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The Muslim Family Law Ordinance 1961: Pioneer of Women Empowerment in Pakistan

Abstract:

This paper analyzes the role of the Muslim Family Law Ordinance 1961 as the pioneer, towards the journey of empowering Pakistani women. The ordinance was the outcome of around six years of struggle done by APWA and other women's rights organizations in Pakistan to provide Pakistani women with their rights; to maintenance and divorce along security from being marginalized through polygamist social traditions. But unfortunately, the ordinance could not bore much fruit in the patriarchal Pakistani society where women are oblivious of their fundamental rights and could not gain from the powers given to them through the ordinance. The ordinance remained impractical for the majority of the female population, and just a few modern and educated urban women benefited from the law. For this descriptive analysis, the qualitative methodology has been used.

Key-Words:

APWA, Islamic Laws, Muslim Family Law, Patriarchal society, Women empowerment

Introduction:

Women comprise more than half of Pakistan's population and therefore deserve equal opportunities to develop in social, political, or economic, etc. sectors but unfortunately, patriarchal societies like Pakistan couldn't meet the required standard even in the twenty-first century. Interestingly, women empowerment in Pakistan has been under intense discussions in domestic and global forums, but this attention is primarily because of the evident infringement of the fundamental rights of women in Pakistani society. Pakistani women have not only been the victims of social, political, religious, economic etc. violence but also suffered from inequality in all walks of life.

Moreover, women's rights have been denied in both public and private spheres of life mainly because of Pakistani women being ignorant of the different legislations that deal with the safety and shield of their rights and to secure them from male supremacy. Since 1947, legislation to protect women's rights has failed to empower Pakistani women mainly due to women's obliviousness from both the legislation, and even the rights itself. Pakistan's constitution deals with human rights from its section 8 to 28 referring to equal opportunities for both the genders in all facets without any socio-ethnic or religious discrimination or diversity. To empower Pakistani women numerous laws have been introduced in the country including: Muslim Personal Law of *Sharia* (1937)¹; Muslim Family Law Ordinance (1961)²; *Hudood Ordinance* (1979)³; Women Protection Bill (2006)⁴; Sex **The Muslim Family Law Ordinance 1961: Pioneer of Women Empowerment in Pakistan**

ual Harassment Bill (2010)⁵; Prevention of Anti-Women Practices Bill (2011)⁶; Acid Control and Acid Crime Prevention Bill (2011)⁷; and Child Marriages Act (2017), etc.

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¹ Bill recognized a woman's right to inherit all forms of property.

² MFLO, it aimed to regulate the family affairs by protecting the women rights against unjust prevailing procedures of marriage, divorce, and polygamy, etc.

³ The ordinance was promulgated through an executive order, which was considered as against the rights of women.

⁴ Bill Its main purpose was to amend the laws under *Hudood Ordinance* as this ordinance victimized the women.

⁵ The bill was for those Pakistani women, who have to interact mostly in a bad-mannered surrounding, especially when they come out of their homes for market places, traveling by local transport and when performing their duties at workplace, along with the male colleagues.

⁶ The bill was to constitutionally protect Pakistani women against the abomination like giving a woman in marriage or otherwise in *Badla-e-Sulha*, *Wani*, or *Sawara*, marriage with the Holy *Quran*, and depriving women of their

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inheritance. The bill has proposed strong penalties for the offenders indulging in anti-women practices.

In this paper, the special focus has been made to evaluate the contribution of Muslim Family Law Ordinance 1961 in women empowerment in Pakistan, as a pioneer. The Muslim Family Laws Ordinance 1961 is categorically the most noteworthy and the most contentious reform in the sphere of Muslim personal laws in Pakistan. The background of the ordinance is very interesting. Since the emergence of Pakistan as a separate state elitist women's organization, particularly the All Pakistan Women's Association (APWA)⁸ had been making women aware of their basic human dignity and lobbying for their greater participation in public life and for reforms in Muslim family laws. The APWA felt particularly sore about the untrammelled rights of polygamy and *talaq* exercised by men. What gave their movement for reform of Muslim personal law an adding and pressing impetus was the second marriage of Muhammad Ali, Prime Minister of the country in 1955 while still legally married to his first wife.⁹ The APWA took up the cause of the first wife and organized a country-wide agitation protesting against the Prime Minister's second marriage and demanding reform of Muslim family laws.

Amidst growing criticism of his action, the Prime Minister met the APWA and agreed to set up a high-powered committee to consider the necessary reforms in the present laws regarding marriage, divorce, custody of children and inheritance.¹⁰ The committee would represent men and women leaders of the country and submit its recommendations to the Government within six months after it was constituted. On 4 August 1955, a commission to deal with marriage and family laws in Pakistan was established by the Government, comprising of seven members; Dr. Khalifa Shuja-ud-Din (President); Dr. Khalifa Abdul Hakim (Member Secretary); Maulana Ihtisham-ul-Haq; Mr. Enayet-ur-Rahman; Begum Shah Nawaz; Begum Anwar G. Ahmad and Begum Shamsunnahar Mahmood.¹¹ On the sudden death of the president of the commission, Mian Abdur Rashid, former chief justice of the Supreme Court of Pakistan was appointed as President on 22nd October, 1955.

A comprehensive questionnaire was prepared and published in English, Bengali and Urdu. The answers were given careful consideration in preparing the report. Of the seven members of the commission six were laymen including three women and one, a religious scholar, namely, Maulana Ihtisham-ul-Haq. The report of the commission, published on 20th June 1956 contained an articulate statement of a modernist approach to the Shari'a. Maulana Ihtisham-ul-Haq disagreed with almost everything that the other members of the commission said or proposed in the report.¹²

Report of the Commission on Marriage and Family Laws:

The commission claimed to have made the recommendations in accordance with the four sources of Muslim law, i.e., the Quran, *sunnah*, *ijma* and *qiyas* and the doctrine of *istihsan* or common weal which is an integral part of that law and followed the following basic doctrine of Islamic jurisprudence.¹³ First, anything that is not categorically and unreservedly forbidden by a lucid and unequivocal injunction of the Quran, *sunnah* is acceptable if the wellbeing of the person or of the society requires it. Second, as the great imams never claimed to be infallible and always respected difference of opinion among each other and even with their disciples, it would be reasonable to prefer one view to another and it was not necessary to follow any of them in *toto*. Third, distinction should be made between those injunctions which were universal and those which were applicable to a particular structure of society in a particular epoch and in a particular region. For example, the express purpose of Islam was to abolish slavery, but as the institution was an integral part of the social structure of those days, it could not be abolished at a single stroke. Islam issued injunctions to make the institutions as humane as possible with the ultimate objective to abolish it altogether whenever it became practicable. Having formulated the *modus operandi* as described above. The

⁷ The bill aims to control the import, production, transportation, hoarding, sale and use of acid to prevent the misuse of acid and provide legal support to acid and burn victims. the bill recommended 14-years lifetime imprisonment sentence and fines up of Rs 1 million as a punishment for the perpetrator of this crime.

⁸ APWA was established in 1949 by Begum Rana Liaquat Ali Khan.

⁹ Khawar Mumtaz and Farida Shaheed, *Women of Pakistan: Two Steps forward, One Step back?* (Lahore: Khalid Imran Printers, 1987), 49.

¹⁰ Sylvia Chipp-Kraushaar, "The All Pakistan Women's Association and Muslim Family Laws Ordinance" in Gail Minault (ed.), *The Extended Family: Women and Political Participation in India and Pakistan*, (Delhi: 1981), 267.

¹¹ "Report of the Commission on Marriages and Family Laws", *The Gazette of Pakistan, (Extraordinary)*, (Karachi, 20 June 1956), 1197.

¹² "English version of the Note of Dissent", *The Gazette of Pakistan, Extraordinary*, (Karachi, 30 August 1956), 1560-1604.

¹³ N. J. Coulson, "Reform of Family Law in Pakistan", *Studia Islamica*, No. 7, (1957), 135-155.

commission proceeded to make proposals and recommendations for family law reform. They will be discussed here, into three categories: marriage; maintenance; and divorce.¹⁴

1. Marriage: In the first place, complex questions relating to the validity and existence of marriage, inheritance and paternity frequently arose in civil and criminal courts and it was often difficult to decide them for lack of documentary evidence of celebration of marriage. The Quran and the *sunnah* had commanded the Muslims to put down economic transactions and wills in black and white with witnesses thereto. This injunction should be extended to the registration of marriages so as to dispense with litigation and questionable oral evidence.¹⁵ While the law of the country had made registration of agricultural transactions even in the most backward areas compulsory, there was no justification for leaving the most vital matter of marriage outside its ambit. To make registration of marriages easy, a standard *nikahnama* or marriage deed should be prescribed; one copy of the deed be given to the bridegroom and the second copy to the bride or her *wali* (guardian).¹⁶ The third copy should be dispatched by registered post to the marriage registrar by the *nikah-khwan*. His failure to do so should be an offence, liable to be punished with a fine not greater than Rs. 500.¹⁷ Secondly, child marriage should be prevented by enactment of appropriate legislation that no man less than eighteen and no woman below the age of sixteen should sign a marriage contract. The Quran made not only puberty but a specific status of intelligence growth as a provision standard for entrusting property to the orphans. The age of marriage should also be fixed on the same traction because commending the life of marrying-parties to each other is an issue of greater value than mere delegation of property.¹⁸ Maulana Ihtisham-ul-Haq did not agree with this proposal.

Thirdly, marriage under Muslim law being a civil contract, stipulations in the marriage contract which were not repulsive to the basic principles of Islam and decency could be made applicable in a court of law. It should be legitimate to provide in the marriage agreement that the woman should have the same right to enunciate divorce, if the right to do so had been entrusted to her in the marriage contract, as a man. Fourthly, *meher*, or marriage gift by the husband to the wife, which was meant to give her some economic security was seldom paid. Often a large sum of money was fixed as dower merely as a matter of prestige of the husband or of the wife without any intention of paying it.¹⁹ This custom often enabled the husband to avoid paying even a large amount of dower genuinely fixed, by pleading in the court that it was not meant to be claimed and paid. It should, therefore, be legislated that a husband would have to pay the dower fixed in the marriage contract even if it was very high. As the law stood, the wife must institute suit for dower within three years of her demand. If on account of reconciliation with her husband she did not sue him within the period, her claim to dower lapsed. The commission proposed that there should be no period of limitation in the suit for dower. Again, where the dower was not divided into prompt and deferred in the marriage contract, the entire sum should be presumed by the court to be payable on demand.²⁰

Fifthly, polygamy was neither enjoined nor permitted unconditionally by the Quran. No rational justification existed for the most cases of polygamous marriages, and it was particularly complex, if not impossible, to accomplish the conditions of meeting out equal justice to co-wives as laid down in the Quran. Accordingly, the commission recommended that any married man willing to sign a second marriage contract is bound to get prior permission from the court. Maulana Ihtisham-ul-Haq did not agree with this recommendation.²¹

2. Maintenance: The inordinate delay of the civil courts in granting maintenance to a needy wife on account of their complicated, dilatory and expensive procedure often defeated the very purpose of filling an application for maintenance. To avoid this unfortunate delay the commission suggested that the wife should be given the right to charge her husband for maintenance in a special matrimonial and family laws court and that the order of this court should be executable in a summary manner. The right of a wife in financial distress to claim maintenance through

¹⁴ David Pearl, "Family Law in Pakistan", *Journal of Family Law*, No. 9, (1969), 171-181.

¹⁵ Muslim Family Law Ordinance 1961, Ordinance VIII. https://pcsw.punjab.gov.pk/muslim_family_laws.

¹⁶ *Ibid*.

¹⁷ Muslim Family Law Ordinance 1961, (VIII of 1961), 2. <https://www.refworld.org/pdfid/4c3f1e1c2.pdf>.

¹⁸ "Report of the Commission on Marriages and Family Laws", (Karachi, 20 June 1956), 1200.

¹⁹ The Muslim Family Law Ordinance 1961, (VIII of 1961), 2 March, 1961. <http://punjablaws.gov.pk/laws/777a.html#:~:text=the%20following%20Ordinance%3A-.1.,Pakistan%20%2C%20wherever%20the%20may%20be>.

²⁰ Lucy Carroll, "The Muslim Family Law Ordinance, 1961: Provisions and Procedures", *Contributions to Indian Sociology*, (NS), Vol. 13, No. 1, (1979), 117-143. <https://doi.org/10.1177%2F006996677901300105>.

²¹ Lucy Carroll, "The Muslim Family Law Ordinance, 1961", (1979), 120.

the criminal court under section 488 of the code of criminal procedure, 1898 should also be retained until the working of the matrimonial and family laws courts proved satisfactory, as maintenance allowed by a criminal court could be realized promptly like a fine.²² In view of the enormous increase in the court of living, the criminal court should be given power to grant maintenance to the wife up to a maximum of Rs. 300 per month. Under the Hanafi law, a deserted wife could not claim any past maintenance.²³ Often the husband, by resorting to subterfuges, prevailed on the wife to postpone institution of maintenance suit. The commission proposed enactment of legislation enabling the wife claim past maintenance at least for three years prior to the institution of the suit where a husband had unfairly divorced his wife, the court should be vested with a discretion to order him to pay her maintenance for life or until her remarriage.

3. Divorce: The commission was of opinion that during the time of the prophet (PBUH) to the early years of Hazrat Umar (RA)'s caliphate, three pronouncements of *talaq* at a single situation were considered as only one pronouncement. Hazrat Umar (RA) made it an irrevocable *talaq* as a punishment for those who misused the provision of three *talaqs*.²⁴ Since Islam inculcated happiness and sanctuary in family life, easy divorces should be prohibited. According to a *hadith*, of all the things allowed by God, divorce was the most unpleasant in His sight. All the jurists regarded pronouncement of three *talaqs* at a single sitting as *talaq-e-bidat* or undesirable innovation. As the commission held the very name condemns it as un-Islamic. Legislative effect, therefore, should be given to the view that pronouncement of divorce three times at one situation amounted to the declaration of divorce only once and such a divorce did not in any way effect termination of marriage.²⁵ Maulana Ihtisham-ul-Haq opposed it on the ground that all the four *imams* had laid down that three declarations of *talaq* at a single situation constituted an irreversible *talaq*. For the reasons as stated in the case of registration of marriages, the commission recommended that registration of divorces should be made compulsory by legislation. A standard *talaqnama* or divorce deeds specifying as how the *talaq* had been affected should be prescribed; a copy of this deed should be sent to the registrar of marriage and divorce by registered post and the husband should be liable to a fine not exceeding Rs. 500 for failure to register the divorce.²⁶

It should be enacted further that no person should be able pronounce a divorce without the permission of the matrimonial and family laws court and the court would not permit the person to pronounce the divorce until he had paid the entire dower and made suitable provision for the maintenance of his first wife and her children.²⁷ If the court's intervention was made essential for a divorce, it would be unnecessary to provide for the registration of divorces. Maulana Ihtisham-ul-Haq disagreed with the commission's proposal for court intervention in husband's pronouncement of divorce. Following the *Quranic* injunctions, the commission further proposed that efforts should be made by the relations and friends of the spouses for reconciliation between them. It was only when such efforts failed that prescribed procedure for divorce should be initiated. With regard to divorce sought by the wife, the commission was of opinion that the provision of the dissolution of the Muslim marriages act, 1939 was adequate and required no further modification.²⁸ Judicial enactment of divorce cannot be valid on the ground of incompatible temperament except in the case of *khulla*.

The Muslim Family Laws Ordinance, 1961:

The report of the Marriage and Family Laws Commission was published in June 1956 and instantaneously it faced intense opposition of the *ulema* whose political influence was tremendous during those days. The Jama'at-i-Islami carried out a well-organized campaign against the commission's recommendations and they were joined by other traditionalists and religious forces. Due to this pressure from the orthodox religious community and the general political instability in the country, the Government did not take any action on the report. But the APWA continued to demand implementation of the report. In June 1958, in conjunction with other women's organization, the APWA held a Women's Demands Day to coax the government to implement the commission's recommendations and introduce reforms in family law.²⁹ After the fall of parliamentary Government in 1958 the APWA approached

²² "Report of the Commission on Marriages and Family Laws", (Karachi, 20 June 1956), 1220.

²³ *Ibid.*, 1202.

²⁴ "Report of the Commission on Marriages and Family Laws", (Karachi, 20 June 1956), 1202.

²⁵ *Ibid.*

²⁶ *Ibid.*, 1214.

²⁷ "Report of the Commission on Marriages and Family Laws", (Karachi, 20 June 1956), 1202.

²⁸ Lucy Carroll, "The Muslim Family Law Ordinance, 1961", (1979), 125.

²⁹ Tahir Mehmood, *Muslim Personal Law*, (India: Vikas Publishing House, 1978), 165.

General Ayub Khan, the new military ruler of the country with their demands. Ayub Khan who was highly contemptuous of the *ulema* and closer to the modernist point of view agreed to support their cause. As Ayub Khan's intentions to implement the commission's report became known, the *ulema*, led by Maulana Maududi and Maulana Muhammad Shafi organized opposition in different parts of the country.³⁰ In a memorandum to Ayub Khan, eighty four *ulema* of East Pakistan expressed their deep resentment and opposition to the recommendations of commission.

Ayub Khan held that the commission's recommendations did not trespass Islamic jurisprudence on the subject but only provide a profound judicial structure to employ Islamic family laws. Therefore, he decided to adopt the recommendations of the commission because he felt it his duty, being a Muslim and the head of an Islamic state to develop policies for the wellbeing of the people.³¹ Accordingly, in March 1961 he promulgated the Muslim Family Law Ordinance, 1961.³² It was to take effect from 15 July 1961. The Muslim Family Law Ordinance was based on the recommendations of the commission on Marriage and Family Laws. It consists in all of thirteen short sections but because this paper is dealing with only those sections of the ordinance which were relevant to women empowerment in Pakistan so I will discuss section 5, 6, 7, 8, 9, 12, 13 only.

Section 5: This section relates to compulsory registration of marriages and provides that every Muslim marriage shall be registered by the *nikah* registrar who has been granted license by the union council for the purpose.³³ In case, marriage is sanctified by local *nikah khwan* (usually the *imam* of the local mosque), he shall immediately inform the *nikah* registrar, to get the marriage registered. Anybody who contravenes this term shall be liable to be punished by simple detention for maximum three months or with fine of not more than Rs. 1000 or both.³⁴ Copies of prescribed *nikahnama* shall be supplied to the parties.

Section 6: This section deals with polygamy. It maintained that if a man wants to contract another marriage during the subsistence of an existing marriage, his marriage shall not be registered under this ordinance unless he provides previous in-writing permission of the arbitration council. An application for permission for the second marriage, stating the reasons for the proposed marriage and whether the consent of the existing wife or wives has been obtained for it, shall be submitted to the chairman of the Union Council.³⁵ The chairman of Union Council shall ask from the applicant and his existing wife/wives to appoint a spokesperson, to form an arbitration council. Arbitration council, satisfied with the proposed marriage as indispensable and just, shall grant the permission, subject to conditions as may deemed fit. In case of husband's failure to provide the previous permission of the arbitration council, he shall immediately pay the entire amount of dower, due to existing wife/wives and can be convicted upon the complaint with up-to one year's detention or with fine of Rs. 5000 or with both.

Section 7: This section deals with *talaq* and maintains that if a person has intended to divorce his wife, he shall instantly inform the Chairman of the Union Council through a written notice and shall provide a copy of the notice to the wife.³⁶ In case of contravention to this provision, husband will be liable to up-to one year's imprisonment or fine of Rs. 5000 or with both. A divorce cannot be legally effective until ninety days, from the date of notice, delivered to the chairman of union council.³⁷ A divorce to the pregnant wife will not be affective until the end of above mentioned period or pregnancy. A wife can re-marry her ex-husband after the divorce without *halala*³⁸, unless the divorce is executed effectively, for the third time.

Section 8: This section is associated with section 7 and is about providing the right to divorce, to the wife, in case she wants to exercise this right and wishes to terminate the marriage otherwise i.e *khulla* than by *talaq*.³⁹

Section 9: In this section wife is given the right to claim maintenance from her husband, in case that he fails to provide it adequately. She can request to the chairman of union council through an application, who shall constitute an arbitration council to verify the application as just and may bound the husband through a certificate to pay a

³⁰ Tahir Mehmood, *Muslim Personal Law*, (1978), 165-6.

³¹ Ayub Khan, *Friends not Masters*, (London: PBQ Publications, 1967), 107.

³² Alamgir Muhammad Serajuddin, *Shari'a Law and Society*, (New York: Oxford University Press, 2001), 61.

³³ The Muslim Family Law Ordinance 1961, (VIII of 1961), 2 March, 1961.

³⁴ The Muslim Family Law Ordinance 1961, (VIII of 1961), 2 March, 1961.

³⁵ *Ibid.*

³⁶ *Ibid.*

³⁷ *Ibid.*

³⁸ *Halala* is an intervening marriage with a third person.

³⁹ The Muslim Family Law Ordinance 1961, (VIII of 1961), 2 March, 1961.

specific amount as maintenance. If the amount is not paid in time, it can be recovered as arrears of land revenue. The maintenance certificate can be revisited by the collector in West Pakistan or sub-divisional officer in East Pakistan, on the request of husband or wife.⁴⁰ And his decision shall not be called in question in any court.

Section 12: This section was basically an amendment in section 2(a) of Child Marriage Restraint Act, 1929⁴¹ and provides that a child means a person who, if a female, is under sixteen years of age (instead of fourteen). In section 4 of the Act, the word twenty one was replaced with eighteen, so that whoever being a male above eighteen (instead of twenty one) contracts a child marriage is punishable with imprisonment or fine or both.

Section 13: It is an amendment in section 2 of the Dissolution of Muslim Marriages Act 1939 and gives an additional ground of dissolution of marriage to a Muslim wife under section 2 of the act by providing that she is entitled to obtain a decree for the dissolution of her marriage if her husband has taken an additional wife in contravention of the provisions of the Muslim Family Law Ordinance. In clause 7 of section 2 of the same act for the word fifteen the word sixteen is substituted. As a result, a wife can claim a decree for dissolution of her marriage on the ground that she having been given in marriage by her father or other guardian before she attained the age of sixteen (instead of fifteen), repudiated the marriage before attaining the age of eighteen years.

Was MFLO 1961 a step towards women empowerment in Pakistan?

The provisions of the MFLO discussed above were hardly revolutionary. The report of the Marriage and Family Laws Commission was published in 1956 and the MFLO enacted in 1961. In the intervening period significant legal developments had taken place in other Muslim countries. Syria, Tunisia, Morocco and Iraq had enacted new codes of family law in 1953, 1957, 1958 and 1959.⁴² Exercising the right of *ijtihad* the Tunisians had even prohibited polygamy and declared divorce outside a court of law to be devoid of any legal effect.⁴³ Therefore when Ayub Khan promulgated the MFLO in 1961, the report of the commission had already lost its radical character.

The women's rights group still considered this legislation as a major move in promoting the status of women in Pakistan by upholding the need for women to be free economically, socially, and politically.⁴⁴ Interestingly, the ordinance emerged as the central point of clash between the Muslim modernists and orthodox *ulema* and fundamentalists. Although the Muslim modernists, who had authored this legislation, had relied heavily on the classical juristic scholarship on matters pertaining to the family laws, the orthodox *ulema*, nevertheless, accused them of having been inspired by Western ideas. The modernists, on the other hand, pointed out that they had written nothing in the new law which could be supported by the opinions and precedents of many of the respected classical Muslim jurists and juristic schools.

The ordinance, which was the first real test of the ability of the state to effect changes in the traditional domain of the religious establishment, was hailed as progressive legislation by modern educated women, but faced intense opposition by the *ulema*. In practice, it altered nothing from day to day lives of Pakistani women, but it echoed loudly in the religious sphere of Pakistani society. The ordinance not only set an example that the state can appropriately use its power to legislate public policies about issues related to Islamic interpretations but can also challenge the hegemony of *ulema* over elucidating the code of *shariah* about public affairs i.e. Muslim Family Laws. The power to conduct marriages, pronounce judgments on the validity of divorce, and give authoritative views on inheritance and maintenance, was now to be turned over to the secular authorities of the state.

The ordinance also undermined the popular scholarly value of Islamic modernists in comparison with the traditional and orthodox *ulema*, albeit being under state patronage. Therefore, the Muslim Family Law Ordinance 1961 was taken as the first step towards Gen. Ayub Khan's plan to modernize Islam and liquidate the traditional champions of Islamic orthodoxy. And under this ordinance some local administrative bodies with few judicial

⁴⁰ *Ibid.*

⁴¹ Keith Hodkinson, *Muslim Family Law: A Source Book*, (London: Routledge, 1984), 92-5.

⁴² Keith Hodkinson, *Muslim Family Law: A Source Book*, (1984), 92-5.

⁴³ *Ibid.*

⁴⁴ Khawar Mumtaz and Farida Shaheed, editors, *Women of Pakistan*, (London: Zed Books, 1987), 53.

powers were established within the already running system of the state to regulate family disputes, which had been previously decided by the *fatwas* of the private *ulema*.⁴⁵

Conclusion:

The practical contribution of the Muslim Family Law Ordinance in the empowerment of Pakistani women remained very limited and ineffective because it could not be implemented efficiently in the whole country. Only modern, educated and elite urban women could benefit from the ordinance, the majority of the female population whether urban or rural remained oblivious from the powers vested to them through this ordinance. The middle class Pakistani society with its deep-rooted patriarchal traditions and customs was not even touched by the pressure of this ordinance to empower Pakistani women. The coalition of religio-patriarchal forces, represented through customs and traditions, religious rules and regulations, and societal pressures, often abused the provisions empowering women. In marriage contracts (*nikah nama*) the columns related to women's rights regarding maintenance and divorce are still left blank even in the twenty first century. The only significance of the Muslim Family Law Ordinance is that it was the first significant step of the state to provide some space to women's voice through initiating Islamic social engineering in public policies. Therefore it pioneered the journey towards women empowerment in Pakistan, and remained in the roots of every law or movement to empower Pakistani women.

⁴⁵ Mian Tufail Mohammad, (ed.), *Muslim Family Laws Ordinance: The Opinion of the Ulama*, (Lahore: no publisher, 1961), 3.