

Pakistan, Islamic Republic of

Please note this is just a draft and all contents are still under revision.

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<p>Legal System/History</p>	<p>The legal system is based on English common law and Islamic law. The former is more influential in commercial law while the latter is more influential in personal status (and, more recently, criminal and tax law to some extent).</p> <p>After partition in 1947, the legislation relating to Muslim family law introduced under British rule continued to govern personal status. In 1961 the Muslim Family Laws Ordinance was passed, drawing much criticism from religious leaders. The first Constitution was promulgated in 1956, and included a provision known as the repugnancy clause, affirming that no law repugnant to Islamic injunctions would be enacted and that all existing laws would be considered and amended in light of this provision. The repugnancy provision has been retained and strengthened in subsequent Constitutions and amendments.</p> <p>After a military take-over in 1999, the Constitution was again suspended. During 2000, discussions continued about possible amendments to the Constitution.</p>
<p>School(s) of Fiqh</p>	<p>Hanafi majority, sizeable Ja'fari and Ismaili minorities; Ahmadis' legal status is unclear (self-identify as Sunni Muslims but have been declared non-Muslims by the state); also Christian, Zoroastrian, Hindu, Sikh and Jewish minorities</p>
<p>Constitutional Status of Islam(ic) Law</p>	<p>Constitution adopted 10th April 1973, suspended in 1977 and reinstated in 1985 and has been amended several times, and was suspended in 1999.</p> <p>Article 1 of current (3rd) Constitution declares that Pakistan's official name shall be the Islamic Republic of Pakistan, and Article 2 declares Islam the state religion. The Objectives Resolution of the preamble of the Constitution was made a part of its substantive provisions by the insertion of Article 2A in 1985, thereby requiring all laws to be brought into consonance with the Qur'an and <i>sunnah</i>. Chapter 3A establishes the Federal <i>Shariat</i> Court. Part IX of the Constitution is entitled Islamic Provisions and provides for the eventual Islamization of all existing laws, reaffirming that no laws repugnant to the injunctions of Islam are to be enacted. An explanation appended to Part IX of the Constitution specifies that, with respect to personal status, the expressions "Qur'an and <i>Sunnah</i>" relate to the laws of any sect as interpreted by that sect.</p>
<p>Court System</p>	<p>Three levels of federal courts, three divisions of lower courts, and a Supreme Judicial Council. District courts in every district of each province, with civil and criminal jurisdiction. High Court of each province has appellate jurisdiction over the lower courts. Supreme Court has exclusive jurisdiction over disputes between federal between and among provincial governments, and appellate jurisdiction over High Court decisions. Federal <i>Shariat</i> Court established by Presidential Order in 1980. This Court has a remit to examine any law that may be repugnant to the "[i]njunctions of Islam, as laid down in the Holy Qur'an and the <i>Sunnah</i>." If a</p>

	<p>law is found to be ❖repugnant❖, the Court is to provide notice to the level of government concerned specifying the reasons for its decision. The Court also has jurisdiction to examine any decisions of any criminal court relating to the application of <i>hudud</i> penalties. The Supreme Court also has a <i>Shari ❖at</i> Appellate Bench empowered to review the decisions of the Federal <i>Shari ❖at</i> Court. The West Pakistan Family Courts Act 1964 governs the jurisdiction of Family Courts. These courts have exclusive jurisdiction over matters relating to personal status. Appeals from the Family Courts lie with the High Court only.</p>
<p>Relevant Legislation</p>	<p>Guardians and Wards Act 1890</p> <p>Child Marriage Restraint Act 1929</p> <p>Dissolution of Muslim Marriages Act 1939</p> <p>Muslim Family Law Ordinance 1961</p> <p>(West Pakistan) Muslim Personal Law (<i>Shari ❖at</i>) Application Act 1962</p> <p>(West Pakistan) Family Courts Act 1964</p> <p>Offence of <i>Zina</i> (Enforcement of <i>Hudood</i>) Ordinance 1979</p> <p>Law of Evidence (<i>Qanun-e-Shahadat</i>) Order 1984</p> <p>Enforcement of <i>Shari ❖a</i> Act 1991</p> <p>also:</p> <p>Dowry and Bridal Gifts (Restriction) Act 1976</p> <p>Prohibition (Enforcement of <i>Hudood</i>) Order 1979</p> <p>Offence of <i>Qazf</i> (Enforcement of <i>Hudood</i>) Order 1979</p> <p>Execution of Punishment of Whipping Ordinance 1979 (many provisions of this Ordinance were repealed later on so as to limit the number of crimes to which it is applicable)</p>
<p>Notable Features</p>	<p>Marriage Age: 18 for males and 16 for females; penal sanctions for contracting under-age marriages, though such unions remain valid</p> <p>Marriage Guardianship: governed by classical Hanafi law, though influence of custom is strong; in <i>Abdul Waheed v. Asma Jehangir</i> (PLD 1997 Lah 331), court confirmed that, under current law, adult Hanafi Muslim woman can contract herself in marriage without <i>wali ❖s</i> consent as essential requirement for validity of contract is the woman ❖s consent and not the <i>wali ❖s</i></p> <p>Marriage Registration: penal sanctions for those in violation of mandatory registration requirements for marriage; failure to register does not invalidate the marriage</p> <p>Polygamy: constraints placed on polygamy by requirement of application to the local Union Council for permission and notification of existing wife/wives, backed up by penal sanctions for contracting a polygamous marriage without prior permission; husband ❖s contracting polygamous marriage in contravention of legal</p>

	<p>procedures is sufficient grounds for first wife to obtain decree of dissolution</p> <p>Obedience/Maintenance: governed by classical law</p> <p>Talaq: consideration of every <i>talaq</i> uttered in any form whatsoever (except the third of three) as single and revocable; formalisation of reconciliation and notification procedures, and procedures for recovery of <i>mahr</i> and penalties for non-compliance; <i>talaq</i> was generally rendered invalid by failure to notify in 1960s and 1970s, but introduction of <i>Zina</i> Ordinance led to changes in judicial practice so that failure to notify does not invalidate <i>talaq</i></p> <p>Judicial Divorce: grounds on which women may seek divorce include: desertion for four years, failure to maintain for two years or husband's contracting of a polygamous marriage in contravention of established legal procedures, husband's imprisonment for seven years, husband's failure to perform marital obligations for three years, husband's continued impotence from the time of the marriage, husband's insanity for two years or his serious illness, wife's exercise of her option of puberty if she was contracted into marriage by any guardian before age of 16 and repudiates the marriage before the age of 18 (as long as the marriage was not consummated), husband's cruelty (including physical or other mistreatment, unequal treatment of co-wives), and any other ground recognised as valid for the dissolution of marriage under Muslim law; judicial <i>khul</i> may also be granted without husband's consent if wife is willing to forgo her financial rights; leading case <i>Khurshid Bibi v. Md. Amin</i> (PLD 1967 SC 97)</p> <p>Post-Divorce Maintenance/Financial Arrangements: governed by classical law</p> <p>Child Custody: general rule is that divorcée is entitled to custody until 7 years for males (classical Hanafi position) and puberty for females, subject to classical conditions, though there is some flexibility as best interests of the ward are considered paramount according to Guardians and Wards Act 1890</p> <p>Succession: governed by classical law; reform introduced in post-independence legislation allows for orphaned grandchildren through sons and daughters to inherit the share their father/mother would have been entitled to had they not predeceased the grandparents</p>
Law/Case Reporting System	Pakistan Legal Decisions, Civil Law Cases, Monthly Legal Digest
International Conventions (with Relevant Reservations) & Reports to Treaty Governing Bodies	<p>CRC's signature & ratification 1990 with general reservation regarding interpretation of the Convention in light of Islamic legal principles and values (reservation withdrawn in 1997)</p> <p>CEDAW's accession 1996 with general declaration that Pakistan's accession is subject to the provisions of the national Constitution</p>

Legal History:

[see also: **Legal History, Republic of India**] The legal system is based on English common law with provisions to accommodate Pakistan's status as an Islamic state, most notably in the area of personal status, but also to some extent in the areas of criminal law and commercial law.

After the partition of India in 1947, the legislation relating to Muslim family law introduced in British India continued to govern personal status. A seven-member Commission on Marriage and Family Laws was established in 1955 with a remit to consider the personal status laws applicable in the new state and determine the areas needing reform. The Commission submitted its report in 1956, suggesting a number of reforms, including, for example, the consideration of all triple *talaqs* (except for the third of three) as single, revocable repudiations. The report led to much debate, with many leading *ulama* (including Maulana Abu Ala Maududi, leader of the *Jama at-i-Islami*) opposing its recommendations. The Muslim Family Laws Ordinance 1961 adopted some of the provisions of the Report of the Marriage and Family Laws Commission, aiming to reform divorce law and inheritance law relating to orphaned grandchildren, introduce compulsory marriage registration, place restrictions on the practice of polygamy, and reform the law relating to dower and maintenance in marriage and divorce, as well as to amend existing legislation with relation to marriage age. Again, various sectors of the *ulama* regarded this as unjustified interference or tampering with the classical law. When the first Constitution of Pakistan was finally promulgated in 1956, it included a provision that came to be referred to as the *repugnancy clause*. This clause stated that no law repugnant to Islamic injunctions would be enacted and that all existing laws would be considered in light of this provision, in order to institute appropriate amendments. This *repugnancy* provision has been retained and actually strengthened in the succeeding Constitutions.

After a military take-over in 1999, the Constitution was again suspended. During 2000, discussions continued about possible amendments to the Constitution.

Schools of *Fiqh*: The predominant *madhhab*

is the Hanafi, and there are sizeable *Jafari* and *Isma'ili* minorities. The legal status of the Ahmadis is somewhat unclear. They self-identify as Sunni Muslims, but were declared *non-Muslims* by the state. In 1974, then-Prime Minister Zulfikar Ali Bhutto finally conceded to a long-standing campaign waged by conservative religious elements agitating for the official designation of Ahmadis as non-Muslims. There have been Ahmadi initiatives to adopt a modified version of the Muslim Family Laws Ordinance 1961 to be applied to Ahmadi personal status cases. There are also Christian, Zoroastrian, Hindu, Sikh and Jewish minorities in Pakistan.

Constitutional Status of Islam(ic Law): The third Constitution was adopted on 10th April 1973, suspended in 1977, and re-instituted in 1985; it has undergone numerous amendments over time. It was suspended again in 1999 and remained suspended at the time of writing.

Article 1 of the Constitution declares that Pakistan shall be known as "the Islamic Republic of Pakistan" and Article 2 declares Islam the state religion. In 1985, the Objectives Resolution contained in the preamble of the Constitution was made a substantive provision by the insertion of Article 2A, thereby requiring all laws to be brought into consonance with the *Qur'an* and *sunnah*. Chapter 3A establishes the Federal *Shari'at* Court and stipulates that the Court shall take up the examination of any law or provision of law that may be repugnant to the "[i]njunctions of Islam, as laid down in the Holy *Qur'an* and the *Sunnah*". If a law or provision is determined to be *repugnant*, the Court is to provide notice to the federal or provincial government specifying the reasons for the decision. The Court may also examine any decisions relating to the application of the *hudud* penalties which have been decided by any criminal court, and may suspend the sentence if there is any question as to the correctness, legality or propriety of any finding, sentence or order or the regularity of the proceedings. The Supreme Court also has a *Shari'at* Appellate Bench empowered to review the decisions of the Federal *Shari'at* Court and consisting of three Muslim Supreme Court judges and up to two *ulama*. Part IX of the Constitution is entitled *Islamic Provisions* and provides for the Islamization of all existing laws, reiterating that no laws shall be enacted which are *repugnant* to the injunctions of Islam. An explanation appended to Part IX clarifies that, with respect to personal law, the expression "*Qur'an* and *Sunnah*" means the laws of any sect as interpreted by that sect.

◆ The Islamic provisions also provide for the creation of an Islamic Ideology Council of 8 to 20 members appointed by the President. They must have "knowledge of the principles and philosophy of Islam as enunciated in the Holy Qur◆an and *Sunnah*, or understanding of the economic, political, legal or administrative problems of Pakistan." The Islamic Council is meant to represent various schools of thought as far as that may be practical, and at least one woman should be appointed. Its function is to make recommendations to the *Majlis-e-Shoora* (Parliament) and the Provincial Assemblies "as to the ways and means of enabling and encouraging the Muslims of Pakistan to order their lives individually and collectively in all respects in accordance with the principles and concepts of Islam as enunciated in the Holy Qur◆an and *Sunnah*." The Council also determines for the federal and provincial governments whether or not proposed laws are ◆repugnant◆, and compiles for them in suitable form "such Injunctions of Islam as can be given legislative effect."

Court System:

The judiciary is composed of three levels of federal courts, three divisions of lower courts, and a Supreme Judicial Council. There are district courts in every district of each province, having both civil and criminal jurisdiction though they deal mainly with civil matters. The High Court of each province has jurisdiction over civil and criminal appeals from lower courts within the provinces. The Supreme Court sits in Islamabad and has exclusive jurisdiction over disputes between or among federal and provincial governments, and appellate jurisdiction over High Court decisions. There is also a Federal *Shari ◆at* Court established by Presidential Order on 26th May 1980. This Court has exclusive jurisdiction to determine, upon petition by any citizen or the federal or provincial governments or on its own motion, whether or not a law conforms to the injunctions of Islam. An Islamic advisory council of ◆*Ulama*◆ assists the Federal *Shari ◆at* Court in this capacity.

The West Pakistan Family Courts Act 1964 continues to govern the jurisdiction and functioning of the Pakistani Family Courts; the Act was never applied to East Pakistan before Bangladeshi independence. Appeals from the Family Courts lie with the High Court only. The Family Courts have exclusive jurisdiction over matters pertaining to the dissolution of marriage, dower, maintenance, the restitution of conjugal rights, the custody of children, and guardianship.

Notable Features:* The West Pakistan Muslim Personal Law (*Shari ◆at*) Application Act 1962 repealed the 1937 Muslim Personal Law (*Shari ◆at*) Application Act as well as provincial legislation on the application of Muslim personal law. The new Act directs the application of Muslim personal law, notwithstanding any custom or usage, to all questions of personal status and succession where the parties are Muslims. One particular provision of the new legislation states that, "[t]he limited estates in respect of immovable property held by Muslim females under the customary law are hereby terminated"; this constitutes the opposite stance to customary land law to the 1937 enactment, and so the new Act provides that it will not apply retrospectively.

The Child Marriage Restraint Act 1929 introduced penal sanctions for contracting child marriages. The minimum marriage age as the Act currently stands is 18 for males and 16 for females. Despite the provision of penalties for contracting under-age marriages, such unions are not rendered invalid. The issue of marriage guardianship is governed by classical law; according to the Hanafi school, an adult woman may contract her marriage without a *wali*, but the influence of custom is strong, as shown by the events surrounding the Saima Waheed case. In *Abdul Waheed v. Asma Jehangir* (PLD 1997 Lah 331), the question put before the Court was whether or not an adult Hanafi Muslim woman may contract herself in marriage without the consent of her *wali*. In this particular case, the woman was an adult Hanafi Muslim of 22 years of age who contracted a marriage with a college lecturer without the knowledge of her parents. Her father disapproved of her choice and attempted to file a suit under the *Zina* Ordinance 1979. The majority judgement of the Lahore High Court held that the basic essential requirement for the validity of the contract was the woman◆s consent to the marriage, and not that of the *wali*. However, the tone of the discussion, including the recognition of the customary role of the *wali*, the endorsement of *purdah* (i.e., separation of men and women in public life), the focus on moral decline, the setting of the judgement (largely in terms of *shari ◆a* law, with little reference to the Constitution) and the call for legislation on the matter, all indicate that the classical Hanafi position and customary dictates are not in full accordance. As well, the decisions of the Federal *Shari ◆a*

Court on matters relative to family law were held to be binding on the High Courts, while the Constitution had expressly barred the Federal *Shari'a* Court from interfering with Muslim personal law. Some commentators predict this may lead to a "gradual erosion of the protective features of the MFLO 1961".

The Muslim Family Laws Ordinance 1961 introduced reforms to various aspects of the classical law. The reforms concern the registration of marriage and divorce, inheritance rights of orphaned grandchildren, restrictions on polygamy, consideration of every *talaq* (except the third of three) as single and revocable, formalisation of reconciliation procedures in disputes relating to maintenance or dissolution of marriage, and recovery of *mahr*, along with specified penalties for non-compliance.

The MFLO introduced marriage registration and provides for penalties of fines or imprisonment for failure to register. However, a Muslim marriage is still legal if it is contracted only according to the religious requisites. The MFLO also instituted some limited reforms in the law relating to polygamy, with the introduction of the requirement that the husband must submit an application and pay a fee to the local Union Council in order to obtain prior written permission for contracting a polygamous marriage. The application must state the reasons for the proposed marriage and indicate whether the applicant has obtained the consent of the existing wife or wives. The chairman of the Union Council forms an Arbitration Council with representatives of the existing wife or wives and the applicant in order to determine the necessity of the proposed marriage. The penalty for contracting a polygamous marriage without prior permission is that the husband must immediately pay the entire dower to the existing wife or wives as well as being subject to a fine and/or imprisonment; any polygamous marriage contracted without the Union Council's approval cannot be registered under the MFLO. Nevertheless, if a man does not seek the permission of his existing wife or the Union Council, his subsequent marriage remains valid. Furthermore, the difficulty in enforcing resort to the application process to the Union Council, combined with the judiciary's reluctance to apply the penalties contained in the MFLO (as indicated by the case law), tend to restrict the efficacy of the reform provisions. This has led some observers to describe the provisions requiring the permission of the Arbitration Council as a mere formality.

Efforts were also made to reform the classical law as it relates to the exercise of *talaq*. The MFLO requires that the divorcing husband shall, as soon as possible after a *talaq* pronounced "in any form whatsoever", give the chairman of the Union Council notice in writing. The chairman is to supply a copy of the notice to the wife. Non-compliance is punishable by imprisonment and/or a fine. Within thirty days of receipt of the notice of repudiation, the chairman must constitute an Arbitration Council in order to take steps to bring about a reconciliation. Should that fail, a *talaq* that is not revoked, either expressly or implicitly, takes effect after the expiry of ninety days from the day on which the notice of repudiation was delivered to the chairman. If the wife is pregnant at the time of the pronouncement of *talaq*, the *talaq* does not take effect until ninety days have elapsed or the end of the pregnancy, whichever is later. The classical law regarding the requirement of an intervening marriage in order to remarry a former husband who has repudiated the same woman three times is retained. Failure to notify invalidated the *talaq* until the late 1970s and early 1980s, but the introduction of the *Zina* Ordinance allowed scope for abuse as repudiated wives were left open to charges of *zina* if their husbands had not followed the MFLO's notification procedure. Thus, judicial practice has, since the early 1980s, recognised as valid repudiations in contravention of the notification procedure. The rules regarding notification and arbitration apply, *mutatis mutandis* and so far as applicable, to delegated divorce (*talaq al-tafwid*), or to marriage dissolved other than by *talaq*. The chairman of the Union Council will also constitute an Arbitration Council to determine the matter in cases where a husband fails to maintain his wife or wives, or fails to maintain co-wives equitably (at the application of one or more wife or wives, and in addition to their seeking any other legal remedy). Any outstanding dower or maintenance not paid in due time is recoverable as arrears of land revenue. Also, where no details regarding the mode of payment of *mahr* are recorded in the marriage contract, the entire sum of the dower stipulated therein is presumed to be payable as prompt dower.

The MFLO also introduced a significant reform to the classical law of inheritance by allowing for orphaned grandchildren by predeceased sons or daughters to inherit from their maternal or paternal grandparents.

The Dissolution of Muslim Marriages Act 1939 continues to govern divorce in Pakistan. The Act has been amended by the Muslim Family Laws Ordinance 1961 to include the contracting of a polygamous marriage in contravention of the MFLO in the grounds entitling a woman to a decree for the dissolution of her marriage. Another amendment raises the age at which a woman has to have been married by her father or other guardian to exercise her option of puberty from 15 to 16; thus, the option of puberty may be exercised if the girl was married before the age of 16 if she repudiates the marriage before the age of 18 so long as the marriage was not consummated. The "judicial *khul*" is a significant feature of divorce law in Pakistan. It is welcomed by some as giving women the right to divorce regardless of grounds, provided that she is prepared to forgo her financial rights (i.e., repaying her dower). It is criticised by others who point out that judges may rule for a judicial *khul* in cases where women are clearly entitled to a judicial divorce under the terms of the DMMA without losing their financial rights. In *Khurshid Bibi v. Mohd. Amin* (PLD 1967 SC 97), the question for the Supreme Court to determine was stated as follows: "(Is) a wife, under the Muslim law, entitled, as of right, to claim *khul*, despite the unwillingness of the husband to release her from the matrimonial tie, if she satisfies the Court that there is no possibility of their living together consistently with their conjugal duties and obligations." The Supreme Court stated that the Muslim wife is indeed entitled to *khul* as of right, if she satisfies the Court that she would be forced into a hateful union if the option of *khul* was denied her by her husband.

In terms of maintenance during and after marriage, the classical law is applied. The post-independence changes to the Indian Criminal Procedure Code that allow a divorced wife who is unable to support herself to claim maintenance from her former husband have not been reflected in the Criminal Procedure Code of Pakistan. While the Indian Criminal Procedure Code was extended so as to apply to divorces, no such reforms have been made to section 488 of the Criminal Procedure Codes of either Pakistan or Bangladesh.

Child custody continues to be governed by the Guardians and Wards Act 1890. The Act stipulates that the courts are to be guided by the personal law to which the minor is subject. The general rule for Muslims is that the divorcee is entitled to custody until 7 years for males (classical Hanafi position) and puberty for females. The courts are also directed to consider the age, sex and religion of the minor and the character and capacity of the proposed guardian, as well as considering the minor's own opinion if s/he is old enough to form an intelligent preference. If the minor is very young or is a female, the courts are directed to give preference to the mother. In all cases, the interests of the ward are paramount.

The *Qanun-e-Shahadat*

(law of evidence) Order 1984 replaced the Evidence Act 1872, though it essentially restates the original legislation, but as it was intended to bring the law of evidence closer to Islamic injunctions, there were changes which specifically impacted upon women. The Order introduced changes to the law as it relates to the presumption of legitimacy. The original Evidence Act did not provide for a minimum period of gestation, and the maximum was 280 days. Now, the minimum gestation period is set at six months and the maximum at two years, bringing the provision into accordance with the majority position in classical Hanafi *fiqh*. With regard to the changes introduced relating to women's testimony, practice since the Order's issuance has been for instruments pertaining to financial or future obligations to be attested by two men, or one man and two women while courts may accept or act on the testimony of one man or one woman in all other cases.

The Offence of *Zina* (Enforcement of *Hudood*) Ordinance 1979 introduced the concepts of fornication and adultery into criminal law. The Pakistani Penal Code had not afforded any recognition to fornication as a crime, and adultery was only defined as an offence under section 497 if a man had intercourse with the wife of another man without his permission; the woman involved bore no criminal liability. The *Zina* Ordinance provides for severe penalties for committing adultery or fornication, and reiterates the classical distinction between married and unmarried parties in determining punishments. Thus, the *hadd* punishment for a married person convicted of

zina is *rajm*, stoning to death, a penalty that has not been carried out by the state, and the *hadd* for an unmarried person found guilty of *zina* is one hundred lashes in a public place. The Ordinance also makes a distinction between *ta'zir* and *hadd* punishments for *zina*, as *hadd* punishments are generally more severe and require a more rigorous standard of proof. If the accused confesses to the crime, or if there are four pious adult Muslim male eye-witnesses to the actual act of penetration, the *hadd* penalty may be applied. Often the higher standard of evidentiary requirements is not met, and if there are other complications as well (appeals, retractions of confessions, etc.), the usual course has been to apply *ta'zir* punishments, defined as imprisonment for up to ten years, thirty lashes, and a fine.

The Enforcement of *Shari'a* Act 1991 affirms the supremacy of the *shari'a*, (defined in the Act as the injunctions of Islam as laid down in the Holy Qur'an and *Sunnah*) as the supreme law of Pakistan. The Act states that all statute law is to be interpreted in light of the *shari'a* and that all Muslim citizens of Pakistan shall observe the *shari'a* and act accordingly. Section 20 of the Act states that "[n]otwithstanding anything contained in this Act, the rights of women as guaranteed by the Constitution shall not be affected."

Law/Case Reporting System: The decisions of Pakistani courts are published in *Pakistan Legal Decisions* (PLD), *Civil Law Cases* (CLC), *Monthly Legal Digest* (MLD) and a number of other law reports.

International Conventions & Reports to Treaty Governing Bodies: Pakistan signed the CRC in 1990, and ratified the Convention the same year. The reservation made upon signature regarding the CRC being interpreted in light of Islamic legal principles and values was withdrawn in 1997.

Pakistan acceded to the CEDAW in 1996, with a general declaration to the effect that Pakistan's accession to the Convention is subject to the provisions of the national Constitution.

Background and Sources: Ali, "Is an Adult Muslim Woman *Sui Juris*? Some Reflections on the Concept of "Consent in Marriage" without a *Wali* (with Particular Reference to the Saima Waheed Case)," Yearbook of Islamic and Middle Eastern Law, 1996; Carroll, "Qur'an 2:229: A Charter Granted to the Wife? Judicial *Khul* in Pakistan," Islamic Law and Society. v. 3: 1 (1996); Lau, Case Note on the Saima Waheed Case, Yearbook of Islamic and Middle Eastern Law, 1996; Mahmood, Pakistan in Statutes of Personal Law in Islamic Countries, 2nd ed., New Delhi, 1995; Pearl, "Three Decades of Executive, Legislative and Judicial Amendments to Islamic Family Law in Pakistan," in Islamic Family Law, Mallat & Connors, eds. London, 1990; Pearl & Menski, Muslim Family Law, 3rd ed., London, 1998; Mehdi, The Islamization of the Law in Pakistan, Richmond, Surrey, 1994; Redden, Pakistan in Modern Legal Systems Cyclopedia, vol. 9, Buffalo, NY, 1990; Robinson, ed. The Cambridge Encyclopaedia of India, Pakistan, Bangladesh, Sri Lanka, Nepal, Bhutan and the Maldives, Cambridge, 1989.