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Dismantlement of Family Lives: An Alarming Intimation for the Prudent Minds

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Abstract

For a healthy and progressive mind and a nation, the happy family life serves as a first and foremost supporting pillar among the other worldly worries, while this affluence life style has been deteriorating due to the spouses' breakups and wants for materialist approaches. This article highlights the reasons of high ratio of dissolution of marriages in Pakistan on the basis of Khula and Talaq. Furthermore, the article will also present the important and land mark judgements of adjudicated courts in Pakistan and their effects. A detailed arguments regarding the least efforts and role being played by the relevant authorities, departments, social organizations and local government bodies to halt the dismantlement of family life will also be encountered. There are bundle of reasons behind the ever-increasing number of divorce cases on the graph being spreading as a social disease, which is an alarming state of affairs. However, the solutions to stop unwelcomed tendency should need to be address at micro as well as at macro level to save the matrimonial lives for a consolidated, mentally and morally strong society. The loopholes in existing legal system, its implementation, the reforms and advancement in the prevailing infrastructure in consonance with Islamic Sharia law will also be discussed. Moreover, how the use and implementation of advance technology in a positive way can be adapted to make the government structure and governments bodies more efficient and effective with regard to smart and decisive work quickly.

Keywords: Family life, dismantle, Union Council, MFLO, Khula, Divorce Ratio

Introduction

Strong family ties play very important role in everyone life's achievements. In our society, mostly people feel comfortable to meet with a family-oriented persons and to invited them at their places inconveniently because they feel that, married person is veracious in all his matters of life and adore a respectful status in the society. Similarly, the importance of family life in cross-culture practices can be determined through various number of refusal of immigration visa application of different countries, that refused the visa application on one of the provisos that, 'your application does not show what family you have in your country of residence.....' (UKVI 05 / 2821977, 2022) or they claimed that, 'you do not have close economic and family ties in your home country' therefore we are not satisfied that you will return back to your home country...'. Similarly, in the western and English countries the process is relatively complicated and lengthy as compare to Pakistan legal system, in these countries, before filing the case of divorce in the court of family jurisdiction the spouses get separated for minimum six months and after that judicial divorce is proceeded in the court (Citizen Advice, 2019), while this duration is up to one year in Germany (Kostenfreier Erstkontakt – bundesweit und unverbindlich, 2024).

There are myriad of ways to realize the importance of family life even in our culture as well as in cross-cultural practices, the effects of break up between the couples, the consequences and stigma of divorce among the societies in a negative manner are irrefutable. The state departments and social organizations need to play an active role for the safeguard of family lives up to their maximum level. Thus, a qualitative and exploratory research methodology has been applied while writing this article, analysis have been made by making comparison of various domestic laws and local government authorities' by-laws and practices, however, it has been found that there is no consolidated, united and one common integrated system among all local government bodies /UCs with regard to the family laws' implementation and spouses reconciliation process.

Literature Review and Discussion:

There are many other reasons that triggering the divorces cases in Pakistan. In the past decades, a notion of traditional marriages, cultural norms, and practices were playing a vital role to mitigate the divorce cases and to prevent this vibe being spread openly in the society. Due to the social stigma,

that had been leading the brutal consequences of divorces in our male dominancy society, there were only few females who dare to approach the court of law for the adjudication of their khula cases. In this regard, the first case of Khula in the history of Pakistan was contested by Khurshid Bibi on the bases of polygamy and non-payment of maintenance (Khurshid Bibi Vs Muhammad Amin, 1966), which remained the part of discussion among intellectuals and judiciary ever after, that also pave the way for future khula cases. It was also part of practice in the past that, the females were prohibited to get divorce or khula from husband and forced to live their whole life with the same husband even with brutality, coercion or domestic violence. Moreover, because of female illiteracy rate in Pakistan, the females even did not know their basic rights and forced to live the miserable lives as chosen for them by their elder male family members.

Having an overview on females' literacy rate in Pakistan, the United Nations report revealed that, 53% of females under the age of 15 -64 have been reported who did not attend the school in their lives ever, having a comparison with the male of the same age group who is just 33% (United Nations Women, 2023) that they never attended school compared to 33% of males in the same age range. However, over the course of time, multiple advancements took place in the region, the quality education and right of equal education have been given to female. Apart from that, awareness campaigns had initiated regarding the females' fundamental rights to prevent domestic violence that have given the voice to a fear. In the present decade the females are more prudent and vigilant about their rights, therefore they do not accept the violence and torture that presumably has also been leading toward divorce cases.

It is paramount to discuss here that, with the accesses to quality education, the interpersonal skills both in male and females have been polished, which have a more positive impact on personality grooming and cognitive development. However, few researchers correlate the divorce ratio with the level of education earned by the couples. A study revealed that, the divorce ratio is comparatively low in highly qualified persons while it is high in less qualified person (The Center for Divorce Education, 2023). At the same time, another study claims that, highly qualified wives are considered low risk factor of divorce if husband does not have equal or high qualification than wife, while on the other hand highly qualified husband with less qualified wife, is considered a widespread threat to matrimonial bond and the reason of high divorce ratio on graph (DNA English, 2014). However, no research has been conducted on the contribution and efforts initiated by the government departments, social organizations and arbitration councils to resolve the family disputes, or it could be possible that, no successful reconciliation stories between the spouses has been numbered by local UCs.

Another crucial factor of divorce and khula cases is the polygamy which is not acceptable to a female in our region. Polygamy or second marriage is neither prohibited in Islam nor even in Pakistan but as per MFLO it is subject to the permission of first wife or from union council of relevant jurisdiction, whereas, as per the verdict of Holy Quran, a male can marry with four wives at a time if he can do justice and can treat all his wives equally. As per section 06 of Muslim Family Law Ordinance 1961, "no man can contract a second marriage during the subsistence of existing marriage except with the previous permission in writing from the Arbitration Court/ Union Council" (Muqarrab Jahan Begum Vs Sikandar Ali Khan, 1987). There is total 7979 rural union councils in Pakistan as per the record of 2017 apart from Urban councils, village councils and other district level councils. However, these UCs do not share data with each other that make it difficult to trace out the record of existing list of marriages of a person. Thus, as per section 6 of MFLO a wife if aggrieved, may lodge a complaint to UC for her husband's second marriage, after that the UC forwards this complaint to magistrate and the case gets started. It has been seen that, due to the husband's egoistic approach, the chances of divorce to first wife seemingly very high, because husband considers this course of action from his first wife, humiliating, disrespecting and degrading.

Furthermore, there are number of papers and articles talking about khula and divorce cases in Pakistan but no one shedding the lights on the role of union councils, the procedural irregularities being occurred in UCs, lack of one common data system among all UCs in Pakistan and a proper case management system in Pakistan. A study highlights the effective roles of union councils in safeguarding the family relationship in Pakistan, declaring and admitting that UCs are playing significant roles in mediating and reconciliation the family re-unity but the supra mentioned loopholes did not discussed at length (Ghouri, 2023) .

Similarly, author Aamir Latif Bhatti also well-defined the significance of Alternative Disputes Resolution (ADR) and role of Union council in mediation and conciliation between the spouses however, the study did not propose any reforms in the proceedings and procedural conduct of the UCs and incorporation of one common case management system in all Union Councils of Pakistan (Bhatti, 2022).

Significance of the Study

The study is as significant as the family live of an individual which has been deteriorating by spouses' separation and family dissolutions due to many reasons. Through this article an attempt is made to realize the actual reasons of spouse's separations and the importance of state departments to resolve these massive issues.

Statement of the Problem.

The Union councils that come under local government administration play a crucial role for the mediation and reconciliation between the spouses, but in Pakistan the role of union council is not up to the mark, rather a dummy role being played by the authority for the reunification between the spouses, only the procedural requirements are being fulfilled without hitting real efforts in this regard. Similarly, there is no common system of sharing the data of one union council with another one, to check the civil status of an individual, whether his/her marriage is already registered with the particular UC or not. As per MFLO a husband needs to take permission from UC to solemnize second marriage in the presence of subsisting wife, which he can easily get, and if a wife wants to lodge complaint against her husband, the application to magistrate must be proceeded by the Union council. Thus, the union Councils weaknesses, irregularities and lack of data sharing system is another vital reason for dismantlement of family lives which needs to be reformed and implementation.

Reasons of Khula and Divorce Cases:

There are multiple factors that triggering the divorce ratio in Pakistan especially with polygamy marriages that may include, lack of communication between spouses, not paying the maintenance to any of the wives, not creating the equality and justice for all wives, discriminately prioritizing one wife to other, lack of resources, lack of finances and many others. A report revealed that, the divorce rate among polygamous marriages is roughly 55% (Doc Preview, 2019) accusing to lack of communication and lack of fulfilling household financial obligations the main culprits of divorce, meaning thereby, if any of subsisting wife wants to continue her marriage during the subsistence of another wife then she has to make compromises on the very basic necessities of life.

Moreover, a long sitting surfing on internet, use of mobile phones, gadgets and other social medial forums ruining the marital happiness, family culture, norms and an individual life style at a massive level. A survey conducted in China to correlate the true figure of divorce ratio with the use of Mobile phones, data was taken from thirty-one provinces of China from 1990 to 2016 (Social Public Health System and Sustainability, 2018). The results trembled the researchers that how use of mobiles have ruined the modern marriages with the comparison to traditional marriages. The advancement in the IT field, is changing the world positively while on the other hand having negative impact on personal lives as well, however, there is need to create the balance between the two. A house wife is more sensitive about her husband and feels insecure when she sees her husband using mobile phone during family times, because having friendship on social media is leading toward relationship, which ultimately destroys the married life. This tendency of arguments between the spouses related to the use of mobile phone, creates the doubts in the mind of couples that often initiated with minor arguments and ended with divorce, if not resolved timely. However, many believe that, the use of social media and mobile phones, is like a wind that blow away the fidelity by just clicking once on it (Sartaj, 2016). Similarly, the couples that have solemnized the marriages after developing relationship through social media for instance, tik Tok, Instagram, Facebook etc. often ended on divorce due to trust issues and families' undue influences, because families of both the spouses do not accept their relationship and force them to terminate all the ties with each other. A survey has been conducted only in one region i.e. Rawalpindi, Pakistan, with highest number of divorce and khula cases, few are pending in the family courts while few have been reconciled by the efforts of family courts. (The Express Tribune, 2023). In the recent judgement of supreme court it is held that, "in a suit for dissolution of marriage, if reconciliation fails, the family court shall immediately pass a decree for dissolution of marriage ..," (2023 SCMR 1394), it means, the family courts are also bound by law to pass the decree immediately in case of failure of reconciliation.

Another reason of khula or divorce can be associated with our traditional practices to not permitting the highly qualified females for job and professional achievements after the marriage. This can be said that, in our society we all respect our mothers but most of us the male figure is more conscious about their mothers, they do what mothers teach them. Today's mother-in-law treats her daughter-in-law with the old school practices, having the knowledge that her daughter-in-law is highly qualified and competent, knows her basis rights and fights for her right which concludes toward the divorce and khula proceeding ultimately. our traditional mothers try to subdue their children according to their practice and not as per modern era. A traditional mother considers that a degree is just a piece of paper and assume that the responsibility of a female is just to adore her children and look after her husband, while on the other hand, a qualified female is more persuasive to practical and carrier-oriented pathway.

Further to this, a materialist approach from both sides also causing serious damages to matrimonial lives, *'the effect of materialism on compulsive buying tendencies was found higher in females than males and in young adults with divorced families than non-divorced families'* (Balıkcıoğlu, 2019). In present era, social media has undue influence on all age group, the new trendy outfits, gadgets, mobiles phones, famous brands all leading an ordinary person to materialistic world. In this sphere, dramas, movies and literature also plays very crucial and substantial role on our lives. People get more fascinated from visual messages and adapt the way they have perceived irrespective of their own aura, financial circumstances and cultural practices. In this way, if a husband is not able to fulfil all the materialistic demands of his wife the relationship ends with divorce. Further findings disclosed that, *'Pakistani TV dramas' content is changing the cultural values of Pakistani society. These dramas are modernizing and westernizing the lifestyle of Pakistani people'*. What has been promoting through these dramas is luxury life style, affluent and modern vehicles, late night parties, use of alcohol, drugs and unethical stories of romance (others, 2022), that have been changes the entire life style of youngster, at the same time cultural values and norms are also being vanished from the society.

Apart from supra mentioned causes of divorce, a low income and inflation rate can also be correlated with the high rate of divorce on graph. During the Covid-19 pandemic the divorce ratio varied as per the low- and high-income economy worldwide. Research revealed a dramatic increase in divorce rate from January 1, 2019 to 28th. (The Express Tribune, 2023). The causes of divorce ratio are very obvious during the deadly pandemic, there was economic instability, high rate of inflation, and unemployment, contrary to that, the demands and basis needs were the same, apart from the compulsive buying habits. However, the countries which were economically stable, had a different rate of divorce and family formation (National Library of Medicine, 2023).

Another more attention seeking issue, which has always been neglected in our society, is a woman's health. If a female is not physically and mentally fit, she would not be able to perform her matrimonial obligations and other household chores. The emotional divorce gets started soon after the ailment leading to actual divorce. Whereafter, the husband is supposed to get second marriage after divorcing the first wife. An Iowa State University study analyses the divorce rate for couples with a serious illness. It is stated that, if a spouse is too sick that he/she gets unable to work then the divorce occurs might be due to financial stress and others reasons associated with illness (American Sociological Association (ASA), 2015). Another study links the depression directly to divorce, stating that, the depression does not directly link with divorce but the dire consequences get started if depression is not addressed timely, further stated that, no one would say that *"I got divorce because my wife was depressed"* (WebMD, 2009). It is very easy to get rid of sick a person, people generally do not bother to go for the treatment of a depressed persons, it is rather easy to blame them for their mental health. Depression is also an illness that needs proper care and attention, however, in our society, no one bother to address this deadly issue, more often if a husband finds any awkward behaviour changing symptoms or mood swing issue in his wife he beats her, scolds at her rather to listen her. Research shows that *'for depressive disorders, women are more vulnerable that account for 41.9% of cases as compared to male that makes 29.3% cases among men'* (Jamali, 2013). Moreover, in destitute countries the ratio of depression among females also depends on the economic stability, health infrastructure and health management system. Thus, there is a strong link between the depression and divorce/Khula cases, to drop the divorce and khula cases on the graph, the mental

health measurements and treatment, are necessary actions to be taken at the government level with the easy and free access to psychiatric and psychologist for a victim of depression.

Another subjective reason related to high rate of khula and divorce cases is failure of reconciliation on the basis of male egoist approaches. As we know that khula is a right of a female by virtue of which she approaches to family court for the dissolution of her marriage, after filling the case, the court issues the notices to husband and gives the opportunity to spouses for conciliation, at this stage the conciliation normally gets failed by the husband because of his male egoists approach that indulge him to the verge of revenge, apart from his own ego the other family members' negative role also exaggerate the matter to the point of no return.

Moreover, domestic violence is also another reason of khula and divorce cases, to curb the domestic violence and atrocity The Punjab Protection of Women against Violence Act 2016 was introduced, (The Punjab Commission on the Status of Women, 2016). The purpose of this act is to protect the women from domestic violence and forced expulsion from her home. Furthermore, this act has empowered the wife to expel his husband out of the home if he beats him and to force her to leave the house. (The Punjab Commission on the Status of Women, 2016). The purpose of this act has not been achieved ever, because the consequences of the actions taken by wife by exercising this act, were noted to be worsen leading to high ration of divorce.

Apparently, dismantlement of family life revolves around many unpredictable and unwelcomed grounds, every factor is contributing at its own level, for instances, role of society, defiance attitude with the legal system, economic instability, weak government infrastructure, and government's local body flaws in the implementation process of any law, or act.

Laws Related to Marriages & Divorce in Pakistan and its loopholes:

The first and expedient law to deal with marriage and divorce matters in Pakistan, is "Muslim Family Laws Ordinance 1961" (MFLO). This ordinance is applied to Muslims citizen of Pakistan only, irrespective of their temporary residency, with the applicability to whole Pakistan. The objective of this act is to mitigate the swift pronouncements of divorce and unjustified plural marriages (Syed Ali Nawaz Vs Lt. Col Muhammad Yusuf, 1962). However, Section 5 deals with 'Registration of Marriages'. The Ordinance describes the importance and procedure of registration of marriage, as per section 5(1), *'every marriage solemnized under Muslim Law shall be registered in accordance with the provision of this ordinance (M.Mahmood, 2021)'*, whereas, section 5(2) defines that, *'for the purpose of registration of marriage under this ordinance, the Union Council shall grant license to one or more persons, to be called Nikah Registrars, but in no case shall more than one Nikah Registrar be licensed for any one ward'* (M.Mahmood, 2021).

However, the main issue in this ordinance is not the marriage registration process itself but the attention concerning point is, how to check the status of a married person in any union council, because all the data of union council is neither shared with other UCs nor integrated with one database system. One of the enormous objectives of this article is to highlights the poor administrative structures of all union councils in Pakistan. In the era of advance technology, the burden to maintain the data should be based on computer, there should be a proper us of advance technology and all the UCs in Pakistan should be interconnected with one data system like NADRA, Pakistan. The roles played by the relevant union councils are shady and ambiguous with regard to conciliation of couple as well. In the cases of Talaq, Khula or in the cases where husband wants to obtain prior permission from UC for second marriage, the role of UCs is not up to the mark. There are no proper sitting places for a family in the UCs, spouses do not feel comfortable to negotiate their concerns openly, therefor do not come for conciliation on the notice date.

As per the Muslim Family Laws Ordinance 1961 (M.Mahmood, 2021), a marriage must be registered in a relevant union council, which is normally done by every newly married couple, however the record of this marriage registration just persevere to the extent of that relevant union council where the marriage got solemnized, for instance, if someone registered his marriage/Nikah nama in Union Council Lahore after filling the Nikah Nama/Manual Marriage Certificate, the co-wife cannot check her husband's marital status in any other union council of Pakistan, the concealment of marriage become the causes of dissolution of marriage(s) later on if so disclosed to any of wives.

Moreover, after getting the Nikah Nama registered in relevant Union Council the couple may apply to NADRA to obtain Computerized Marriage Registration Certificate (MRC), there they must have to fill out the required form of NADRA and submit it along with the Urdu Nikah Nama, after

attestation from UC, CNIC Copies of bride and bridegroom, and other requirements. Once the Nikah Nama gets registered with NADRA the couple received Marriage Registration Certificate (MRC), this is the only source to check the marital status of a person through NADRA in Pakistan, otherwise no one can check the polygamy of a male if he did registered his Nikha Nama(s) in different UCs, furthermore, he can still avail the option to get his MRC from Nadra after presenting any of the Nikha Namas he prefers so, or declaring any of his wives lawful wedded wife in online NADRA record as per his wish.

Further to add, to save the matrimonial life and to prevent polygamy, section 6(1) of MFLO is incorporated in the MFLO which stipulates that, *'No man, during the subsistence of an existing marriage, shall, except with the previous permission in writing of the Arbitration Council, contract another marriage, nor shall any such marriage contracted without such permission be registered under this Ordinance'*, but as per the survey, no one bother to take the permission from UC to solemnized the second marriage during the subsistence of first wife whatsoever. Apparently, there are several laws in Pakistan that deals with family matters irrespective of their implementational mechanism. In male dominating societies, females are easily subdued by the male, this is the reasons, eventually the husbands neither obey the laws nor obtain the permission from relevant union council for the desire cause. There is a need that the laws should be strictly followed by the individual, that could only be followed due to fear of punishment, as define by the John Austin that law is a command and the *"Law is the command of the sovereign backed by threat of sanction* (Encyclopedia Britannica, n.d.)", meaning thereby, the command could only be sanction if a person fears that he will be punished for the violation of the command. Similarly, there are laws in Pakistan regarding the polygamy but without proper implementation, strict adherence and its associated procedures.

However, section 7(1) of MFLO deals with Talaq which is the right of husband who divorces his wife as per the said section, *'any man who wishes to divorce his wife shall as soon as may be after the pronouncement of talaq in any form whatsoever, give the chairman notice in writing of his having done so, and shall supply a copy thereof to the wife'*, meaning thereby, a notice must be given to Chairman UC and to wife for the strict adherence to this law, however non constitution of Arbitration Council by the chairman UC and non-issuance of notice by the UC to the wife would not invalidate the Talaq pronouncement of her husband (Batool Tahir Vs Province of Sindh, 2004). This implies that the Talaq would be effective in any circumstances whatsoever if not taken back by the husband, but the question is, if the divorce got effective after the pronouncement of Talaq and husband did not submit the notice to UC and to wife in writing, then how he/she can obtain the Divorce Registration Certificate (DRC), after the verbally pronouncement of divorce. Similarly, if he approaches to UC for DRC after a year then what dates of divorce would be considered by the UC if the proceedings would not have been initiated by the UC in the past.

Objectives of the Study

The objective of the study is to propose the government of Pakistan to make the amendments in existing laws, rule, code and conduct with regards to local level union councils, tehsil councils, arbitration council, Municipalities law and etc. To make one common civil documents system where the data of one union council would link to other union council to stop the polygamy in the presence of subsisting wife. Furthermore, there should be a proper conciliation room in the family courts to provide the proper environment for peaceful settlement between the spouses, moreover, a suggestion about the positive role of social media to curtail the materialist approach through TV dramas, talk shows is being sought to safeguard the strong family ties in the society, therefore, it has been highlighted that the aggressive, and unethical contents of TV drama, shows and Movies need to be scrutinized before broadcasting the scripts on TV channels. A least effort has been attempted through this article to make the awareness among the youngsters about sensitivity and importance of family life, therefore, other factors that have been triggering the divorce ratio has also been highlighting in this article for the consideration of the authorities' decisive actions to control the prevalent situation.

Limitations of the Study and research gap.

This article is limited to all the laws related to family courts, the basic purpose of this article is to highlight the reasons of divorce ration and the role of Union Councils, courts, relevant authorities and cultural disappearance. However, not a single article or paper has been found about this particular issue, whereas, the other grounds of separation between the spouses have been found in many other author's works differently. Furthermore, due to lack of online and computerized case management

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system in district courts and local union councils, the exact number of divorce cases filed either in Family Courts or in Union Council cannot be accurately determined, neither the cases of reconciliation and compromises can be evaluated eventually.

Conclusion and Discussion:

In a nut shell, although dilemma of dismantlement of family lives in Pakistan is spreading horribly, that have not been addressing properly with a strong problem-solving mechanism. However, the solutions to stop spreading this panic condition are always present just we need to find them out. People are going far away from culture norms, practices and Islamic way of life, moreover, materialistic thoughts, unfairness in routine matters, and role of advance technology have been subduing the personal life of an individual.

Therefore, at individual level, there is a dire need to understand the family unity, harmony and social values, that could be achieved by conducting the awareness programs using social media tools. However, a leader, a motivational speaker and a counsellor can also play a crucial role in the personality development and realization of actual life achievements. At the same time, government needs to play the role by implementing proper mechanisms for all concern authorities that directly deal with the family issues. Furthermore, one common family case management system needs to be introduced in all the provinces of Pakistan in order to evaluate the number of cases and to have an easy access to the data.

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