

THE SHARIAH COURT OF SINGAPORE AND ITS CONTROL OF THE DIVORCE RATE

Professor Anderson states: ¹ “ There can, I think, be no doubt that it is the Islamic law of divorce — not polygamy — which is the major cause of suffering to Muslim women. It is true that there are parts of the Muslim world where divorce is commendably rare; but elsewhere it is appallingly common. The Muslim wife indeed has always lived, so far as the law is concerned, under the ever-present shadow of divorce, a shadow mitigated only in comparatively rare cases by certain precautionary devices. It is true that the unjustified repudiation of an unoffending wife is regarded by the jurists as a sin; but it is nonetheless held to be legally effective.”

At least until the setting up of the Shariah Court,² Singapore provided an example of an area of the Muslim world where divorce was very common. For several decades up to 1958, divorce had been so frequent that annually for every hundred Muslim marriages taking place there were about fifty divorces.

Judith Djamour³ gave as two of the factors congruent with this divorce frequency, firstly, that the law facilitated divorce and general morality tolerated it, and, secondly, that the economic deterrents to divorce were not strong enough.

Before the Shariah Court came into operation, the administration of the Muslim law of marriage and divorce⁴ was in the hands of the

1. J. N. D. Anderson, *Islamic Law in the Modern World*, London, 1959 at pp. 51-52.
2. Shariah is the term used to describe the Muslim law. The Shariah Court in Singapore is constituted under section 20 of the Muslims Ordinance, 1957, by *Gazette* Notification S 292 of 1958 with effect from the 24th November, 1958. It is presided over by a President and has jurisdiction to hear and determine all actions and proceedings in which the parties are Muslims and which involve disputes relating to marriage, divorce, betrothal, nullity of marriage and judicial separation. It has power to make orders for maintenance and payment of *maskahwin* (or dower) and *mata'ah* (or compensation). See notes (39) and (40) *infra*.
3. Judith Djamour, *Malay Kinship and Marriage in Singapore*, London, 1959 at p. 139.
4. For a summary of the Muslim law of marriage and divorce in Singapore see the article by Inche Ahmad Ibrahim on *Muslim Marriage and Divorce in Singapore* in [1962] 31 M.L.J. p. xl.

kathis.⁵ They were appointed by the Government but were not paid any salary. Their income came from the fees received for the registration of Muslim marriages and divorces.⁶ The view of the law which was accepted and applied was that a Muslim need not give any reasons for divorcing his wife. Actually, the divorce was not granted by the *kathi* but merely registered by him after it had been pronounced by the husband. While in theory divorce is abhorred and not to be encouraged and therefore the *kathis* should advise persons seeking a divorce to settle their differences, very few *kathis* in fact followed this line of action. Moreover, while the *Shafii* school of law⁷ allows a *kathi* to pronounce the judicial divorce of *fasakh*⁸ in the rare cases of desertion and inability to maintain by the husband and, while the Muslims Ordinance⁹ required the *kathi* to hold a judicial inquiry before granting such a divorce, in actual practice some *kathis* did grant divorces of *fasakh* with the minimum of inquiry and the least attempt at reconciliation. Lastly, the frequent use of *taalik*¹⁰ condition in the marriage agreement

5. *Kathi* (from Arabic *Qadi*) is the name of a judge of the Shariah law. In Malaya however the term is used for the official who solemnises Muslim marriages and registers Muslim marriages and divorces. In Singapore *kathis* are appointed by the Yang di-Pertuan Negara (the Head of State) and have the powers of Deputy Registrars of Muslim Marriages.
6. With the exception, since 1959, of the *Chief Kathi* and one *kathi*, the *kathis* in Singapore are not paid any salary but they are allowed to collect and retain the prescribed fees for the registration of marriages and divorces. The present fee for registering marriage or divorce in Singapore is \$15.00. The *kathis* in Singapore have lost much of their judicial functions; these have been transferred to the Shariah Court.
7. Muslim law was developed in a number of schools of law founded by Muslim jurists. The four *Sunni* or orthodox schools of law are the *Maliki* school founded by Malik bin Anas, the *Hanafi* school founded by Abu Hanifa, the *Shafii* school founded by Al-Shafii and the *Hanbali* school founded by Ahmad bin Hanbal. Most of the Malays follow the *Shafii* school. The four *Sunni* schools are regarded as equally orthodox and authoritative. The orthodox Muslims follow one or other of these schools.
8. *Fasakh* means the annulment or rescission of a contract. In regard to marriage the word means the annulment of a marriage by a judicial decree. The grounds for *fasakh* are very limited under the *Shafii* school of law and, for example, in the case of failure to maintain limits it to the case where the husband has no means to maintain the wife. The power to decree a divorce of *fasakh* in Singapore is now given only to the Shariah Court.
9. Chapter 46 of the Revised Edition. This has been repeated by the Muslims Ordinance, 1957 (No. 25 of 1957).
10. *Taalik* means a condition in an agreement, for example, in the marriage agreement. It is usual in Malaya for the bridegroom to make a *taalik* at the time of marriage which would effect a divorce on a failure to fulfil the condition. The usual *taalik* in Singapore is to the following effect: "If I should fail to maintain my wife for three months or more or if I treat her with cruelty and if she makes a complaint to the Court and proves it then she is divorced by one *talak*". The conditional divorce (*cherai taalik*) may now be registered in Singapore only by the Shariah Court.

enabled the *kathis* to grant divorces on allegations of failure to maintain or of cruelty not always preceded by a judicial inquiry. Even if a *kathi* refused to register a divorce it was always possible for the party to go to another *kathi* who would be willing to register that divorce. Undoubtedly, the lax administration of Muslim law and the absence of any attempt towards reconciliation were the main causes for the high rate of divorces in Singapore.

This situation caused a great deal of concern among the members of the Muslim Advisory Board¹¹ in Singapore and a few women's organisations such as the Young Women's Muslim Association.¹² Concrete steps were not taken however until November, 1951, when the Board¹³ supported in principle the setting up of *kathi's* courts and formed a sub-committee to examine the matter and put up a suggestion for amending the legislation.¹⁴ It speaks well for the sub-committee that, while including three *kathis*, it produced a report which recommended the restriction of the power of the *kathis* and the setting up of a *Kathi's* Court.

The Board's suggestions were forwarded to the Government which asked for further details of the proposals, including any amendments in the law which the Board might have considered necessary. The Board went to work and submitted a draft Bill based on the legislation already in force in Selangor and Kelantan.¹⁵ While however the legislation in Selangor and Kelantan provided for the setting up of *Kathi's Courts* to be presided over by *kathis*, the draft Bill of Singapore provided for the setting up of a Shariah Court to be presided over by a legally trained

11. The members of the Muslim Advisory Board are appointed by the Yang di-Pertuan Negara. They have no statutory functions but advise the Government and the Muslims on matters relating to the Muslim religion and Muslim law.
12. An organization of Muslim women of various racial groups which has taken an active interest in Muslim affairs since 1953.
13. At the suggestion of Shaik Fathlollah Suhaimi, a religious teacher and *imam*.
14. The Sub-Committee consisted of Inche Ahmad bin Mohamed Ibrahim, Mr. M. J. Namazie, Tuan Shaik Fathlollah Suhaimi, Tuan Haji Jubir bin Mohamed Amin, Tuan Haji Ali bin Haji Mohamed Said Salleh, Tuan Syed Abdullah bin Shaik Belfageh, Dr. B. A. Mallal and Tuan Shaik Hussein Khatib. Inche Ahmad bin Mohamed Ibrahim and Mr. M. J. Namazie were then lawyers, Haji Jubir, Haji Ali and Shaik Hussain Khatib were *kathis*, Shaik Fathlollah Suhaimi and Syed Abdullah Belfageh were religious teachers and Dr. B. A. Mallal was a law publisher.
15. The Selangor Administration of Muslim Law Enactment, 1952 (No. 3 of 1952) and the Kelantan Council of Religion and Malay Custom and Kathis Courts Enactment, 1953 (No. 1 of 1953).

Muslim. The draft Bill further differed from the precedents in the Federation of Malaya by providing that *kathis* could only register a divorce when both spouses consent to it, while all other cases of divorce should be adjudicated in the Shariah Court.

Despite the urgency of these suggestions no immediate action was taken. The matter was, however, pressed in the Legislative Council by Inche Ahmad bin Mohamed Ibrahim.¹⁶

The Colonial Secretary replied that he would look into the matter.¹⁷ In the meanwhile the Department of Social Welfare was attending to complaints in marital disputes involving persons of the Muslim faith and, for a time, such complaints were heard and dealt with in that Department, sometimes with the advice of *kathis*. This effort by the Department did not, however, meet with the approval of the Muslim Advisory Board.¹⁸ A number of letters of protest were forwarded to the Government. As a result of this action a meeting was arranged between the Director of Social Welfare and representatives of the Muslim Advisory Board.¹⁹ At that meeting it was agreed that the Government should appoint two Muslim Conciliation Officers to deal with disputes between Muslim husbands and wives and, it was also agreed²⁰ that one of the two Conciliation Officers should be a Muslim woman.

16. In an adjournment speech, on the 20th July, 1954, Inche Ahmad bin Mohamed Ibrahim, who was at the time a member of the Legislative Council, stated:—

“Muslim leaders in Singapore have viewed with concern the high percentage of divorces in relation to Muslim marriages and the Muslim Advisory Board has examined the problem with care. As a result of this examination the Muslim Advisory Board has come to the conclusion that it is necessary to have *Kathi Courts* in Singapore, as they feel that it is only with the constitution of such courts that divorces can be judicially controlled.

There are *Kathi Courts* in the Malay States but none in Singapore and, at present, matters of Muslim marriage and divorce are dealt with by individual *kathis* who are, to a large extent, unfettered by any control or rules. The Muslim Advisory Board has suggested amendments to the Muslim Ordinance so that *Kathi Courts* can be established in Singapore and these were sent to the Government some time ago. So far Government has not moved in the matter.

The subject is a matter of grave and pressing concern to Muslims in Singapore and I hope that Government will not delay the introduction of the necessary amending legislation.”

17. Proceedings of the Second Legislative Council, Colony of Singapore, 4th Session, 1954-1955, p. B207.
18. The Muslim Advisory Board thought that the non-Muslim officials of the Department of Social Welfare might not appreciate the requirements of Muslim law and custom.
19. Inche Abu Bakar bin Pawanchee who was then the Secretary of the Muslim Advisory Board and Inche Ahmad bin Mohamed Ibrahim.
20. At the suggestion of Inche Ahmad bin Mohamed Ibrahim.

The urgency of a reform, on the lines of the report, was demonstrated by the following case which came before the Muslim Advisory Board. Early in 1954 one Ismail bin Kader complained to the Muslim Advisory Board that in his own divorce case the *kathi* had applied an erroneous divorce procedure. The Board appointed a Sub-Committee²¹ to look into the matter. The facts elicited at the inquiry were so alarming that the report of the sub-committee was cyclo-styled and copies were immediately sent to the Government. It appeared that the husband had obtained an order of *nusus*²² against the wife in a *Kathi's Court* in Kluang, Johore, but she had come to Singapore and obtained a divorce from the *Chief Kathi*²³ in Singapore although she was resident in Kluang, Johore. The marriage had been performed in Singapore but the parties had resided in Kluang and it was arguable whether the Singapore *kathis* had any jurisdiction²⁴ in such a case. The *Chief Kathi*, however, had dealt with the matter. The divorce was granted on the strength of *taalik*²⁵ condition which appeared in the copy of the divorce certificate given to the wife, but which was in fact not on the original divorce certificate. The *Chief Kathi* sent a letter to the husband at an address given by the wife, but this was not his proper address and the husband had, therefore, been unable to attend the inquiry. The report clearly showed that the *kathis* concerned had been lax in the administration of the law.

This report and the persistence of the Muslim Advisory Board finally induced the Government to take action and it agreed to introduce legislation to provide for the setting up of the Shariah Court. The Bill to this effect—the Muslims Bill—was introduced in the Legislative Assembly on the 21st November, 1955. A controversy arose over one clause of the Bill in which provision was made for the law relating to

21. The Sub-Committee consisted of Inche Ahmad bin Mohamed Ibrahim, Tuan Syed Abdullah Belfageh, Tuan Shaikh Mohamed Shazli Osman and Inche Mohamed Sidek bin Haji Abdul Hamid. Tuan Shaikh Mohamed Shazli Osman and Tuan Syed Abdullah Belfageh were religious teachers. Inche Mohamed Sidek was a retired Government servant, who later became a member of the Legislative Assembly.
22. An order of *nusus* (recalcitrancy) can be made against a wife if she unreasonably refuses to live with her husband. The effect is that the husband is freed from the duty to maintain her and she cannot obtain a divorce for failure to maintain.
23. *Chief Kathi* is the title of the senior *kathi* in Singapore. In 1954 he had the same powers and duties as the other *kathis*. The present *Chief Kathi*, however, is specially so appointed under the Muslims Ordinance, 1957, and has special powers and duties in addition to those of a *kathi*. See note (32) below.
24. Section 18 of the Muslims Ordinance (Chapter 46) in effect provided that a *kathi* may receive an application for *fasakh* from a married woman who has been resident for at least four months in Singapore. See now section 32 of the Muslims Ordinance, 1957.
25. See note (10) above.

Muslim wills²⁶ and the bill was referred to a Select Committee. The session of the Assembly was, however, adjourned before the Select Committee could make its report²⁷ and the bill therefore lapsed. It was re-introduced in October, 1956. A compromise clause on the question of Muslim Wills was drafted²⁸ and accepted. The Muslims Ordinance became law on the 30th August, 1957²⁹ and has been in operation since the 24th November, 1958.

The Muslim Ordinance, 1957, constituted a Shariah Court to be presided over by the Registrar of Muslim Marriages or such other Muslim as the Yang di-Pertuan Negara may appoint. Section 12(3) of the Ordinance provides that a *kathi* shall not register any divorce unless he is satisfied that both the husband and wife have consented thereto. The Muslim Marriage and Divorce Rules, 1959,³⁰ provide that both parties shall apply on the prescribed form for the registration of the divorce by mutual consent and both parties are required to swear the statutory declaration supporting the application and to sign the register of divorce. All other cases of divorce, that is, other than those by mutual consent, are heard and determined by the Shariah Court. The Shariah Court is a properly constituted court with prescribed rules of procedure. Advocates and solicitors are entitled to appear before the Court and there is an appeal from the Shariah Court to an Appeal Board constituted from a panel of Muslims. The important effect of the Ordinance is that a divorce, which is not a divorce by consent, can only be granted and registered by the Shariah Court.³¹

26. The law applicable to the making of wills by Muslims in Singapore was the English law, under which a person is free to dispose of his property as he likes. Under Muslim law, however, the claims of the family of the deceased could not be superseded and two-thirds of the property of the deceased must be distributed between the wife and children or other near relatives. A person could only dispose of one-third of his property by will. The Muslim Advisory Board wished the Muslim law to apply to cases of testacy as it had already been made applicable to cases of intestacy but this proposal was opposed by some Muslim lawyers and businessmen, who said that the proposal interfered with the freedom of a person to do what he liked with his property.
27. On behalf of the Muslim Advisory Board evidence was given before this committee by Inche Ahmad bin Mohamed Ibrahim and Mr. M. J. Namazie.
28. Section 41 of the Muslims Ordinance, 1957. This follows the provisions of the English Inheritance (Family Provision) Act, 1937. It enables any person who is entitled to share in the estate of the deceased according to Muslim law to apply to court to vary the will of the deceased to make provision for his share. The section was drafted with the assistance of Mr. Inche Ahmad bin Mohamed Ibrahim, who was at that time acting as Legal Draftsman to the Government.
29. Ordinance No. 25 of 1957.
30. *Gazette* Notification No. S. 239 of 1959.
31. This was a major achievement. In this respect the Muslims Ordinance, 1957, differed from and went further than the legislation in Selangor and Kelantan, on which it was based.

The enactment of the legislation was an achievement but putting it into operation had its difficulties, such as, for instance, the appointment of the Registrar of Muslim Marriages and the President of the Shariah Court. When the post was advertised it was stipulated that the applicant should not only have a knowledge of Muslim law but also a knowledge of the English language and of the law of evidence and procedure. Eventually, it was decided to make a temporary appointment. The person appointed was Inche Mohamed Taha bin Fathlollah Suhaimi and the Shariah Court was constituted on November 24th, 1958. The first President had a difficult task in the early years of the Shariah Court. He had a skeleton staff of one clerk and one office boy. He found it difficult to break the influence of the *kathis* since it took some time for the Muslims to understand the purpose of the Court in safeguarding their rights.

In June, 1959, the Shariah Court, which had functioned under the administrative control of the Chief Secretary, came under the Ministry of Labour and Law and under the direct supervision of the State Advocate-General and Permanent Secretary (Law). Steps were taken to improve the application of Muslim law by the Shariah Court. Three new posts were created, namely, that of *Chief Kathi*,³² *Kathi* and a Woman Muslim Social Case Worker, all to be public officers paid by the Government. The subordinate staff of the Court was also augmented by the appointment of two general clerical assistants, a typist and a process server. The post of *Chief Kathi* was filled by Tuan Haji Ali bin Haji Mohamed Said Salleh, who for many years had already been accepted as *Chief Kathi*. Tuan Haji Sanusi bin Mohamed was appointed a *kathi* on the 11th December, 1959, but only acted as *kathi* for a short period for he was appointed to succeed Inche Mohamed Taha bin Fathlollah Suhaimi as Registrar of Muslim Marriages and President of the Shariah Court with effect from 1st February, 1960.³³ He brought learning and respect to the post, and, what is significant, he was able to encourage a new outlook and introduce a new sense of purpose into the work of the Shariah Court. By so doing he was not only able to administer Muslim law with firmness and authority, but was able to influence the *kathis* into following a new approach to the question of Muslim divorce. In this he was assisted and supported by the new officers in the Shariah Court. On

32. The post of *Chief Kathi* in Singapore was provided for in the Muslims Ordinance, 1957. In addition to his powers as a *kathi*, the *Chief Kathi* was given the exclusive powers of solemnising a marriage where a woman has no guardian for marriage or where the guardian for marriage unreasonably refuses his consent to a marriage. By the Muslims (Amendment) Ordinance, 1960, (No. 40 of 1960), the *Chief Kathi* was also given the exclusive power to give permission for the solemnization of a marriage by a man who has already a wife or wives living.
33. Tuan Haji Sanusi had studied Muslim law and theology in Egypt and Mecca and was a graduate of Al-Azhar University.

the 24th August, 1960, Tuan Haji Salleh bin Haji Mohamed Piah,³⁴ was appointed *kathi* and on the 20th September, 1960, the Woman Muslim Social Case Worker was appointed. On the 1st January, 1961, Tuan Haji Salleh bin Haji Mohamed Piah succeeded Tuan Haji Ali as Acting *Chief Kathi* and on the 7th March, 1961, Tuan Haji Ismail bin Ibrahim³⁵ was appointed a *kathi*. With the appointment of the Muslim Social Case Worker it was possible to proceed with conciliation work in the Shariah Court and gradually the Muslim public came to understand and accept the work of the Court.

The number of cases dealt with by the Conciliation Officers in the Court in the three months of 1960 was only 63 but this number rose to a total of 827 cases in 1961. The success of the conciliation work led to the introduction of legislation in the Muslims (Amendment) Ordinance, 1960,³⁶ which enabled the Shariah Court, before making an order for divorce, to refer the applicants to conciliation preceding the hearing of the case.

Conciliation became the principal means by which the Shariah Court and its officers have been able to reduce the number of divorces in Singapore. In practice the President of the Court refers every application for divorce to the Social Case Worker or to the *kathis* of the Shariah Court for investigation and conciliation. Often the mere fact that the parties are given time to reflect and think about the matter and to talk about their differences to someone who is prepared to advise them causes them to change their minds about a divorce. In other cases the officers of the Shariah Court endeavour, by persuasion and advice, to ease or remove the causes of friction. Where the husband, however, is determined to end the marriage, there is not much that the Shariah Court can do. If the wife does not consent to the divorce, the husband will have to apply to the Shariah Court. If the husband has already pronounced a divorce before two witnesses, then the Shariah Court must ascertain that this has been done in accordance with the Muslim law. The application of the husband will be adjourned for hearing. On the date of the trial the husband and his witnesses will have to give evidence of the fact of divorce and will be subject to cross-examination by the wife. The President of the Shariah Court can still endeavour, before or during the hearing,³⁷ to resolve the differences between the parties and thereby persuade the husband to revoke his repudiation of the wife. If the President of the Shariah Court is unable to do so, he will register the

34. An Al-Azhar graduate from Kedah.

35. Another Al-Azhar graduate.

36. No. 40 of 1960. This came into force on the 27th May, 1960.

37. In 1961 nine cases were so reconciled. Annual Reports of the Registry of Muslim Marriages, Singapore, for 1960 and 1961.

divorce but will ensure that the wife is provided for in accordance with the Muslim law in the way of maintenance and compensation. If when he applies to the Shariah Court the husband has not pronounced a divorce, then the Shariah Court will postpone the application for trial and will hear the evidence of the husband and of the wife before deciding the matter. Every effort is made to effect a reconciliation between the parties and the President has power to appoint arbitrators to assist him for this purpose. While therefore the Shariah Court cannot refuse a divorce, where the spouses or the husband insist on such a divorce, the Court makes every effort to prevent a break-up of the marriage. The success of these efforts is shown by the fact that in 1961, 457 cases of marital disputes were successfully reconciled.

The Shariah Court was actually able to check the high rate of divorce among Muslims in Singapore. This is shown by the steady lowering of the divorce rate, that is the rate relating the number of divorces granted during a year to the number of marriages taking place during the same year as shown in the Table below:—³⁸

TABLE

Divorce Rate

1957	...	51.7%
1958	...	49.2%
1959	...	36.8%
1960	...	26.9%
1961	...	21.8%

Although much has been achieved, there is little justification for any complacency. The divorce rate of 21.8% is still high and it is still necessary to say that Muslim marriages in Singapore are unstable. The primary cause of the high rate of divorce is perhaps that *kathis* outside the Shariah Court are still permitted to register divorces. It is true that the *kathis* can only register a divorce with the consent of both parties to the marriage. It is, nevertheless, possible for pressure to be put on the wife to consent to the divorce. An attempt has been made to meet this by prescribing the use of application forms which have to be signed by both parties. There have been complaints, however, that some women have been misled into signing the forms against their will. Moreover, it appears that only little effective effort towards conciliation has been

38. Singapore Annual Report, 1960; Annual Reports of the Registry of Muslim Marriages, Singapore, for 1960 and 1961.

made by the *kathis*. The figures of divorce still show that some *kathis* are more prone to register divorces than others. It might therefore be advisable to confine the power to register divorces to *kathis* of the Shariah Court.

Another remaining cause for divorce frequency is that economic deterrents are not strong enough. In this respect the *Muslims Ordinance*, 1957, and the *Muslims (Amendment) Ordinance*, 1960, provide the legislative framework which enables the Shariah Court to make orders for the payment of *maskahwin*,³⁹ maintenance and for the payment of compensation or *mata'ah*.⁴⁰ Unfortunately, the amounts so far awarded for maintenance and for *mata'ah* are too small for making the economic deterrent effective. A connected factor is the amount of *maskahwin*, which is fixed at too low a rate, the normal amount being \$22.50. The husband suffers little hardship in having to pay this amount on divorce, if he has not already paid it at the time of the marriage. If the example of countries like Egypt, India and Pakistan were to be followed, where a large sum of money is provided as deferred *maskahwin* to be paid on divorce, it would be a more effective deterrent to divorce. Moreover, with a rise in the amount of *maskahwin* there might also be a rise in the amount of compensation ordered as *mata'ah*. However in the matter of maintenance orders the Shariah Court has now been given increased powers. Maintenance orders made by the Shariah Court may be enforced by the making of attachment of earnings orders.⁴¹

Another major difficulty in checking the divorce rate has been created by persons who, when unable to get divorce registered in Singapore, go to one of the States in the Federation of Malaya and get the divorce registered there. The State Advocate-General⁴² has raised this question with the Presidents of the Religious Departments in the States of the Federation of Malaya and so far agreement has been reached with Johore, Malacca and Selangor. The net result is that the *kathis* in Johore, Malacca and Selangor will not, without reference to the Shariah Court in Singapore, register a divorce to which one or both parties are residents of Singapore.⁴³

39. *Maskahwin* is the term used in Malaya for the Arabic *mahr* or dower of the Muslim law. It is a present made by the bridegroom to the bride at the time of the marriage.

40. *Mata'ah* is the compensation recommended to be paid to the wife on her divorce.

41. Attachment of earnings orders may be made under Part VIII of the Women's Charter, 1961. The effect of the order is that maintenance ordered by the court will be paid by the employer from the earnings of the husband.

42. Who is also the Permanent Secretary responsible for the administration of the Shariah Court.

43. The other States have not yet agreed to such an arrangement.

The legislative provisions so far introduced in the Muslims Ordinance, 1957, and the Muslims (Amendment) Ordinance, 1960, deal more with the administration of the law than with the law itself. It will, however, be necessary to consider the reforms in the law which have been introduced in the Arab countries and Pakistan and to see how far they can be adopted in Singapore. In the Arab countries and in Pakistan it has been provided that the triple divorce, when pronounced in a single formula, as for example, "I divorce you with three *talaks*"⁴⁴ or at one and the same occasion as "I divorce you, I divorce you, I divorce you" shall count only as a single and revocable divorce.⁴⁵ This reform, if adopted in Singapore, would also incidentally make it unnecessary to resort to the device of the "*China buta*"⁴⁶ and lead to its abolition. There are also other possible reforms. For instance, a formula of repudiation uttered under the influence of intoxication or intimidation could be made ineffective; a formula pronounced in such a fit of rage as temporarily to deprive the husband of his reason could also be made ineffective; a formula of divorce uttered as an oath or threat could be made effective only if the husband really so intended; and a divorce pronounced while the wife is pregnant could be automatically revoked or postponed until the wife gave birth.⁴⁷ These reforms if accepted would make the work of the Shariah Court definitely more effective. Some provision should also be made to allow a wife to claim a judicial divorce on the grounds, as in the Arab countries, India and Pakistan, that her husband cannot or will not support her; that he is afflicted with some disease which makes married life dangerous; that he has deserted her without legal justification for at least a year; or that he treats her in a way that makes married life intolerable to her.⁴⁸ These may appear

44. *Talak* is the repudiation by the husband of his wife. It is usual to pronounce only one *talak* which has the effect of a revocable divorce. Where the *talak* has been pronounced three times, the divorce ceases to be revocable and the parties are further prevented from re-marrying again with each other, except after the wife has been validly married to another man and has been divorced by him after consummation of the marriage. Where the divorce is revocable the husband can revoke the divorce and take back the wife by the procedure known as *rojo*'.
45. See J. N. D. Anderson, *Islamic Law in the Modern World*, London, 1959 at p. 56 and the Muslim Family Law Ordinance, 1961, of Pakistan.
46. *China Buta*, the derisive term used for the Arabic "*muhallil*" or person who agrees to marry a woman with the promise to divorce her after consummation of the marriage, so as to enable her to remarry her former husband, who has divorced her for the third time. Although allowed the device is regarded as sinful.
47. See J. N. D. Anderson, *Islamic Law in the Modern World*, London, 1959 at pp. 55-56 and the Muslim Family Law Ordinance, 1961, of Pakistan.
48. See J. N. D. Anderson, *Islamic Law in the Modern World*, London, 1959 at p. 54; and the *Dissolution of Marriages Act*, 1939, of India which applies also in Pakistan. Fyzee, *Outlines of Muhammadan Law*, Oxford, 1955, p. 145f.

to be measures for increasing the divorce rate but, if they are coupled with the abolition of *taalik*, which has been criticised in Indonesia,⁴⁹ and is not popular with Indians and Pakistanis in Singapore, it might not in fact increase the divorce rate, while, at the same time, they would safeguard the legitimate rights of Muslim women.

Finally, it is hoped that coupled with a reform in the law there will be a change in the attitude of Muslims towards divorce. Divorce is said to be the most hated of permitted acts and if the general morality of society would condemn divorce instead of tolerating it, then the divorce rate would assuredly fall still further. In the stability of the family lies the strength and future of our society and in so far as the Shariah Court has helped to make Muslim marriages in Singapore more stable, it has undoubtedly justified the hopes and aspirations of those who urged its setting-up.⁵⁰

M. SIRAJ (MRS.) . *

49. See H. Sulaiman Rasjid, *Fiqh Islam*, Djakarta, 6th Edition, 1961 at pp. 393-394.

50. The efforts in Singapore have achieved success to some extent and have not been without influence in the Malay States. Selangor, for example, has adopted an administrative procedure to check divorces which follows the Singapore scheme. When Begum Rahimtoola, a well-known woman leader in Pakistan, visited the Shariah Court in 1961, she was given information on the working of the court which may have helped in the enactment of the *Muslim Family Law Ordinance*, 1961, Pakistan.

* Woman Social Case Worker, Shariah Court.