

MAINTENANCE CLAIM; CHALLENGES FACED BY WOMEN UNDER MUSLIM FAMILY LAWS IN PAKISTAN: A CRITICAL ANALYSIS

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Abstract

This research analyzes the challenges women in Pakistan face in obtaining maintenance under Islamic personal law. It examines the role of socio-cultural standards and norms, the financial concealment of wives, delays in procedures, and the inefficiency of enforcement mechanisms as obstacles to women seeking equitable and appropriate support. The paper examines statutory provisions, such as the Muslim Family Laws Ordinance 1961 and the Family Courts Act 1964, to assess their contribution in protecting the right to maintenance. It also explains the existence of systemic barriers that disproportionately affect women, particularly in rural areas. To achieve equitable maintenance outcomes in Pakistan, it is necessary to enhance enforcement procedures, reform income-verification mechanisms, and broaden legal awareness. Such reforms would assist in closing the institutional gaps, strengthen women's financial security, encourage access to justice, and ensure that Islamic legal principles of fairness and responsibility can be put into practice.

Keywords: challenges, historical context, laws, opportunities, theoretical context

Introduction

The basic rights of women under Islamic personal law include, among others, the right of maintenance (*nafaqa*), which guarantees the financial stability of women in marriage and after divorce (Shahid, 2018). Attorney General of Pakistan has ample of statutory provisions in this regard, such as the Muslim Family Laws Ordinance 1961 (MFLO), the Family Court Act 1964, etc. The duty of a husband is to provide support for the wife and children (Haider et al., 2023). But in reality, there is no predictable obedience towards this duty. Despite these clear doctrinal and legal foundations, however, the claims and realization of “due” maintenance by women remains a serious issue that inflicts heavy burdens on women, specifically those in weak financial and educational position (Sadia, 2024).

Thus, even as law is seemingly in their favor, experience reveals that it is a serious challenge for many women to claim “due” maintenance in current legal and societal contexts (Munir, 2023). This often progresses more often than not to a long, emotionally-charged trial, discouraging effective legal redress. Some of the factors mentioned in this context are that it is hard to implement maintenance according to financial refusing by husbands, delayed in court, a lack of recording of maintenance receipts, and social pressure, as stated by Qaisar (2025). In

addition to this, some precedents are discussed in the paper to showcase best practices at the judiciary, such as the judiciary's adherence to the letter of the law and the law of the land. Ikram and Usman (2022) discuss the inefficiency of the judiciary system and how judges should approach this.

This paper will comprehensively understand the non-substantive relief received by female holders of a maintenance claim in Pakistan by integrating the analysis of ideals found in the laws/doctrines and realities as recorded in the situation of the female maintenance claim holders in the country. Lastly, the study concludes that with changing laws and raising awareness, the situation needs to be more disciplined for it to afford the woman justice and economic security, according to Islamic law.

Research Justification

Yet, in spite of clear and unambiguous law and maintenance rights, a woman continues to struggle in Pakistan to make her claim to maintenance in Islamic personal law. Researchers have found that although claims and rights to maintenance are clear and unambiguous in Islamic personal law, women are still facing difficulties when they are trying to claim and enforce their rights. Although a system for maintenance proceedings has been established under the Muslim Family Laws Ordinance 1961 and the Family Courts Act 1964, weak implementation has been noticed, unevenly and subject to a large degree of socio-cultural norms.

The study has a major omission at the level of analysis in that it is based on a socio-economic need of maintenance, and not as a legal right, which is a reflection of the realities of the culture. Also, the increasing family feuds and an escalating proportion of cases being reported in court as domestic matters point towards the need to revise the policies. This identification of problems will enable policy makers, legal practitioners and scholars to look at the issues and provide a solution that can help law enforcement to stop the bad practice and minimise the number of cases where women are not receiving what they are entitled to. The study even has an impact on advancing gender justice because women's economic security is key to their dignity, agency and well-being. The doctrine, as well as issues involved in family law reform, have been addressed herein, which made this study useful for providing answers to the debates that have already been raging in the context of family law reform in Pakistan.

Literature Review

One of the most basic rights of women under Islamic personal law is maintenance (nafaqa), which covers the financial security of women in marriage and after its disintegration (Shahid, 2018). In Pakistan, this right is strengthened by the use of statutory provisions of the Muslim Family Laws Ordinance of 1961 (MFLO) and the Family Courts Act of 1964. This establishes the legal obligation of the husband to maintain and financially support his wife and children (Haider et al., 2023). Nevertheless, despite clear doctrinal and legislative Foundations, women continue to face a significant lack of practical opportunities to exercise their maintenance rights (Sadia, 2024).

Deeply entrenched social structures, patriarchal norms, and systemic failures within the legal framework substantially limit women's ability to effectively claim and secure proper maintenance (Riaz & Begum, 2021). This structural and institutional barriers greatly restrict women capacity to enforce their legal entitlement (Hussain & Faizi, 2024; Ikram & Usman, 2022). As a result, many women particularly those who are financially vulnerable or less educated continue to struggle for basic economic support, even though the law appear to be in their favor (Sabreen, 2020). Some researches also explore the role of husbands hiding their financial conditions, time-consuming institutional procedures, insufficient judicial supervision, inadequate

documentation, and social pressures on the ineffectiveness of implementing maintenance rights (Qaisar, 2025).

Historical Context of Maintenance Claims in Pakistan

The concept of maintenance (*nafaqa*) in Islamic personal law has deep historical origin tracing back to early Islamic jurisprudence (Shahid, 2018). During this period, the husband's responsibility to provide financial support to his wife and children became established as both a legal and religious obligation (Haider et al., 2023).

The idea of maintenance (*nafaqa*) in Islamic personal law has numerous historical roots and was developed in the period of early Islamic jurisprudence (Shahid, 2018), when the requirement for a husband to maintain his wife and children emerged (Sabreen, 2020). The British codified the aspects of personal law used by the Muslims in the form of regulations and through court decision-making, and how issues of maintenance were resolved in the colonial courts (Riaz & Begum, 2021).

After the creation of Pakistan in 1947, initiatives were introduced to reform and regulate Muslim family law with the aim of addressing societal problems faced by women (Munir, 2023). Despite its progressive intent, the Muslim Family Laws Ordinance of 1961 established formal procedures for maintenance claims; However inadequate enforcement structure meant that the interpretation and execution of these laws continued to be shaped by entrenched patriarchal traditions (Ikram & Usman, 2022; Sadia, 2024). Thus, this historical progression is crucial for examining the ongoing challenges experienced by women in Pakistan (Shahid, 2018).

Theoretical Context of Maintenance Claims in Pakistan

Maintenance rights theory in the Islamic personal law is based on the theories of justice, welfare, and family responsibility under Islamic law as stipulated in the Quran, Sunnah, and classical jurisprudence. The Islamic law theory defines *nafaqa* as an obligation that the husband owes in accordance with the ideas of *qiwamah* (male responsibility) and *maslahah* (public welfare) to provide the socio-economic stability of the family unit. The Quranic commandments in Surah Al-Baqarah and Surah An-Nisa make maintenance a duty of the law and righteousness, to be balanced and proportionate, depending on the husband's financial ability.

According to classical Hanafi, their interpretations are heavily applied in Pakistani family law. Maintenance is payable when the marriage is valid and remains payable as long as the wife is performing her marital duties, unless there are reasons acceptable as a result of harm or cruelty. The contemporary legal theory is able to extend this knowledge by introducing the principles of gender justice, human rights, and social protection. According to the feminist legal theorists, the interpretation of the maintenance laws should be in such a manner that the economic vulnerability of women in male-dominated societies is acknowledged.

Laws Regarding Maintenance Claims in Pakistan

The term maintenance (*nafaqa*) in Islamic law and the Pakistani legislation refers to a legally binding duty that aims at safeguarding the economic and honorable rights of women in marriage and, under specific conditions, post-divorce. According to the classical Islamic jurisprudence, a husband has the obligation to feed, clothe, house, treat, and provide all the requirements in the life of his wife regardless of her income. This obligation commences with a valid marriage contract and goes on until the wife is faithful and performs marriage duties. In the event of divorce, the Islamic law provides maintenance in the *iddat* period, and in the case when the woman is pregnant, the maintenance is provided till the birth, and in some interpretations, when the child is in the weaning period.

These values are supported by Pakistani statutory law. Muslim Family Laws Ordinance 1961 provides a wife with the power to seek maintenance by the Arbitration Council in case a husband is negligent in his responsibility. The West Pakistan Family Courts Act 1964 provides the jurisdiction of the family courts to decide the amount of maintenance to be paid, depending on the capacity of the husband and the reasonable needs of the wife. The trend in the recent judicial rulings is that unpaid maintenance is a recoverable debt, and the obligation of a husband exists even where the wife is earning independently.

With these safeguards in place, women are facing several obstacles in maintaining. Overall, women are usually not encouraged to take legal action because of stigmatizing experiences, pressure to do so by family members, and the fear of marital disintegration. Access to justice is also further hampered by procedural delays, the cost involved, and the subjective nature of the maintenance would-you-rather evaluation. The mechanisms used to enforce it are still loose, and a lot of husbands get away with paying even when the court orders them to do so. Also, divorced women are left vulnerable economically due to the lack of a clear statutory provision on the post-*iddat* maintenance. The lack of legal literacy and patriarchal explanations of obedience are also one of the reasons why women are not able to find the necessary support, which leaves a serious gap between the legal rights and the actual situation.

Challenges for Maintenance Claims in Pakistan

1. Lot of men do not reveal their real incomes or conceal assets and abuse the informal character of the Pakistani economy. Courts usually use the declared income of the husband, which leads to the inappropriate maintenance grants that cannot satisfy the basic needs of the wife.
2. Despite the intended speedy resolution that is intended with the Family Courts Act 1964, in reality, cases can take months or even years to be completed because of delays through adjournment, non-judicial resources, or no-show by one or both parties.
3. There are large numbers of women, especially the rural population, who have no access to copies of *Nakahnama*, CNICs, and income records, and so it is hard to prove their claims.
4. There is also the problem of social and cultural pressures. Women are usually dissuaded by their families or communities from going to court, and some are even threatened by their husbands. Also, in some cases, husbands misuse legal procedures by initiating a second suit, like petitions seeking the restoration of conjugal rights, to coerce wives to drop maintenance claims.
5. Weaknesses in implementation of court orders is also a great issue. Husbands can avoid payment in the event that maintenance is ordered through relocation, hiding of assets, or even neglecting to follow the court order. The effect of this legal, financial, and societal hurdle is a great flaw in the success of maintenance laws, and leaves most women exposed and financially insecure, even after having legal rights.

Opportunities for Maintenance Claims in Pakistan

Although women in Pakistan have been facing several difficulties, there are opportunities available in the legal and social context that may enhance the accessibility of the maintenance (*nafaqa*) claims. A major opportunity is the legal provisions in the Muslim Family Laws Ordinance (MFLO) 1961 and the Family Courts Act 1964 that have a definite statutory system for claiming. Such laws give women the ability to pursue maintenance not only in the marriage but also in the event of separation or divorce, with claims of the past, present, and future as well. Having specialized family courts in place gives a guarantee that the cases are presented to judges who are trained in family and Islamic law, which offers a more specific focus on law compared to general civil courts.

1. The other opportunity is through judicial precedents. The Pakistani courts, such as the Supreme Court and the High Courts, have been stressing the right of women to maintenance and the financial responsibility of the husband even in financial disputes or second marriages. These precedents reinforce the legal foundation of women to make their claims and give directions to lower courts in order to deliver equitable and receptive awards.
2. Also, awareness and advocacy programs provide open opportunities. Overall, due to the similarity of the legal process, women are educated, assisted in legal areas, and counselled by organizations such as the Aurat Foundation, Shirkat Gah, and government legal aid programs, where legal aid seeks to help women navigate the complicated legal process.
3. Lastly, technological innovations and documentation, including the records of marriage contracts being kept digitally, court proceedings being tied to the CNIC system, and bank accounts being tracked, provide new opportunities to provide transparency and accountability when enforcing maintenance. Through these legal, judicial, social, and technological processes, women in Pakistan can further enjoy their rights and obtain just maintenance to be much closer to justice and economic safeguards that are designed by the Islamic and statutory law.

Discussion

Maintenance claims in Pakistan under Islamic personal law are an example of how critical legal, social and economic dimensions of women's rights intersect. The law makes it very clear about the responsibilities of the husband towards his wife and children's financial needs, and, in many instances, such law has not been practiced due to a lack of institutional mechanisms. Besides, socio-cultural factors like the patriarchal norms and family pressure do not enable women to pursue claims, which makes them economically weak.

But there is a path forward, based on legal reform and judicial activism. The provisions of the Family Courts Act, 1964 and MFLO 1961 provide specific mechanisms for sustaining claims and adjudicating on them and in most cases, the court has recognized the importance of making adequate awards, taking into account inflation and the husband's means of providing for the maintenance. The NGOs also play a role in making women aware of their rights through awareness creation and legal aid programs, which enable women to demand their rights, thus making the role of civil society in enhancing the enforcement efforts important.

In accordance with the above discussion, the legal system of Pakistan observes the principles of Islam, and in theory, the rights of maintenance for women are supported, but the problem is the sidelining of women in terms of their execution in practical terms. However, it is necessary to address them in order to make the rights real for women in terms of economic security and to avoid the stumbling blocks and socio-cultural hurdles in procedures. The key elements to closing the law/policy implementation gap include continuous judicial review, legal literacy and policy changes.

Conclusion

Maintenance of women by the personal law establishment is a fundamentals personal law matter in Islamic law of Pakistan for the maintenance of their financial and social rights. The Muslim Family Laws (the Family Law Ordinance 1961) and the Family Courts Act, 1964, both have exalted expression of legal issues; however, women still suffer from a myriad of nuisances, such as delays in procedures, financial opacity by men, absence of documentation and socio-cultural pressures. Often, women are unable to receive timely and adequate maintenance due to the disconnect between the law and practice.

But there are ways to make the rights of women solid, in the meantime. Enhanced enforcement and accountability can be achieved through judicial precedents, specialized family

courts, awareness and documentation and verification technologies. Part of the answer to the maintenance laws may be to tackle systematic errors, improve legal awareness and sensitization of the judiciary. Last, it can be said that if maintenance is duly observed, it not only fulfills the aforementioned principles of Islamic law but goes beyond that to promote economic stability, social equity and respect to women in Pakistani society.

Recommendations

In the context of Islamic personal law in Pakistan, there are opportunities to enhance the efficiency of claims through the following suggestions: More measures for enforcing need to be implemented. The consequences of having these enforced: stricter controls on the Court's enforcement and maintenance being attached to income, and sanctions for the defaulting husband if he doesn't pay.

This may be done fairly through better income verification measures that are the main component of the maintenance awards. The requirement for earning, property, and job information to be disclosed, as well as digital tracking would reduce the opportunity for husbands underreporting. It is important to cut down on procedural delays in family courts. It is possible to increase the number of trained judges and provide proper resources to be shared among them; the case can be accelerated with proper procedures under fast-track cases, and a woman does not have to suffer a long financial burden.

It is essential to raise the awareness of women with regard to the law. Empowering women and helping them successfully negotiate the legal system can be achieved with advances in educating them about their rights, the legal provisions and outreach into the community. Training judges for sensitivity and gender justice would make it possible to ensure sensitivity towards the socio-economic situation of women and their husbands' finances to support them. The recommendations would lead to bridging the gap between the law and its application, financial stability of women and would help in the ideals of justice and fairness, which have been included in the Islamic and Pakistani law.

Research Limitations

This study has some limitations that may impact the range and applicability of the outcomes of the study. Firstly, it relies on a commonly used source of information, that of laws, judicial decrees, articles and reports of nongovernmental organizations (NGOs), that may not represent the actual experience of women seeking maintenance in Pakistan. Because of a confidentiality issue, there is not much primary data that can be used in an empirical analysis. Second, this research area has a significantly major focus on socio-cultural and legal aspects without considering regional differences, informal dispute resolution systems or economic differences, which might have an influence on the outcome of a maintenance claim in rural and urban regions.

Thirdly, a recent project may have expressed a change in socio-legal aspects (e.g., perception of the law; policy) that is not covered in the analysis. While the study is beset with these difficulties, it sheds complete light on the problems, opportunities and possible areas of reform and offers useful inputs to the scholars, policymakers and practitioners interested in improving women's rights as defined in Pakistan's Islamic personal law.

Research Implications

The study holds immense implications for the legal policy, social practice and the study of Women's Rights in Islamic personal law of Pakistan. The scholarly contribution of the study in understanding the difference between the "Doctrinal Law" and "Practical Rules" has given a basis to the further study of the issue of gender justice and economic security, and the role of Islamic

law in a modern Pakistani society. Last but not least, it underscores the need for strong legal and social efforts in order to respect women's rights and provide equal access to justice.

Future Research Directions

The Pakistani Islamic personal law related to maintenance cases can be expanded and detailed to make it lengthy and comprehensive under the Islamic personal law in Pakistan. First of all, primary data (interviews and discussions with women who lodged a maintenance suit, judges, lawyers, etc.) can be collected to undertake empirical research on the actual problems and 'bottlenecks' of the system that may be the key. This would be used to supplement the doctrinal and the statutory examination as available in the literature. Case studies that make comparisons, for example, between regional and socio-economic differences on maintenance claims can illustrate the impact of urban vs. rural, education vs. no education, and income vs. lack of income. Based on those studies, policymakers can take steps that lend more support to her.

Third, research work can be conducted on the effects of technology innovations introduced in a company's maintenance process when following certain new technologies, such as electronic payment systems, electronic maintenance case tracking, payment verification systems, etc. Finally, interdisciplinary research can capture interrelationships among legal, sociological and gender studies approaches to determine the impact of maintenance law on the overall economic empowerment, social status and access to justice of women and inform more successful changes and advocacy efforts.

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