



EXAMINING THE EFFECTIVENESS OF UNION COUNCILS IN SAFEGUARDING FAMILY RELATIONSHIPS: A CASE STUDY OF PAKISTAN

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Abstract

Family relationships are the foundation of society. They provide us with love, support, and a sense of belonging. However, family relationships can also be fragile. They can be strained by conflict, abuse, and neglect. In Pakistan, where traditional family values are strong, there is a growing concern about the breakdown of family relationships. Union councils (UCs) are local government bodies that have been given a mandate to safeguard family relationships. They are responsible for resolving family disputes, providing mediation services, and promoting awareness of family laws. However, there is little research on the effectiveness of UCs in fulfilling this mandate. In Pakistan, the institution of family holds immense cultural and social significance.

Key Words: Family, Family Court, West Pakistan Family Courts Act 1964, MFLO (The Muslim



Family Law Ordinance 1961), Dissolution of Muslims Marriages Act 1939, Arbitration Council, Union Council, Divorce, Khula, Tallaq, Mubarat, PLD (Pakistan Law Decisions)

Introduction:

Recognizing the importance of preserving family ties and resolving conflicts within the family structure, Union Councils play a crucial role in safeguarding family relationships. Union Councils, being the grassroots administrative units at the local level, are responsible for overseeing various aspects of governance, including family matters, within their jurisdictions. This study aims to critically examine the effectiveness of Union Councils in preserving and nurturing family relationships in Pakistan through a comprehensive case study analysis. By delving into the roles, responsibilities, and mechanisms employed by Union Councils, this research seeks to shed light on the impact of their interventions on family cohesion, conflict resolution, and the overall well-being of individuals and households. Furthermore, this study will explore the challenges faced by Union Councils in fulfilling their mandate and provide valuable insights to enhance their effectiveness in protecting and promoting healthy family dynamics in the Pakistani context.

Family

A family in Islam is formed through the union of two or more individuals who are related by birth, marriage, or adoption and choose to live together. All individuals who share these relationships are regarded as members of a single family. Marriage holds significant importance as the fundamental foundation for creating a family within the Islamic faith. (HRSA)

For instance: Father, Mother, Grandfather, Grandmother, Daughter and Son, etc.

In Dr. Abdalati's perspective, the concept of family is described as a human social group wherein the individuals are united through the powerful connections of blood relations and/or marital relationships" (Dr Abdalati, 2003)

As stated in the Irish Constitution, the family is acknowledged as the inherent, primary, and fundamental unit group of society. (Article 41 of IRISH Constitution 1937)

According to Article 35 (Principle of Policy) of the 1973 Constitution of Pakistan, the State has a responsibility to safeguard the institution of marriage, as well as protect and support the family, the mother, and the child. Additionally, the State is mandated to discourage any form of narrow-mindedness, prejudice, or discrimination based on parochial, racial, tribal, sectarian, or provincial affiliations among its citizens.

Based on aforesaid provisions, it can be inferred that the Constitution of Pakistan considers a family to be a unit consisting of a husband, wife, and their children. However, it is also



possible that other relatives, such as grandparents, grandchildren, siblings, and in-laws, may be considered part of the family.

Family defined in Quran:

The Quran has many verses that speak about the importance of family such as below:

- **Surah al-Nisa'** (4:1): it is stated, "O humanity, fear your Lord who created you from a single soul and created from it its mate and dispersed from both of them many men and women. Fear Allah, in whose name you make requests from one another, and honor the ties of kinship. Surely, Allah is ever watchful over you." (Al Quran Surah al-Nisa' (4:1))
- **Surah al-Ahzab** (33:4): "We have commanded mankind to treat their parents with kindness. The mother carries them with hardship upon hardship, and their weaning takes two years. Show gratitude to me and to your parents. Ultimately, all matters return to me." (Al Quran Surah al-Ahzab (33:4))
- **Surah Luqman** (31:14): "We have commanded humanity to show kindness to their parents. The mother endures hardships during pregnancy and childbirth, and the period of gestation and weaning lasts for thirty months. Therefore, one should express gratitude to me and to their parents. Indeed, my intention is to bring awareness to the people." (Al Quran Surah Luqman (31:14))
- **Surah al-Furqan** (25:74): "Ensure that you grant the orphans their rightful belongings, refraining from replacing their valuable possessions with worthless ones. It is prohibited to combine their property with your own and consume it. Undoubtedly, this act is a significant transgression." (Al Quran Surah al-Furqan (25:74))

The Quran also speaks about the importance of maintaining family ties, even with those who are not Muslims. For example, in Surah al-Mumtahanah (60:10), Allah says: "The believing men and women are supportive allies to one another. They encourage righteousness and discourage wrongdoing. They establish regular prayer, give zakah (charitable giving), and obey Allah and His Messenger. Such individuals will receive Allah's mercy, for Allah is supremely powerful and wise."

This verse teaches that Muslims should be kind and supportive of all members of their family, regardless of their religious beliefs. It also emphasizes the importance of doing good deeds and following the teachings of Allah and His Messenger.



The Quran's teachings on family are based on the belief that the family is essential for the well-being of individuals and society as a whole. It is a unit of love, respect, and kindness, and it is responsible for the well-being of its members. The family is a source of strength and support, and it helps individuals to cope with the challenges of life.

Family in Ahadith:

The Prophet Muhammad (peace be upon him) also spoke about the importance of family in many of his ahadith (sayings) such as below:

- "The best of people are those who are best to their families." (Tirmizi, vol. 5, p. 475, Hadith 3921)
- "A man will not be asked about anything more important on the Day of Resurrection than his family." (Sunan Tirmidhi)
- The Messenger of Allah (peace be upon him and his family) conveyed, "Whoever adheres to Allah's commandments regarding obedience to parents will find two gates of Paradise opened for them. And if only one parent is present, then one gate of Paradise will be opened for them." (Kanzul `Ummal, Volume 16, Page 67)
- The Messenger of Allah (peace be upon him and his family) has advised, "Treat your parents kindly, and your children will reciprocate with kindness towards you. Furthermore, regard the women of others with purity in your behavior and intentions, and your own women will be regarded with purity." (Kanzul `Ummal, Volume 16, Page 466)
- "*Cursed, cursed is he who violates the rights of his wife.*" (Oddat al-Da'ee (English), ch. 2, H. 173)
- "*He is that person whose wife has exhausted all his good deeds and now he is engulfed in his deeds.*" (Al-Muhajjat al-Baizaa, vol. 3, p. 76)

The teachings of Prophet Muhammad revolve around the significance of the family, considering it as a vital element for the welfare of individuals and society at large. The family unit, rooted in love, respect, and kindness, plays a crucial role in ensuring the well-being of its members. It acts as a source of strength and support, enabling individuals to navigate the trials of life. Prophet Muhammad (peace be upon him) stressed the responsibility of parents in nurturing and educating their children, highlighting the importance of their role in shaping their development. He said, "Every one of you is a shepherd and is responsible for his flock" (Sahih Al-Bukhari), indicating that parents have a duty to guide, educate, and provide for their children's physical, emotional, and spiritual well-being.



These teachings from the Ahadith emphasize the importance of maintaining strong family bonds, treating family members with kindness and respect, and fulfilling one's responsibilities towards parents, spouses, and children. They provide guidance for Muslims in nurturing healthy and loving family relationships based on Islamic principles.

FAMILY COURTS IN PAKISTAN

A family court is a civil court with limited jurisdiction that hears cases of family laws, in Pakistan family courts are established under *WEST PAKISTAN FAMILY COURTS ACT 1964. (West Pakistan family courts act 1964)*

In most cases, family courts handle legal matters such as divorce, child custody, and domestic abuse. These courts operate within the framework of state and local laws. Depending on the specific jurisdiction, they may also be referred to as domestic courts.

ISSUES DEALS BY THE FAMILY COURT

Family courts in Pakistan deal with a wide range of issues related to family matters and disputes. Some of the common issues handled by family courts in Pakistan include:

1. **Divorce:** Family courts handle divorce cases, including dissolution of marriage, separation, and annulment. They oversee the process of divorce and determine matters such as custody of children, division of assets, and financial support.
2. **Child custody:** Family courts determine child custody cases when parents separate or divorce. They consider the best interests of the child and make decisions regarding the custody and visitation rights of both parents.
3. **Maintenance and financial support:** Family courts address issues related to financial support for spouses and children. They decide on matters such as alimony, child support, and the division of marital property.
4. **Guardianship:** Family courts handle cases related to guardianship of minors, including appointing legal guardians for children whose parents are deceased or unable to care for them.
5. **Domestic violence:** Family courts play a crucial role in dealing with cases of domestic violence. They issue protection orders and provide legal remedies to victims of domestic abuse.
6. **Adoption:** Family courts oversee adoption proceedings, ensuring that the process is carried out legally and in the best interests of the child.
7. **Family inheritance:** In cases of disputes related to family inheritance, family courts intervene to resolve conflicts and ensure fair distribution of assets.



It's important to note that the exact jurisdiction and procedures may vary slightly between different provinces and regions within Pakistan.

JURISDICTION

Family Courts can hear suits constituted under THE MUSLIM FAMILY LAW ORDINANCE 1961, DISSOLUTION OF MUSLIMS MARRIAGES ACT 1939, etc. Under West Pakistan family courts act 1964 (The schedule) [part I, II] (*W.P family Courts act 1964*)

- (a) Dissolution of marriage, including khula (a divorce initiated by the wife)
- (b) Dower (a sum of money or property given to the wife by the husband as a gift or part of the marriage contract)
- (c) Maintenance (financial support provided by one spouse to the other during or after the marriage)
- (d) Restitution of conjugal rights (a legal action seeking the return of marital cohabitation)
- (e) Custody of children and visitation rights for parents to meet them
- (f) Guardianship (legal authority and responsibility for the care and decision-making of a child)
- (g) Jactitation of marriage (false claims of being married to someone)
- (h) Dowry (property or assets given by the bride's family to the husband or his family)
- (i) Personal property and belongings of a wife

The family court addresses offenses listed in Part II of the schedule, wherein one spouse becomes a victim of an offense perpetrated by the other.

UNION COUNCIL IN PAKISTAN

The union council (UC) in Pakistan is a democratically elected local government entity comprising 21 councilors, led by a Nazim (equivalent to a mayor or chairperson) and a Naib Nazim (vice chairperson). Currently, there are 5,375 rural union councils spread across 115 districts, serving as the third tier of local government and the fifth tier overall. The structure and responsibilities of the union council vary among provinces and territories.

The establishment of union councils in Pakistan can be traced back to the 1950s, when they were first introduced as a way of decentralizing power and providing local representation. The Union council or the town or Union Committee constituted under the Basic Democracy Order, 1959 (P.O. No. 18 of 1959) (*MFLO 1961 Section(2) (d)*) However, it was not until the 1970s that they were fully established, with the passage of the Local Government Ordinance of 1979.

The 1979 ordinance gave union councils a wide range of responsibilities, including:

- Providing basic civic amenities, such as water, sanitation, and roads.



- Managing local government funds.
- Providing social services, such as education and health care.
- Representing the interests of local communities.

The union councils were abolished in 1988, but they were re-established in 1999 with the passage of the Local Government Ordinance of 1999. The 1999 ordinance gave union councils even more responsibilities, including:

- Planning and development.
- Law enforcement.
- Taxation.
- Resolving local disputes.

The union councils have played an important role in the development of Pakistan. They have helped to improve the delivery of basic services, promote local democracy, and strengthen community participation. However, they have also faced challenges, such as corruption, inefficiency, and lack of resources. In recent years, there have been calls for reforms to the union council system. These reforms would aim to address the challenges that the union councils face and make them more effective in providing services to local communities.

UNION COUNCIL ROLE AS AN ARBITRATOR IN FAMILY ISSUES

The Union Council holds a significant role in mediating family matters in Pakistan. According to the Muslim Family Laws Ordinance, 1961, the chairman of the Union Council is responsible for forming an Arbitration Council. The purpose of this council is to facilitate reconciliation efforts between spouses who are considering divorce. The Arbitration Council is made up of three members, who are usually respected elders from the community. The council is tasked with meeting with the spouses and their families and trying to reach a mutually agreeable solution. If the council is successful in reconciling the spouses, the divorce will be prevented.

The role of the Union Council in arbitration in family issues is to provide a forum for mediation and reconciliation. The council is made up of respected members of the community, who are often able to build trust and rapport with the spouses. This can be helpful in resolving the dispute amicably. The Union Council's role in arbitration in family issues is not without its challenges. The council may be faced with spouses who are unwilling to compromise or who have irreconcilable differences. In these cases, the council may be unable to achieve a successful outcome. Despite the challenges,



the Union Council's role in arbitration in family issues is an important one. The council can provide a valuable service to couples who are facing marital problems, and it can help to prevent unnecessary divorces.

The position of chairman within the Union Council is filled either by the chairman themselves or by an individual appointed by the federal government in cantonment areas, or by the provincial government in other areas. Alternatively, any authorized officer designated by the respective government may assume the responsibilities of the chairman. (*MFLO 1961 Section(2) (b)*)

A body consisting of the chairman and a representative of each of the parties (husband & wife). (*MFLO 1961 Section(2) (a)*)

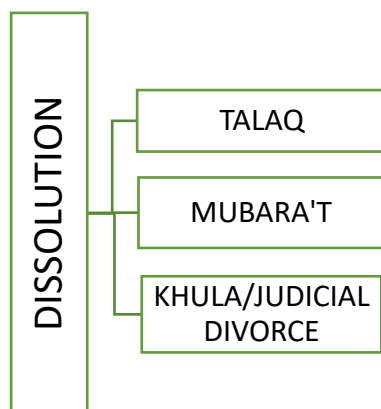
As per the Holy Quran in Surah Un-Nisa, if there is a fear of discord between a husband and wife, it is advised to appoint a mediator from the husband's relatives and another mediator from the wife's relatives. If both parties are willing to reconcile, Allah will facilitate a resolution and bring about harmony between them.

Surah Un-Nisa: If you fear a breach between two (spouses), appoint two arbitrators, one from his family and one from her family. If both parties desire reconciliation, Allah will facilitate the process of reconciliation. (*QURAN Surah-Un-Nissa 4:35*)

Dissolution of Marriage

Dissolution of marriage, the contract of marriage under the Islamic law may be dissolved in any one of the following ways

- By the husband (Talaq)
- With mutual consent (Mubarat)
- By judicial decree (Khula) (*Mulla's Muhammadan law Book chp:xvi (p.459)*)



TALAQ: by the husband at his will, without the intervention of courts, basically it is the right of the husband.

MUBARA'T: divorce by mutual consent (husband & wife), it can be initiated by Husband or wife .

KHULA/JUDICIAL DIVORCE:

The situation in which the wife initiates divorce proceedings basically it is the right of wife in Islam.

GROUND FOR DECREE FOR DISSOLUTION OF MARRIAGES (*UNDER DISSOLUTION OF MUSLIM MARRIAGES ACT, 1939*)

Under Muslim Law, a woman who is married has the right to seek a decree for the dissolution of her marriage based on one or more of the following grounds:

- I. I. If the husband's whereabouts have been unknown for a continuous period of four years.
- II. II. If the husband has neglected or failed to provide maintenance for the wife for a continuous period of two years.
- III. III. If the husband has been sentenced to imprisonment for a period of seven years or more.
- IV. IV. If the husband has unjustifiably failed to fulfill his marital obligations for a continuous period of three years.
- V. V. If the husband was impotent at the time of marriage and remains so.
- VI. VI. If the husband has been insane for a continuous period of two years or is suffering from leprosy or a contagious venereal disease.
- VII. VII. If a girl, who was married before reaching the age of sixteen with the consent of her father or guardian, repudiates the marriage before reaching the age of eighteen.



- VIII. VIII. In the case of Lian, if the husband falsely accuses his wife of adultery, resulting in severe damage to her reputation. The wife has the right to seek divorce (KHULA).
- IX. IX. If the husband treats the wife with cruelty, such as
- A. Engages in habitual assault or subjects her to cruel conduct that makes her life miserable, even if it doesn't involve physical harm.
 - B. Associates with women of questionable reputation or leads a dishonorable lifestyle.
 - C. Attempts to coerce her into engaging in immoral activities.
 - D. Disposes of her property or prevents her from exercising her lawful rights over it.
 - E. Interferes with her religious practices or obstructs her in observing her religious profession.
 - F. If the husband has multiple wives, fails to treat her equitably as prescribed by the Qur'an.
 - G. Any other valid grounds recognized under Muslim Law for the dissolution of marriage. (*Dissolution of Muslims Marriage act 1939 section 2*)

PROCEDURE OF KHULA / JUDICIAL DIVORCE

According to the law, if a woman intends to file a suit for the dissolution of her marriage, she is required to approach the court. Subsequently, mediation at the Union Council is conducted. However, if the woman seeks khula/separation, she can initiate a civil family suit in the family court under Section 7 of the West Pakistan Family Courts Act of 1964. (*WP family Courts act 1964 (Section 7,8)*)

INTIMATION OF DEFENDANT:

Upon receiving a plaint in a family court, the court is obligated to schedule a date for the defendant's appearance, which shall not exceed thirty days. In the case of khula, where the plaintiff is the wife and the defendant is the husband, this procedure is followed in accordance with Section 7 of the West Pakistan Family Courts Act of 1964.

PRE TRIAL PROCEEDINGS:

Following the submission of the written statement by the defendant/husband, the court will promptly schedule a pre-trial hearing for the case. During the pre-trial, the court will identify the key issues between the parties and make efforts toward a possible compromise or reconciliation. If reconciliation is not achievable, the court will issue an order indicating the failure of the pre-trial proceedings. Subsequently, the court will set a trial date and proceed to hear arguments from both



parties. Upon thorough consideration, the court will render a decree for the dissolution of the marriage, while also restoring the Haq Mehr (dowry) received by the wife during the marriage. Additionally, a notice will be sent to the Union Council. It is important to note that the khula decree will become effective after a period of ninety days, except in cases where the wife is pregnant, in which case it will be effective after the conclusion of the pregnancy. (*MFLO 1961 (Section 5)*)

ROLE OF UNION COUNCILS AFTER PRONOUNCING KHULA BY THE COURT OF LAW.

As per Section 7 of the Muslim Family Laws Ordinance (MFLO) 1961, upon receiving the notice, the chairman is required to establish an arbitration council within 30 days. The purpose of this council is to facilitate reconciliation between the parties, and the council shall undertake all necessary actions to achieve this goal. If the arbitration council is unable to reconcile the parties, the Union Council (UC) will issue the certificate of dissolution of marriage. (*MFLO 1961 (Section 7,8)*)

SOCIAL REASONS OF DIVORCE (KHULA)

- I. **Unemployment:**
one of the most prominent reason is unemployment, since 2019 the khula cases increases by 700%, due to pandemic every factory, industry, offices remain closed, source of income disturbed too much so divorce cases increases too much.
- II. **Lack of commitment:**
- III. When one fails to make the other person feel loved or valued, it can lead to concerns and fears within the relationship. These fears may include the fear of getting hurt, fear of being with the wrong person, or fear of the relationship not working out. These fears can often result in a lack of commitment.
- IV. **Arguing too much:**
If daily arguments with your partner, difficulties in maintaining a meaningful connection, or negative effects on your personal life beyond the relationship are present, it may be cause for concern.
- V. **Infidelity:**
The act of being unfaithful to a spouse or other partner
- VI. **Marrying too young:** Financial issues, lack of communication, adultery and addiction top the list when you are young. Study shows 45% marriages failed when couples married young.
- VII. **Unrealistic expectations:**
Unrealistic expectations means you expect too much from your partner example he/she will be with you all the time, your spouse will complete you, the person you married will never change etc. are examples of unrealistic expectations.



VIII. **Lack of equality in relationships:**

An imbalance of power between partners

For instance: If your partner's needs dominate the relationship without much consideration for your own.

IX. **Lack of preparation in marriage:**

It includes personal readiness and awareness of lack of resources, assets, and liabilities if there any. Assets and liabilities are important factors in deciding who and when to marry.

X. **Domestic violence:**

Domestic violence is violence committed by either by husband or wife on their partners it can be sexual, physical, or emotional.

KHULA ACCORDING TO HOLY QURAN & AHADITH

According to Surah Al-Baqrah

أَطْلَقُ مَرَّتَانٍ فَمَسَاكُ بِمَعْرُوفٍ أَوْ تَسْرِيحٌ بِإِحْسَانٍ وَلَا يَحِلُّ لَكُمْ أَنْ تَأْخُذُوا مِمَّا آتَيْتُمُوهُنَّ شَيْئًا إِلَّا أَنْ يَخَافَا أَلَّا يُقِيمَا حُدُودَ اللَّهِ فَإِنْ خِفْتُمْ أَلَّا يُقِيمَا حُدُودَ اللَّهِ فَلَا جُنَاحَ عَلَيْهِمَا فِيمَا افْتَدَتْ بِهِ تِلْكَ حُدُودُ اللَّهِ فَلَا تَعْتَدُوهَا وَمَنْ يَتَعَدَّ حُدُودَ اللَّهِ فَأُولَئِكَ هُمُ الظَّالِمُونَ

“These are the limits set by Allah. Beware! Do not transgress them. Whoever transgresses the limits of Allah, they are indeed the wrongdoers. The pronouncement of divorce can be made twice. After that, either keep her with kindness or release her in a graceful manner. It is not lawful for you to take back anything you have given to them, except when both parties fear that they cannot maintain Allah's limits. If you fear that they both cannot maintain Allah's limits, then there is no blame upon either of them if the woman gives something to seek her release. These are the limits set by Allah. Do not exceed them. And those who exceed the limits set by Allah are the wrongdoers” (QURAN Surah Al-Baqrah 2:229)

This verse grants the wife the right to seek the dissolution of marriage through khula, provided that the Qazi determines that the spouses are unable to live within the boundaries prescribed by God. It is evident from the verse that the Qazi has the authority to dissolve the marriage in suitable circumstances, even if it goes against the will of the husband.

Surah AL-NISA

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا يَحِلُّ لَكُمْ أَنْ تَرْتَدُّوا النِّسَاءَ كَرِهًا وَلَا تَعْضَلُوهُنَّ لِيَتَذَكَّرْنَ فِي مَا لَمْ يَحْسَبْنَ عَلَيْهِنَّ مِنْ قَبْلِ أُولَئِكَ يَحْسَبُ اللَّهُ فِيهِمْ خَيْرًا كَثِيرًا ﴿١٩﴾

“Believers! It is not lawful for you to forcefully take away women's inheritance and withhold what you have given them unless they commit a clear act of indecency. Treat them with



kindness, even if you dislike them, for it is possible that you may dislike something which Allah has placed much good in” (*QURAN Surah Un-Nissa 4:19*)

In this verse Quran prohibits the wrongful or unwilling retaining of women, and favors their release.

Acc: to AHADITH:

- The narrative of Sabit's wife recounts that Habiba, the daughter of Sohl, was married to Sabit-bin-Qais-bin-Shamas, who was a man of short stature and unattractive appearance. Habiba expressed her dissatisfaction to the Messenger of Allah, saying that if she did not fear God, she would have spat in her husband's face when he approached her. In response, the Prophet of Allah inquired if she would return his garden to him. She agreed, and as a result, the Prophet of Allah facilitated their separation” (*Hadith Ibn-e- Maja-(vol.1,p.263)*)
- Yahya ibn Sa'id reported that Habibah bint Sahl was married to Thabit ibn Qays, who had physically harmed her. Upon waking up, she hurried to the door of the Messenger of Allah, peace and blessings be upon him, before dawn had even broken. Habibah expressed her inability to continue living with Thabit. Thabit was summoned to the Prophet, who advised him to accept what Habibah owed him and let her go. Habibah then informed the Prophet that she had returned everything he had given her. Thabit accepted it from her, and Habibah returned to her family to settle her affairs. (Sunan al-Dārimī 2317)
- “There is a Hadith narrating the story of Barairah, who was married to a slave named Mughis. Barairah chose not to live with her husband, and he would often follow her in a state of sadness and tears, even in public. Upon learning about their situation, the Prophet advised Barairah to return to her husband. When she asked if it was a command, the Prophet clarified that it was merely a recommendation. However, Barairah decided not to reconcile with her husband, expressing that she had no need for him. (*Divorce-khul-khurshid bibi*)

Hence Islam preferred separation instead of living together by force as there in no coercion in Islam.

CASE LAWS

- Khurshid Bibi (appellant) v Muhammad Amin (respondent) decided by the Supreme court of Pakistan.

Reference to the Quran:

“Women possess rights against men that are comparable to the rights that men have against women, in accordance with established principles of fairness and justice.”



S.A. Rahman, J., references this verse of the Quran and suggests that it would be unexpected if the Quran did not offer provisions for the separation of spouses, initiated by the wife, in any circumstances”

Reference to Hadith:

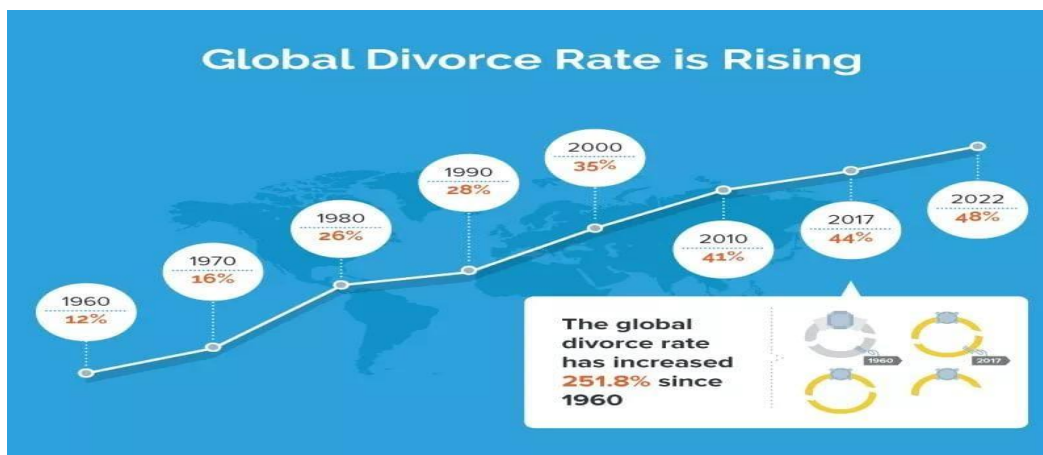
In Islam, it is essential that no harm is inflicted, and likewise, no harm is endured S.A. Rahman, J., cites this verse and suggests that in specific situations, if the husband resists or refuses to release his wife from the marriage, the Qazi (Islamic judge) may intervene to provide remedy and enforce the Qur'anic teachings. This perspective is supported by the verse and Hadith because compelling the wife to remain in an unhappy relationship would result in unnecessary suffering. (PLD 1967 SC 97)

- In the case of Miss Balqis Fatima v. Najam-ul-Ikram Qureshi, it was established that under Muslim Law, the wife has the inherent right to seek khula if she can demonstrate to the court that remaining in the marriage would impose an unbearable union upon her. S.A. Rahman, J., concurred with the viewpoint expressed by Kaikaus, J., in this case, affirming that the relevant verse of the Qur'an grants the wife the right of khula, subject to the limitations specified therein” (PLD 1955 LAH 566)

From the procedure outlined, we can draw the following conclusions:

- (A) A wife has the option to seek khula by agreeing to return the dower or some other form of consideration to the husband.
- (B) A wife can pursue the dissolution of marriage through khula based on personal aversion or dislike, and the Qazi or Court will determine whether the husband and wife are unable to live together harmoniously and within the limits set by God.
- (C) Khula is a distinct form of dissolution of marriage, separate from talaq, and it specifically grants women the right to seek the termination of the marriage.
- (D) The consent of the husband is not required for the wife to obtain dissolution under khula, as long as the Qazi concludes that the couple cannot live together peacefully and the wife is willing to offer compensation in return.

REGISTERED CASES



<https://www.unifiedlawyers.com.au/blog/global-divorce-rates-statistics>

The last 3 years data ratio of divorce/separation of different religion/sect is as under :

- Muslims 31%
- Protestants 34%
- Jewish 30%
- Catholicism 21%
- Buddhism 10%
- Hinduism 1%

Acc: to DAWN

KHULA CASES

- 2019
- 623 cases

Cases of women seeking khula jumped over 700% in 2020 and in 2019 only 623 family suit for Khula across the province of Sindh were registered, but got high rise during pandemic period (DAWN, 2021)

KHULA CASES

- 2020
- 5198 cases

During 2020 around 5198 women approached the courts in order to seek KHULA, of them over 4050 were instituted in five districts of Karachi.

- The statistics showed that around 435 family suits for khula were instituted in the courts of district Malir Karachi in 2019 compared to 387 in 2020.
- In the West District of Karachi, there was a total of 98 suits filed in 2019, whereas the number increased to 505 in 2020.

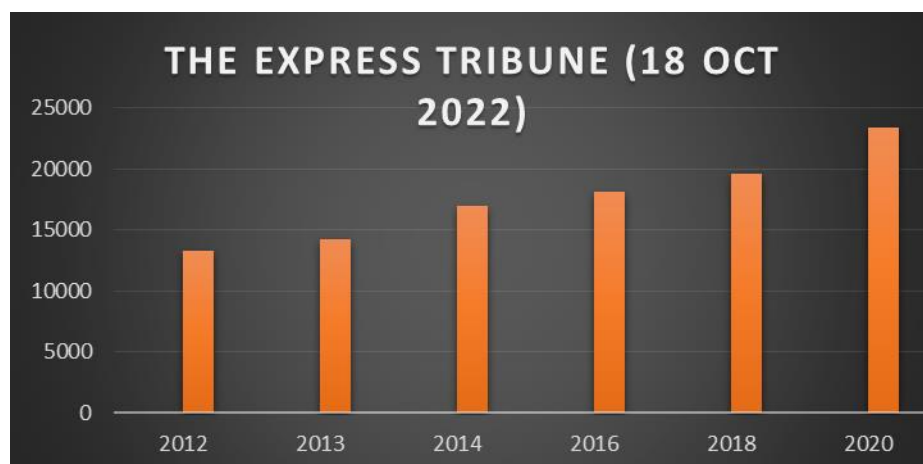


- In the Central District of Karachi, the number of suits filed was 154 in 2019, but it rose to 883 in 2020.
- The South District of Karachi saw 46 suits filed in 2019, while the number increased to 422 in 2020.
- As for the East District of Karachi, there were 259 suits filed in 2019, but the number significantly rose to 1,249 in 2020.

Acc to Global Village space :In 2020 around 5200 cases instituted in Sindh only (*Global village space*)

Acc: to the Express TRIBUNE

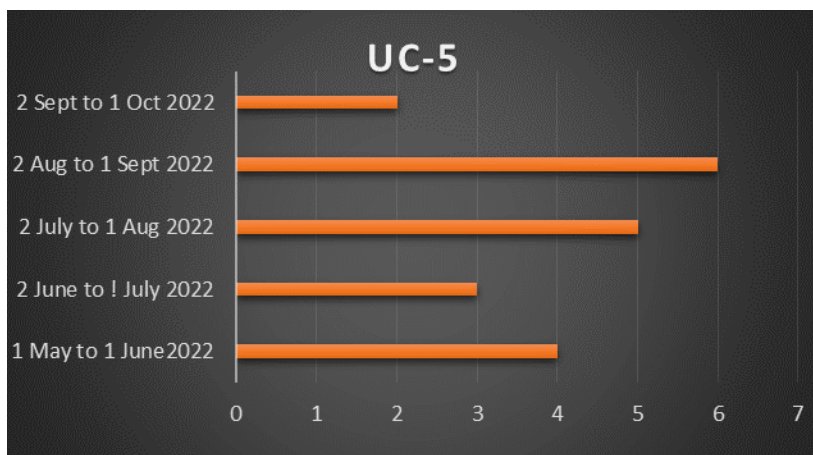
From Jan 2019-feb 2020 23367 cases reported 13540 Men gave divorce 9827 women approached the Family courts for seeking khula 831 cases were resolved through Reconciliation at UC 2642 cases still pending in Courts. (*The Express Tribune, 2022*)



- **13299 cases in 2012**
- **14243 cases in 2013**
- **16942 cases in 2014**
- **18091 cases in 2016**
- **19610 cases in 2018**
- **23367 cases in 2020**

PRACTICAL SURVEYS IN UNION COUNCILS OF KARACHI SINDH

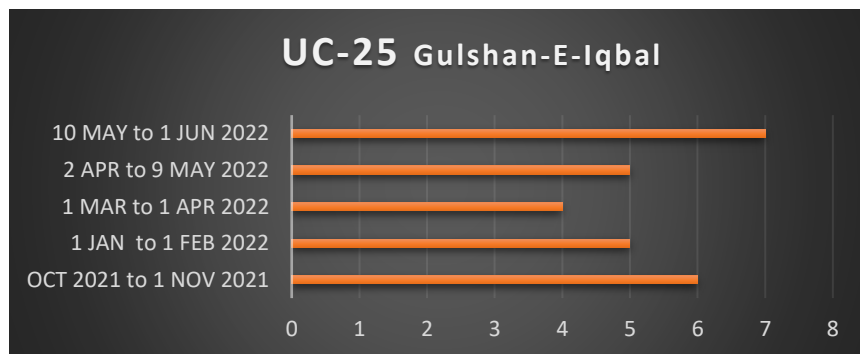
The researcher visited the number of union councils of Karachi in order to examine the data available with them regarding how many cases have been referred to the union councils and what action they have taken for reconciliation. The researcher visited 5 union councils of Karachi.



Court noticed them around 20 cases for reconciliation.

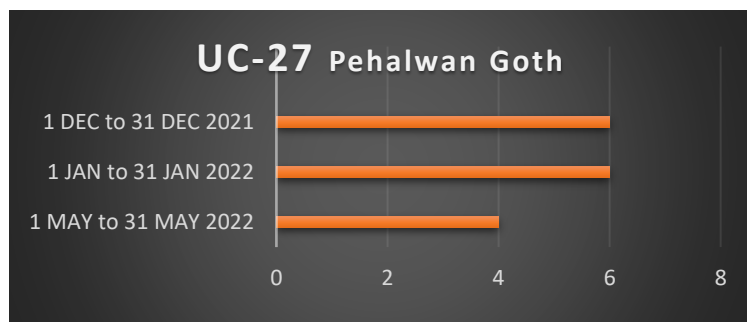
- 1 May to June 2022= 4 cases notified
- 2 June to 1 July 2022=3 cases notified
- 2 July to 1 Aug 2022= 5 cases notified
- 2 Aug to 1 Sep 2022= 6 cases notified
- 2 Sept to 1 Oct 2022= 2 cases notified

UC-25 (GHULSHAN E IQBAL)



- 1 OCT 2021 to 1 NOV 2021= **6 CASES NOTIFIED**
- 1 JAN 2022 to 1 FEB 2022= **5 CASES NOTIFIED**
- 1 MARCH to 1 APRIL 2022= **4 CASES NOTIFIED**
- 2 APRIL 2022 to 9 MAY 2022= **5 CASES NOTIFIED.**
- 10 MAY 2022 to 1 JUN 2022= **7 CASES NOTIFIED**

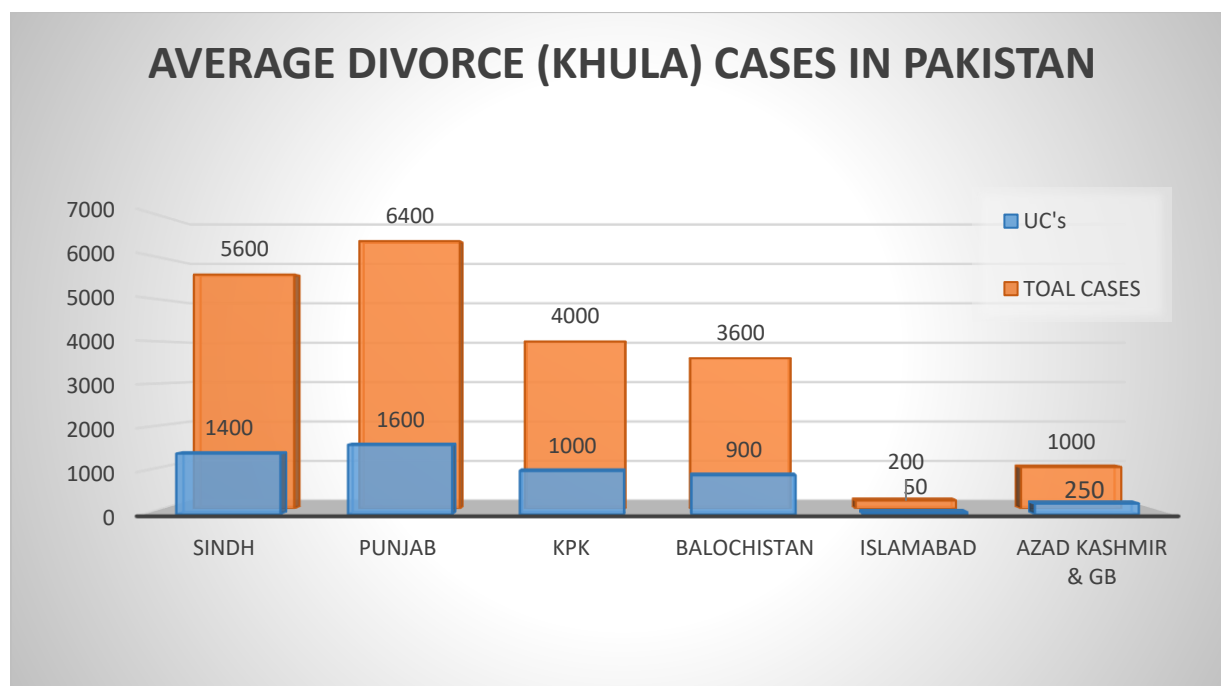
UC- 27 (PEHALWAN GOTH)



1 DEC to 31 DEC 2021 6 cases
1 JAN to 31 JAN 2022= 6 cases
1 MAY to 31 MAY 2022 = 4 cases

According to survey research Average number of notified cases by courts to Union councils in Karachi are around 4 cases a month and Around 1400 UC's are instituted in Sindh (*The Express Tribune, 2013*) according to the union council there are 5600 cases referred a year to the union council by the courts in **SINDH**. Around 1600 UC's are instituted in Punjab. If average cases are 4 according to calculation so total number of cases are 6400 yearly in **PUNJAB**. Around 1000 UC's are instituted in Khyber Pakhtoon Khuwa (KPK). If average cases are 4 according to calculation so total number of cases are 4000 yearly in **KPK**. Around 900 UC's are instituted in Balochistan. If average cases are 4 according to calculation so total number of cases are 3600 yearly in **Balochistan**. Around 50 UC's are instituted in Islamabad (ICT). If average cases are 4 according to calculation so total number of cases are 200 yearly in **Islamabad**. Around 250 UC's are instituted Azad Kashmir & Gilgit baltistan (GB). If average cases are 4 according to calculation so total number of cases are 1000 yearly in Azad Kashmir & Gilgit baltistan (GB).

Overall According to Research & Survey and data available on record yearly 20800 cases of khula (divorce) are being conducting throughout *Pakistan*.



The number of cases are increasing very sharply, over two million cases are pending in courts across country, if 10 cases resolved or disposed of, 50 new one are added, courts have too much burden of cases, so it is important to consider the role of Union council for reconciliation prior to divorce.

Proposals

Based on the research findings, the following recommendations can be proposed to enhance the role and effectiveness of Union Councils in Pakistan:

- a) **Strengthening Institutional Framework**: Improve the legal and regulatory framework governing Union Councils to provide them with adequate authority, resources, and autonomy to carry out their functions effectively.
- b) **Capacity Building**: Enhance the capacity of Union Council members and staff through training programs on local governance, community development, public service delivery, and conflict resolution.
- c) **Citizen Engagement**: Promote active citizen participation in decision-making processes at the local level. Establish mechanisms for regular consultations, feedback, and accountability to ensure responsiveness to community needs and aspirations.
- d) **Financial Empowerment**: Increase financial resources and fiscal autonomy of Union Councils by allocating a higher percentage of the national budget to local governments. This will enable them to implement development projects and deliver essential services effectively.
- e) **Networking and Collaboration**: Foster collaboration and knowledge-sharing among Union Councils through regional and national networks. Facilitate platforms for exchanging best practices,



experiences, and lessons learned to improve their performance.

f) **Union council actions prior to approaching court.** As there are many cases pending in courts, So it should be better to shift the Dissolution of Marriages (khula) cases to Union Council, acc to MFLO 1961, union council is bound to do meditation between husband and wife after the decree of court As courts also take part in mediation in Pre-trial proceedings, court also trying second time mediation between the parties (**CONCLUSION OF TRIAL**) (*W.P family courts act 1964 (section 12)*). As courts are trying for mediation so why not UC should tries this earlier, this will even save the time of courts. If a women is approaching the UC for **maintenance**, (*MFLO (Section 9)*) so why she is not approaching the UC's for Khula. As UC are bound to mediate between husband and wife after decree of courts so why UC has no right to mediate before the decree of courts, in order to save the time of courts and the sacred relation of husband and wife.

g) **Provide technical assistance and qualified staff.** There are numbers of union councils in Pakistan but they do not have sufficient staff/man power and specially they do not have qualified staff who can understand the work and significance of union council role. There must be qualified staff at the disposl of union council this would help them to use their resources more efficiently and effectively.

h) **Create a system of checks and balances to prevent corruption and mismanagement in the UCs.** Corruption is a major problem in the UCs. The government should take steps to combat corruption in the UCs, such as strengthening anti-corruption laws and enforcing them strictly. This would help to ensure that the UCs are accountable to the people they serve.

i) **Lack of transparency:** The UCs are often opaque and lack transparency. The government should promote transparency in the UCs by making information about their finances and activities more accessible to the public.

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