

## Post-Divorce Mata'a (متاع) For Wife

The Hon'able Chairman, Law & Justice Commission of Pakistan received a petition from Mrs. Usman, stating that she has obtained a decree of maintenance against her husband, but he (the husband) threatens to divorce her, if she sought to execute the said decree. The petitioner explained that she is old and issueless, and her husband who has already contracted a second marriage, now wants to get rid of her by divorcing her.

The Chairman desired that the Secretariat of the Commission should examine the issue, particularly the following points:

- (a) Whether that would be a valid "Talaq", if pronounced only to defeat the decree of maintenance;
- (b). Whether there was any need of fresh "Ijtehad" in that regard.

Islam treats "Nikah" as a civil contract between man and woman, subject to payment of "Mehr" (dower) as consideration. The spouses can rescind marriage, when they feel that they cannot discharge their marital obligations (i.e. happy, contented married state full of love/affection for each other) by remaining within the "limits prescribed by Almighty Allah". Islam prefers divorce to be effected; when the marriage union is irrevocably broken down. It has given the right of dissolution of Nikah to both the parties. The husband can effect dissolution of "Nikah" by pronouncing Talaq whereas the wife may invoke such right, if entitled to "delegated divorce" or through a court of law on the basis of "Khula". This is so because Islam does not force on the spouses a life devoid of harmony spouses, mutual respect and happiness. It protects marriage and seeks to preserve marital relationship as far as possible. It also seeks to protect and safeguard the interests of children begotten out of wedlock. Therefore, it provides the "Ahsan" and "Hassan" modes of Talaq, however, any permanent prohibition on the right to divorce is against the liberty/freedom of men and women in such vitally important matters in family life.

By providing the aforesaid modes of Talaq, Islam directs the husband to provide maintenance to wife during Iddat period and not to eject her from his house till the expiry of Iddat period; and also makes it obligatory for the wife to spend such period in her

husband's house. By this, it provides a chance of "Rujoo" (revocation of Talaq) during Iddat. However, the right of rescinding the contract of marriage, by husband is regarded as unqualified.

A wife's right to maintenance payable by husband is not a natural right like that of near relatives who can get the same enforced. It is a contractual obligation, which can be suspended in presence of a decree for "restitution of conjugal rights" against the wife when she refuses to rejoin. Similarly, maintenance may also be denied to her when she refuses to live with her husband without any reasonable cause. The right to maintenance also ceases with the termination of contract of marriage.

It appears that since Talaq is an unqualified right, therefore, a decree of future maintenance may not constitute a bar on the exercise of such right, however, in that eventuality, the wife is entitled, in addition to other rights/privileges, to the payment of a "parting gift" called Mata'a by the husband. So has been ordained by the Holy Quran in several verses. The following verses (with translation by Abdullah Yusuf Ali) may be quoted in support

(٢٣٦) لَا جُنَاحَ عَلَيْكُمْ إِنْ طَلَقْتُمْ النِّسَاءَ مَا لَمْ تَمْسُوهُنَّ أَوْ تَفْرِضُوا لَهُنَّ

فَرِيضَةً وَمَتَعُوهُنَّ عَلَى الْمُوسِعِ قَدَرُهُ مَتَاعًا بِالْمَعْرُوفِ حَقًّا عَلَى

الْمُحْسِنِينَ

*"There is no blame on you if ye divorce women before consummation or the fixation of their dower; but bestow on them (a suitable gift), the wealthy according to his means, and the poor according to his means a gift of a reasonable amount is due from those who wish to do the right things".*  
(II:236)

(٢٣٠) وَالَّذِينَ يُتَوَفَّوْنَ مِنْكُمْ وَيَذَرُونَ أَزْوَاجًا وَصِيَّةً لِأَزْوَاجِهِمْ مَتَاعًا  
إِلَى الْحَوْلِ غَيْرَ إِخْرَاجٍ فَإِنْ خَرَجْنَ فَلَا جُنَاحَ عَلَيْكُمْ فِي مَا فَعَلْنَ فِي  
أَنْفُسِهِنَّ مِنْ مَّعْرُوفٍ

(٢٣١) وَلِلْمُطَلَّقاتِ مَتَاعٌ بِالْمَعْرُوفِ حَقًّا عَلَى الْمُتَّقِينَ

"Those of you who die and leave widows should bequeath for their widows year's maintenance and residence; but if they leave (the residence), there is no blame on you for what they do with themselves, provided it is reasonable. And Allah is Exalted in power, Wise". "For divorced women maintenance (should be provided) on a reasonable (scale). This is a duty on the righteous", (II :240 - 41)

(٢٣٩) يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا نَكَحْتُمُ الْمُؤْمِنَاتِ ثُمَّ  
طَلَقْتُمُوهُنَّ مِنْ قَبْلِ أَنْ تَمْسُوهُنَّ فَمَا لَكُمْ عَلَيْهِنَّ  
مِنْ عِدَّةٍ تَعْتَدُونَهَا فَمَتَّعُوهُنَّ وَسَرَّحُوهُنَّ سَرَاحًا  
جَمِيلًا

"O Ye who believe! When ye marry believing women, and then divorce them before ye have touched them, no period of 'Iddat' have ye to count in respect of them: So give them, a present, and set them free in a handsome manner."(XXXIII-49)

As stated earlier, Islam regards marriage only as a civil contract between spouses who stand on equal footing. However, in terms of obligations, the wife acquires the right of maintenance from husband, both during the subsistence of marriage and period of Iddat, on divorce and widowhood, There are clear and unambiguous Quranic injunctions on that payment of Mata'a, of course in addition to maintenance. Muslim scholars also take the view that the State is the protector/guardian of rights of the subjects, especially of the weak/vulnerable sections of the community; therefore, Islamic commandments can be enforced

through legislation by the court of law. Such commandments cannot be left to the whims and choices of individuals, who may flout them. As regards the quantum of-Mata'a, it may be stated that no fixed amount is prescribed. In the past, different consideration, in cash/kind/services was paid e.g. apparel, maintenance money, residence, servant, etc. Such provisions exist and are enforced in several Muslim countries including Egypt, Turkey, Malaysia, Tunisia, Morocco, Jordan, Brunei-Darussalam, etc.

As regards fixing the quantum of Mata'a, the same may be left for determination by the court of law, in keeping with the financial status of the husband, duration of marriage and circumstances of divorce. Accordingly, appropriate provisions may be enacted and enforced through amendments in the Muslims Family Laws Ordinance, 1961 and WP Family Court Act 1964.

#### Commission's Deliberations

The Pakistan Law Commission in its meeting held on 16 February 1994, considered the draft on the provision of Post Divorce Mata'a to Wife and opined that the draft may be sent to for seeking the opinion of the Council of Islamic Ideology on the subject. The Council in its 134<sup>th</sup> Meeting on 25 November 1998, examined the issue and furnished the following opinion:

متعہ الطلاق سے مراد اگر مطلقہ عورت کے تاحیات نان نفقہ کی ذمہ داری ہے تو اس سلسلے میں شریعت کا موقف بڑا واضح ہے کہ شوہر طلاق کے بعد نطقہ عورت کی نان نفقہ اور رہائش کا ذمہ دار صرف مدت عدت تک ہے۔ عدت کے بعد یہ ذمہ داری اس عورت کے اولیاء (قربابت داروں) کی طرف منتقل ہو جاتی ہے۔ لہذا ایسی کوئی تجویز جس کی رو سے کسی سابق شوہر کو عدت کے بعد مطلقہ عورت کی نان و نفقہ کا ذمہ دار ٹھہرایا جانا مطلوب ہو اسلامی شریعت سے متعارض ہوگی۔ اگر مطلقہ عورت بے وسیلہ اور بے سہارا ہو تو شریعت کے مطابق اس کے اولیاء (قربابت دار) شرعی ترتیب سے اس کے نان و نفقہ کے ذمہ دار ہوں گے جس کی تفصیل اسلامی فقہ میں باب التفات میں بیان کی گئی ہے اور کونسل اپنے ایک سابق اجلاس میں اس کیلئے ایک آرڈیننس فقہ برائے نادار اقرباء کا مسودہ منظور کر چکی ہے۔ (ملاحظہ ہو اسلامی نظریاتی کونسل کی فائل رپورٹ (انگریزی) کا صفحہ نمبر ۲۹۱ اور اردو کا ترجمہ کا صفحہ نمبر ۳۲۱) اور اگر وہ بھی اس کی استطاعت نہ رکھتے ہوں تو شریعت کے مطابق بیت المال اس کے نان و نفقہ کا ذمہ دار ہوگا۔

The Secretariat of the Commission re-examined the issue in the light of Quran, Sunnah and personal laws enacted by a number of Islamic countries. Under the personal laws of some Muslim countries, a divorced wife is entitled to receive, from her former husband, gift/present, what is called Mata'a. This concept is referred to in the several verses of the Quran (11:236, 240-41 and XXXIII:49). Various translators and writers have referred to it as 'parting' gift', 'consolatory gift', 'compensation', 'indemnity', etc. Mata'a is, thus, basically different from maintenance after divorce. In the case of dissolution of an unconsummated marriage contracted without specific Mahr (dower); only Mata'a is payable and no Mahr or maintenance can be claimed. The provision of Mata'a is in vogue in several Islamic States. In some Muslim countries, Mata'a has to be paid, in addition to Mahr and Maintenance. When after the consummation of marriage, a man pronounces Talaq-i-Ta'assuf (arbitrary divorce) against the wife's wishes, which is without any fault on her part, the husband is liable to pay Mata'a according to his financial status. The following examples may be noticed. Tahir Mahmood, a renowned scholar of Islam, reports these examples in his book, Personal Law in Islamic Countries (1987) Academy of Law and Religion, New Delhi.

1. In Egypt, under article 18-A of the Law on Maintenance and Personal Statute 1920, a wife who after consummation of her valid marriage is divorced by the husband without her consent and without any fault on her part shall be entitled, in addition to maintenance, to Mata'a, equivalent to at least two years' maintenance, subject to consideration for financial status of the husband, 'circumstances of the divorce and duration of the marriage between the parties. The husband shall be entitled to pay such Mata'a in installments.
2. In Iraq, under Section VIII of Law on Divorced Wife's Right to Residence 1983, it is provided that a suitable residence should be provided to divorced women by their husbands, subject to certain specified conditions. This law was enforced in Iraq on 8 August 1983 by a decree of the Revolutionary Command Council.
3. In Tunisia, under Section 37(2) of Code of Personal Status 1956, it is stated that as regards the woman to be indemnified for material injury in terms of money,

the same shall be paid to her after the expiry of Iddat and may be in the form of retention of the matrimonial home. This indemnity will be subject to revision, increase or decrease in accordance with the changes in the circumstances of the divorced wife until she is alive or until she changes her marital status by remarrying.

4. In Brunei-Darussalam, under Section 158(3) of the Religious Council State Custom and Kathis Courts Enactment 1955, a relevant provision says,

"A woman who has been divorced and who is not entitled to an order for maintenance under subsection (2) may apply to the court of the Kathi Land that court may, if satisfied that it is just and proper so to do in view of all the circumstances of the case, make an order against the former husband for the payment by him of such sums for such period as the court considers fit; provided that no such order shall require the former husband to pay to his former wife any amount in excess of one hundred dollars per month."

5. In Turkey; under Section 133 of Turkish Civil Code of 1926, there is a provision for payment of compensation to the aggrieved spouse in the cases of divorce, if the facts and circumstances justify it.

In the light of the above precedents, from Muslim countries, it is obvious that when a husband divorces his wife without her consent, and without any fault on her part or without any justification, he shall be liable to pay Mata'a, in addition to the payment of maintenance for the Iddat period. In the circumstances, the Secretariat of the Commission takes the view that the provision of Post-divorce Mata'a for wife is justified, as the same is sanctioned by the Quran and is practiced in several Muslim countries.

The opinion of the Council of Islamic Ideology and, note of the Secretariat of the Pakistan Law Commission, again came up for consideration before the Commission in its meeting on 29 May 1999. The members expressed the view that the Quranic revelations are neither time- nor space-limited, but universal and eternal, therefore, there is always a need for fresh Ijtihad on

current and emergent issues, in keeping with the prevailing conditions of the society. It was further emphasized that Islamic injunctions speak clearly against injustice and discrimination and emphasize upon the need helping and supporting the weak and vulnerable sections of the society. The Commission noted the Council of Islamic Ideology's proposed draft for the maintenance of poor and needy relations by the other members of the family, and in their absence or inability to help, by the State through its Bait-ul-Mal. The Members expressed the view that there might be situations when economic or financial assistance may be desirable for a divorced woman, hence, asked the Secretariat to carry out a more detailed study of the issue of post-divorce Mata'a. They asked for the collection of relevant material, both from within the country and Muslim countries, where such provisions exist. The Members also asked for obtaining the views of scholars of various Islamic schools of thought on the subject, with a view to seeking consensus on the issue.

The Commission in its meeting on 25 - 26 September 1999 again discussed the issue and observed that this provision is recognized and practiced in several Islamic' jurisdictions, and may be considered for introduction in Pakistan, where there is pressing/urgent need for the same. It, therefore, asked the Secretary PLC to obtain relevant material on the subject from Islamic countries and present the same before the Commission.

The Secretariat requested for information/material on the subject from 12 Muslim States namely Algeria, Egypt, Iraq, Syria, Tunisia, Brunei-Darussalam, Iran, Malaysia, Turkey, Sudan, Jordan and Morocco. It received replies from some namely, Egypt, Jordan, and Saudi Arabia. Furthermore, Tahir Mahmood's book entitled Personal Law in Islamic Countries contains elaborate description of the subject including the quantum of and circumstances in which Mata'a is payable. The Secretariat also asked for views/opinion on the issue from scholars of Islam. In response, it has received a write up from Dr Aslam Khakhi, Advocate, and Jurist consult of the Federal Shariat Court. The learned scholar endorses the viewpoint of the Secretariat of the Commission and states that Mata'a being an Islamic obligation can be enforced through legislative enactment. The opinion of the Council of Islamic Ideology on the issue is as under:

## اسلامی نظریاتی کونسل کے ۱۳۴ ویں اجلاس منعقدہ ۲۴ نومبر ۱۹۹۸ء کے فیصلہ جات

مطلقہ بیوی کیلئے خاوند کی طرف سے متعۃ الطلاق کی موجودگی میں وسعت، مقدار اور

حیثیت -

استفسار از لاء کمیشن، موصولہ دسمبر ۱۹۹۳ء

کونسل نے غور و خوض کے بعد اس مسئلہ پر معیشت کمیٹی کے فیصلے سے اتفاق کرتے ہوئے اس کو معمولی رد و بدل کے ساتھ مندرجہ ذیل شکل میں منظور کیا:

متعۃ الطلاق سے مراد اگر مطلقہ عورت کیلئے تاحیات نان و نفقہ کی ذمہ داری ہے تو اس سلسلے میں شریعت کا موقف بڑا واضح ہے کہ شوہر طلاق کے بعد مطلقہ عورت کے نان و نفقہ اور رہائش کا ذمہ دار صرف مدت عدت تک ہے۔ عدت کے بعد یہ ذمہ داری اس عورت کے اولیاء (قربت داروں) کی طرف منتقل ہو جاتی ہے لہذا ایسی کوئی تجویز جس کی رو سے کسی سابق شوہر کو عدت کے بعد مطلقہ عورت کے نان و نفقہ کا ذمہ دار ٹھہرایا جانا مطلوب ہو، اسلامی شریعت سے متعارض ہوگی۔ اگر مطلقہ عورت بے وسیلہ اور بے سہارا ہو تو شریعت کے مطابق اس کے اولیاء (قربت دار) شرعی ترتیب سے اس کے نان و نفقہ کے ذمہ دار ہوں گے جس کی تفصیل اسلامی فقہ میں باب النفقات میں بیان کی گئی ہے اور کونسل اپنے ایک سابق اجلاس میں اس کیلئے ایک آرڈیننس فقہ برائے نادار اقرباء کا مسودہ منظور کر چکی ہے۔ (ملاحظہ ہو اسلامی نظریاتی کونسل کی فائنل رپورٹ (انگریزی) کا صفحہ نمبر ۲۹۱ اور اردو ترجمہ کا صفحہ نمبر ۳۲۱) اور اگر وہ بھی اس کی استطاعت نہ رکھتے ہوں تو شریعت کے مطابق بیت المال اس کے نان و نفقہ کا ذمہ دار ہوگا۔

قانون برائے نادار اقرباء:

(P-291) چونکہ یہ امر قرین مصلحت ہے کہ محتاج رشتہ داروں کی کفالت کیلئے ایک قانون

وضع کیا جائے۔

اور چونکہ صدر مملکت اس امر سے مطمئن ہیں کہ ایسی صورت حال موجود ہے جو فوری اقدام کا

تقاضا کرتی ہے

لہذا صدر مملکت بہ مسرت حسب ذیل قانون وضع اور نافذ کرتے ہیں:

۱۔ مختصر عنوان وسعت اطلاق اور آغاز:

(۱) قانون ہذا محتاج اقرباء کی کفالت کا قانون مجریہ ۱۹۹۷ء کہلائے گا۔

(۲) یہ قانون پورے پاکستان پر لاگو ہوگا اور اس کا اطلاق پاکستان کے جملہ شہریوں پر ہوگا۔

خواہ وہ کہیں بھی رہتے ہوں۔

(۳) قانون ہذا فوری طور پر نافذ العمل ہوگا۔

۲۔ (۱) کوئی شخص الا یہ کہ وہ دماغی یا جسمانی لحاظ سے معذور ہو، حسب

استطاعت اپنے بیٹوں کے بالغ اور بیٹیوں کے نکاح ہو جانے تک نفقہ دینے کا ذمہ دار ہے۔

لیکن شرط یہ ہے کہ اس کے بیٹے طالب علم ہوں یا دماغی یا جسمانی طور پر پانچ ہوں خواہ وہ

بلوغت کی عمر کو پہنچ گئے ہوں، ایسی صورت میں باپ اس وقت تک ان کے نفقہ کا ذمہ دار ہوگا جب تک کہ

وہ تعلیم سے فارغ نہ ہو جائیں یا ان کی معذوری رفع نہ ہو جائے۔

توضیح:

(۱) تعلیم کی مقدار کا تعین لڑکے کی ذہانت اور اہلیت کے پیش نظر باپ کی استطاعت کے مطابق

کیا جائے گا۔

(۲) قطع نظر اس بات کے کہ قانون بلوغت ۱۹۷۵ء میں مقررہ بلوغت کی عمر کیا ہے؟ ضمنی دفعہ

(۱) کے تحت کوئی بچہ جس کی عمر پندرہ سال ہو چکی ہو، بالغ تصور کیا جائے گا۔ تاہم اگر بچے پر آثار

بلوغت پندرہ سال سے پہلے ظاہر ہو جائیں تو اسے پندرہ سال کی عمر پوری کرنے سے پیشتر بالغ سمجھا

جائے گا۔

(۳) باپ اگر بالکل مفلس ہو یا اپنی عام جائے رہائش سے دور ہو اور اولاد کا نفقہ چھوڑ کر نہ گیا ہو تو

اس کی اولاد کا نفقہ بالترتیب ان لوگوں پر واجب ہوگا جو باپ کی غیر موجودگی میں ان کے نفقہ کے ذمہ دار ہوتے۔ تاہم یہ لوگ باپ کی خوشحالی یا واپسی (P-292) کے بعد، جیسی بھی صورت ہو اپنی خرچ کردہ رقم اس سے وصول کرنے کے مستحق ہوں گے۔

(۴) خوشحال اولاد پر اپنے غریب آباؤ اجداد کو نفقہ دینا واجب ہے خواہ وہ کسب معاش پر قادر ہوں۔ لیکن شرط یہ ہے کہ اگر والدین یا اجداد کسی ذہنی یا جسمانی معذوری میں مبتلا ہوں تو اولاد پر ان کا نفقہ واجب ہونے کیلئے ان کا خوشحال ہونا لازمی نہیں، صرف برسر روزگار ہونا کافی ہے۔  
توضیح:

(۱) اس دفعہ میں مستعمل اصطلاح خوشحال سے مراد وہ شخص ہے جو یا تو زکوٰۃ کے نصاب کا مالک ہو یا اس کی ماہانہ آمدنی اس کے خاندان کے ضروری اخراجات سے زیادہ ہو۔

(۲) اگر کسی محتاج شخص کے ایک سے زیادہ بچے ہوں تو وہ سب یعنی لڑکے اور لڑکیاں دونوں باپ کے نفقہ کے برابر ذمہ دار ہوں گے اس پر میراث کے اصول کا لحاظ نہیں رکھا جائے گا۔

(۳) اگر کوئی مرد محتاج ہو اور کسی مزمن مرض، انتہائی پیرانہ سالی یا جسمانی یا ذہنی معذوری کی بناء پر اپنی روزی کمانے پر قادر نہ ہو، یا کوئی عورت جو نادر ہو اور اس کا خاوند، باپ یا اولاد زندہ نہ ہو تو اس کا نفقہ اس کے خوشحال رشتہ داروں پر اسی نسبت سے واجب ہوگا جس نسبت سے وہ اس کی موت کے بعد میراث میں حصہ دار ہوں گے۔

(نوٹ) خوشحال کی اصطلاح سے مراد یہاں بھی وہ جو دفعہ ۴ میں مراد ہے۔

(۴) اگر اپا چچ شخص کا باپ اور اولاد دونوں زندہ ہوں تو اس کے نفقہ کی ذمہ داری اولاد پر ہوگی۔

(۵) اختلاف مذہب کی صورت میں فرد پر صرف زوجہ، آباؤ اجداد اور اولاد کا نفقہ ہوتا ہے، دیگر رشتہ داروں کا نہیں، خواہ وہ نادر ہوں۔

(۶) کوئی شخص نفقہ کا مستحق نہیں ہوگا اگر وہ اپنی روزی آپ کمانے کے ذرائع رکھتا ہو ماسوائے

زوجہ کے جس کا نفقہ شوہر پر واجب ہے خواہ وہ اپنی آمدنی کا الگ ذریعہ رکھتی ہو۔

(۷) نفقہ کے مفہوم میں غذا، لباس اور رہائش شامل ہے۔ نفقہ کا تعین کرتے وقت عدالت

حسب ذیل امور کو پیش نظر رکھے گی:

(۱) نفقہ دینے کی استطاعت

(۲) نفقہ پانے والے کی استطاعت

(۳) مصارف زندگی اور معاشرے کے معاشی و اقتصادی حالات۔

(۸) اگر کوئی شخص قانون ہذا کے تحت نفقہ کا مستحق ہو، تو وہ قانون عدالت ہائے عائلی مجریہ ۱۹۶۳ء

(The Family Court Act, 1964) کے تحت دعویٰ دائر کر سکتا ہے اور مذکورہ قانون کی

دفعات جہاں تک اطلاق پذیر ہوں، اس مقدمہ پر لاگو ہوں گی۔

(۹) صوبائی حکومت سرکاری گزٹ میں اعلان کے ذریعے آرڈیننس ہذا کے مقاصد کو پورا کرنے

کیلئے قواعد و ضوابط وضع کر سکتی ہے۔

**Commission's Deliberations on 18.04.2009**

The Law and Justice Commission in its meeting on 18 April, 2009 discussed the working paper "Post Divorce Mata'a for Wife". The Secretary, LJCP explained the proposed amendment in the light of principles laid down in the Holy Quran. The Chairman observed that maintenance ordered by the Indian Supreme Court in Shah Bano case the Muslim community objected the decision and subsequently the same was set-aside by an Act of the Parliament, however, by another judgment of the Court it was made permissible.

The Attorney General for Pakistan observed that Pakistan is being criticized all over the world for violation of human rights and supported the proposal by contending that it will rise the image of the country in the world community and suggesting that the Mata'a may be made responsible for payment. He also proposed that Mata'a may also be made permissible to the wife on her separation by Khula or by Muba'rat. The Chairman observed that in case of Khula the dissolution of marriage if takes place by return of marriage benefits given to the wife, the court may order not to return a certain part of benefit to the husband as a Mata'a keeping in view the period of wedlock of the spouse. Prof. Jawwad S. Khwaja stated that he had asked the students and members of his law department in the Lahore University of Management Sciences for research material on the subject but as there was meeting as scheduled on short notice, therefore, could not consult and as such shown his inability to dilate upon the issue. He desired that the Agenda of the meeting shall be sent to the members at least three weeks before the scheduled meeting and members be asked to submit their feedback at least one week before the meeting for placing before the Commission. The Commission agreed with the proposal. Mr. Sardar Khan advocate observed that the present Nikah Nama Form may contain a column in this regard and an amount shall be fixed for the purpose at the time of Nikah. Mrs Anis Haroon, Chairperson, NCSW observed that the National Commission on the Status of Women have had services of consultants and experts and the proposal concerning to rights of the women may be sent to NCSW for getting their input. The Chairman observed that it is a time to revisit the provisions of Muslim Family Laws Ordinance promulgated 50 years ago to address the changing needs of the society in the light of

injunctions of Islam. Finding consensus amongst the members upon the proposal, the Chairman further observed that no time limit or period may be specified for Mata'a and an interim Mata'a may also be awarded like the interim maintenance as provided by the Law. The Chairman added that the proposed amendment in the law seems beneficial to the women. The Commission members approved the draft Bill as under.

WHEREAS it is expedient further to amend the Muslim Family Laws Ordinance, 1981 (Act VIII of 1981) for the purpose to provide financial assistance in the form of Mata'a to the divorced wife.

It is hereby enacted as follows:

Short title and commencement: This Act may be called the Muslim Family Laws (Amendment) Act 2009. It shall come into force at once.

2. Amendment in Section - 2, Ordinance of 1981. in the said Ordinance, in sub section (2), after clause (b), a new clause (bb) shall be added, namely:

(bb) Mata'a means a fair provision in kindness by the husband according to his means and includes anything in cash or kind either moveable or immovable.

3. Addition of a new Section 9-A, Ordinance 1981 (Act VIII of 1981). In the said Ordinance, after Section-8, a new Section-9-A, shall be added, namely:

"9-A Mata'a. - When the marriage is dissolved under Section 7 or Section 8, other than Khula or Mubarat, the wife shall be entitled to Mata'a by the husband."

STATEMENT OF OBJECTS AND REASONS

The Bill seeks to amend the Ordinance 1981 (Act VIII of 1981) to entitle a divorced wife to Mata'a by the husband to save her from destitution as ordained by Holy Quran.

MUSLIM FAMILY LAWS (AMENDMENT) ACT 2009

An

Act

further to amend the Muslim Family Laws Ordinance 1961  
 WHEREAS it is expedient further to amend the Muslim Family Laws Ordinance, 1961 (Act VIII of 1961) for the purpose to provide financial assistance in the form of Mata'a to the divorced wife.

It is hereby enacted as follows:

**Short title and commencement:** This Act may be called the Muslim Family Laws (Amendment) Act 2009 It shall come into force at once.

2- **Amendment in Section - 2, Ordinance of 1961.** In the said Ordinance, in sub section (2), after clause (b), a new clause (bb) shall be added, namely:

“(bb) Mata'a means a fair provision in kindness by the husband according to his means and includes anything in cash or kind either moveable or immovable.”

3- **Addition of a new Section 9-A, Ordinance 1961 (Act VIII of 1961).** In the said Ordinance, after Section-9, a new Section 9-A, shall be added, namely:

“9-A Mata'a. - Where the marriage is dissolved under Section 7 or Section 8, other than Khula or Mubbarat, the wife shall be entitled to Mata'a by the husband”.

STATEMENT OF OBJECTS AND REASONS

The Bill seeks to amend the Ordinance 1961 (Act VIII of 1961) to entitle a divorced wife to Mata'a by the husband to save her from destitution as ordained by Holy Quran.

THE WEST PAKISTAN FAMILY COURTS (AMENDMENT)  
ACT, 2009

An  
Act

further to amend the West Pakistan Family Courts Act, 1964

WHEREAS it is expedient further to amend the West Pakistan Family Courts Act, 1964 (XXXV of 1964) for the expeditious settlement and disposal of claim relating to Mata'a by the divorced wife;

It is hereby enacted as follows:

1. **Short title and commencement:** (1) This Act may be called the West Pakistan Family Courts (Amendment) Act 2009; (2) It shall come into force at once.
2. **Amendment in Schedule, Act No XXXV of 1964.** –In the said Act, in the Schedule after Clause 9, a new clause 10, shall be added, namely, 10 "Mata'a"

STATEMENT OF OBJECTS AND REASONS

The Bill seeks to amend the Act XXXV of 1964 to empower the Family Courts to determine the amount of "Mata'a claimed by the divorced wife from her husband which is his bounded duty as ordained by the Holy Quran: