



Reforming Talaq-E-Biddat and Maintenance Laws: A Comparative Analysis of Pakistan and Malaysia

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ARTICLE INFO	ABSTRACT
Article History: Received: January 25, 2026 Revised: March 11, 2026 Accepted: March 20, 2026 Available Online: March 29, 2026	The study aims to examine the legislative framework of talaq-e-biddat and post-divorce maintenance through a comparative analysis between Pakistan and Malaysia. Its main goal is to highlight legal and social implications of instant triple-divorce for Muslim women, by exploring how Pakistani and Malaysian legislative reforms address unilaterally marriage dissolution and its social and economic consequences on divorced women. It focuses on current legal reforms and their adequate implementations by using comparative legal analysis, in order to protect women's financial right within marriage and outside of marriage. By evaluating judicial precedents, Islamic jurisprudence, statutory framework of Pakistan and Malaysia and international treaties (CEDAW, ICCPR, CRC). Present study revealed that Pakistan has a more procedural framework executed to prevent implications of instant triple-talaq in which the husband is obligated to provide a written notice to union council and wait for 90-days as per Islamic teaching, under Muslim family law ordinance, 1961. But this legal framework does not completely abolish talaq-e-biddat and does not recognize post-divorce maintenance even after iddah period. leaving many divorced women economically strained. In contrast, Malaysia follows a court-supervised model through Syariah courts, regulating divorce through judicial oversight and recognizing mut 'ah as a compulsory financial right determined according to marital circumstances and the husband's financial capacity. The study concludes that Pakistan should benefit from legal reforms aimed at strengthening judicial supervision of divorce (triple talaq) and should formally recognize post-divorce maintenance to ensure greater financial protection and access to justice for divorced women to ensure women rights are held under legislation.
Keywords: talaq-e-biddat, triple talaq, post-divorce maintenance, mut'at al-talaq, Islamic family law, Muslim Family Laws Ordinance Pakistan, CEDAW, ICCPR, CRC, Malaysia, women's rights.	
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Introduction

Marriage in Islamic law is considered a civil agreement based upon mutual respect, companionship, and legal responsibilities between spouses. At the same time, Islamic jurisprudence recognizes that when marital harmony becomes impossible, the dissolution of marriage may become necessary. Among the recognized forms of divorce, *talaq* has persisted to be the most debated mechanism in history, particularly *talaq-e-biddat* (instant announce of triple *talaq*), whereby a husband pronounces divorce three times in one breath, leading to immediate and often leave with irreversible consequences for the marital relationship to reconcile. Practically triple-talaq ends marriage immediately and the wife is temporarily provided with maintenance during iddah period, but Pakistani law doesn't recognize financial maintenance after iddah period has completed. This result in financial shortcomings for divorced women who lack financially resources, unemployment, and who are uneducated. Such lacks in statutory reforms in Pakistan has raised cases of instant triple-talaq in which marriage got terminated unilaterally

Studies suggested that Pakistan and Malaysia both countries implement different Islamic Family Law under different Islamic jurisprudences. Pakistan's legal regulation of divorce is ruled by a procedural framework under Muslim Family Law Ordinance, 1961 (MFLO). According to section 7 a husband who has pronounced triple talaq in one setting has to inform via written notice to union council and then send a notice to wife followed by 90-days waiting period which is considered as iddah period settled for reconciliation as per Islamic teachings. The divorce only becomes valid after the iddah period and no financial maintenance after iddah period is recognized under law to be given to the divorced women.

This legal reform does reduce instant divorce rate and provide opportunities for reconciliation, but it fails to completely abolish *talaq-e-biddat* to deter its effect for both spouses, creating uncertainty in legal implementation of such procedural reform. International human rights aim to mitigate impulsive practice of family law by following International Conventions such as, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1979), the International Covenant on Civil and Political Rights (ICCPR, 1966), and the Convention on the Rights of the Child (CRC, 1989). These conventions provide financial and legal protection and equality to both spouses within marriage and outside of marriage.

Divergent Islamic theologies regarding Talaq-e-Biddat in Pakistan

Pakistani legislation regarding *talaq-e-biddat* has been ruling under Muslim Family Ordinance 1961 (MFLO), which has predominantly adopted Quranic principles of divorce and it's related issues to build a strong sense of potential well-being of families and maintenance of sacred relationship. In Islam marriage is considered as most divine relationship which carries reciprocal rights and responsibilities for both spouses towards each other. Islamic law emphasizes on marital harmony and considers divorce as legal way to get out of marital dissonance and in cases where coexistence becomes impossible. The issue of divorce in Islamic jurisprudence has been debated widely because of the contradictory statements in different *firqas* authorizing different traditions of marriage dissolution. One of the most controversial forms of *talaq* is *talaq-e-biddat*, which is an impulsive, instant triple *talaq* pronounced by husband unilaterally in one setting, which results in irreversible and instant termination of marriage. *Talaq-e-biddat* is seen as most controversial issue theologically and legally because of its harsh consequences for divorced women's legal and economic security (Munir, 2011). There is no uniform theology regarding triple *talaq* in Islamic jurisprudence, and lack sufficient contentment on one ideology causing huge *firqa* based theological and legal discrepancies.

There is an emphasize in Quran and Ahadees regarding divorce to be a gradual and deliberate process mandated with the waiting period which is considered as iddah of 90-days to encourage attempts of reconciliation among spouses. Quranic teachings consider impulsive talaq-e-biddat or triple talaq as violation of Allah's limits. Stated as *"And divorced women shall wait concerning themselves for three monthly periods, and their husbands have the better right to take them back in that period if they wish for reconciliation"* (Surah Al-Baqarah, Verse 228). Ahadees have also revealed that prophet Muhammad (PBUH) has strictly condemned the abrupt announcement of triple talaq in one setting. It is clearly quoted by Ibn Abbas in the book Sahi-Al-Muslim, in hadith 1472 that Prophet (PBUH) and Caliph Umar (R.A) declared triple talaq announced in one setting was considered one revocable talaq (Siddiqui, 2021). Many contemporary jurists and scholars criticized those legal reforms within Pakistan regarding triple talaq is a form of biddat and highly incompatible with Islamic principles of Adl. The practice of talaq-e-biddat became practically institutionalized during the time of Calipha Umar ibn-al-Khattab to discourage patriarchal divorce and violation divorce rights (Mangi et al., 2025).

Post-Divorce maintenance (مَتْعَةُ الطَّلَاق) and Triple-Talaq in Islamic Jurisprudence and Fatwa's

Islamic law considers post-divorce maintenance (mut'ah al-talaq) as an important financial right of divorced women after termination of marriage specifically during iddah period with the aim to reduce their economic hardship and protecting their dignity. Some jurists still argue whether to enforces mut'ah legally or just recommend it morally to deter exercise of triple-talaq or talaq-e-biddat. This Qur'anic verse stated, *"And for divorced women is a provision according to what is reasonable, a duty upon the righteous"* (Qur'an 2:241). Which shows a significant importance of mut'ah as compensation to rejuvenate women financial state after divorce during iddah period with the aim to prevent hardships.

Pakistani family law is predominantly influenced by Hanafi perspective although it is highly discouraged, considering triple talaq legally exercisable and immediately dissolute marriage after its one pronouncement. Under Hanafi perspective when a triple talaq has pronounced, marriage immediately terminated and reconciliation can only be possible with nikkah-halala (Munir, 2019). In account of mut'ah Hanafi approach take it obligatory if divorce occur prior to consummation and as a compensation post-divorce maintenance is given to the divorced women when no mahr was fixed or given at the time of nikkah. It also restricts post-divorce maintenance till iddah period and does not encourage financial support after iddah period. Whereas Maliki perspective adopts a very contradictory approach to Islamic procedure in which Ulamas consider triple talaq legally valid and exercisable after its pronouncement in single sitting. But they adopt moral obligation regarding mut'ah as mandatory right of a divorced women (Ibn Rushd, 1996). Al-Qurtabi a renowned scholar has presented a wider financial security for divorced women and encourage that post-divorce maintenance should be practiced legally to execute principles of justice and compassion.

Shafi Ulamas following teachings of Imam al-Shafi, consider triple talaq valid in one pronouncement and recognize triple talaq in one pronouncement exercisable, while acknowledging the importance of post-divorce maintenance as a financial compensation after divorce. This approach provides greater security to women if divorce is initiated unilaterally by husband and marriage get dissolute. Likewise, Hanbali school also consider triple talaq legally exercisable, but Ibn-Taymiyyah appose to this principle considering triple talaq as biddat and count triple talaq as one single divorce in one pronouncement which can be revocable with preserving opportunity for reconciliation among spouses as per Islamic teachings(Ibn Taymiyyah, 1995). He also encouraged legal practice of mut'ah as a financial right to spouse.

Statutory framework of Tripple Talaq in Pakistani legislation

Pakistani legislation follows a procedural framework of talaq-e-biddat rather than having a prohibitive framework to abolish instant triple talaq completely. Pakistani legislation of talaq-e-biddat follows a statutory procedure to minimize consequences of instant triple talaq under the Muslim Family Law Ordinance (MFLO), 1961. under section 7 of MFLO, a husband who has pronounced talaq is mandatory to submit a written notice to the relevant Union Council and then provide a copy of notice to wife. The council suspend the divorce for 90-days waiting period as per Islamic teachings to make chance for reconciliation. (Muslim Family Laws Ordinance, 1961).

It aims to deter arbitrary and undocumented instant triple-talaq through procedural frameworks administratively and its consequences for both spouses, rather than prohibiting talaq-e-biddat. In Pakistani statutory framework divorce is not considered effective until it is reported in union council in early times. Studies have suggested, these reforms have reduced the nature of impulsive and instant divorce and providing women with opportunities to contest unfair treatment or seek legal remedies (Munir, 2013). Despite these reforms, judicial interpretation in Pakistan has remained inconsistent and violated. This inconsistency has produced legal uncertainty, especially in cases involving multiple pronouncements of talaq (triple talaq) said simultaneously and have arisen disputes concerning whether triple talaq constitutes one or three divorces because of different ideologies. Pakistani superior courts have not adopted a fully uniform position, which has resulted in inapplicable practical difficulties in implementation and enforcement of talaq-e-biddat reconciliation reforms (Munir, 2013).

Contemporary Relevance and Legal Challenges in Pakistan

Today In Muslim world triple talaq and post-divorce maintenance issue has a significant association. Studies revealed, that Hanafi jurisprudence has largely influenced Muslim Family Law in Pakistan, which highlights post-divorce maintenance (mut'ah) is only applicable till iddah period (90-days) and no financial support would be given after iddah period has done, which is not practiced legally and women face discrimination and economic shortcomings not only after the iddah period but also during the iddah period, their rights get violated and they are provided with legal and social resources (Haider et al., 2023). whereas, Malaysian jurisdictions under syariah court recognize post-divorce maintenance (mut'ah) as a compensation on the basis of husband's financial means and income (Ahmad & Abdul Rahman, 2006). These Malaysian legal frameworks have demonstrated how stronger post-divorce support may mitigate the economic consequences of patriarchal triple talaq.

Judicial Precedents of Talaq-e-Biddat and Maintenance in Pakistan

Ali Nawaz v. Muhammad Yusuf (1963), The Supreme Court of Pakistan ruled this case that the procedural requirements of Section 7 of the Muslim Family Laws Ordinance (MFLO) are mandatory. The court ordered that a *talaq* is legally ineffective and invalid if the husband fails to send a written notice to the Chairman of the Union Council, thus checking the immediate execution of *talaq-e-biddat* by requiring a mandatory 90-day statutory reconciliation period. Kaneez Fatima v. Wali Muhammad (1993), The Supreme Court introduced an element of judicial contradiction in this specific case, by ruling that a failure to give notice attracts severe punishment but does not automatically invalidate a divorce. The court held that a dissolution remains valid if there is evidence of an irreversible marital failure and if the parties have acted upon the divorce for years. Allah Rakha v. Federation of Pakistan (2000), In this case the Federal Shariat Court (FSC) declared the Islamic legitimacy of Section 7 of the MFLO is in contradiction of classical Hanafi jurisprudence. The FSC held that considering triple talaq (three simultaneous pronouncements) as

a single, revocable divorce suspended for 90 days aligns with the Quranic objectives of gradualism and *iddah period*, legally discouraging the practice of *talaq-e-biddat*.

Haseen Ullah v. Mst. Naheed Begum (2020), Another case of Supreme Court of Pakistan ensure that divorced women is provided with post-divorce maintenance if husband have not given mahr earlier under column 16 of Nikkahnama. Supreme Court of Pakistan declared that a husband is obligated to lawfully provide his wife's matrimonial rights and lawfully obligated to provide her wife her right of dower. Abdul Manan v. Safurun Nisa (1970), In this case the Supreme Court of Pakistan under section of MFLO legally mandated reconciliation period in this case by refusing traditional instant dissolution of marriage in one pronouncement and refused to consider divorce legally exercisable if the husband have not informed council via written notice and waited for 90-days of *iddah period*.

Allah Dad v. Mukhtar (1992), In another case Supreme Court of Pakistan under Family law nullifies all the instant verbal pronouncement of divorce without submitting a written notice in Union Council and refused to legally recognize divorce exercisable if procedural frameworks are not followed by. Mst. Farah Naz v. Judge Family Court, Sahiwal (2006), This case of post-divorce maintenance held under Supreme Court of Pakistan, the Court declared rights of financial support for divorced women as mandatory and claimable within legal period of *iddah*. The case also emphasized that in case of any delays in maintenance after divorce, the complaint should be reported for recovery under the law within prescribed period.

Statutory Framework of Talaq-e-Biddat in Malaysia

In Malaysia, Islamic family law is regionalized, by which each of the thirteen states enacts its own legislation. However, these state laws are highly uniform as they are closely exhibited after the federal benchmark, the Islamic Family Law (Federal Territories) Act 1984 (Act 303), declaring *talaq-e-biddat* (instant triple *talaq* in one sitting) entirely invalid or consider it as a single revocable divorce, the Malaysian statutory framework regulates the implementation of a strict mechanism of judicial verification combined with criminal penalties.

Mandatory Court Process and Extrajudicial Pronouncements

Under Section 47 of the Islamic Family Law (Federal Territories) Act 1984, a husband who wishes to divorce his wife must apply to the Syariah Court. The court then appoints a Conciliatory Committee to attempt a reconciliation between the spouses. If reconciliation efforts fail, then the court advises the husband to pronounce a single revocable *talaq* (*talaq raj'i*) within open court setting. Despite this mandatory procedure, if a husband oversteps judicial procedure and pronounces an instant triple *talaq* extrajudicially (e.g., out of anger, emotional trauma, or via text message), the marriage is not automatically considered whole. Under Section 55-A of Act 303, the parties are legally required to report the extrajudicial pronouncement to the Syariah Court within seven days for a validation hearing. Because Malaysian Syariah courts predominantly follows the Shafi'i school of jurisprudence, considering an explicit pronouncement of triple *talaq* in a one breath is traditionally validated as an irrevocable divorce, which immediately terminates the marriage and cut the chance of remarriage unless an intervening marriage occurs (Abdul Shukor & Nasohah, 2018). To deter husbands from undermining the judicial process and protecting women from the sudden economic and procedural shocks of arbitrary dissolution of marriage, Malaysian law has criminalized extrajudicial divorce(pronouncement of divorce outside of court). Section 124 of the Islamic Family Law (Federal Territories) Act 1984 explicitly states:

“Any man who divorces his wife by the pronouncement of *talak* in any form outside the Court and without the permission of the Court commits an offence and shall be punished with a fine not

exceeding one thousand ringgit or with imprisonment not exceeding six months or with both”. This legislative approach ensures that while the religious validity of the *talaq-e-biddat* may be recognized under state-enforced Shafi'i jurisprudence, the state enforces legal and financial accountability on the husband to restricts patriarchal abuse of talaq (Nasir, 2025).

Judicial Precedents Talaq-e-Biddat and Maintenance in Malaysia

Faridah binti Abdul Rahman v. Mohd Sukri bin Mohd Shahrin. In this case the husband pronounced an unauthorized triple talaq in a single sitting outside the court, subsequently applying to the Syariah Court of Malaysia for validation of divorce. The Selangor Syariah High Court penalized the husband under the state's family law enactment for criminal non-compliance. Zainnuddin lwn Anita (1983). In another case of Malaysian Saryriah Court legalize that divorce women can lawfully seek immediate post-divorce maintenance during iddah period or extends it after iddah period. The case also emphasized that divorced wife can also claim for accommodation under the law till the iddah period, building a strong Islamic sense of law. Rohaizah binti Mahmud v. Mohd. Junus bin Mohd. Noor (2010). In this case The Kedah Syariah Appeal Court addressed the quantification of Muta'ah under the Islamic Family Law Enactment. The court ordered that muta'ah is an absolute legal right for a blameless divorced wife, designed to deter her economic shortcomings.

Wan Khairani binti Wan Mahmood v Ismail bin Mohammad (2008). Another case law regarding Mut'ah talaq (post-divorce maintenance) of Wan Khairani binti Wan Mahmood v Ismail bin Mohammad, (2008, 1 MLJ 164. CA) under Malaysian Syariah court declare a clear legal division of assets among both spouses after divorce, this reform proves to be a benchmark in reducing post-divorce maintenance related disputes. Maama Lwn Wabar (2020), In regards to triple talaq, case reported under the Malaysian Syariah court, in which the talaq was pronounced online without being physically present, the court legally dissolve the marriage following iddah period and declared triple pronouncement of talaq in one wetting as one single talaq. Such cases highlight the need for legislative reforms to protect impulsive divorce and to ensure family stability. Ida Hidayati Binte Taufik lwn Ahmed Shukri Bin Kassim (2004), The Syariah Court of Malaysia ruled this case by ijihad to set fair mut'ah value in accordance of socio-economic condition and equity among both spouses after divorce has been legally declared, reflecting Islamic scriptures. The bench established that the calculation of post-divorce support must be computed using a formula according to husband's financial means, the duration of the marriage, and the sacrifices made by the wife, ensuring substantial financial security.

International conventions and Talaq-e-Biddat & post-divorce maintenance (verbatim)

Legal frameworks of Talaq-e-biddat (instant triple talaq) in Pakistani legislation has raised an important challenge of its non-compliance with international treaties obligation, because of the instant patriarchal termination of marriage without judicial or court involvement. This contradiction raises question regarding foundational principles of gender equality, right to protection and freedom of choice which are aligned in these conventions.

Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), in Article 16(1)(c) and (h)“States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women, (c) The same rights and responsibilities during marriage and at its dissolution, (h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property” (United Nations, 1979, p. 16). In General Recommendation No. 29“States parties

should provide for an equitable division of marital property and, where appropriate, financial support (alimony or maintenance) after the dissolution of marriage, taking into account the non-financial contributions of spouses to the well-being of the family, the economic disparities between them, and the care of children” (UN Committee on the Elimination of Discrimination against Women, 2013, para. 34).

International Covenant on Civil and Political Rights (ICCPR), Article 23(4) emphasize that “States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children” (United Nations General Assembly, 1966a, p. 179).

Convention on the Rights of the Child (CRC), Article 27(4) emphasize that “States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad...” (United Nations, 1989, p. 9).

Conclusion

The comparative analysis of post-divorce frameworks reveals that Talaq-e-biddat and post-divorce maintenance are both paramount themes related to the rights of women. In comparison, the approaches of Pakistan and Malaysia towards talaq-e-biddat and post-divorce maintenance Pakistan’s Family Law Ordinance 1961 does not repeal talaq-e-biddat but also takes it to a procedural legal process, while Malaysia has moved to eradicate talaq-e-biddat, considering it unconstitutional and against the principles of international human rights. Malaysian Sharia Courts authorize *mut’ah*, taking into account the duration of the marriage, the spouses’ financial circumstances, and the husband’s source of income. Malaysia appears as a modern Islamic legislative model that stands on stronger foundations and a more systematic judicial system under the Islamic Law (Federal Territories) Act 1984 and related state laws. Pakistan’s legislative system, in comparison with Malaysia, is fragile not only in legislation but also in implementation under the Muslim Family Law Ordinance 1961, to give aggrieved women their justified rights in cases of talaq-e-biddat and post-divorce maintenance according to international standards of humanity.

Policy Recommendations

1. The primary authority over marital dissolution must be removed from the administrative jurisdiction of localized Union Councils to deter consequences of talaq-e-biddat and authority should be completely institutionalized within the specialized Family Courts in each state. No pronouncement of triple-talaq should be executed without a prior petition filed in family court, with mandatory reconciliation attempts via an expert based Conciliation Committee.
2. The MFLO should be revised and should formally introduce post-divorce maintenance (*mut’ah*) as mandatory after divorce for the wellbeing of divorced women. Courts must be legally empowered to order a financial settlement for divorced women, that extends beyond the iddah period. Payout structures must be calculated based on a judicial formula formed by experts, on the basis of husband’s financial means, duration of the marriage, wife’s employment status and education with account of wife’s non-financial domestic sacrifices within marriage.
3. To completely prevent the practice of instant triple talaq (*talaq-e-biddat*) and deter it’s consequences any unilateral or extrajudicial pronouncement delivered outside the sanction of a Family Court must be categorized as a criminal offense, with carrying severe punishment/fines and imprisonment.

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