

## **Law of wife's maintenance in Pakistan: Exploring the Missing Islamic Spirit**

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### **Abstract**

Islam being a comprehensive code of life provides guidelines for all spheres of life. It has been manifestly proclaimed as the state religion of Pakistan. This constitutional mandate is understood in a sense that all matters of statecrafts will be inconsonance with the Islamic injunctions. The appraisal of the constitutional provisions confirms the Islamic character of the constitution as its basic structure. With this development of constitutional mandate, one may assume that the whole body of law in Pakistan would be either expressly or impliedly of Islamic nature with few exceptions of personal law for minorities.

The Constitution 1973 proclaims the promotion and protection of women in term of fundamental rights and principles of policy that include the right to maintenance of wife. This right of wife is of great significance having socio-economic impacts. Though, Pakistani legal system has accepted the right to maintenance of wife during the marriage, it yet has not fully protected the deliberately divorced women. The lacuna of law has been criticized from all corners. Deliberately divorced women seem to be more destitute in man dominated society like ours. No equitable legislation has been effected, until now for the protection of such vulnerable class. Therefore, it is obligatory to make the laws in Islamic perspective of the constitution. This research asks the *Mujtahidin* to do *Ijtihad* in the perspective of Quran and Sunnah with respect to the maintenance of deliberately divorced woman, and accordingly the Islamic aspect of maintenance which is missing in existing law should be introduced by the competent authorities of law making.

### **Introduction**

Pakistan is an Islamic Republican<sup>†</sup> whose fundamental law, the Constitution 1973 manifestly provides that "Islam shall be the state religion of Pakistan".<sup>‡</sup>Such

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<sup>†</sup> Article 1, the Constitution of Islamic Republic of Pakistan, 1973.

<sup>‡</sup> Article 2, the Constitution of Islamic Republic of Pakistan, 1973.

constitutional mandate is understood in a sense that all matters of statecrafts will be inconsonance with the Islamic injunctions. The principles and provisions set out in the Objective Resolution 1949 have been made the substantive part of the Constitution under Article 2-A which lays emphasis on the rights in term of principles of democracy, freedom, equality, tolerance and social justice as enunciated by Islam.<sup>§</sup> Conceivably for this reason, in a case of *Habib Bank Limited v. Muhammad Hussain*<sup>\*\*</sup>, Tanzil-ur-Rehman, J. observed that by virtue of Article 2-A, the Holy Quran and Sunnah has now become the supreme law of Pakistan.

Further, as a Principle of Policy, the state of Pakistan has owned the constitutional obligation, *“to enable the Muslims of Pakistan, individually and collectively, to order their lives in accordance with the fundamental principles and basic concepts of Islam, and to provide facilities whereby they may be enabled to understand the meaning of life according to the Holy Quran and Sunnah”*.<sup>††</sup>

The Constitution further provides that *“All existing laws shall be brought in conformity with the Injunctions of Islam as laid down in the Holy Quran and Sunnah, ... and no law shall be enacted which is repugnant to such Injunctions.”*<sup>‡‡</sup> For this purpose the Council of Islamic Ideology has been constituted with the following functions:- *“(a) to make recommendations to 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 Quran and Sunnah; (b) to advise a House, a Provincial Assembly, the President or a Governor on any question referred to the Council as to whether a proposed law is or is not repugnant to the Injunctions of Islam; (c) to make recommendations as to the measures for bringing existing laws into conformity with the Injunctions of Islam and the stages by which such measures should be brought into effect; and (d) to compile in a suitable form, for the guidance of Majlis-e-Shoora (Parliament) and the Provincial Assemblies, such Injunctions of Islam as can be given legislative effect.”*<sup>§§</sup>

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<sup>§</sup>Faqir Hussain, “Public Interest Litigation,” Sustainable Development Policy Institute (1993):5, accessed November

8, 2013, [www.sdpi.org/publications/files/W5public%20Interest%20Litigation.pdf](http://www.sdpi.org/publications/files/W5public%20Interest%20Litigation.pdf)

<sup>\*\*</sup>*Habib Bank Limited v. Muhammad Hussain*, PLD1987 Karachi 612.

<sup>††</sup> Article 31, the Constitution of Islamic Republic of Pakistan, 1973.

<sup>‡‡</sup> Article 227, the Constitution of Islamic Republic of Pakistan, 1973.

<sup>§§</sup> Article 230, the Constitution of Islamic Republic of Pakistan, 1973.

In addition, the Federal Shariat Court was constituted<sup>\*\*\*</sup> with powers, jurisdiction and functions that, *“The Court may, either of its own motion or on the petition of a citizen of Pakistan or the Federal Government or a Provincial Government, examine and decide the question whether or not any law or provision of law is repugnant to the injunctions of Islam, as laid down in the Holy Quran and Sunnah of the Holy Prophet (SAW), hereinafter referred to as the Injunctions of Islam.”*<sup>†††</sup>

The above appraisal of the constitutional provisions is evident of Islamic character of the constitutional system of Pakistan. Such Islamic character was held in Zafar Ali Shah case<sup>†††</sup> as a basic structure of the constitutional system of Pakistan. With this development of constitutional mandate, one may assume that the whole body of law in Pakistan would be either expressly or impliedly of Islamic nature with few exceptions of personal law for minorities.

The right of maintenance is of great significance having socio-economic impacts on societal fabric, particularly in developing societies like of Pakistan. Though, Pakistani legal system has accepted the right to maintenance of different persons including wife's maintenance during the marriage, it yet has not fully protected deliberately divorced women. The lacuna of law has been criticized from all corners. The development of a law of maintenance of wife in socio-religious context of the society would have far reaching effects on the family institution which is the basic unit of the society. With this background this research paper is intended to explore the answer of a question, ‘Whether the existing provisions of law of maintenance for wife particularly for divorced woman, are in accordance with the Islamic perspective of the Constitution of Islamic Republic of Pakistan, 1973?’

### **Jurisprudence of Right To Maintenance**

The existence of a human being depends upon the availability of certain basic necessities of life. These necessities include food, lodging and clothing. The advancement of civilization extended the scope and nature of such necessities. These have been extended to all sorts of facilities essential for the inclusive enjoyment of the life. These facilities include the education, health, refreshment and other things of like nature.

The managing of resources for such necessities of life is one's own responsibility provided that he is given the opportunity for such earnings. However, in special circumstances, this responsibility is shifted to others. These special circumstances occurred because of certain legal relationship like parentage, marriage etc.

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<sup>\*\*\*</sup> Article 203, the Constitution of Islamic Republic of Pakistan, 1973.

<sup>†††</sup> Article 203-D, the Constitution of Islamic Republic of Pakistan, 1973.

<sup>†††</sup> Syed Zafar Ali Shah v. General Pervez Musharraf, PLD2000 SC689.

Therefore, the municipal laws of the states<sup>§§§</sup> have recognized the right of maintenance particularly of relatives in a family setup. But again the maintenance of the relatives is under special circumstances, i.e., if someone is unable to earn or is legally entitled to be maintained for its existence. Among others, one category is of wife maintenance for which the husband is obligated. Such obligation is recognized in secular setup of a legal system<sup>\*\*\*\*</sup> as well as religious law as of Islam.<sup>†††</sup>

### **Constitutional Mandate for Right To Maintenance**

The Constitution of a country is the fundamental law of the land. It recognizes and guarantees the rights of individual and collective nature. This serves the purpose of individual and collective socio-economic and political development of the people. The Constitution 1973 proclaims the promotion and protection of such rights in term of fundamental rights and principles of policy. These rights are available for all citizens without any discrimination.

The women in Pakistan have the equal rights without any gender discrimination. The Constitution 1973 openly proclaims that *"All citizens are equal before law and are entitled to equal protection of law"*.<sup>†††</sup> Women have equal rights and constitutional guarantee thereof as the constitution provides that *"There shall be no discrimination on the basis of sex"*.<sup>§§§§</sup> Even then women are treated on priority basis in certain matters. *"Nothing .....shall prevent the State from making any special provision for the protection of women and children"*.<sup>\*\*\*\*\*</sup> Furthermore the state has owned as constitutional obligation to preserve the family institution. Therefore as a principle of policy the Constitution of Pakistan provides that, *"The State shall protect the marriage, the family, the mother and the child."* Further this Constitution speaks for the promotion of social and economic well-being of

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<sup>§§§</sup> Section 9 of The Muslim Family Laws Ordinance, 1961; Section 125, The Code of Criminal Procedure, 1973; Hindu Adoptions and Maintenance Act 1956; Muslim Women(Protection of Rights on Divorce) Act 1986; Law on Maintenance of Women and Orphaned Children 1992; Article 227 of Spanish Criminal Code.

<sup>\*\*\*\*</sup> Section 125, The Code of Criminal Procedure, 1973(India); Hindu Adoptions and Maintenance Act 1956(India); Muslim Women (Protection of Rights on Divorce) Act 1986(India); Law on Maintenance of Women and Orphaned Children 1992 (Iran); Article 227 of Spanish Criminal Code (Spain); The Maintenance Act 1999( Sri Lanka).

<sup>†††</sup> See, Verse 6, Surah 65; Verse 4, Surah 34 of The Holy Quran.

<sup>†††</sup> Article 25(1), the Constitution of Islamic Republic of Pakistan, 1973.

<sup>§§§§</sup> Article 25(2), Constitution 1973 the Constitution of Islamic Republic of Pakistan, 1973.

<sup>\*\*\*\*\*</sup> Article 25 (2), the Constitution of Islamic Republic of Pakistan, 1973.

the people irrespective of sex etc.<sup>++++</sup> These provisions speak for the betterment, equal rights and desirability of basic necessities of life for the females in the context of matrimonial and family relationship. These constitutional provisions have been framed under the same spirit as contained in Articles 2 and 7 of the Universal Declaration of Human Rights 1948.

The Constitution provides the guidelines for legislation for marginalized groups particularly in Islamic perspective as discussed above. Among women, deliberately divorced women seems to be more destitute in man dominated society like ours. No comprehensive legislation has been effected, until now for the protection of such vulnerable class. The constitutional provisions are too general to protect women particularly in time of need. Therefore, it is obligatory to make the laws in Islamic perspective of the constitution.

### **Legal Framework for Right To Maintenance in Pakistan**

At the time of independence provision of Section 488 of Criminal Procedure Code 1898, inherited from British colonial legal system was the only law for protection of the wife's right to maintenance. The provisions of 488 were enacted to claim maintenance from husband during the sustenance of marriage. However, this provision was silent for the maintenance of a wife during and after *iddat*. Maintenance after divorce and during *iddat* period was not certainly the subject matter of the Criminal Procedure Code.<sup>++++</sup> It remained the law of the land till the passing of section 9 of Muslim Family Laws Ordinance 1961. However, Section 488 was omitted by Federal Laws (Revision and Declaration) Ordinance XXVII of 1981.

Superior judiciary combined the issue of maintenance provisions under Section 488 of Criminal Procedure Code with the Islamic Personal Law. However, divorced Muslim women were not obliged for their full entitlement to maintenance even during *iddat* period instead of the clear Islamic provisions thereof.<sup>§§§§</sup> Even, the judges while ordering *iddat* period maintenance did not observed divorced wife's Quranic right for post divorced maintenance.<sup>\*\*\*\*\*</sup> The judges followed the traditional view without discussing the reasons that divorced Muslim women are not entitled to any maintenance after the *Iddat*. Even the courts did not discuss the reasons for depriving the women from post-divorced

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<sup>++++</sup> Article 38, the Constitution of Islamic Republic of Pakistan, 1973.

<sup>++++</sup> Fayyaz-ur-Rehman, Islamic Law of Maintenance for Wives in Pakistan and Afghanistan, since 1960, PhD Thesis, University of Peshawar, 2003, p.112

<sup>§§§§</sup> See, Section 5 of this research paper.

<sup>\*\*\*\*\*</sup> See, Fayyaz-ur-Rehman, Islamic Law of Maintenance for Wives in Pakistan and Afghanistan, since 1960, PhD Thesis, University of Peshawar, 2003, p.114

maintenance. The judiciary, as observed by Fyzeedidnot yet properly discuss the issue of maintenance with respect to the deliberately divorced women.<sup>+++++</sup>

For the development of Family Law the government made efforts for the development of law concerning family matters particularly for maintenance. In this context among others, Pakistan Law Commission 1956<sup>is</sup> of worth mentioning. One of the main terms of reference was to analyze, '*Whether the existing laws of maintenance for Muslim wives is needed to be changed*'? Further, the commission was asked to report on the issues among others, of the maintenance and establishment of special court to deal expeditiously with cases effecting women rights.<sup>+++++</sup> The commission instead of following any particular school of thought of Islam based its endeavors in the name of *Ijthehad* and tried to sort out the liberal interpretation of *Quran* and *Sunnah* for the welfare of the humanity.<sup>§§§§§</sup> On the issue of post-divorce maintenance, a question was forwarded by the commission, '*Should it be open to the matrimonial court and family laws court, when it approached, to lay down that a husband shall pay the maintenance to the divorced wife till life or she remarries*'? The commission observed that when a woman is divorced without rhyme or reason, she could not be left helpless. The commission opined that for the grant of post-divorced maintenance, discretion should be vested on the matrimonial court. Of course it would be open to the court to refuse to sanction any maintenance if the woman is at fault.<sup>\*\*\*\*\*</sup> This view of commission could not achieved consensus. A note of descent came that a divorced women is not entitled for maintenance after the period of *Idaat*. Traditionalists rejected commission's view very sharply alleging that it is incorrect, against justice and unbalanced.<sup>+++++</sup> Resultantly, the issue of maintenance remained unresolved.

The provision for maintenance under Section9 of Muslim Family Laws Ordinance, 1961 came as result of the recommendations of the said commission. It was an additional remedy for neglected wife to claim maintenance from husband during the continuation of marriage. However, this law is silent like the provisions of 488 of Cr.PC for the maintenance during and after *iddat*.

A number of cases<sup>+++++</sup> are found decided under Section 9 of MFLO 1961. The court focused and decided the issues of past maintenance and quantum of

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<sup>+++++</sup> Ibid

<sup>+++++</sup> Report of the Commission on Marriage and Family law. The Gazette of the Government of Pakistan, Extraordinary 20<sup>th</sup> June , 1956, pp.1197-1232

<sup>§§§§§</sup> Ibid, pp1203-4

<sup>\*\*\*\*\*</sup> Ibid, p.1215

<sup>+++++</sup> Moudoodi, A.A., *Huquq Al Zaujain*, Lahore 1961, p.187( translation)

<sup>+++++</sup> Abdul Latif v. Mst. BakhtBhari 1985 CLC 1184; Dr. Abdul Majid v. Mst. HumairaBibi 1989 SCMR 1416; GhulamRasul v. Collector, Lahore and another PLD 1974 Lahore 495; Inamul Islam

maintenance. However, judges of superior courts did not observe the issue of future maintenance in case of deliberately divorced women. It is alleged that not a single judge either under Section 488 of Cr. P.C or Section 9 of MLFO has ever observed an enactment for the development of Law of maintenance for the benefit of woman.

In addition to the Section 9 of the Muslim Family Laws Ordinance, 1961, Section 4 and 20 of West Pakistan Family Courts Act 1964, empower the Family court to order for the maintenance of neglected wife. Again, the law under 1964 has no remedy for the maintenance of the divorced women after the period of *iddat*. This is because of its being a procedural law in essence. Now wife cannot sue for maintenance under Section 488 of Criminal Procedure Code of Pakistan.<sup>§§§§§§§§</sup> Magistrates have no longer any jurisdiction either to entertain, hear or adjudicate upon a matter relating to maintenance.<sup>\*\*\*\*\*</sup>

The Report of Women Rights Committee 1976 and Pakistan Commission on the Status of Women 1983 recommended the maintenance for divorced Muslim women. The recommendations were made for uplifting the socio-economics condition of women. The Commission analyzed the issue of maintenance for divorced women. It observed that the Holy Quran has provided that the divorced women are entitled to a comely maintenance even after divorce has taken place.<sup>+++++++</sup> This command of Islam has been almost completely disregarded in our country. Deliberately divorcing a woman leave her absolutely without financial support. She is plainly entitled to support from one with whom she spend her youth. This Commission put the recommendation for “*entitlement of alimony to the wife till she remarries, which as the Quran states, should be each*

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v. Mst Hussain Bano PLD 1976 Lahore 1466; Major Qamar v. Judge Family Court Jhelum PLD 2013 Lahore 88 ; Major ( Retd) Ala-ud-Din Akhtar v. Collector 1985 CLC 2939; Mst GulBibi v. Muhammad Saleem and another PLD 1978 Quetta 117; Mst Farkhanda Begum v. Collector, Sialkot District 1987 MLD 23; Mst. Mirrat Manzoor Bajwa v. Additional District Judge Islamabad PLD 2013 Islamabad 11; Mst. Parveen Akhtar v. Javed Aktar 1985 MLD 45; Mst Ruqia Begum v. Deputy Commissioner Sialkot 1986 CLC 589 ; Muhammad Abdur Rashid v. Mst Shazia Parveen 1987 MLD 766; Muhammad Ayoub v. Mst. Shehla Rasheed PLD 2010 Karachi 131; Muhammad Najeeb v. Abdus Sattar 1989 SCMR 119; Muhammad Nawaz v. Mst. Khursaid Begum PLD 1972 SC 302; Muhammad Shahbaz Khalid v. Family Judge Lahore PLD 2013 Lahore 64; Mushtaq Ahmad v. The Collector Lahore 1986 CLC 2312 (2); Nasreen Ashraf v. Muhammad Iqbal 1988 CLC 914; Rashid Ahmad Khan v. Mst. Nasim Ara and others PLD 1968 Lahore 93; Sardar Muhammad v. Mst. Bibi and others PLD 1966(WP) Lahore 703; M. Boota v. Shamim Akhtar NLR 1984 Civil 442;

§§§§§§§§ Section 5 and 20 of West Pakistan Family Courts Act, 1964.

\*\*\*\*\* Adnan Afzal v. Sher Afzal, PLD 1969 SC 187.

+++++++ Report of Pakistan Commission, 1983, p.135.

according to his means”<sup>\*\*\*\*\*</sup>In this regard, however, no serious efforts were made on the part of government, for enacting the laws for such maintenance.

In 2004 the issue of maintenance of divorced women was considered in a case Muhammad Aslam v. Muhammad Usman<sup>§§§§§§§§</sup> wherein the petitioner demanded maintenance for herself and the minors on the ground that she was divorced without any reasonable cause. The court resolved the issue of maintenance of divorced wife by granting the maintenance beyond the period of *iddat* on ground of breast-feeding to the suckling baby. The Court observed that, “A divorcee wife if neglected and deserted by her husband at his whims and caprice then she is entitled for maintenance for milk of the suckling baby...it was further observed that the legislature having the supreme power to enact and legislate law, may, if so, deems fit look into this aspect of the matrimonial life and make amendments in Section 9 of the Family Laws Ordinance 1961, enabling the Chairman, Arbitration Council to grant maintenance to a destitute divorced wife and may enact separate provisions of law in the same Ordinance.”<sup>\*\*\*\*\*</sup>

In 2005, in the light of above observation of the court, issue was considered by Law & Justice Commission of Pakistan<sup>††††††††</sup> who constituted a Committee<sup>\*\*\*\*\*</sup> to examine the question that ‘Whether Section 9 of the Muslim Family Laws Ordinance, 1961, can be amended, so as to enable the Chairman, Union Council to award cost of living to a suckling mother, on account of breast feeding the child, beyond the *iddat* period’? The Committee unanimously agreed to the proposal, and recommended to insert a new Sub-section 1-A to Section 9 of the Muslim Family Laws Ordinance 1961 and Section 3 of the Schedule of Muslim Family Court Act 1964, as follows: “(1-A) On divorce, if the wife has a suckling baby, she shall be entitled to the adequate cost of living for the period she suckles the baby but not exceeding two years”. Accordingly, the words “cost of living” should be added to S. No. 3 of the Schedule of the Family Court Act 1964 as follows: -“3. Maintenance and cost of living of divorcee wife having a suckling baby”. Committee report was considered by the said Commission in its meeting held on 04.2.2006. The Commission approved an amendment to entitle divorced

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<sup>\*\*\*\*\*</sup> Ibid, p.160.

<sup>§§§§§§§§</sup> Muhammad Aslam v Muhammad Usman, 2004 CLC 473.

<sup>\*\*\*\*\*</sup> Ibid.

<sup>††††††††</sup> The Meeting was held on 20 August 2005.

<sup>\*\*\*\*\*</sup> The Committee was comprised of Chief Justice, Federal Shariat Court, Mr Justice (R)

Qazi Mohammad Farooq, Mr Justice Dr Fida Mohammad Khan, Judge Federal Shariat Court and

Mrs Nasira Iqbal. A meeting of this Committee was held on 12 December 2005.

wife with suckling baby to get adequate cost of living for a period not exceeding two years.

### Islamic Perspective

Islam being a complete code of life provides a comprehensive guideline for all spheres of life. It openly obligates male Muslims to be concerned about their matrimonial life particularly for their wives' maintenance. §§§§§§§§ It is the general liability of men to maintain their wives during marriage. \*\*\*\*\* The duty of the husband to maintain wife is of priority over the maintenance of other relatives. †††††††††† The husband is responsible for the maintenance during the pregnancy which includes *iddat* as well. †††††††††† During the feeding of children, husband is also responsible for the maintenance of the wife. §§§§§§§§† Though the maintenance provisions are to be provided during the subsistence of marriage, Islam favors for provisions even upon termination of marriage either through divorce \*\*\*\*\* or through death. †††††††††† This all is to save the wife from immediate threat of destitute because of divorce particularly *Talak al-bida* or death causing the instant termination of matrimonial bond. †††††††††† In case of divorce, the husband is responsible for the provisions of widow's maintenance. §§§§§§§§§§ However, in case of termination of marriage through death, the liability of widow's maintenance is on the legal heirs of the deceased. \*\*\*\*\* However, maintenance of wife is not beyond the means.

In addition to the Quranic Teachings, Sunnah has also shown a great concern †††††††††† on the issue of wife's maintenance. The Holy Prophet (SAW) reminded the Muslims of the duty to look after their wives that includes proper

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§§§§§§§§ Verse 6, Surah 65 of The Holy Quran.

\*\*\*\*\* Verse 4, Surah 34 of The Holy Quran.

†††††††††† Hodkinson, K, Muslim Family Laws, A sourcebook, London 1984, p.147.

†††††††††† See, Verse 6, Surah, 65 of The Holy Quran.

§§§§§§§§§§ See, Verse 233, Surah 2 of The Holy Quran.

\*\*\*\*\* See, Verse 236, Surah 2, Verse 49, Surah 33 of The Holy Quran.

†††††††††† See, Verse 240, Surah 2 of The Holy Quran.

†††††††††† The husband pronounces the al-bida form of Muslim talak, commonly known as triple divorce in one sitting. Thus, it terminates the marriage contract instantly and chance for reconciliation is gone. For further, details on talak, for example Ali, S.A., Muhammadan Law, Vol.2, 5<sup>th</sup> edition, Calcutta 1929, pp.471-506. Fyzee, A.A.A., Outlines of Muhammadan Law, London 1949, p.132, Pea 7.r 1987, pp.100-137.

§§§§§§§§§§ See, Verse 241, 2 Surah of The Holy Quran.

\*\*\*\*\* See, Verse 7, Surah 65 of The Holy Quran

†††††††††† Fayyaz-ur-Rehman, Islamic Law of Maintenance for Wives in Pakistan and Afghanistan, since 1960, PhD Thesis, University of Peshawar, 2003, pp.49-58

provisions of maintenance for them. However, the Muslim jurists have interpreted the right of maintenance of wife differently. The differences in interpretations of maintenance have, later on, caused the problems for Muslims women in Indian-Subcontinent including Pakistan. The interpretation was made such a way that the result appears to have become an almost dogmatic notion to effect that there is no maintenance beyond the *Idaat* period. In this situation, the women in Pakistan have gone under state of destitute.

In Pakistan, a lip service has been made to some family laws reforms concerning the maintenance in the shape of MFLO 1961. In fact this failed to implement the suggestion regarding maintenance as proposed by the report of commission on the marriage and family law 1956. After, 1947, only Anglo-Muhammadan system of legal regulation has been continued. No efforts have been made to codify the family laws in general and particularly on maintenance. This is social and legal problem which is has not been yet resolved. At present there is no law that would safeguard the women, who has been divorced deliberately. The Pakistani courts, following the Hanfi doctrine, have generally stuck to the established restrictive juristic view that even deliberately divorced women is not entitled to any maintenance after the *iddat* period is over. Of course, there is a way forward for protecting women in Pakistan like the legal reforms introduced in line with Islamic concepts in other countries, i.e., Egypt, Iraq, Tunisia, Brunei-Darussalam, Turkey. There is a need, in fact to inquire the legal position on the rights of Muslim wives to maintenance in the present legal system of Pakistan within the framework of Islamic Law.

**Conclusion and Recommendations**

From the above discussion, it is concluded that Islamic injunctions either expressly or impliedly provides for the maintenance of wife for the period of *Iddat* and even beyond that under certain circumstances. For the same, there are recommendations which have been made by different commissions. In all three Reports (1956, 1976 and 1983) proposals are to the effect that there is a need of

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\*\*\*\*Ibid. p.11  
§§§§§§§§§§ Ibid., pp.13-14  
\*\*\*\*\* Ibid., p. 24;22  
+++++ Article 18-A of the Maintenance and Personal Statute 1920,  
+++++ Section 8 of the Divorced Wife’s Right to Residence 1983  
§§§§§§§§§§ Section 37(2) of Code of Personal Status 1956  
\*\*\*\*\* Section 158(3) of The Religion Council State Custom and Kathi Courts Enactment 1955  
+++++ Section 133 of Turkish Civil Code of 1926.

comprehensive legislation for maintenance of wife. There is a clear felt need for laws on maintenance for the divorced and widow wife but yet no action has been taken covering all aspects of maintenance during marriage including the *iddat* period, and even after that for a reasonable time.

Islamic teachings are neither time nor space limited but universal and eternal. The issues of maintenance of wife can be resolved through *Ijtehad*. Islamic injunctions speak clearly and emphasize in favor of vulnerable section of the society like women. Therefore it is pertinent need of fresh *Ijtehad* on the current and emergent issues of maintenance of wife keeping in view the prevailing socio-economic conditions of the contemporary society. The improvement of laws on maintenance of wife particularly with respect to the deliberately divorced wife through *Ijtehad* can be constitutionalized as the Constitution of Islamic Republic of Pakistan, 1973 has the feature of Islamic character.