Annual Methodological Archive Research Review
http://amresearchreview.com/index.php/Journal/about
Volume 3, Issue 2 (2025)

Online ISSN 3007-3197
Print ISSN 3007-3189

http://amresearchreview.com/index.php/Journal/about

Triple Talaq and Dissolution of Marriage in Pakistan: A Comparative Study with Other Muslim Jurisdictions

Rao Qasim Idrees
Associate Professor, School of Law, University of Gujrat
Email: qasim.rao@uog.edu.pk

Naveed Hussain
Assistant Professor, School of Law, University of Gujrat
Email: naveed.hussain@uog.edu.pk

Muhammad Imran
Assistant Professor, College of Law, Government College University, Faisalabad
Email: adv.drmimran@gcuf.edu.pk

ABSTRACT

This paper analyses the legal position and practical implementation of triple talaq (talaq said thrice in a sitting or sometimes referred to as talaq-e-biddat or instant triple talaq) and the broader law of dissolution of marriage in Pakistan, and is a comparison of the treatment of divorce by Pakistan with a few other Muslim jurisdictions that have repackaged divorce with a statutory reform. The thesis underlying this argument is that the architecture of Pakistan family law post-colonially does not simply recognize or reject triple talaq as such, but instead structures talaq administratively, namely, by providing the doctrinal category of talaq a husband-initiated divorce, but by means of procedural restrictions, i.e., a requirement to give a notice to the Chairman/Union Council, a time-limited reconciliation requirement, and a delayed-effective requirement. This is operationalized by the Muslim Family Laws Ordinance, 1961 (MFLO), which on pronouncement in any form whatsoever, requires written notice, and does not take effect until the ninety days expire, and must reconcile and an Arbitration Council be constituted. However, an ongoing interpretive debate in the Pakistani high courts, most obvious regarding whether divorce is ineffective, revoked, or simply punished when or where statutory notice is not followed has yielded mixed results, particularly on cases involving claims of multiple or so-called triple pronunciations. Together with MFLO, the dissolution regime in Pakistan has been relying on Dissolution of Muslim Marriages Act, 1939, which gives women a list of reasons that may result in judicial dissolution (such as cruelty, non-maintenance, imprisonment, and other grounds), expanding women options to exit an evidentiary system based on courts. The Family Courts structure in its turn consolidates the claims of dissolution (including khula) in specialized courts, and enacts a strong statutory bias over early resolution and decree in the event of failure of reconciliation, accompanied by provision of rules on repatriation of dower/haq mehr in outcome of a khula-type. On a comparative basis, it can be seen that a wide range of legal

Annual Methodological Archive Research Review
http://amresearchreview.com/index.php/Journal/about
Volume 3, Issue 2 (2025)

Online ISSN 3007-3197
Print ISSN 3007-3189

http://amresearchreview.com/index.php/Journal/about

approaches have been taken by numerous Muslim jurisdictions with a comparable policy aim that is to cut the abrupt, unrecorded, or unilateral divorce: some have made triple talaq a single revocable divorce (the early twentieth-century reform paradigm in Egypt), some have made divorce to be pronounced only by courts, and some have made repudiation a judicial mandate and procedure (Morocco). The research offers a conclusion that the lack of formal restrictions, which is still crucial, is no longer the key challenge in Pakistan; the asymmetry of interpretation, administrative application, documentation, and access to justice is the key factor that predetermines whether this law operates as a procedural filter of formal restrictions or a formalistic barrier that parties can easily overcome in practice.

Keywords: Triple Talaq; Talaq-E-Biddat; Dissolution Of Marriage; MFLO 1961; Arbitration Council; Notice Requirement; Khula; Family Courts; Dissolution Of Muslim Marriages Act 1939; Comparative Muslim Family Law.

Introduction

The issue of divorce in Muslim societies points at the point of convergence of theology, legal history, state-building, and social power. Talaq is often presented in classically juristic texts as a legal means to dissolve a marriage but it is often limited in its ethical quality and procedural ideal by the moral warning, most of the advisable time between marital partners, and reformative based norms. Contemporary states however, face the issue of divorce as not only a doctrine but also a governance issue: divorce restructures households, influences custody and maintenance, influences the economic security of women and influences the legal status of children. The triple talaq controversy is a good example of this change. The issue is not only whether a pronouncement of talaq talaq talaq should be counted as three divorces, one divorce or no divorce but whether a state should allow a change in marital status to occur without any documentation, without any notice, without any cooling-off period, and without any adjudicative protection. Such a policy dilemma is further heightened in such a context as Pakistan where marriage and divorce are highly socialized with social implications but most times is asserted privately and mediated informally by local communities. The law system then has a two-fold role to play; it has to be understandable and acceptable under an Islamic normative language, and at the same time it must also provide procedural fairness, documentation, and security to the economically weaker spouse, whose rights to maintenance, dower, shelter and custody may be upset by sudden repudiation.[1]

The statutory response of Pakistan has a long-term overlay. Rather than abolishing talaq or judicialising divorce, in Pakistani law, which has been amended following the MFLO 1961, talaq is administered by a system of notice-reconciliation under the local government administration. MFLO has provided that any man, who desires to divorce his wife, should provide a written notice to the Chairman, and send a copy of such notice to the wife, failure to which he shall be punished; talaq shall not take effect

[1] Mangi, D. B., Magsi, L. A., & Ali, U. (2025). The Impact of Triple Talaq in Pakistan: Legal, Social, and Religious Perspectives with a Case Study of Sindh. *Journal of Development and Social Sciences*, *6*(1), 222-231.

Annual Methodological Archive Research Review
http://amresearchreview.com/index.php/Journal/about
Volume 3, Issue 2 (2025)

Online ISSN 3007-3197
Print ISSN 3007-3189
http://amresearchreview.com/index.php/Journal/about

until ninety days after delivery of such notice; within thirty days the Chairman shall put together an Arbitration Council to endeavor to reconcile the parties. These clauses change the legal meaning of the term pronouncement by declining to accept it as status-altering in state law even though it might be considered religiously meaningful in certain doctrinal conceptions. Moreover, MFLO applies a similar logic of procedures to the dissolutions other than through talaq, such as delegated divorce rights. Concurrently, the judicial exits of women have their grounds in the Dissolution of Muslim Marriages Act 1939 that lists out particular reasons in terms of missing husband, non-maintenance, cruelty, and other recognized reasons according to the Muslim law, and even a ground associated with unlawful polygamy. The procedural venue then is given by the family court system, making marriage dissolution (including khula) a subject taking a central role in the family court, and necessitating immediate adjudication where reconciliation is not achieved, and usually subject to preconditions such as the repatriation of dower in the results of khula.[2]

This formal architecture notwithstanding, Pakistan remains to be the subject of heated debate concerning the interpretation of the notice regime and what occurs in situations where parties do not follow the regime- controversy that is even more acute in the cases of alleged triple talaq. Another important stream of Pakistani case law and commentary emphasizes the judiciary quagmire of trying to interpret whether failure to give statutory notice makes talaq ineffective, revoked, or still effective in some sense and how far the judiciary can even go to subject the provisions of the MFLO to Islamic or constitutional review. This interpretative instability is important in that it will dictate whether the law is actually limiting instant divorce or simply punishing non-compliance with procedures when it is possible to change marital status in a legally grey zone. It also influences the bargaining power of women as women can be threatened by the indecision about marital status to deny them maintenance, question remarriage, or use custody and inheritance involves.[3]

Comparison lens is thus indispensable. Pakistan is not the first to attempt to control talaq but not to abolish it; statutory means have been tried in many Muslim jurisdictions of limiting unilateral arbitrariness, of making talaq registration-able, of making talaq a slow process requiring arbitration processes, or of moving talaq to courtrooms. A triple pronouncement is occasionally treated as a revocable divorce in some states to prevent instant irrevocability, with Egypt frequently described as a pioneer in the modern juristic view as a reformer of the majority juristic view, in its current statutory reforms a divorce with a number is treated as a single divorce. Other states go even further, the law of Tunisia, e.g. organizes divorce as something which is only pronounced in the court and the efforts of reconciliation a procedural condition, that makes talaq a unilateral act of a private character, which is irrelevant to state-recognised marital status. The reformed Family Code in Morocco also focuses on well organized channels of divorce through the court system with clear reasons

[2] Parveen, N. (2024). Criminalization of Divorce and Muslim Women: A Reality Check of Triple Talaq Law, 2019 in India. *South Asia Multidisciplinary Academic Journal*, (32).
[3] Begum, S., & Riaz, S. (2021). Effects of Dissolution of Transnational Muslim Interreligious Marriages on Child's Life: Comparative Analysis of Pakistan and English Family Law in the Context of Sharī 'ah. *Webology (ISSN: 1735-188X)*, *18*(6).

Annual Methodological Archive Research Review
http://amresearchreview.com/index.php/Journal/about
Volume 3, Issue 2 (2025)

Online ISSN 3007-3197
Print ISSN 3007-3189
http://amresearchreview.com/index.php/Journal/about

why wives should be divorced and through means of proving and reconciliation. This paper relies on these comparative experiences to assess whether the current policy of Pakistan is coherent, whether it can make the country less harmful in practice, and what change would bring the system closer to both Islamic juristic ethics (in its anti-arbitrariness impulses) and the demands of the modern rule of law (documentation, predictability, and equal access to remedies).

Literature Review

Ismailism The literature on triple talaq and dissolution in Pakistan could be categorized into three broad streams, each with an alternative center of gravity of the issue. The first one is doctrinal-juristic and it deals with the debate in Islamic jurisprudence regarding the moral and legal impact of triple pronouncement, the difference between revocable and irrevocable divorces, the place of iddah and the larger ethical reproachs which divorce suffers. In this stream, triple talaq is a sort of doctrinal anomaly: commonly seen as something disapproved or reprehensible in ethical terms, but in fact historically justified by numerous jurists in legal practice, particularly in particular Sunni schools. This body of literature is inclined to state that the fundamental question of reform, whether a modern state has to follow the minority juristic tradition of a triple pronouncement as constituting one divorce, or has to reject the whole practice as contrary to the Quranic divorce ethics, is posed. What this stream has to do with Pakistan is the fact that the nation still has to explain statutory limitations within the vocabulary that is still emotional with the religious legitimacy. However, statutory literature is not sufficient to understand why the statutory system in Pakistan keeps on producing litigation: the conflicts usually do not revolve exclusively around theology, but rather upon the relationship between theological and procedural law, documentation, and institutional capacity.[4]

The second is the stream of statutory and institutional analyses of MFLO 1961 and the family court structure as a means of governing the results of a divorce. This scholarship understands MFLO as a proceduralization of talaq: talaq is still a recognized category, but it has a postponed legal impact and is conditionalized on the efforts to give notice and reconcile. Surprisingly often the text of section 7 is discussed as the main point: notice to the Chairman, penalty of non-compliance, constitution of Arbitration Council within thirty days, and the waiting period of ninety days (or more in case of pregnant wife). The same scholarship points out what family courts do to operationalize the rights of women leaving their marriages in khulah and in the Dissolution of Muslim Marriages Act. One of the most discussed critical aspects of the statutory scheme of Pakistan is that it is not only about the allowability of divorce but about the clarity of status: the necessity of a notice and postponing effect of the law is meant to avoid sudden marital-status confusion and ensure that there are official records available. This stream also notes that the relationship between the federal and the provinces in Pakistan has made the family law more difficult to administer; such as the situation where even in the case where the

[4] Faizi, H. F. S., Ahmad, K., Hussin, M. N. B. M., & Samah, M. (2024). Divorce and Khula: A comparative study of prevailing family laws in Pakistan and Malaysia. *International Journal of Islamic Studies*, *15*(1), 45-62.

Annual Methodological Archive Research Review
http://amresearchreview.com/index.php/Journal/about
Volume 3, Issue 2 (2025)

Online ISSN 3007-3197
Print ISSN 3007-3189
http://amresearchreview.com/index.php/Journal/about

underlying ordinance is still central, the legal adaptation and administrative implementation can still differ in the post constitutional devolution as necessitating the capacity and coherence of the province.[5]

The third is the socio-legal and feminist stream that stresses on the ground realities how informal divorces, patriarchal bargaining, economic dependency and inequalities in accessing legal services determine the results despite the statutory provisions. In this view, the question is indeed whether the law can define a divorce process in theory which is fair but not whether women can effectively instigate the process, maintain litigation expenses, stand up against the pressure of the community and impose maintenance or dower decrees. Procedural barriers are also criticised in literature in which they operate in an asymmetrical manner: when a husband could argue that he has divorced informally and that he is treating the marriage as over in social terms, whilst the wife needed to take to court to establish her status, it falls upon the wife to establish the social reality as legal reality. The socio-legal stream therefore does not view documentation as a neutral procedural requirement, but as a place of power due to the fact that the party that owns documentation can own the conversation of marital status.[6]

One sub-theme that seems to have been of great significance in these streams is the unequal interpretative stance of the Pakistani judiciary on the notice requirement of MFLO particularly under triple talaq allegations. One of the most influential scholarly interventions is to view the notice regime as controversial to the extent that high courts have given conflicting interpretations of the nature of the effects of notice on the efficacy of talaq and whether or not the failure to issue any notice results in any consequences. The same intervention gathers and comments on landmark case law, in which a failure to give notice may suggest the revocation of talaq, and also in which decisions have also found that a failure to send notice may imply that the provision is not effective (at least not in practice), even though it is written in mandatory terms and has a penal consequence. Critical to this case-law-oriented literature, however, is that even indispensable in this instance is the statutory text, on which the administrative route appears evident, but which is destabilized by judicial conflict, inviting forum shopping, strategic behaviour, and extended litigation over status.[7]

The final layer that this study relies on, though, is comparative literature on Muslim family law reforms: the scope of such reforms captures how many Muslim jurisdictions have reorganized the legal impact of talaq in order to make it less arbitrary. Egypt commonly features as an early reformer that held a divorce accompanied by a figure to count as one divorce, and that such a divorce was revocable under certain circumstances. It is often said that Morocco Family Code is

[5] Waraich, A., Jamil, M. S., Thakur, S. A., & Sulehry, M. A. K. (2025). Distinction between Khula and Divorce Under Pakistani Law: A Doctrinal Analysis. *The Critical Review of Social Sciences Studies*, *3*(2), 2370-2386.

[6] Wandi, S. N. A., Zairi, A. N. A., Abdullah, N. C., & Rosidi, M. H. (2025). Triple Talaq in a Single Pronouncement: A Comparative Fatwa Analysis Within a Maqasid Al-Shariah Framework and Its Implications for Women's Rights. *International Journal of Research and Innovation in Social Science, IX*, 53-62.

[7] Sharma, S. (2024). A Comparative Study of the Concept of Dissolution of Marriage in Islamic Law in India, Indonesia and Malaysia. *Issue 4 Int'l JL Mgmt. & Human.*, *7*, 1310.

Annual Methodological Archive Research Review
http://amresearchreview.com/index.php/Journal/about
Volume 3, Issue 2 (2025)

Online ISSN 3007-3197
Print ISSN 3007-3189
http://amresearchreview.com/index.php/Journal/about

moving towards court management of divorce with formalized grounds and proof criterion such as explicit identification of harm and other criteria by wives.[8] One of the clearest examples of judicialization is that of Tunisia: divorce is never deceded except in the court, and the procedures are designed so that conciliation efforts are a part and the result of the judicial decision-making, but not a part and the result of a unilateral finding. South Asian variation is another focus of comparative material such as the Indian legal and political reaction to triple talaq that result in a legislative change to ban divorce by saying talaq in the disputed form of instant. Comparative literature therefore provides both policy alternatives and warning lessons: the same end goal, which is to restrain abrupt repudiation, could be sought by delayed effectiveness and administrative reconciliation (Pakistan), by counting rules that treat triple as one (Egypt-style reform), or by total judicialization (Tunisia, elements of Morocco), and each approach has its different implications to access, implementation, and religious legitimacy.

Methodology

The approach of this research takes a doctrinal and comparative legal approach with the help of a specific social-legal inference in which the performance of the institution has an influence on the meaning of the law. The doctrinal part deals with the major legal documents that regulate divorce of marriage in Pakistan: the MFLO 1961 protocols on talaq and other dissolution forms, the Dissolution of Muslim Marriages Act 1939 listing the reasons why women can seek a decree in court, and the Family Courts statutory framework which places the dissolution (including khula) in the context of specialized adjudication and provides a set of rules that both promote timely decree and delineate the approach that the court should take where reconciliation is not achieved. The analysis of the doctrines is accompanied by the overview of the Pakistani judicial interpretations identified in the academic case-law analysis, applied here to determine the interpretative fault lines in the notice requirement, the legal implications of talaq pronouncements, and the practical implications of different judicial views. This is not only to give an enumeration of rules but to provide how the system creates legal divorce as differentiated to social divorce and how that is challenged in adjudication.

The comparative element will choose a small group of jurisdictions that will be representative of various reform approaches yet still within the umbrella of Muslim personal status reforms. The comparison is not adopted as a ranking exercise but rather as an approach to mapping policy: Egypt is used to illustrate the counting reform approach (treating triple talaq as one), Tunisia serves as an illustration of the full judicialization approach (divorce only in court with reconciliation steps), Morocco as an illustration of a judicial supervision and structured grounds approach within an Islamic framework of legitimacy, and India is included as a south Asian example of a legislative prohibition approach reacting to constitutional litigation and political contestation over instant triple talaq. The example of Bangladesh is given as

[8] Saleha, R. T., Makki, M. A., & Sabreen, M. (2025). Judicial Separation in Islamic Law (A Critical Analysis of Dissolution of Marriage Beyond Talaq in Pakistani Law). *Al Manhal Research Journal*, *5*(1).

Annual Methodological Archive Research Review
http://amresearchreview.com/index.php/Journal/about
Volume 3, Issue 2 (2025)

Online ISSN 3007-3197
Print ISSN 3007-3189
http://amresearchreview.com/index.php/Journal/about

a procedural model closely related, since the MFLO framework bears a very similar resemblance, and it is possible to compare how the similar text may work in the context of different institutional realities. The comparison method of the study is functional: it poses the question of the actions of each legal model: (a) to speed and certainty of status change, (b) to documentation and notice, (c) to access to exit and post-divorce rights by women, (d) to the risk of criminalization or coercive intervention of a state.

Research Findings

The former is that the positive law of Pakistan does not consider talaq to be self-executory at the time of pronunciation despite acknowledging pronunciation as the occasion of occurrence. Under MFLO, the husband need not fail to ensure, as soon as he can, after the pronouncement of talaq in whatever form, written notice to the Chairman and a copy to the wife: failure of which is a punishable offence; talaq shall not be effective until ninety days after the delivery of the notice (unless the wife remains pregnant). The Chairman should form an Arbitration Council to make an effort to reconcile within thirty days after receiving a notice, and the Council must make efforts to reconcile. The combination of these regulations creates procedural cooling-off of the situation, i.e. a structural contradiction of the concept of instant divorce as a matter of state-recognized marital status, since the third talaq pronounced verbally does not have a legal impact until and unless the process of reconciliation is undertaken. MFLO also explicitly deals with remarriage following talaq by making it clear that a wife whose marriage has been terminated by talaq effective under the section is not precluded by remarriage to the same husband without intervening marriage unless the talaq is terminated under the third count effective mechanism. Notably, MFLO applies the same procedural reasoning to dissolution otherwise than by talaq, such as delegated rights to divorce to the wife, by introducing section 7 mutatis mutandis.[9]

The second observation is that the Pakistani law gives women various judicial avenues that can be used to dissolve marriage without necessarily convincing a husband to say talaq. Dissolution of Muslim Marriages Act 1939 allows a woman married under Muslim law, to obtain a decree of dissolution, on any of the following grounds: unknown whereabouts of husband four years, non-maintenance two years, husband imprisoned seven years or more, husband fails to perform marital obligations three years, impotence, insanity or serious disease, repudiation of a child marriage within specified ages, cruelty (defined by various forms) and any other ground determined to be good under Muslim law; it also provides one of the grounds relating to unlawful polygamy There are also procedural protections in the Act in certain situations, including a delaying in the effect of a decree on the ground of missing husband of six months and setting aside on the ground of missing husband in case the husband shows up and shows the court willingness to fulfill conjugal duties, that has an internal logic of reconciliation. This legal framework implies that the dissolution

[9] Meidina, A. R. (2023). Legal System of Polygamy and Divorce in Muslim Countries: Comparative Studies among Turkey, Pakistan, and Indonesia. *Matan: Journal of Islam and Muslim Society*, *5*(1), 15-30.

Annual Methodological Archive Research Review
http://amresearchreview.com/index.php/Journal/about
Volume 3, Issue 2 (2025)

Online ISSN 3007-3197
Print ISSN 3007-3189
http://amresearchreview.com/index.php/Journal/about

system of Pakistan is not a talaq-focused regime but a plural one whereby grounds-based judicial dissolution of women is a key pillar.[10]

The third discovery is that Pakistani family court system is trying to turn the dissolution process, which is slow and disjointed as a civil litigation, into a professional and relatively fast faculty, and khula is at the center of the subject-matter jurisdiction of the family court. The family court law clearly considers the issue of dissolution of marriage including Khula to be a fundamental category of suit. It also bears a very powerful directive that on the failure of reconciliation in a khula-type marriage dissolution suit, the Family Court will issue a decree of dissolution of marriage and will also order the husband to be returned the Haq Mehr which the wife received in the khula. Moreover, the statute of family courts incorporates the administrative process used by MFLO where intimation of decrees to the Arbitration Council must be done: intimation to the Chairman must be made by the court after a decree to dissolve (including khula), and dissolution takes effect after a period of ninety days after the day on which it is made known to the Chairman, so that court decrees are not made invalid because of the ninety-day effectiveness rationale used at MFLO. Practically speaking, the system in Pakistan therefore generates two channels, administrative conciliation by MFLO and judicial dissolution by family courts, which meet in the same logic of postponed efficacy of law and official discourse.[11]

The fourth observation is that the most severe doctrinal challenge of Pakistan is not in the textual law but in the interpretation of the judicial meaning of notice and effectiveness which straightforwardly influence the legal meaning of triple talaq accusations. An examination of Pakistani case-law has pointed out that courts have been faced with the issue of whether or not the requirement of giving notice is obligative in such a manner as to influence the issue of validity/effectiveness or whether failure to give notice simply leads to the imposition of penalty and leave divorce to proceed in some sense of the term, as a matter of religion. That discussion follows the initial reasoning of judges (with allusions to Syed Ali Nawaz Gardezi v.). Lt-Col. Muhammad Yusuf, PLD 1963 SC 51) indicating that failure to give the notice by the husband may amount to the pronouncement being revoked, and quotes a preponderance of opinion after that time that divorce is not proclaimed where there is no notice. It goes then to outline subsequent jurisprudence- such as Kaneez Fatima v. Wali Muhammad (2009 SC 901) and Allah Dad v. Mukhtar (1992 SCMR 1273), as an expression of divergence, where some have viewed the failure to give notice as rendering the talaq ineffective or not effective in the statutory regime, and where some have viewed the failure to give a notice as an invalidation of subsequent marriages as possessing criminal-liability consequences; The critical practical change is that the parties can take advantage of uncertainly: a husband can assert instant divorce socially; a wife can assert perpetual marriage legally; a court can come to varying results according to which of the interpretative strands it adheres to, which serves no constructive end but creates uncertainty and renders the divorce process

[10] Khurshid, S. (2018). *Triple talaq: examining faith*. Oxford University Press.
[11] Quddus, D. U., Faraz, S., Rafique, N., & Qayyum, N. (2024). Ruling on Triple Talaq: Finding the Way-Out.

Annual Methodological Archive Research Review
http://amresearchreview.com/index.php/Journal/about
Volume 3, Issue 2 (2025)

Online ISSN 3007-3197
Print ISSN 3007-3189
http://amresearchreview.com/index.php/Journal/about

more predictable to the process of divorce, as proceduralized by MFLO.[12]

Discussions

The statutory model of Pakistan can be viewed as a bid to compromise between two forces that tend to push in opposite directions: the wish to remain attached to the vocabulary of Islamic law, which has talaq as a term of ending a marriage, and the rule-of-law imperative that marital status must not be transferred suddenly by a private declaration and without a written form, without a notice and a fair chance of reconciliation and rights adjustment. The written notice which is required in MFLO after pronouncement in any manner whatsoever, the punishment of the failure to do so, and the delay of ninety days rule of effectiveness, all testify to a state policy which the legal fact of divorce must be subject to administrative treatment, not self-executory. It is not a technicality of procedure this; it is an institutional definition of what is and is not legally cognizable divorce. On this reasoning, triple talaq as an instant mechanism is technically at a standstill: however many times talaq has been said in a single sitting, the law cannot recognize it as instantly effective and must ensure that such a reconciliation process led by the Chairman is triggered. However, the very fact that repeated judicial clarification is needed to clarify the conceptual boundary between religious utterance and legal change of status, is an indication that Pakistan has not yet stabilized the conceptual boundary between religious utterance and legal change of status, and that law protective ambition is heavily based on judicial willingness to treat non-compliance as a matter of legal effect rather than the creation of a criminal/penal side-issue.[13]

In comparison with the pattern of reforms in Egypt, the model in Pakistan seems to be more administrative than substantive in the question of counting. The Egyptian-style reform in comparative scholarship does not follow the majority juristic view in counting a divorce with a number as counting as just one divorce, cooling the three in one sitting problem on the substantive effect level. Pakistan, in its turn, does not directly embrace the counting formula in the fundamental text of MFLO, but rather it sets up a legal process to postpone effectiveness and require a reconciliation. It is important since, unlike a procedural rule, which answers the governance question (divorce is not legally effective until processed), a counting rule answers the doctrinal question (three equals one). Practically, the procedural strategy of Pakistan can be equally protective, should it be persistently employed, since it not only averts the sudden irrevocability, but also provides the notification to the wife, and leaves the record, which can be utilized to claim a maintenance, dower, or even challenge abusive behavior. However, given inconsistency in courts in the treatment of notice failure, the protective mechanism will be flawed: the counting question re-emerges in the litigation of whether a triple pronouncement was religiously but not legally

[12] Omar, S. (2007). Dissolution of marriage: practices, laws and Islamic teachings. *Policy Perspectives*, 91-117.
[13] Haider, N. (2000). Islamic Legal Reform: The Case of Pakistan and Family Law. *Yale JL & Feminism*, *12*, 287.

Annual Methodological Archive Research Review
http://amresearchreview.com/index.php/Journal/about
Volume 3, Issue 2 (2025)

Online ISSN 3007-3197
Print ISSN 3007-3189

http://amresearchreview.com/index.php/Journal/about

effective, and lives of parties are put in the state of uncertainty instead of certainty.[14]
A contrast of Tunisia approach can help in understanding what the law in Pakistan is and what it is not. In Tunisia, divorce is simply announced in court and legal dissolution is closely related to court procedure, conciliation efforts, and determination of consequences by the court. In this model, the lawfulness of instant talaq is practically non-existent: instant talaq can have a social effect on the person who utters it, but it will not result in a divorce having been decreed until a judge declares it. Another variant is offered by the Family Code of Morocco: instead of a mere administrative notice model, the divorce is organized with elaborate grounds and rules of proof, a wife may petition on a basis of harm, non-maintenance, absence and other grounds, and a possibility of referring to an irreconcilable differences procedure in case of failure to demonstrate the former. These models indicate that the administrative reconciliation in conjunction with the judicial dissolution is a hybrid model which is in between an administrative system of courts which is entirely within the jurisdiction of courts, and a purely privative talaq system. The step to private instant divorce has been decisively taken by Pakistan, although marital dissolution has not been completely centralized into judicial pronouncement. The outcome is a two-track system; talaq administrative processing and khula/grounds-based dissolution judicial processing, where legal effectiveness is commonly attributed to ninety-day durations and reporting of locality.[15]
The recent experience of India is pertinent, as it shows another legal and political approach to the solution of the problem of instant triple talaq in the South Asian region: the constitutional litigation and the subsequent legislation designed to establish the prohibition of divorce through uttering talaq in the controversial instant form. In the case of Pakistan, the moral is that it should not import the same model, but legal systems may react to triple talaq either through the regulation of procedure (the MFLO in Pakistan), redefined substantive effect (the counting reforms in Egypt), juristification of divorce (the Tunisian model), or through prohibition and punishment (the legislative response in India). Trade-offs are associated with each strategy. Criminalization may prevent abuse, but will create tension and conflict inside the family, criminalization may also enhance documentation and due process, but may also promote delay and costs without strong legal assistance, administrative reconciliation may be available, but may face an uneven distribution of local capacity and a patchy record-keeping. The current system of Pakistan already possesses the characteristics of anti-instant-divorce design (text) to the notice, reconciliation, delayed effectiveness, and the penalties of non-compliance. The major policy challenge is whether Pakistan would better pursue the explanation and stabilization of interpretation and application (to ensure that the current design functions), or can engage more directly in substantive rule regarding the counting/effect of triple talaq to minimize litigation and confusion in the scholasticism. The case-law controversy

[14] Singh, R. (2023). Triple Talaq in Islamic Law: Examining Women's Rights and Modern Legal Interpretations.
[15] Ali, A., Ahmad, B., Hayat, N., & Ali, S. (2024). Contemporary Challenges to the Concept of Nikah and Divorce in Pakistan: Critical Discourse of Judicial Activism and Religious Scholars Viewpoint. *Al-Qanṭara*.

Annual Methodological Archive Research Review
http://amresearchreview.com/index.php/Journal/about
Volume 3, Issue 2 (2025)

Online ISSN 3007-3197
Print ISSN 3007-3189
http://amresearchreview.com/index.php/Journal/about

presented by the Pakistani case-law in the academic analysis is a strong indication that ambiguity may prevail and the protective promise of MFLO will not be fulfilled evenly without any clarification.[16]

Recommendations

The most urgent reform requirement in Pakistan is not necessarily wholesale replacement of the MFLO architecture but specific stabilization of the relationship of (a) pronouncement, (b) notice and (c) legal effectiveness. Talaq is already under statutory text treated not as legally effective until ninety days after notice and there must be a reconciliation mechanism. Nevertheless, litigation continues since sometimes parties and courts act like pronouncement is the determinant of status. A legislative clarification, either in MFLO itself or by way of an authoritative interpretive guidance, should make clear the legal effect of non-notification in such a manner that safeguards interests of reliance and minimizes status ambiguity. A consistent solution would be to make it illegal to grant legal dissolution unless and until a notification is given and the statutory period of effectiveness has elapsed, and to retain the penalties of breach; this would turn the current design into an unambiguous rule of validity/effectiveness instead of a controversial procedural status. Such a rule would conform with what MFLO already states that talaq shall not take place until the end of ninety days of notice. It would also curb strategic abuse where a husband simply declares that he has divorced immediately without the documentary process where arbitration takes place and the wife can claim her rights.

Second, Pakistan ought to clearly respond to the case of triple pronouncement in legal terms to avoid the reemergence of doctrinal differences in the form of counting. Two possible directions can be suggested by comparative experience, widely consistent with the Islamic reasoning of reforms, namely either count any talaq with a number as one talaq (the "counting reform model associated with the reforms of the early twentieth century), or a triple pronouncement as a form of talaq that is legally ineffective and must be rephrased in a legally-compliant way. A realistic goal, which should guide the decision by Pakistan, is the minimization of harm, avoidance of irrevocability and documentation. Since MFLO already puts a legal hiatus and requires reconciliation, a rule that would expressly hold triple counts as one would probably save litigation without necessarily saturated judicialization of the statute, as the reconciliation purpose is already achieved. It is not advised to homogenize religious diversity, but to offer an effective rule in state law that limits status ambiguity and limits abusive practices.

Third, doctrinal reform is no less important than implementation reforms. Both the MFLO and the family court systems are based on the local institutions (Union Councils/Chairmen, Arbitration Councils, court registries) and on trustworthy documentation. Improvement in standardized record keeping, preferably digitized registers of notices, arbitration proceedings and outcome certificates, should be undertaken in Pakistan to ensure that the status of marriage can be checked, time

[16] Rehman, J. (2007). The sharia, Islamic family laws and international human rights law: Examining the theory and practice of polygamy and talaq. *International Journal of Law, Policy and the Family*, *21*(1), 108-127.

Online ISSN 3007-3197
Print ISSN 3007-3189

limits can be computed, and that the documentary gaps can not be easily tampered with by any party. Documentation is the key to the legal certainty in the family courts, with its statutory obligation to intimate the dissolution decree to the Arbitration Councils and the ninety-day effectiveness mechanism. Unless proper record keeping and readily available checking, women will be prone to denial of status, denial of maintenance, and unnecessary confusion on whether they are married or divorced. This should be accompanied by the prioritization of legal aid and general legal education with the emphasis on awareness of women as to means of getting proceedings under the Dissolution of Muslim Marriages Act of 1939 such as cruelty and non-maintenance, and on the steps that should be taken in practice to start proceedings. This is more so since rights exist on paper but one has to navigate procedures, find evidence and have the capacity to enforce which most women do not have with the assistance of support.

Conclusion

Triple talaq in Pakistan cannot be seen as a mere theological issue of tallying pronouncements but rather an issue of legal governance concerning a shift of marital status, maintenance of rights in the process of shifting and ensuring that the state does not generate undocumented and unfair results of abrupt repudiation. It is already established in the legal structure of Pakistan that the logic of instant divorce is compromised: the notice period of MFLO after pronouncement in some form, penalties in case of non-compliance, the use of arbitration to reconcile the parties, and the ninety-day delayed effect rule combine and provide a procedural obstacle against dissolving immediately. The exits of the judgments of women are further solidified by a list of grounds that are enumerated in the Dissolution of Muslim Marriages Act 1939 which includes cruelty and non-maintenance and the jurisdiction of the family courts over dissolution such as khula and their obligation to award decree dissolution prior to failure of reconciliation. The long-running weakness is irregular interpretation and unequal application, as evidenced by a history of judicial controversy concerning the legal effect of the failure to provide statutory notice and the general difficulty of reconciling the procedural law and various juristic interpretations of it.

Comparative experience shows that Muslim jurisdictions have used various approaches to deal with the same underlying injury, arbitrary unilateral divorce, including counting reforms, which regard triple as one, complete judicialization, i.e., divorce is only decreed by the court, and organized judicial oversight and increased grounds in support of women. The course of Pakistan has been a two-tiered version; administrative proceduralization and judicial dissolution. The most effective reform agenda is the one which unifies and clarifies the efficacy of the current Pakistani safeguards, explicitly solvates the triple pronouncement dilemma within the state law, and makes documentation and access more effective in order that the logic of law protection can be achieved in the real world instead of being watered down through ambiguity and inconsistent application.

References:

Abbasi, M. Z. (2016). Women's right to unilateral no-fault based divorce in Pakistan and India. Jindal Global Law Review, 7(1), 81-95.

Online ISSN 3007-3197
Print ISSN 3007-3189

Al-Azri, K. (2011). One or Three? Exploring the Scholarly Conflict over the Question of Triple Talaq (divorce) in Islamic Law with Particular Emphasis on Oman. Arab LQ, 25, 277.

Ali, A., Ahmad, B., Hayat, N., & Ali, S. (2024). Contemporary Challenges to the Concept of Nikah and Divorce in Pakistan: Critical Discourse of Judicial Activism and Religious Scholars Viewpoint. Al-Qanṭara.

Begum, S., & Riaz, S. (2021). Effects of Dissolution of Transnational Muslim Interreligious Marriages on Child's Life: Comparative Analysis of Pakistan and English Family Law in the Context of Sharī 'ah. Webology (ISSN: 1735-188X), 18(6).

Cherry, K. (2001). Marriage and Divorce Law in Pakistan and Iran: The Problem of Recoginition. Tulsa J. Comp. & Int'l L., 9, 319.

Faizi, H. F. S., Ahmad, K., Hussin, M. N. B. M., & Samah, M. (2024). Divorce and Khula: A comparative study of prevailing family laws in Pakistan and Malaysia. International Journal of Islamic Studies, 15(1), 45-62.

Haider, N. (2000). Islamic Legal Reform: The Case of Pakistan and Family Law. Yale JL & Feminism, 12, 287.

Khurshid, S. (2018). Triple talaq: examining faith. Oxford University Press.

Madina, D. D., Meidina, A. R., & Zein, A. (2023). The Dynamics of Polygamy and Divorce in Muslim Countries. El-Aqwal: Journal of Sharia and Comparative Law, 135-148.

Mangi, D. B., Magsi, L. A., & Ali, U. (2025). The Impact of Triple Talaq in Pakistan: Legal, Social, and Religious Perspectives with a Case Study of Sindh. Journal of Development and Social Sciences, 6(1), 222-231.

Meidina, A. R. (2023). Legal System of Polygamy and Divorce in Muslim Countries: Comparative Studies among Turkey, Pakistan, and Indonesia. Matan: Journal of Islam and Muslim Society, 5(1), 15-30.

Omar, S. (2007). Dissolution of marriage: practices, laws and Islamic teachings. Policy Perspectives, 91-117.

Parveen, N. (2024). Criminalization of Divorce and Muslim Women: A Reality Check of Triple Talaq Law, 2019 in India. South Asia Multidisciplinary Academic Journal, (32).

Quddus, D. U., Faraz, S., Rafique, N., & Qayyum, N. (2024). Ruling on Triple Talaq: Finding the Way-Out.

Rehman, J. (2007). The sharia, Islamic family laws and international human rights law: Examining the theory and practice of polygamy and talaq. International Journal of Law, Policy and the Family, 21(1), 108-127.

Saleha, R. T., Makki, M. A., & Sabreen, M. (2025). Judicial Separation in Islamic Law (A Critical Analysis of Dissolution of Marriage Beyond Talaq in Pakistani Law). Al Manhal Research Journal, 5(1).

Shahid, A. (2018). Post-divorce maintenance rights for Muslim women in Pakistan and Iran: making the case for law reform. Muslim world journal of human rights, 15(1), 59-98.

Sharma, S. (2024). A Comparative Study of the Concept of Dissolution of Marriage in Islamic Law in India, Indonesia and Malaysia. Issue 4 Int'l JL Mgmt. & Human., 7, 1310.

Online ISSN 3007-3197
Print ISSN 3007-3189

Singh, R. (2023). Triple Talaq in Islamic Law: Examining Women's Rights and Modern Legal Interpretations.

Wandi, S. N. A., Zairi, A. N. A., Abdullah, N. C., & Rosidi, M. H. (2025). Triple Talaq in a Single Pronouncement: A Comparative Fatwa Analysis Within a Maqasid Al-Shariah Framework and Its Implications for Women's Rights. International Journal of Research and Innovation in Social Science, IX, 53-62.

Waraich, A., Jamil, M. S., Thakur, S. A., & Sulehry, M. A. K. (2025). Distinction between Khula and Divorce Under Pakistani Law: A Doctrinal Analysis. The Critical Review of Social Sciences Studies, 3(2), 2370-2386.

Zarkoon, S. M. (2025). A Critical study and analysis of Triple Talaq by studying and examining the opinions of various Islamic jurists: https://doi. org/10.5281/zenodo. 17668445. Pakistan's Multidisciplinary Journal for Arts & Science, 6(02), 103-111.