Pakistan	Pharmacy Act, 1967	West Pakistan Drug Rules, 1958 Memorandum of Pakistan Pharmacists Association, a registered Society
ix.	Pakistan Dental Council	PMC Act, 2020	
x.	Veterinary Medical Council of Pakistan	Pakistan Veterinary Medical Council Act, 1996	Memorandum of Pakistan Veterinary Medical Association, a registered Society
xi.	Tibb Council	Unani, Ayurvedic and Homeopathic Practitioners Act, 1965	None
xii.	Homeopathy Council	Unani, Ayurvedic and Homeopathic Practitioners Act, 1965	None

2.3 A Bird's Eye View of the Professional Regulatory Laws.

While each of the above-mentioned laws has numerous unique features, there is also a common scheme which runs through them.

2.4 Licensed Activity

Firstly, at the very heart of the professional regulatory scheme is the idea of a “licensed activity” – an activity which you cannot do unless you are a registered professional. All the Acts provide some indication of which activity they seek to bring within the ambit of professional regulation. On this count, one finds two different models in vogue here: (i) the criminalization model, and (ii) the invalidation model.

In some of the statutes, a particular activity is defined and carrying out the activity is *per se* declared as criminal except for licensed professionals. This may be called the criminalization model of regulation. In other statutes, if non-professionals carry out the licensed activity, this is not criminalized. However, their acts are declared to have no legal validity; and they are also prohibited from representing or holding out themselves as professionals while carrying out the said activity. This may be called the invalidation model.

The Pakistan Engineering Council Act, 1976, for instance, provides a precise albeit extremely broad definition of “professional engineering work”; the PCATP Ordinance 1983 also provides definitions of “professional architectural work” and “town planning”. After the coming into effect of these Acts, it is now criminal for anyone other than licensed professionals to engage in these areas of work. The activity itself has been criminalized here.

An example of the more benign invalidation model of regulation is what we see in the case of doctors and chartered accountants. Engaging in the art of medicine itself is not prohibited by the law. However, the law says that a non-professional's prescription commands no legal validity. This means that if it ends up in disaster, the non-professional would have no defense against legal liability. Likewise, if the patient refuses to pay for the treatment, a non-professional would not be able to recover his dues through the court process.

The relevant clauses which illustrate this point are provided in the table below:

Table 3: Definition of Licensed Professional Activities

Sr.	Activity	Definition
1.	Town Planning	As below in item 2
2.	Town Planning and Architecture	<p>Section 2. “professional architectural work” means the giving of professional advice and opinions, the making of measurement and layouts of buildings, the preparation of feasibility and other reports, the production of concept, the originating, designing and planning, and in association with relevant professionals, producing working drawings and contract documents, specifications and bills of quantities, the inspection and supervision of works and issuing of certificates of such buildings and other works for which an architect offers his professional services;</p> <p>“Professional town planning work” means the giving of professional advice and opinions in the field of urban and regional planning, the carrying out of physical and socio-economic surveys, the preparation of feasibility reports, layout plans, and development plans, and, in association with relevant professionals, carrying out inspection and supervision of works and issue of certificates of such schemes and works for which a town planner offers his professional services;</p> <p>Section 28. (1) After such date as the Federal Government, may, after consultation with the Council, by notification in the official Gazette, appoint in this behalf, whoever undertakes any professional architectural or town planning work shall, if his name is not for the time being borne on the Register or on either of the Lists, be punishable with fine which may extend to five thousand rupees, and, in the case of a continuing offence, with a further fine which may extend to two hundred rupees for every day after the first day during which the offence continues.</p>
3.	Engineering	<p>transportation engineering, air-conditioning ventilation, cold storage works, system engineering, electronics, radio and television engineering, civil engineering, electrical engineering, mechanical engineering and biomedical engineering etc.;</p> <p>(h) organizing, managing and conducting the teaching and training in engineering universities, colleges, institutions, Government colleges of technology, polytechnic institutions and technical training institutions;</p> <p>(i) preparing standard bidding or contract documents, construction cost data, conciliation and arbitration procedures; guidelines for bid evaluation, prequalification and price adjustments for construction and consultancy contracts; and</p> <p>(j) any other work which the Council may, by notification in the official Gazette, declare to be an engineering work for the purposes of this Act;</p> <p>Section 27. Penalties and procedure.- (1) After such date as the Federal Government may, after consultation with the Council, by notification in the official Gazette, appoint in this behalf, whoever undertakes any professional engineering work shall, if</p>

4.	Chartered Accountants	<p>his name is not for the time being borne on the Register, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both, and, in the case of a continuing offence, with a further fine which may extend to two hundred rupees for every day after the first during which the offence continues.</p> <p>(2) A member of the Institute shall be deemed "to be in practice" when individually or in partnership with chartered accountants in practice, he, in consideration received or to be received-</p> <p>(i) engages himself in the practice of accountancy; or</p> <p>(ii) offers to perform or performs services involving the auditing, or verification of financial transactions, books, accounts, or records or the preparation, verification or certification of financial accounting and related statements or holds himself out to the public as an accountant; or</p> <p>(iii) renders professional services or assistance in or about matters of principle or detail relating to accounting procedure or the recording, presentation or certification of financial facts or data; or</p> <p>renders such other services as, in the opinion of the Council, are or may be rendered by a chartered accountant in practice; and the words "to be in practice" with their grammatical variations and cognate expressions shall be construed accordingly.</p>
5.	Doctors	<p>Section 29. Licensing. (11) Notwithstanding anything to the contrary in any law for the time being in force, no medical certificate or prescription or medical or dental advice <i>shall be considered valid</i> unless obtained from a medical or dental practitioner having a valid provisional or full license.</p> <p>(12) No person shall be entitled to <i>recover any charge</i> in any court of law for any medical, dental or surgical advice or attendance or for the performance of an operation or intervention or for any medicine prescribed or supplied unless he is a registered medical or dental practitioner having a valid registration with the Authority...</p>
6.	Lawyers	<p>Section 22. (1) Save as otherwise provided in this Act, <i>no person shall be entitled to practice the profession of law</i> unless he is an advocate.</p>
7.	Nurses	<p>Section 23. Prohibition of employment of unregistered nurses etc. (1) No hospital, asylum, infirmary, dispensary or lying in hospital maintained or aided by the Federal Government or a Provincial Government or a local authority shall <i>employ therein any person as a nurse, midwife, health visitor or nursing auxiliary unless such person: (a) is registered</i> in the register; or (b) is a trainee at an institution recognized for the purpose by the Council and is certified by the head of that Institution to have already received sufficient training to be able to perform his duties safely and satisfactorily.</p>

24 PENALTY FOR CERTAIN OFFENSES:

(1) A person shall be punishable with imprisonment of either description for term which may extend to 6 months or with a fine which may extend to one thousand rupees or with both if he:... (c) he practices as a nurse, midwife, health visitor or nursing auxiliary in contravention of any Regulations made under section 26.

8. Pharmacists
- Section 31. Prohibition of practice without registration.- (1) Subject to the provisions of sub-section (4), no person shall, after the expiry of five years from the commencement of this Act or such later date as the Central Government may, by notification in the official Gazette, specify in this behalf, **practice as a pharmacist** unless he is a registered pharmacist and displays his certificate of registration in a conspicuous place within the premises in which he so practices.
- Veterinary Medical Council Act, 1996.
9. Veterinarians
- Section 19. Privileges of registered members. (1) Notwithstanding anything to the contrary in any law for the time being in force, no person other than a registered veterinary practitioner shall **hold any veterinary position** in private or public sector.
10. Tabibs and Homeopaths
- Section 37. No person other than registered or listed practitioner shall **practice or hold himself out, whether directly or indirectly, as practicing** the Unani, Ayurvedic or as the case may be Homeopathic System of medicine.
- Section 37-A. Prohibition against calling applications, etc., by un-recognised institutions.— (1) No institution which is not recognized under section 17 shall call applications, advertise or arrange for admission to such institution for imparting **education in the Unani, Ayurvedic or Homoeopathic** system of medicine, nor shall such institution advertise or conduct any correspondence course in any such system of medicine.
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It is interesting to note that some of the statutes do not provide any definition of the licensed activity itself. For instance, the Bar Councils Act does not provide any definition of the term “practice of law”; likewise, the Nursing Council Act nowhere defines “nursing”. This is a major legal lacuna which should be addressed in any comprehensive legislative reform initiative. It is not reasonable to prohibit non-professionals from engaging in an activity which has not been defined.

2.5 Accreditation of Education

Our study of the laws shows that in Pakistan the professional regulators don't just confine themselves to prescribing certain learning outcomes, i.e. "goals" which must be attained by the person who wishes to join a profession; the regulators also prescribe the "means" through which a pupil is supposed to attain those learning goals. So, for instance, the professional regulators have been given the power to accredit particular educational and training institutions which must be attended before joining the profession; likewise, the regulatory also prescribe the courses which must be taught by the accredited educational institutions.

This unification of educational and professional functions is, in a sense, what sets professional licensing system apart from the trade licensing systems. In the case of trades such as banking and marketing, for instance, trade licenses are controlled by one entity (government or non-profit entities), while education is generally controlled by the universities.

Since professional regulators have a major say in what pupils study and where they study it, this often brings these regulatory in conflict with the other state-sanctioned entities involved in "higher education": chartered universities and the Higher Education Commission of Pakistan. An illustration might make this point easier to comprehend. Who decides what content a teacher who teaches contract law to LLB students in LUMS will teach?

The answer is: in addition to the teacher, three different entities have a say in this matter: the Board of Faculty set up under LUMS Order, 1985, HEC set up under HEC Ordinance, 2002 and last but not the least, Pakistan Bar Council set up under the Legal Practitioners and Bar Councils Act, 1974. In theory, the teacher of contract law must balance the often conflicting demands of all three institutions: LUMS, HEC and Bar Council.

This overlapping of territories definitely leads to confusion. It is perhaps not entirely avoidable; but it can certainly be reduced through a comprehensive legislative reform.

2.6 Governance Structure: The Three Circles

In most cases, the governance structure of the profession has been divided into three circles.

First, there is an outer circle consisting of the entire body of professionals; so, for instance, the term "Pakistan Engineering Council" refers to all those who are enrolled as engineers. At present, more than three hundred and twenty thousand persons are part of this extended body of professionals. They are all supposed to be invited to the Annual General Meeting and are allowed to partake in major decisions affecting the engineering profession.

Second, there is an inner circle comprises of "governing bodies". The composition, mode of appointment or election, powers and tenures of these bodies is defined in detail in the relevant statutes. The number of members in these governing bodies varies widely. Some, like the Pharmacy Council of Pakistan (12) and provincial Pharmacy Councils (10) are relatively small; others like the Governing Body of Pakistan Engineering Council (66) and Pakistan Bar Council (24) are much larger. A more detailed and comparative analysis of the mode of appointment/election, eligibility requirements and length of tenures is carried out in a later part of this study.

The third and inner-most circle in the governance framework of the professions comprises of "executive bodies". These are mostly a sub-set of the governing bodies comprising only a

handful of key decision-makers who run the day-to-day affairs of the regulatory body. The executive bodies often rely upon the support of a full-time bureaucracy of officials who are headed by the “Registrar”.

2.7 Delegated Legislation

One of the most important features of the professional regulatory laws is that they confer extensive delegated legislative powers upon the regulators. Professional regulators can make rules and regulations governing the relevant professionals; and such rules and regulations have the status of law. By way of illustration, one such legal provision, which confers delegated legislative power upon the regulator is reproduced below:

2.8 Power to Make Regulations

- (1) The council may, by notification in the official Gazette, make regulations for carrying out the purposes of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing powers, such regulations may provide for all or any of the following matters, namely:-
 - (a) the standard and conduct of examinations under this Act;
 - (b) the qualifications for entry of the name of any person in the Register as a member of the Institute;
 - (c) the qualification for the purpose of sub-section (4) of section 5;
 - (d) the conditions under which any examination or training may be treated as equivalent to the examination or training prescribed for membership of the Institute;
 - (e) the conditions under which any foreign qualifications may be recognised;
 - (f) the manner in which and the conditions subject to which applications for entry in the Register may be made;
 - (g) the fees payable for membership of the Institute and the annual fees payable for certificates of practice;
 - (h) the manner in which election to the Council and the Branch Councils may be held;
 - (i) the particulars to be entered in the Register;
 - (j) the functions of Branch Councils;
 - (k) the regulation and maintenance of the status and standard of professional qualifications of members of the Institute;

- (l) the carrying out of research in cost and management accounting;
- (m) the maintenance of libraries and publication of books and periodicals relating to cost and management accounting and allied subjects;
- (n) the management of the property of the Institute and the maintenance and audit of its accounts;
- (o) the summoning and holding of meetings of the Council and committees thereof, the times and places of such meetings, the procedure to be followed thereat and the number of members necessary to form a quorum;
- (p) recording and certifying minutes of meetings of the Council and the annual general meeting and extraordinary meetings;
- (q) appointment and removal of auditors of the Institute;
- (r) the manner in which the annual list of members of the Institute shall be published;
- (s) the powers, duties and functions of the President and Vice-President;
- (t) the functions of the Standing Committees and other Committees and the conditions subject to which such functions shall be discharged;
- (u) the terms of office, and the powers, duties and functions of the Secretary, Treasurer, and the other employees of the Council;
- (v) rules of professional and other conduct and the exercise of disciplinary powers in relation thereto;
- (w) the terms and conditions of service of the employees of the Institute including persons who have become its employees under section 29;
- (x) the registration of students and the fees to be charged for such registration; and
- (y) any other matter which is required to be or may be prescribed under this Act.

Over the course of years, the regulators have exercised this power to create a voluminous body of delegated legislation. Perhaps the most significant delegated legislation is that which pertains to setting standards of conduct – such as the Canons of Etiquette adopted by the Bar Council in 1976. Some, though by no means all, of this body of delegated legislation is identified in the table below:

Table 4: Delegated Legislation

Regulator	Delegated legislation
Pakistan Engineering Council	PEC Bye-laws, 1976 Engineering Education Regulations 1985, Construction and Operations of Engineering Works Regulations, 1987 Consulting Engineers Bye-laws, 1986 Continuing Professional Development Bye- laws, 2008
Pakistan Medical Council	PMC Medical and Dental Undergraduate Education (Admissions, Curriculum and Conduct) Regulation, 2021 PMC Conduct of Examinations Regulations, 2021 Placement of The Appointment of Members (Council and Board) Rules, 2021 Medical Tribunal (Functions) Rules, 2021 PMC (Enforcement) Regulations, 2021 PMC (Employees Disciplinary Proceedings) Code, 2021 PMC (Service) Regulations, 2020 Admission Regulations (Amended) 2020-2021
Pakistan Council of Architects and Town Plan	Pakistan Council of Architects and Town Plan Bye- laws, 1983 Code of Conduct Regulations for the Promotion and Conduct of Architectural Competitions Regulations for Licensing of Architecture and Town Planning Contractors
Institute of Chartered Accountants, Pakistan	Chartered Accountants Bye-Laws, 1983 Training Regulations and Guidelines, 2015
Institution of Chartered Management Accountants	Cost and Management Accountants Act, 1966 & Regulations, 1990

Pakistan Bar Council and Provincial Bar Councils	The Pakistan Legal Practitioners and Bar Councils Rules, 1976
Nursing Council	<p>Minimum Criteria to establish new Nursing Educational Institutions for Degree programs, 2019</p> <p>Professional Code of Ethics for Registered Nurse, Midwife. Lady Health Visitors and Nurse Auxiliaries</p>
Pharmacy Council	<p>Pharmacy Council of Pakistan Bye-Laws, 1969</p> <p>Pharmacy Council of Pakistan (Inspection and Recognition) Regulations, 2009</p> <p>Pharmacy Council of Pakistan (Examination for Registration in Register “B”) Regulations, 2006.</p>
Veterinary Council	<p>Pakistan Veterinary Medical Council Regulations, 2000</p> <p>Pakistan Veterinary Medical Council -Standard of Education Regulations, 2001</p> <p>Pakistan Veterinary Medical Council (Standards of Conduct and Professional Ethics of Veterinary Practitioners) Regulations, 2002.</p> <p>Pakistan Veterinary Medical Council (Accreditation and Equivalence) Regulations, 2015</p>
Tibb Council	<p>Unani, Ayurvedic and Homoeopathic System of Medicine Rules, 1980.</p> <p>Administration and Financial Management Rules, 2008</p>

2.9 Disciplinary Forums for Professional Misconduct: The “Self-Regulation” Model

Each of the laws related to the professions provides a specialized forum for redressal of complaints related to professional “misconduct”. These forums and the relevant legal provisions are listed in the table below. A theme that is common to the various disciplinary fora is the dominance – in some case exclusive control – of professional insiders. This may be referred to as the “self-regulation” model. So, for instance, complaints against engineers are decided by engineers alone; complaints against lawyers are to be decided exclusively by their lawyers and judges. The idea is that professionals should be judged only by their peers; nobody from outside the profession is given any serious role in the disciplinary system. The effectiveness of this system of peer-accountability has drawn much criticism in recent years and might be one of the key structural flaws in the regulatory environment.

Table 5: Disciplinary Forums

Regulator	Disciplinary Forum	Relevant section
Pakistan Engineering Council	Tribunal of Inquiry	Section 21. Tribunals of Inquiry.- (1) For holding inquiries into the professional conduct of registered engineers, professional engineers, consulting engineers, constructors and operators, the Governing Body may constitute as many Tribunals of Inquiry as it may consider necessary. (2) A Tribunal shall consist of three members appointed by the Governing Body out of a panel of members of the Council maintained by the Committee who have professional standing of not less than ten years and who hold or have held high engineering assignments. (3) The Governing Body shall appoint one of the members of a Tribunal to be the Chairman thereof.
Pakistan Medical Council	Medical Tribunal	Section 33. Disciplinary proceedings, suspension or cancellation of license.-- (1) The Council in compliance to directions of the Medical Tribunal or upon a finding pursuant to a disciplinary hearing or upon an inquiry and hearing conducted by the Authority or the Council itself, may temporarily suspend or permanently cancel the license of a practitioner for having violated any obligation imposed upon the licensee or for medical or professional negligence or misconduct.
Pakistan Council of Architects and Town Planners	Tribunal of Inquiry	?????
Institute of Chartered Accountants, Pakistan	Investigation Committee Council High Court	?????
Institution of Chartered Management Accountants	Council	Section 20. Removal of name from the Register.-
Pakistan Bar Council and Provincial Bar Councils	Disciplinary Committee Tribunal	Section 15. Committees of the Pakistan Bar Council. (1) The Pakistan Bar Council shall constitute the following committees, namely: - i) a Disciplinary Committee consisting of a Judge of the Supreme Court nominated by the Chief Justice of Pakistan, who shall be its Chairman, and four other members elected by the Council from amongst its members. S. 42. Tribunals of Bar Councils. (1) The Pakistan Bar

Regulator	Disciplinary Forum	Relevant section
		Council may constitute one or more Tribunals each consisting of two of its members elected by it for the purpose and a Judge of the Supreme Court nominated by the Chief Justice of Pakistan, who shall be the Chairman. (2) A Provincial Bar Council may constitute one or more Tribunals each consisting of two of its members elected by it for the purpose and a Judge of the High Court nominated by the Chief Justice of the court, who shall be the Chairman.
Nursing Council	Council	22. Disqualification for Registration. (1) A person shall be disqualified for registration in the register if he- a) has been convicted of any offence under this Act or of any other offence which in the opinion of the Council implies a defect of character; or b) has, at any inquiry held by the Council in which the person was given a reasonable opportunity of being heard, been found guilty of such conduct as is considered regulations derogatory to his profession in accordance with the regulations made under section 26.
Pharmacy Council	Provincial Council	Section 28.
Pakistan Dental Council	Medical Tribunals.	15' 17' 20' 22 and 25
Veterinary Council	Council	Sections 20,21,22
Tibb Council	Council	Section 28
Homeopathy Council	Same as above	Section 28

2.10 Holding the Regulator Accountable

It is interesting to note that many the laws also provide for some in-built mechanism whereby the government can hold the otherwise autonomous regulator accountable. Here, again, we see a number of different models. Most of the statutes provide for a 3-member "Commission of Inquiry". The Commission is to be headed by a retired judge or senior lawyer; one member is to nominate by the regulator itself while the other member is to be nominated by the Federal Government.

The various in-built mechanisms for accountability of the regulators are summarized in the table below:

Table 6: Mechanisms for Institutional Accountability

	Title	Section
Pakistan Medical Council	Commission of Inquiry	Section 43
Pakistan Council of Architects and Town Planners	Commission of Inquiry	Section 32
Pakistan Dental Council	Commission of Inquiry	Section 44
Veterinary Council	Commission of Inquiry	Section 25
Tibb Council	<p>Supersession of Council.— (1) If at any time it appears to the Federal Government that the Council has failed to exercise or has exceeded or abused any of the powers conferred upon it by or under this Act, the Federal Government may, if it is satisfied that such failure, excess or abuse has adversely affected the efficient conduct of the affairs of the Council or the achievement of the objects of this Act, by notification in the official Gazette, supersede the Council for a period of one year and may, by a like notification, extend the period of supersession for a further period of one year:</p> <p>Provided that no Council shall be superseded unless a reasonable opportunity has been given to it to show-cause against the supersession.</p> <p>(2) Upon the supersession of the Council under sub-section (1)-</p> <p>(a) the persons holding office as President, Vice-President and members of the Council shall cease to hold office; and</p> <p>(b) all powers and functions of the Council shall, during the period of supersession, be exercised and performed by such person or authority as the Federal Government may appoint in this behalf, as if such person or authority were the Council.</p> <p>The Council shall be reconstituted in accordance with the provisions of this Act, for the exercise and performance of its powers and functions on the expiry of the period specified in the notification under sub-section (1).</p>	Section 42

COMPARING THE GOVERNANCE STRUCTURE OF VARIOUS PROFESSIONAL REGULATORS -SOME OF THIS ALREADY BE DONE ABOVE HENCE THIS IS REPETITION

3.1 Licensing Models: Criminalization v. Invalidation

As noted in Chapter 2, there is a key difference between the licensing models adopted in the various statutes. In some cases, such as that of engineering and architecture, the law criminalizes non-professionals engaging in the licensed activity. However, in other cases, a more benign licensing system has been adopted whereby non-professionals can continue to engage in the licensed activity; however, their acts would lack “legal validity”. This is the model adopted in the case of medicine and chartered accountancy. Another model is that of *tibb* and chartered accountancy where the only prohibition is against non-professional “marketing” or “holding out” themselves as professionals.

3.2 Ambit of Regulation: Professions and Business

One of the most important differences between the various professional regulators is with regard to the scope of their regulation. The scope of some regulators has been extended to the allied businesses which these businesses serve; others not so.

For instance, the regulatory ambit of Pakistan Engineering Council is not confined to “engineers”; its scope also extends to “constructors” and “operators”, i.e. businesses who employ engineers to carry out engineering work. In 1987, PEC made an entire set of bye-laws specifically for constructors and operators. These bye-laws have placed constructors in to 4 major subject-area categories such as “electrical” and “mechanical” and 27 different sub-categories. The licensing system also categorizes firms into 8 different tiers in accordance with their demonstrated history of work and the experience level of their employees. In other words, PEC’s bye-laws have promoted both vertical and horizontal specialization in construction firms. In return, PEC charges reasonably high fee from the firms; this revenue obviously helps the regulator’s finance. It is because of this revenue stream the PEC has been able to maintain complete financial autonomy from the federal and provincial governments is generally not a cash-starved institution.

The case of most other profession regulators is totally different. So, for instance, PMC only regulates the conduct of doctors; it does not regulate the operation of those hospitals and clinics where the said doctors work. That falls into the ambit of the various statutory health care commissions recently set up by the provinces, such as the Punjab Healthcare Commission set up through separate Acts of the provincial assemblies. The Pharmacy Council of Pakistan regulates pharmacists who sell drugs; but the pharmaceutical companies which manufacture those drugs or even import them fall within the regulatory ambit of the Drug Regulatory Authority of Pakistan created under DRAP Act..... This set of regulators which only regulates professionals not business is, for understandable reasons, often cash-starved and, as a result, dependent upon governmental largesse. This, obviously, reduces their autonomy from the government.

Table 7: Regulators of Business and Professions

Sr.	Profession	Regulator	Allied Business	Regulator
1.	Engineering	PEC	Construction	PEC Building Control Authorities/ Departments PSQCA
2.	Architecture	PCATP	Industrial Manufacturing Construction	PEC Building Control Authorities/ Departments
3.	Medicine	PMC	Hospitals	Health Commission
4.	Pharmacy	PCP	Pharmaceutical Manufacturing	DRAP

3.3 Length of Tenure

It is a common feature of all the professional regulators that they enjoy a statutory tenure. However, the length of tenures varies widely. The longest is that of Pakistan Bar Council and provincial bar councils which is 5 years; the shortest is that of PCATP which is only 2 years.

Table 8: Length of Tenures

Executive body	Term in Years
Provincial Bar Councils	5
Pakistan Bar Council	5
Institute of Chartered Accountants, Pakistan	4
Veterinary Council	4
Pakistan Engineering council	3
Pakistan Medical Council	3
Institution of Chartered Management Accountants	3
Nursing Council	3
Pharmacy Council Central Council	3
Pharmacy Council Provincial Council	3
Pakistan Dental Council	3
Pakistan Council of Architects and Town Plan	2
Tibb Council	To be determined through rules
Homeopathy Council	To be determined through rules

3.4 Elected/Non-elected

The most significant difference between the regulators is with regard to the proportion of elected members in their Governing Bodies.

Table 9: Percentage of Elected Versus Nominated Members

Executive body	Number of members	Elected members	Non-elected members -how these members selected and appointed?	Percentage of elected members
Pakistan Engineering Council	66	42	24	63 %
Pakistan Medical Council/Council	9	2	7	22%
Pakistan Council of Architects and Town Plan/Council	16	13	3	81%
Institute of Chartered Accountants, Pakistan/Council	16	12	4	80 %
Institution of Chartered Management Accountants	13	8	4	61%
Provincial Bar Councils/Council	153	148	5	97%
Pakistan Bar Council	24	23	1	95%
Nursing Council/Council	30	18	10	60%
Pharmacy Council/ Central council	12	0	12	0
Pharmacy Council Provincial Council	10	0	10	0
Pakistan Dental Council	21	2	19	10%
Veterinary Council	16	4	12	25%
Tibb Council	22	14	8	64%
Homeopathy Council	21	13	7	62%

3.5 Mode of Election: Direct/Indirect

The mode of elections also varies greatly between the various professions. In some, the highest elected representatives are directly elected by members of the profession on a nation-wide basis; in others, elections are indirect.

For instance, the members of Chairman of Pakistan Engineering Council is elected every three years through nation-wide direct elections; the province Vice Chairmen are also elected through province-wide direct elections. The electoral college for the Chairman consists of enrolled engineers all over Pakistan; as a result, in the prelude to the elections, the candidates tour all over the country to seek votes from engineers of all ages, genders. The winning candidate often enjoys the direct vote of over 10,000 engineers from all over the country. Because of the nationwide scale of the elections, in 2015, 2018 as well as in 2021, PEC Elections were carried out through electronic voting.

The elections of for the Pakistan Bar Council, on the other hand, are held indirectly. The electoral college of Pakistan Bar Council is restricted to the members of the provincial Bar Councils. The provincial Bar Councils are divided into districts. So, for instance, the electoral college of the Punjab Bar Council is divided into districts. The lawyers who are enrolled in each district would vote only for the candidates contesting for office from that particular district. Once the provincial Bar Councils are elected through this district-wise elections, they elect the Pakistan Bar Council.

This difference in the mode of elections to the highest professional office – direct/indirect – obviously leads to a very different electoral culture which prevails in different professions. Localized, district-wise elections in the legal profession is quite likely to have contributed toward giving rise a leadership which is deeply rustic and parochial in its outlook but is also remarkably accessible to its electorate. Nation-wide, direct elections give rise to a leader which is less accessible but is often more charismatic and visionary.

DEMOGRAPHICS OF THE PROFESSIONS IN PAKISTAN

It is quite surprising that until the writing of this research paper, no one in Pakistan has bothered to carry out even a rudimentary demographic study of the professions. In the tables below, we have put together, for the first time ever, some broad numbers which have been gathered through key informant interview with senior official of the relevant regulators. Some of these figures are also published in their annual reports. The key findings are as follows:

- Total estimated number of enrolled is around one million.
- Most numerous professions is engineering, follows by law, medicine, homeopathy and nursing. The least numerous are town planners, architects and chartered accountants.
- Highest growth rate (in numerical strength only) is in architecture, engineering and law. Lowest growth rate is amongst chartered accountants.
- Engineering and chartered accountancy are the most male-dominated profession in numerical terms. Nursing, on the other hand, is the most female dominated one. Medicine and dentistry are more evenly split.
- Sindh (probably because of urban Sindh) has a disproportionately higher share in almost all the professions; Balochistan is the opposite. The shares of Punjab and KPK are somewhat closer to their overall population share.

More detailed information is provided in the tables below. As will be seen, there are major gaps in this data set because the figures of some of the professions are not yet available. This points towards an avenue of fruitful research for demographers.

Table 10: Number of Enrolled Professionals

Sr.	Profession	Date	Total Number
1.	Engineers	2021 ¹	320,365
2.	Doctors	2014 ²	138,421
3.	Dentists	2014 ³	12,748
4.	Chartered Accountants	2021 ⁴	8,889
5.	Lawyers	2021	~190,000
6.	Nurses		94,950
7.	Registered Midwives		16,522
8.	Registered Community Midwives		7,454
9.	Registered Lady Health Workers		17,505
10.	Pharmacists		8,102
11.	Homeopaths		132,828
12.	Tabibs	2021	75,118
13.	Total Number of Professionals		~832,902

¹ PEC Annual Report (2021)

² <https://pfmsg.com/registered-doctors-statistics-in-pakistan/>

³ *ibid*

⁴ <https://icap.org.pk/files/per/icap/annualreports/Annual-Report-2021.pdf>

⁵ Sindh and Punjab comprise 74% of the population of Pakistan. Therefore a factor of 1.35 was applied to obtain the total all-Pakistan estimated number.

Table 11: Growth Rates

Sr. No	Profession	Average Annual Growth Rate
1	Engineers	6.30%
2	Doctors	
3	Dentists	
4	Architects	10.10%
5	Town Planners	6.40%
6	Chartered Accountants	4.00%
7	Cost & Management Accountants	3.07%
8	Lawyers	
9	Nurses	
10	Pharmacists	
11	Veterinarians	
12	Tabibs	
13	Homeopaths	

Table 12: The Gender Breakdown

Sr. No	Profession	Male	Female
1	Engineers	92.50%	7.50%
2	Doctors	55.00%*	45.00%*
3	Dentists	41.00%*	59.00%*
4	Architects	65.00%	35.00%
5	Town Planners	73.00%	27.00%
6	Chartered Accountants	91.00%	9.00%
7	Cost & Management Accountants		
8	Lawyers		
9	Nurses	19.00%*	81.00%*
10	Pharmacists		
11	Veterinarians		
12	Tabibs		
13	Homeopaths		

Table 13: Provincial Breakdown

Sr. No	Profession	Federal (incl. AJK, GB)	Punjab	Sindh	Balochistan	KPK
1	Engineers	4.1%	46.2%	31.4%	2.8%	15.4%
2	Doctors					
3	Dentists					
4	Architects	12.6%	42%	34%	3%	9%
5	Town Planners	6.5%	66%	19%	0.9%	8%
6	Chartered Accountants	-	-	-	-	-
7	Cost & Management Accountants	9.60%	40.20%	36.25%	0.37%	1.28%
8	Lawyers					
9	Nurses					
10	Pharmacists					
11	Veterinarians					
12	Tabibs	0.58%	79.41%	10.58%	0.84%	8.58%
13	Homeopaths					

⁶ <https://online.pnc.org.pk/statisticalreport>

RE-FRAMING THE REFORM DEBATE

In this chapter, I will list down some key questions which we need to ask about the regulatory environment of the professions. Carrying out an extensive discussion on these questions would be beyond the scope of the present study; however, the aim here is to simply lay down questions which need attention of policy makers. Only one question – the issue of self-regulation – is addressed at some length in the next chapter.

1. *Is the self-regulation model working? If not, what are the alternatives?*
2. *How about we set up a common forum comprising a range of professions for investigating and deciding complaints of professional misconduct and after that a common appellate judicial tribunal for adjudicating appeals?*

One of the issues that needs to be seriously examined is the issue of “multiplicity”. Each of the professions – including those which are closely related, such as architecture and engineering – has a completely separate regulator and a completely separate disciplinary forum. This, it can be argued, leads to a waste of public resources. One possibility is to have a common forum comprising a range of professions for investigating and deciding complaints of professional misconduct and after that a common appellate judicial tribunal for adjudicating appeals?

3. *Should we be giving lifetime practice licenses or time-bound, renewable licenses?*

Initially, most of the professional regulators were issuing lifetime licenses. However, with time, the regulators have realized that this contributes towards a decline in the average quality of the professionals. Therefore, many professions have moved towards temporary licenses which are renewed only upon proof of performance. The licenses of professional architects and engineers are, for instance, renewed every few years. However, the legal profession continues to stick to the archaic practice of issuing lifetime licenses.

4. *Should we make license renewal contingent upon producing proof of regular practice or Continuing Professional Education, as in the case of engineers and accountants? Lawyers?*
5. *Should we make specialization compulsory in all professions as in the case of engineers? Should we make it a pre-requisite for renewal of license? Or should we make it partially compulsory, as in the case of doctors? Or at least require the regulator to accredit specialists in various sub-disciplines?*
6. *Should the regulator provide “rating” services to the professionals?*
7. *Should we include persons from outside the profession in the Disciplinary Body, as has been done in the case of PMC?*

8. *What source(s) of funding should a Regulator have: Government grants? Professional licensing Fee? Licensing fee of education institutions? Taxes/tithes on professional income? Endowment funds? Donations?*
9. *Should we merge the regulator of the professions with the regulators of the allied businesses (as is the case with PEC) or should we continue with separate regulators(as is the case with PMDC and Health Commissions)?*
10. *What should be the relationship with “foreign-qualified” professionals?*

Should they be given an edge, as has been done by the Bar Councils? Or should they be treated equally? Or discouraged? Should we ensure that the local regulator has a linkage with the international market? What can be done to ensure that? Should we focus on training local professionals with a view to prepare them for practice abroad, as is the case for engineers? Or should we focus on training them for practice inside the country, as is the case with lawyers?

THE SELF-REGULATION MODEL: PITFALLS AND ALTERNATIVES

Our study confirms the general impression that the regulatory framework of the professions in Pakistan is based entirely upon the model of “self-regulation”. So, for instance, if any client has a grievance against her lawyer, her only option is to approach the Disciplinary Committee of the relevant Bar Council with whom that lawyer is enrolled. This committee comprise entirely of lawyers and a judge who is also a former lawyer. Not only that, the lawyers who sit on the Disciplinary Committee are persons who are elected by lawyers.

The self-regulation model – especially in its pure and undiluted forms - is quite prone to the menace of nepotism. It is important to bear in mind that even in a self-regulatory system, peers protecting peers is not an inevitable outcome. While there is some incentive for doing that, there is also some incentive for the very opposite. Professionals can benefit if the “bad sheep” within their professional community are culled because “bad sheep” tarnish the brand value of the profession and, in turn, reduce overall market “demand” for the services of that particular profession. However, anecdotal evidence suggests that in practice, left to themselves, professional leaders, especially elected ones, are quite prone to protecting their electorate from accountability by lay members of society; the result is an overall race to the bottom in terms of professional standards.

The “self-regulation” model has received criticism in many parts of the world; and some countries, such as the United Kingdom, seem to be moving away from it in recent years towards a somewhat different mode. It would be fruitful to carry out a systematic study of the global trends in this field, although that is definitely beyond the scope of the present study. Here we can gainfully look at just one example: the legal profession in the United Kingdom.

Up until the advent of Legal Services Act 2007, the legal profession in the United Kingdom adhered strictly to the “self-regulation” model. Complaints of misconduct against Barristers were dealt with by the Bar Council of the UK, a representative body of the around 10-15 thousand practicing barristers in the United Kingdom. Complaints against the 165 thousand strong body of solicitors were dealt with by the Law Society of England and Wales, which is the representative body of solicitors. However, over the course of years, this system came under severe public scrutiny.

In July 2003, the Government of the UK appointed Sir David Clementi, a former business professional, to carry out an independent review of the regulatory framework for legal services in England and Wales. His terms of reference were “...*To consider what regulatory framework would best promote competition, innovation and the public and consumer interest in an efficient, effective and independent legal sector; and To recommend a framework which will be independent in representing the public and consumer interest, comprehensive, accountable, consistent, flexible, transparent, and no more restrictive or burdensome than is clearly justified...*”²

In December 2004, Sir David published his report titled ‘Review of the Regulatory Framework for Legal Services in England and Wales’. One of this principal recommendations was that front-line professional bodies should be required to “*separate their regulatory and representative*

² <https://legalservicesboard.org.uk/about-us/history-of-the-reforms>

functions.” The Government broadly accepted Sir David’s report, and in October 2005 it issued a White Paper, ‘The Future of Legal Services: Putting Consumers First’. In that document, the Government announced its intention to publish a draft Legal Services Bill which would include proposals to implement the key Clementi recommendations.

In October 2006, the Government introduced the Legal Service Bill which remained under debate in Parliament for almost a year until it was enacted in October 2007. The Legal Service Act 2007 gave birth to Solicitors Regulatory Authority and Bar Standards Board which carry out disciplinary proceedings against solicitors and barristers respectively. These bodies are staffed partly by lay people and partly by professionals. The Legal Services Board, an autonomous government body, supervise both the front-line regulators. These reforms represent a major break from the old tradition of self-regulation amongst English lawyers.

In Pakistan too, in recent years, some notable departures have also been made from this model. In the three healthcare related professions – medicine, dentistry, and nursing the task of dealing with negligence complaints has now been delegated to the “Medical Tribunal” which is primarily staffed by professional judges. Since the Medical Tribunal has become function only recently in 2021, it remains to see whether it is more efficient. Suffice it to say that further empirical research needs to be carried out to assess the impact of departures from professional self-regulation in other countries as well as inside Pakistan.