

# **Mat'a (Post-Divorce Maintenance) and Women's Rights in Islamic Law: Implementation and Application in Pakistan**

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## **KEYWORDS**

*Islamic Family Law*

*Mat'a (Post-Divorce)*

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## **ABSTRACT**

The concept of *Mat'a* (post-divorce maintenance) in Islamic law establishes crucial financial protections for divorced women, yet its implementation in Pakistan remains severely limited. This study examines the complex interplay between religious doctrine, legal frameworks, and social realities shaping *Mat'a* implementation through a mixed-methods approach combining doctrinal analysis, comparative legal research, and socio-legal investigation. Drawing on primary Islamic sources, contemporary legislation, and judicial precedents from Pakistan and other Muslim-majority jurisdictions, the research reveals significant gaps between Qur'anic principles of justice and their practical application. Analysis of Pakistan's legal framework demonstrates how the silence of the Muslim Family Laws Ordinance 1961 regarding post-divorce maintenance, combined with conservative judicial interpretations and sociocultural barriers, creates substantial protection deficits for divorced women. Comparative analysis of successful reform models from Egypt, Iran, and Malaysia provides insights for potential legislative and institutional reforms. The study proposes a comprehensive framework for integrating *Mat'a* into Pakistan's legal system while addressing practical implementation challenges. These findings contribute to both theoretical understanding of Islamic family law and practical policy development, offering actionable recommendations for aligning Pakistan's legal framework with both religious principles and contemporary human rights standards.

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## **Introduction**

Marriage in Islamic law represents a unique convergence of sacred and civil obligations, embodying both spiritual devotion (*ibadat*) and contractual agreement (*muamalaat*) (Coulson, 1964; Esposito, 1982). Within this framework, the dissolution of marriage through divorce necessitates careful consideration of financial obligations, particularly the provision of post-divorce maintenance (*Mat'a*) to ensure social justice and prevent economic hardship. The Qur'anic concept of *Mat'a* emerges as a crucial mechanism for protecting divorced women's rights, reflecting Islam's broader emphasis on social justice and financial security for vulnerable members of society.

In contemporary Pakistan, the implementation of *Mat'a* faces significant challenges stemming from the complex interaction between religious law, state legislation, and societal norms (Menski, 1998; Shah, 2006). Despite constitutional commitments to gender equality and Islamic principles of justice, the practical application of post-divorce maintenance remains severely limited, primarily restricted to the brief *iddah* period. This limitation reflects broader tensions between classical interpretations of Islamic law and contemporary needs for gender justice in Muslim societies (Ali, 2006; Shahid, 2018).

The situation is particularly critical given Pakistan's socio-economic context, where the absence of comprehensive social welfare systems and prevalent economic dependence of women on male family members creates substantial vulnerability for divorced women. The Muslim Family Laws Ordinance (MFLO) 1961, while addressing various aspects of family law, maintains a conspicuous silence on post-divorce maintenance beyond the iddah period, creating a significant protection deficit for women navigating divorce (Kamran, 2020). This legislative gap, combined with conservative judicial interpretations and sociocultural barriers, has resulted in a system that often fails to provide adequate financial protection for divorced women.

This research examines the complex interplay between religious doctrine, legal frameworks, and social realities shaping the implementation of Mat'a in Pakistan. Through analysis of primary Islamic sources, contemporary legislation, and comparative jurisdictional approaches, this study aims to illuminate the disconnect between Qur'anic principles of justice and their practical application in Pakistan's legal system. The research adopts a pluralistic legal framework, recognizing how multiple normative orders - religious, secular, and customary - influence the interpretation and application of Islamic family law.

The study's comprehensive examination of Mat'a encompasses several crucial dimensions. First, it analyzes the theological and jurisprudential foundations of Mat'a in Islamic law, examining both classical and contemporary interpretations of relevant Qur'anic texts and hadith. Second, it evaluates Pakistan's current legal framework governing post-divorce maintenance, identifying gaps between constitutional principles and practical implementation.

Third, it examines successful models of Mat'a implementation in other Muslim-majority jurisdictions, particularly focusing on legislative and institutional frameworks that effectively protect women's financial rights post-divorce.

This research contributes significant theoretical and practical insights to the field of Islamic family law and women's rights. By examining the complex interplay between religious principles, legal structures, and social realities, it provides valuable guidance for policymakers and practitioners working to reform Pakistan's legal framework. The comparative analysis of successful reform models from other jurisdictions offers practical solutions for enhancing the protection of divorced women's financial rights while respecting Islamic principles and local cultural contexts.

## **Theoretical Framework and Literature Review**

The study of Mat'a in Islamic law necessitates a multifaceted theoretical approach that encompasses religious doctrine, legal theory, and sociological perspectives. This research employs an integrated theoretical framework that combines classical Islamic legal theory (usul al-fiqh) with contemporary approaches to legal pluralism and feminist legal scholarship. This framework enables a comprehensive analysis of both the religious foundations of Mat'a and its practical implementation in modern legal systems.

### ***Islamic Legal Theory and Mat'a***

The theological foundation for Mat'a emerges from the Qur'anic text itself, particularly verses that emphasize justice and financial protection for divorced women. The primary reference appears in Surah Al-Baqarah

(2:241): "For divorced women maintenance should be provided on a reasonable scale. This is a duty on the righteous" (Kamali, 2008). Classical Islamic scholars developed varied interpretations of these verses, reflecting different methodological approaches to deriving legal rules from religious texts. The Hanafi school, predominant in South Asia, generally viewed Mat'a as recommended (*mustahab*) rather than obligatory (*wajib*), a position that has significantly influenced legal development in Pakistan (Doi, 1984).

Contemporary Islamic scholars have increasingly emphasized the need to understand Mat'a within its broader Qur'anic context of social justice and protection of vulnerable members of society. Scholars like Al-Fakhr Al-Razi and Al-Tabari have argued for mandatory Mat'a as a debt owed to divorced wives, challenging traditional restrictions on its scope and duration (Shahid, 2018). This evolving scholarly discourse reflects broader debates about the interpretation of Islamic law in contemporary contexts.

### ***Legal Pluralism and Gender Justice***

The implementation of Mat'a in Pakistan occurs within a complex framework of legal pluralism, where multiple normative orders - including state law, religious law, and customary practices - coexist and interact. This pluralistic legal environment creates both challenges and opportunities for reform. As Menski (2006) argues, understanding these multiple layers of legal authority is crucial for developing effective approaches to Islamic family law reform.

Feminist legal scholars have contributed significant insights to the understanding of Mat'a implementation challenges. They highlight how patriarchal

interpretations of religious texts have often marginalized women's rights and interests in Islamic family law. Ali (2006) demonstrates how male-dominated legal institutions have historically interpreted religious texts in ways that limit women's financial rights post-divorce. This gender-sensitive analysis reveals how social power structures influence legal interpretation and implementation.

### ***Contemporary Legal Frameworks***

Pakistan's legal framework for Mat'a reflects the complex interaction between these theoretical perspectives. The Constitution provides fundamental rights guarantees and commits to Islamic principles, creating potential grounds for reform. However, as Shah (2006) notes, the practical implementation of these constitutional commitments remains limited by conservative judicial interpretations and societal resistance to change.

Comparative legal scholarship reveals diverse approaches to implementing Mat'a across Muslim-majority countries. Egypt's Personal Status Law provides a comprehensive framework for calculating and enforcing post-divorce maintenance, while Malaysia's Islamic Family Law Act offers innovative mechanisms for protecting women's financial rights (Welchman, 2004). These comparative examples demonstrate the possibility of developing modern legal frameworks that honor Islamic principles while meeting contemporary needs.

### ***Empirical Studies and Implementation Challenges***

Recent empirical research has documented significant challenges in Mat'a implementation. Studies by Kamran (2020) and others highlight how limited institutional capacity, societal attitudes, and economic

constraints affect the practical realization of women's post-divorce maintenance rights. These studies emphasize the importance of addressing both legal and social barriers to effective implementation.

## **Methodology**

This study employs a qualitative research methodology to examine the implementation of Mat'a and its impact on women's rights in Pakistan's Islamic legal framework. The research design integrates classical Islamic legal analysis with contemporary socio-legal approaches to understand both the religious foundations of Mat'a and its practical implementation challenges in protecting women's post-divorce rights.

The research primarily draws from three key source categories. First, it examines religious texts and classical Islamic jurisprudence on Mat'a, including the Qur'anic verses, hadith literature, and major works of Islamic jurisprudence, particularly focusing on interpretations of Mat'a as a financial right for divorced women. Second, it analyzes Pakistan's legal framework, including the Constitution, Muslim Family Laws Ordinance 1961, and significant court decisions from Pakistan's superior courts (2000-2023) that have shaped the interpretation and application of Mat'a rights. Third, it incorporates comparative analysis of how other Muslim-majority countries have successfully implemented Mat'a provisions within their legal systems, with particular attention to reforms that have enhanced women's financial rights post-divorce.

To understand implementation challenges and opportunities for reform, the study analyzes academic literature, policy documents, and reports from women's rights

organizations in Pakistan. This analysis focuses particularly on identifying gaps between Islamic principles of financial protection for divorced women and their practical realization within Pakistan's legal system. While the research primarily relies on documentary analysis, it acknowledges limitations in accessing comprehensive data on lower court implementations and informal dispute resolution practices that may affect women's ability to claim their Mat'a rights.

## **Analysis and Discussion**

### ***Religious and Legal Analysis***

The analysis of primary Islamic sources reveals a significant disconnect between Qur'anic principles of financial protection for divorced women and their contemporary implementation in Pakistan. The Qur'anic verses, particularly 2:241 and related texts, establish a clear foundation for post-divorce maintenance as a moral and legal obligation. However, the prevailing interpretation in Pakistan's legal system has substantially narrowed this right, primarily limiting it to the iddah period. This restrictive approach appears to stem not from religious necessity but rather from the historical dominance of conservative Hanafi interpretations in South Asian jurisprudence.

Examination of Pakistan's legislative framework further illuminates this implementation gap. The Muslim Family Laws Ordinance 1961, while progressive in many aspects of family law reform, maintains a conspicuous silence on post-divorce maintenance beyond iddah. This legislative gap creates a significant protection deficit for divorced women, particularly in cases where they lack independent financial means or family support. The absence of explicit

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statutory provisions for Mat'a has allowed conservative judicial interpretations to prevail, despite the existence of more progressive interpretations within Islamic legal tradition.

### ***Judicial Interpretation and Implementation***

Analysis of court decisions from Pakistan's superior courts reveals a consistent pattern of restrictive interpretation regarding Mat'a rights. Cases such as *Inamul Ahsan v. Hussain Bano* (1992) and *Saadia Begum v. Jangreez* (1996) demonstrate the judiciary's reluctance to extend maintenance obligations beyond the iddah period. This judicial approach contrasts sharply with more progressive interpretations adopted in other Muslim-majority jurisdictions, where courts have played a crucial role in expanding and protecting women's financial rights post-divorce.

### ***Institutional and Structural Challenges***

The research identifies several key institutional barriers to effective Mat'a implementation in Pakistan. First, the family court system lacks specialized training in Islamic financial principles and contemporary approaches to gender justice. Second, enforcement mechanisms for maintenance orders remain weak, with limited resources and procedural guidance for ensuring compliance. Third, the absence of standardized calculation methods for Mat'a creates uncertainty and inconsistency in judicial decisions.

### ***Comparative Analysis and Reform Models***

Examination of other Muslim-majority jurisdictions provides valuable insights for potential reform in Pakistan. Egypt's experience demonstrates how comprehensive statutory frameworks can effectively regulate post-divorce maintenance while maintaining

consistency with Islamic principles. The Egyptian Personal Status Law establishes clear criteria for calculating Mat'a based on marriage duration and the husband's financial capacity, providing courts with practical guidelines for implementation.

Malaysia's Islamic Family Law Act offers another instructive model, particularly in its integration of traditional Islamic principles with modern legal mechanisms. The Malaysian system has successfully established dedicated enforcement mechanisms and provides clear procedural guidelines for handling maintenance cases. This approach demonstrates how Islamic family law can be effectively modernized while preserving its essential religious character.

### ***Socio-Cultural Dimensions***

The research reveals significant socio-cultural barriers to Mat'a implementation in Pakistan. Patriarchal social norms continue to influence both legal interpretation and practical application of maintenance rights. These cultural factors often discourage women from seeking their financial rights post-divorce and can affect judicial attitudes toward maintenance claims. Additionally, limited public awareness about Mat'a rights and available legal remedies further compounds implementation challenges.

### ***Findings and Implications***

#### ***Legislative Reform Requirements***

The findings indicate an urgent need for comprehensive legislative reform to strengthen Mat'a implementation in Pakistan. Such reform should explicitly recognize post-divorce maintenance as a distinct right extending beyond the iddah period. Drawing

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from successful models in other jurisdictions, legislation should establish clear calculation guidelines and enforcement mechanisms while maintaining flexibility to account for individual circumstances.

### ***Institutional Strengthening***

The research highlights the necessity of strengthening institutional capacity for implementing Mat'a rights. This includes enhancing judicial training, developing specialized family court divisions, and establishing robust enforcement mechanisms. The experience of other jurisdictions suggests that dedicated institutional frameworks significantly improve the effectiveness of maintenance rights protection.

### ***Social and Cultural Transformation***

The findings emphasize the importance of addressing social and cultural barriers to Mat'a implementation. Public awareness programs, engagement with religious scholars, and community education initiatives are essential components of any comprehensive reform strategy. These efforts should focus on promoting understanding both the religious foundations of Mat'a and its importance in ensuring social justice.

### **Conclusion**

This study demonstrates that effective implementation of Mat'a in Pakistan requires

a comprehensive approach addressing legal, institutional, and sociocultural dimensions. The research reveals significant gaps between Islamic principles of financial protection for divorced women and their practical realization in Pakistan's legal system. However, successful reform models from other Muslim-majority jurisdictions provide valuable guidance for developing effective solutions.

The findings contribute to both theoretical understanding and practical policy development in Islamic family law. They highlight the potential for interpreting religious principles in ways that better protect women's rights while maintaining fidelity to Islamic teachings. The study's recommendations offer a pathway for reform that balances religious authenticity with contemporary needs for gender justice.

Future research should focus on developing detailed implementation frameworks and monitoring mechanisms for Mat'a reforms. Additionally, empirical studies examining the effectiveness of different enforcement approaches would provide valuable insights for policy development. Ultimately, successful reform requires sustained commitment from multiple stakeholders and careful attention to both religious principles and practical implementation challenges.

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