

## THE LAW OF "KHUL" IN PAKISTAN

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### ABSTRACT

The purpose of this paper has been to analyse one of the rights available to a Muslim woman regarding repudiation of her marriage. The right is termed as "Khul". The importance of this right considerably increased after the courts in Pakistan conceded that "incompatibility of temperament provides a ground for "Khul", divorce. The preliminary page contains Quranic injunctions regarding both men and women as far as their family rights are concerned. Thereafter, the development in the Muslim Family Law in Pakistan, i.e. The Marriage Commission and the Muslim Family Laws Ordinance 1961, with particular reference to the right of Khul divorce has been elaborated. Before dealing with the courts departure from the traditional Islamic law of Khul divorce, the traditional law has been explained fully highlighting the differences among the schools. In order to appreciate the drastic change in this law, cases have been discussed in proper sequence, viz. in 1952 in Syeedah Khanum the court refuses to recognize "incompatibility of temperament, as the sole basis for Khul divorce. In 1959 in Balquis Fatima case, a break through is made and the court recognizes that incompatibility of temperament does provide a ground for Khul divorce. After that another court case of 1967, i.e. Khurshid Bibi case, has also been considered putting a seal of affirmation on the new law. Then some other cases have also been described dealing with issues regarding Khul divorce. Finally, in an exhaustive conclusion an effort has been made to analyse the capability of the Pakistani judiciary to exercise Ijtihad.