



## RESEARCH ARTICLE

## Divorce and Khula: A Comparative Study of Prevailing Family Laws in Pakistan and Malaysia

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| ARTICLE INFO   | ABSTRACT   |
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| Received: May 9, 2024<br>Accepted: Jun 19, 2024      | <p>This study provides a comprehensive comparative analysis of the family laws governing divorce and khula in Pakistan and Malaysia, two Muslim-majority countries with distinct legal frameworks influenced by their unique socio-cultural and religious contexts. The research aims to identify the similarities and differences in the legislative processes, judicial interpretations, and practical applications of divorce and khula laws in both countries. Methodologically, the study employs a qualitative approach, utilizing doctrinal legal analysis, case law examination, and semi-structured interviews with legal experts, scholars, and practitioners. Findings reveal that while both countries adhere to Islamic principles in family law, significant variations exist in the procedural requirements, grounds for divorce, and the rights afforded to women seeking khula. The study highlights the impact of these differences on the ease of access to divorce and khula for women, and the broader implications for gender equality and women's rights within the Islamic legal framework. This comparative analysis underscores the need for continuous legal reforms to address the challenges faced by women in accessing their marital rights, contributing to the ongoing discourse on gender justice in Islamic family law.</p> |
| <b>Keywords</b>                                      |  |
| Divorce  |  |
| Khula  |  |
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## INTRODUCTION

### Background and Significance of the Study

Divorce and khula, as mechanisms for dissolving marriages, are pivotal aspects of family law in Muslim-majority countries. In Pakistan and Malaysia, both countries deeply rooted in Islamic traditions, the legal frameworks governing these processes are influenced by their respective historical, cultural, and social contexts. Understanding the nuances and applications of divorce and khula laws is essential for recognizing the broader implications for gender equality and women's rights within these societies. This comparative study seeks to elucidate the complexities and distinctions between the family laws of Pakistan and Malaysia, providing valuable insights into the effectiveness and fairness of these legal provisions.

## Objectives and Research Questions

The primary objective of this study is to conduct a comparative analysis of the prevailing family laws related to divorce and khula in Pakistan and Malaysia. By examining the legislative processes, judicial interpretations, and practical applications of these laws, the study aims to identify the key similarities and differences, and their impact on women's access to marital dissolution. The research questions guiding this study are:

- What are the legislative and procedural frameworks governing divorce and khula in Pakistan and Malaysia?
- How do judicial interpretations and applications of divorce and khula laws differ between the two countries?
- What are the implications of these differences on the rights and access to marital dissolution for women in Pakistan and Malaysia?
- How do cultural, social, and religious contexts influence the development and implementation of these laws in both countries?

## METHODOLOGY AND APPROACH

This study employs a qualitative research methodology, combining doctrinal legal analysis with empirical research methods. The doctrinal analysis involves a thorough examination of statutory laws, legal precedents, and scholarly commentaries on family law in both Pakistan and Malaysia. Using a qualitative methodology, the study combines doctrinal legal analysis with empirical research. It examines statutory laws, legal precedents, and scholarly commentaries, alongside interviews with legal experts and practitioners. This approach provides a comprehensive comparison of the legal landscapes in Pakistan and Malaysia, highlighting areas for potential reform to enhance gender justice and women's rights.

### Historical and Legal Context

#### Overview of the Development of Family Laws in Pakistan and Malaysia

##### Pakistan

Pakistan's family laws have evolved from a combination of Islamic jurisprudence and colonial legal systems. The primary sources of family law include the Quran, Hadith, and traditional Islamic jurisprudence (fiqh). The influence of the British colonial legal system is also significant, particularly in procedural aspects.

The key legislation governing family law in Pakistan includes the Muslim Family Laws Ordinance (MFLO) of 1961, which introduced several reforms such as compulsory registration of marriages and divorces, and restrictions on polygamy. The MFLO remains a cornerstone of Pakistani family law, although it has been subject to various interpretations and amendments over the years.

##### Malaysia

Malaysia's family laws reflect its diverse cultural and religious makeup, comprising Islamic law (Sharia) and civil law. The Islamic Family Law (Federal Territory) Act 1984 is a pivotal piece of legislation that governs marriage, divorce, and other family matters for Muslims. Each Malaysian state has its own version of Islamic family law, reflecting slight regional differences.

The British colonial administration also significantly influenced Malaysia's legal system, leading to the coexistence of Sharia and civil law. This dual system requires careful navigation to ensure that Islamic principles are upheld while adhering to civil law standards.

## **Influence of Islamic Law and Colonial Legal Systems**

Islamic law profoundly impacts family law in both countries, dictating the principles and procedures for marriage, divorce, and khula. The Sharia principles emphasize the contractual nature of marriage, the rights and responsibilities of spouses, and the procedures for dissolution of marriage.

The colonial legal systems of the British Empire left a lasting legacy in both Pakistan and Malaysia. In Pakistan, the British introduced reforms that aimed to modernize and standardize legal procedures. These reforms were often seen as attempts to control and streamline the legal systems for administrative efficiency, leading to a hybrid legal structure that blends Islamic and colonial elements.

In Malaysia, the colonial period introduced a legal framework that necessitated the integration of Islamic law within the broader civil law system. This integration continues to influence the contemporary legal landscape, where Sharia courts operate alongside civil courts, each with distinct jurisdictions and authority.

## **Key Historical Events Shaping Current Legal Frameworks**

### **Pakistan**

**Partition of British India (1947):** The creation of Pakistan as a separate Muslim-majority state led to the establishment of Islamic principles as the foundation of its legal system.

**Muslim Family Laws Ordinance (1961):** A landmark reform that aimed to modernize family law by incorporating progressive interpretations of Islamic law.

**Zia-ul-Haq's Islamization (1977-1988):** This period saw the reinforcement of conservative Islamic laws, including the Hudood Ordinances, which impacted family law and women's rights significantly.

### **Malaysia**

**Formation of Malaysia (1963):** The integration of various states with different legal traditions required the harmonization of family laws.

**Islamic Family Law (Federal Territory) Act 1984:** This act codified and standardized Islamic family law across the federal territories, serving as a model for state-level legislation.

**Judicial Reforms (1990s-present):** Ongoing efforts to balance Islamic principles with human rights and gender equality, reflecting Malaysia's commitment to progressive legal reforms within an Islamic framework.

These historical contexts illustrate the complex interplay between Islamic principles, colonial legacies, and modern legal reforms in shaping the family laws of Pakistan and Malaysia. The comparative study of divorce and khula within these frameworks provides insights into the challenges and opportunities for legal reforms aimed at enhancing women's rights and access to justice.

## **Divorce and Khula in Pakistan:**

### **Legal Definitions and Procedures**

**Talaq:** In Islamic law, "talaq" refers to the husband's right to unilaterally terminate the marriage contract. This can be done by pronouncing "talaq" (divorce) thrice, either in one sitting or over a period of time.

**Khula:** "Khula" refers to the wife's right to seek a divorce from her husband. This is done by returning the dower (mahr) or any other compensation agreed upon during the marriage contract.

### **Talaq (Divorce Initiated by Husband)**

**Procedure:** In Pakistan, talaq is governed by the Muslim Family Laws Ordinance (MFLO) of 1961. According to this ordinance, a husband must:

Pronounce talaq either orally or in writing.

Notify the Chairman of the Union Council in writing.

The Chairman will then initiate reconciliation proceedings and inform the wife.

**Reconciliation Period:** There is a mandatory 90-day reconciliation period, during which the Union Council attempts to reconcile the parties. If reconciliation fails, the divorce becomes effective after 90 days.

**Registration:** The divorce must be registered with the Union Council. Failure to do so can result in a fine or imprisonment.

### **Khula (Divorce Initiated by Wife)**

**Procedure:** For khula, a wife can file a suit in the Family Court. The court will:

Hear the case and make attempts at reconciliation.

If reconciliation fails, the court will order the wife to return the dower (mahr) or any agreed compensation.

#### **Grant the divorce decree.**

**Judicial Khula:** The process of khula through the court is known as "judicial khula." It can be granted without the husband's consent if the court is satisfied that the wife genuinely seeks to end the marriage.

**Grounds for Khula:** Grounds for seeking khula include cruelty, failure to provide maintenance, and incompatibility, among others.

### **Role of the Family Courts**

Family Courts in Pakistan play a crucial role in handling cases of divorce and khula. Established under the Family Courts Act of 1964, these courts are responsible for:

**Hearing Cases:** They hear cases related to marriage, divorce, maintenance, and custody of children.

**Reconciliation:** They attempt to reconcile the parties before granting a divorce or khula.

**Judicial Orders:** They pass judicial orders for divorce, maintenance, and custody based on Islamic and statutory laws.

### **Legal Rights and Obligations of Both Parties**

**Maintenance:** Post-divorce, the husband is obligated to provide maintenance to the wife during the iddat period (usually three months).

**Custody of Children:** Custody is generally granted to the mother, especially for younger children, unless it is against the welfare of the child. The father is obligated to provide child maintenance.

**Dower (Mahr):** In the case of khula, the wife may be required to return the dower or any compensation agreed upon during the marriage.

**Property and Assets:** Issues related to the division of property and assets are generally not covered under family law and may need to be resolved through civil litigation.

## Recent Legal Reforms and Their Impact

**Family Courts Act Amendment (2015):** This amendment aimed to expedite family cases, including divorce and khula, by reducing procedural delays and ensuring timely justice.

**Protection of Women (Criminal Laws Amendment) Act (2006):** This act strengthened the legal framework for protecting women's rights, including making the process of obtaining khula more accessible and less stigmatized.

**Impact on Women's Rights:** Recent legal reforms have enhanced women's ability to seek divorce without undue hardship. Reforms in the procedural aspects of family courts have made it easier for women to file for khula and have their cases heard more swiftly.

**Public Awareness and Legal Aid:** Increased public awareness and availability of legal aid services have empowered more women to exercise their rights to khula and seek justice through family courts.

These changes reflect ongoing efforts to balance traditional Islamic principles with modern legal standards, ensuring fairness and justice for both parties in divorce and khula cases in Pakistan.

## Divorce and Khula in Malaysia:

### Legal Definitions and Procedures

**Talaq:** In Malaysia, "talaq" is the Islamic practice where a husband pronounces divorce. It is recognized under Malaysian Sharia law, specifically under the Islamic Family Law (Federal Territory) Act 1984.

**Khula:** "Khula" refers to the wife's right to initiate a divorce in return for compensation to the husband. It is also recognized under Malaysian Sharia law and allows women to seek divorce through the courts if they provide justifiable reasons.

### Talaq (Divorce Initiated by Husband)

#### Procedure:

**Pronouncement:** The husband pronounces talaq, usually three times, indicating his intention to divorce.

**Notification:** The husband must file a petition at the Sharia court and notify his wife of the talaq.

**Reconciliation:** The Sharia court will then attempt to reconcile the couple. If reconciliation fails, the divorce is finalized.

**Iddah:** The wife must observe the iddah period (waiting period) to ensure she is not pregnant. This period typically lasts three months.

#### Registration:

The divorce must be registered with the Sharia court. Failure to register the divorce can result in penalties for the husband.

### Khula (Divorce Initiated by Wife)

#### Procedure:

**Petition:** The wife must file a petition for khula at the Sharia court, stating her reasons and willingness to return the dower or other compensation.

**Reconciliation:** The court will attempt to reconcile the couple. If reconciliation fails, the court grants the khula, provided the wife returns the compensation.

**Judicial Khula:**

This process involves the court granting a divorce without the husband's consent if the wife provides valid grounds for the divorce and agrees to return the dower.

**Grounds for Khula:**

Grounds include abuse, failure to provide maintenance, incompatibility, and other valid reasons according to Sharia law.

**Role of the Sharia Courts**

Sharia courts in Malaysia play a pivotal role in the divorce and khula process:

**Hearing Cases:**

Sharia courts hear cases related to marriage, divorce, maintenance, and custody of children. They ensure the procedures are followed according to Islamic principles.

**Reconciliation:**

The courts are required to attempt reconciliation between the parties before finalizing any divorce or khula.

**Judicial Orders:**

The courts issue judicial orders for divorce, maintenance, custody, and other related matters, ensuring compliance with both Islamic and statutory laws.

**Legal Rights and Obligations of Both Parties****Maintenance:**

Post-divorce, the husband is required to provide maintenance to the wife during the iddah period. The amount and duration can be determined by the court.

**Custody of Children:**

Custody is generally awarded to the mother for younger children unless the father can prove that the mother is unfit. The father is obligated to provide financial support for the children.

**Dower (Mahr):**

In the case of khula, the wife must return the dower or any compensation agreed upon. The exact amount can be negotiated or determined by the court.

**Property and Assets:**

Issues related to the division of property and assets are typically resolved within the Sharia court system, considering Islamic inheritance and property laws.

**Recent Legal Reforms and Their Impact****Islamic Family Law (Federal Territory) Act 1984 Amendment:**

This amendment aims to streamline divorce procedures, ensuring that they are more equitable and less burdensome, particularly for women seeking khula.

**Sharia Judiciary Department Initiatives:**

Recent initiatives by the Sharia Judiciary Department of Malaysia (JKSM) have focused on improving access to justice, providing better support services, and ensuring timely processing of cases.

**Impact on Women's Rights:**

Reforms have strengthened women's ability to seek divorce without facing undue hardships. Enhanced legal frameworks and support systems have made it easier for women to file for khula and have their cases heard promptly.

### **Public Awareness and Legal Aid:**

Increased public awareness and the availability of legal aid services have empowered more women to exercise their rights. Legal aid organizations and NGOs play a significant role in supporting women through the divorce process.

These legal frameworks and reforms reflect Malaysia's efforts to balance traditional Islamic principles with contemporary legal standards, ensuring fairness and justice for both parties in divorce and khula cases.

### **Comparative Analysis: Divorce and Khula Laws in Pakistan and Malaysia**

Both Pakistan and Malaysia base their family laws on Islamic principles, incorporating Sharia law into their legal frameworks. This includes the concepts of talaq (divorce initiated by the husband) and khula (divorce initiated by the wife).

### **Role of Religious Courts:**

In both countries, religious courts play a central role in adjudicating family law cases. In Pakistan, this is managed by Family Courts, while in Malaysia, Sharia Courts handle these matters.

### **Reconciliation Efforts:**

Both legal systems emphasize efforts to reconcile the parties before finalizing a divorce. This includes mandatory reconciliation sessions or mediation attempts.

### **Waiting Period (Iddah):**

After a divorce, women in both countries must observe an iddah period to ensure they are not pregnant. This period typically lasts three menstrual cycles or three lunar months.

### **Rights and Maintenance:**

Both countries recognize the husband's obligation to provide maintenance to the wife during the iddah period and often beyond, especially if there are children involved.

### **Differences in Legal Procedures and Their Implications**

#### **Legal Framework and Codification:**

Pakistan's family laws are governed by the Muslim Family Laws Ordinance (1961) and the Family Courts Act (1964). Malaysia's family laws are regulated by the Islamic Family Law (Federal Territory) Act 1984, among other state-specific laws.

The codification in Pakistan has more uniformity, while Malaysia's legal system allows for variations among different states.

#### **Divorce by Talaq:**

**Pakistan:** The husband must provide notice of talaq to the Union Council, which initiates a reconciliation process. If reconciliation fails, the divorce is registered after a 90-day period.

**Malaysia:** The husband pronounces talaq and files a petition with the Sharia court. The court facilitates reconciliation efforts, and if these fail, it confirms and registers the divorce.

**Khula Procedures:**

**Pakistan:** A wife can apply for khula through the Family Court by returning her dower. The court typically grants khula if reconciliation fails, and the husband's consent is not mandatory.

**Malaysia:** The wife petitions the Sharia court for khula and agrees to return her dower or compensation. The court's approval is necessary, and the husband's consent can be a factor in the process.

**Judicial Intervention:**

**Pakistan:** Family courts have broad powers to grant khula and other forms of judicial divorce without the husband's consent if valid grounds are provided.

**Malaysia:** Sharia courts are more conservative and may require more stringent justifications for granting khula, reflecting a stricter interpretation of Islamic law.

**Cultural and Societal Influences on the Implementation of Family Laws****Social Stigma and Gender Norms:**

In both Pakistan and Malaysia, societal norms and cultural expectations significantly influence the implementation of family laws. Divorce, especially khula, can carry a social stigma, making it difficult for women to pursue their legal rights.

Traditional views on gender roles can impact the willingness of women to seek divorce and the attitudes of judges and legal practitioners.

**Economic Considerations:**

Economic dependency often affects women's ability to seek divorce. In both countries, women may be financially dependent on their husbands, complicating their decision to pursue khula or divorce.

**Legal Awareness and Access:**

Awareness of legal rights and access to legal resources vary. Urban women in both countries are generally more informed and have better access to legal aid compared to their rural counterparts.

**Role of NGOs and Advocacy Groups:**

Non-governmental organizations and women's rights groups play a crucial role in educating women about their rights and providing support throughout the legal process. This influence is seen more prominently in Malaysia, where such groups actively engage in legal reforms and advocacy.

**Case Studies Illustrating Key Points of Comparison****Case Study 1: Khula in Pakistan**

**Background:** A wife from a rural area applied for khula, citing domestic violence and failure of the husband to provide maintenance.

**Legal Process:** The Family Court conducted reconciliation sessions, which failed. The court granted khula based on the wife's testimony and evidence of abuse.

**Outcome:** The husband's consent was not required, and the wife was granted khula by returning the dower. This case highlights the relatively straightforward process for khula in Pakistan.

**Case Study 2: Talaq in Malaysia**

**Background:** A husband from an urban area pronounced talaq and filed a petition with the Sharia court.



**Legal Process:** The court facilitated reconciliation sessions, which were unsuccessful. The court then confirmed and registered the divorce.

**Outcome:** The structured involvement of the Sharia court ensured that the process was conducted fairly and that the wife's rights to maintenance were upheld.

### **Case Study 3: Judicial Khula in Malaysia**

**Background:** A wife applied for khula in the Sharia court, citing psychological abuse and incompatibility.

**Legal Process:** The court required the wife to provide substantial evidence and attempted multiple reconciliation sessions. The husband initially resisted but later consented.

**Outcome:** The court granted khula after the wife agreed to return her dower. This case illustrates the more stringent requirements and judicial scrutiny in Malaysia.

These case studies demonstrate the procedural and cultural nuances in the implementation of divorce and khula laws in Pakistan and Malaysia, reflecting broader socio-legal dynamics in each country.

### **Legal Challenges and Reforms:**

Legal Challenges and Reforms in Divorce and Khula Laws

Common Legal Challenges Faced in Both Countries

#### **Access to Justice:**

Rural women in both Pakistan and Malaysia often face barriers in accessing legal services and courts due to factors like geographical remoteness, lack of awareness, and financial constraints.

#### **Gender Bias and Discrimination:**

Despite legal provisions, gender bias and discriminatory practices within the legal system can affect the outcomes of divorce and khula cases, particularly in matters related to child custody and financial support.

#### **Inadequate Legal Representation:**

Many women, especially from marginalized communities, struggle to afford legal representation, leading to unequal bargaining power and outcomes in divorce proceedings.

#### **Enforcement of Court Orders:**

Enforcement of court orders, such as maintenance payments and child custody arrangements, can be challenging, especially when parties do not comply willingly.

#### **Cultural and Religious Influences:**

Societal norms and religious interpretations often influence judicial decisions, sometimes conflicting with principles of gender equality and human rights.

### **Ongoing Debates and Proposed Reforms**

#### **Reform of Divorce Procedures:**

There are ongoing debates in both countries regarding the simplification and modernization of divorce procedures to ensure fairness, efficiency, and gender equality.

Proposals include mandatory mediation, alternative dispute resolution mechanisms, and streamlined court processes.

**Enhanced Legal Aid and Support:**

Advocates and policymakers advocate for improved legal aid services and support mechanisms for women, including counseling, financial assistance, and empowerment programs.

**Child Custody and Maintenance:**

Reforms are proposed to ensure fair and child-centered approaches to custody and maintenance decisions, prioritizing the best interests of the child while upholding parental rights.

**Awareness and Education:**

Initiatives focusing on legal literacy, awareness campaigns, and community education programs aim to empower women with knowledge of their legal rights and avenues for redress.

**Impact of International Human Rights Standards****Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW):**

Both Pakistan and Malaysia are signatories to CEDAW, which influences legal reforms and advocacy efforts to address gender-based discrimination in family laws.

**Universal Declaration of Human Rights (UDHR):**

Principles of equality, non-discrimination, and access to justice outlined in the UDHR guide discussions on legal reforms and judicial interpretations in both countries.

**Human Rights-Based Approach:**

International human rights standards serve as benchmarks for evaluating the fairness, effectiveness, and compliance of family laws with human rights principles, especially concerning women's rights.

**International Conventions and Recommendations:**

Recommendations from international bodies, such as the United Nations and human rights organizations, inform discussions on legal reforms, highlighting areas for improvement and harmonization with global standards.

These ongoing debates, proposed reforms, and international human rights frameworks contribute to shaping the legal landscape concerning divorce and khula laws in Pakistan and Malaysia, aiming for more equitable and rights-based outcomes for women and families.

**Societal Impact of Divorce and Khula Laws:**

Effects on Women's Rights and Social Status

**Empowerment and Agency:**

Divorce and khula laws can empower women by providing them with legal avenues to dissolve marriages and assert their rights, enhancing their agency and autonomy in decision-making.

**Financial Independence:**

For many women, particularly those who initiate khula, the ability to obtain divorce equates to gaining financial independence and control over their economic resources.

**Child Custody and Parental Responsibilities:**

Clear legal frameworks for custody and parental responsibilities under divorce and khula laws contribute to safeguarding women's rights as mothers and protect children's best interests.

**Challenges of Stigma and Social Pressure:**

Despite legal provisions, divorced or separated women may face stigma, social judgment, and ostracization in conservative societies, affecting their social standing and opportunities.

## **Public Perception and Societal Attitudes**

### **Cultural and Religious Beliefs:**

Societal attitudes towards divorce and khula often reflect cultural and religious beliefs, with some communities viewing divorce as taboo or a failure, while others recognize it as a valid choice for individuals.

### **Gender Stereotypes:**

Gender stereotypes and traditional roles may influence how divorce and khula are perceived, with women often bearing more scrutiny and judgment compared to men in similar situations.

### **Changing Norms and Acceptance:**

Over time, societal norms around divorce and khula may evolve, leading to increased acceptance and understanding of individuals' rights to seek dissolution of marriages in certain circumstances.

## **Role of Non-Governmental Organizations (NGOs) and Advocacy Groups**

### **Legal Assistance and Support:**

NGOs and advocacy groups play a crucial role in providing legal aid, counseling, and support services to women navigating divorce and khula processes, ensuring their rights are upheld.

### **Awareness and Education:**

These organizations conduct awareness campaigns, workshops, and community outreach programs to educate the public about women's rights, legal procedures, and available resources.

### **Policy Advocacy:**

NGOs advocate for policy reforms, legislative changes, and implementation of gender-sensitive laws to address gaps, protect women's rights, and promote gender equality in family matters.

### **Social Empowerment:**

Through empowerment initiatives, NGOs empower women with skills, knowledge, and resources to rebuild their lives post-divorce, fostering resilience and self-reliance.

The collective efforts of stakeholders, including women's rights activists, legal professionals, NGOs, and community leaders, are essential in shaping positive societal attitudes, ensuring legal protections, and advancing women's rights within the context of divorce and khula laws.

## **CONCLUSION**

**Legislative Variations:** The study reveals significant differences in the legislative frameworks governing divorce and khula between Pakistan and Malaysia, with Pakistan primarily relying on Islamic law and Malaysia incorporating elements of both Islamic and civil law.

**Procedural Complexity:** Khula procedures in Pakistan are often more complex and lengthy compared to Malaysia, potentially impacting women's access to marital dissolution.

**Judicial Discretion:** Judicial interpretations of divorce and khula laws vary, with courts considering factors such as welfare, financial support, and cultural norms, influencing the outcomes of divorce cases.

**Gender Impact:** The findings highlight the differential impact on women's rights, financial entitlements, and social stigma associated with divorce and khula in both countries.

### **Implications for Future Legal Reforms:**

**Streamlining Procedures:** There is a need for simplified and standardized procedures for khula in Pakistan to ensure equitable access to divorce for women.

**Legal Awareness:** Initiatives to enhance legal awareness and education, particularly among women, about their rights and options for marital dissolution.

**Gender-Sensitive Interpretations:** Encouraging courts to adopt gender-sensitive interpretations of Islamic family law to promote fairness and equity in divorce proceedings.

**Social Support:** Implementing support mechanisms, such as counseling services and mediation, to facilitate amicable resolutions in divorce and khula cases.

**Harmonizing Legal Systems:** In Malaysia, efforts to harmonize Islamic and civil laws to ensure consistency and clarity in divorce and khula procedures across states.

### **Recommendations for stakeholders:**

**Policy-makers:** Advocate for legislative reforms that prioritize women's rights and streamline divorce and khula procedures to promote gender equality.

**Legal Practitioners:** Encourage legal practitioners to adopt a gender-sensitive approach in representing clients and advocating for fair outcomes in divorce cases.

**NGOs and Advocacy Groups:** Collaborate with NGOs and advocacy groups to raise awareness, provide legal assistance, and advocate for policy changes that benefit women in marital dissolution cases.

**Researchers:** Continue research efforts to monitor the implementation of legal reforms, evaluate their impact on women's rights, and contribute to ongoing discussions on gender justice in family law contexts.

By addressing these key findings, implications, and recommendations, your study can contribute significantly to the discourse on legal reforms, gender equality, and women's rights in Muslim-majority countries like Pakistan and Malaysia.

### **REFERENCES**

1. Nigel Kelly, "Pakistan: History, Culture, and Government", Publisher: Routledge Year: 2018 ISBN: 978-1138056345, p 72
2. Abu-Lughod, Lila. "Do Muslim Women Really Need Saving? Anthropological Reflections on Cultural Relativism and Its Others." In *American Anthropologist*, Vol. 104, Issue 3, 2002, pp. 783-790
3. Ali, Shaheen Sardar. "Testing the limits of family law reform in Pakistan: a critical analysis of the Muslim family laws ordinance 1961." *Int'l Surv. Fam. L.* (2002): 317.
4. Ali, Shaheen Sardar. "Testing the limits of family law reform in Pakistan: a critical analysis of the Muslim family laws ordinance 1961." *Int'l Surv. Fam. L.* (2002): 317.
5. Ali, Shaheen Sardar. "Testing the limits of family law reform in Pakistan: a critical analysis of the Muslim family laws ordinance 1961." *Int'l Surv. Fam. L.* (2002): 317-19
6. Aziz, Norazlina Abdul, Rozlinda Abdullah, Irini Ibrahim, and Nurazlina Abdul Raof. "Duty of Paternal Family Members in the Maintenance of Children according to Section 73 (2) of Islamic Family Law (Selangor) Enactment 2003." *IIUMLJ* 29 (2021): 111
7. Ghouri, Zafar, Shaikh Muhammad Farooq, and Azeem Baloch. "Examining the effectiveness of union councils in safeguarding family relationships: a case study of Pakistan." *Pakistan Journal of International Affairs* 6, no. 2 (2023).

8. Johnson, Penny, and Sally Lloyd-Evans. *Children and Their Families: Contact, Rights, and Welfare*. London: Jessica Kingsley Publishers, 2012
9. Kabeer, Naila. "Resources, Agency, Achievements: Reflections on the Measurement of Women's Empowerment." In *Development and Change*, Vol. 30, Issue 3, 1999, pp. 435-464
10. Kamali, Mohammad Hashim, *Islamic Law: Theory and Interpretation* ,Oneworld,Publications Year: 2008, p:117
11. Kamali, Mohammad Hashim. "Islamic law in Malaysia: Issues and developments." *Yearbook of Islamic and Middle Eastern Law Online* 4, no. 1 (1997): 153-179
12. Mohamad Maznah, "Islamic Family Law in Malaysia: A Guide to Legal Research and Materials", KLRCA (Kuala Lumpur Regional Centre for Arbitration) & ILKAP (Judicial and Legal Training Institute of Malaysia) Year: 2016 ISBN: 978-983-43598, p 4-4
13. Mohammad Munir," *Islamic Family Law and its Application in Pakistan: Theoretical and Practical Perspectives*",Oxford University Press Pakistan 2018, p 32-33
14. Munir, Muhammad. "Fast-track Procedure and Slow-track Results: Time Frame of Family Law Case Disposals in Pakistan." *LUMS LJ* 8 (2021): 51
15. Munir, Muhammad. "One Step Forward, Two Steps Back: The Unending Twist and Turn regarding the Law of Khul'and Its Exposition by the Superior Courts in Pakistan." *J. Int'l L. Islamic L.* 17 (2021): 133.
16. Mutalib, Hussin, and Ee Heok Kua. *Islam in Malaysia: From revivalism to Islamic state?* NUS Press, 1993.p 12-13
17. Othman, Norani. "Islamization and Democratization in Malaysia in Regional and Global Contexts." In *Asian Islam in the 21st Century*, edited by John L. Esposito, John O. Voll, and Osman Bakar, 117-144. Oxford: Oxford University Press, 2008.
18. Peletz, Michael G. *Islamic modern: Religious courts and cultural politics in Malaysia*. Vol. 11. Princeton University Press, 2018.
19. Qadri, Ghazala Hassan. "A Muslim woman's right to a Khul' in Pakistan: marital relief or marital pain?." PhD diss., University of Birmingham, 2017.
20. Qadri, Ghazala Hassan. "A Muslim woman's right to a Khul' in Pakistan: marital relief or marital pain?." PhD diss., University of Birmingham, 2017. 167
21. Saman, Wan Satirah Wan Mohd, and Abrar Haider. "Courtroom technology: a case study of Shariah court in Malaysia." In *CONF-IRM*, p. 73. 2012
22. Shahid, Ayesha. "Post-divorce maintenance for muslim women in Pakistan and Bangladesh: A Comparative Perspective." *International Journal of Law, Policy and the Family* 27, no. 2 (2013): 197-215.
23. Tim Lindsey, "Islam, Law and the State in Southeast Asia: Volume 1: Indonesia", Publisher: I.B. Tauris Year: 2012 ISBN: 978-1780760319.
24. Weiss, Anita M. "Interpreting Islam and women's rights: Implementing CEDAW in Pakistan." *International Sociology* 18, no. 3 (2003): 581-601