

SINGAPORE¹

OVERVIEW OF MUSLIM FAMILY LAWS & PRACTICES

(Updated as at 16 August 2022)

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
<p>Equality of spouses in marriage</p> <p><i>Is there a Constitutional provision on equality and are there exceptions? Are there specific laws that recognise marriage as a partnership of equals i.e. are family laws and/or other laws relating to marriage and family relations codified or uncodified? If codified, what are the titles of all the applicable laws? If codified, do these laws apply to all citizens irrespective of religion? If not, do</i></p>	<p>Article 12 of the Constitution guarantees equal protection of all before and of the law on the basis of religion, race, descent or place of birth.² Gender equality is not specifically mentioned.</p> <p>Article 12(3) of the Constitution allows for different personal laws based on religious belief.³</p> <p>With the exception of Singapore's Muslim minority</p>	<p>Cases relating to marriage and family relations of Singapore's non-Muslim majority population are adjudicated by the Family Justice Courts. The Civil Courts have repeatedly characterised civil marriages as involving an equal partnership of efforts by both</p>	<p>Singapore acceded to CEDAW in 1995 having made several reservations¹⁷ based on Singapore's multi-racial and multi-religious society, including of articles 2, paragraphs (a) to (f), and article 16,</p>		<p>According to the 2019 Human Development Index (HDI) Singapore ranked 9th and had the same ranking for the 2019 Gender Inequality Index (GII)¹⁹ Compared to the previous 2015, Singapore thus lost ranking in the overall Development Index but increased its ranking on the Gender Inequality Index.²⁰</p>

¹ This table was originally formulated as part of a 2016-2017 Musawah project to map Muslim Family Laws globally led by Zainah Anwar and coordinated by Lead Researcher Sharmila Sharma, with substantive support from Salma Waheedi and students at the International Human Rights Clinic, Harvard Law School. For this Singapore country table, we would also like to thank Halijah Mohamad for her inputs in its preparation. This table was last updated in [August 2022] as part of the Campaign for Justice in Muslim Family Laws, we would like to thank Assoc. Prof. Dr. Kerstin Steiner for the recent update.

² Article 12 of Singapore's Constitution (1963), <https://sso.agc.gov.sg/Act/CONS1963>

³ Article 12(3) of Singapore's Constitution (1963), <https://sso.agc.gov.sg/Act/CONS1963> Ahmad Nizam bin Abbas, "The Islamic Legal System in Singapore", (Pacific Rim Law & Policy Journal, 21:1, 2012), p. 163.

¹⁷ United Nations Treaty Collection Website, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsq_no=IV-8&chapter=4&clang=en Singapore has withdrawn its earlier reservation to Article 11 and partially withdrew its reservations to Articles 2 and 16. Partial reservations to Articles 2 and 16 are retained to protect the rights of minorities in the practice of their personal and religious law. In particular, this allows the operation of Muslim law.

¹⁹ United Nation Development Program, Human Development Reports <https://hdr.undp.org/system/files/documents/hdr2019pdf.pdf>. In the previous compilation (2016), Brunei was ranked 30 for the UNDP Human Development Index with no ranking for the UNDP Gender Inequality Index.

²⁰ UNDP, "Human Development Report 2016", Table 5, pp. 214-217, http://hdr.undp.org/sites/default/files/2016_human_development_report.pdf

<p><i>these laws apply to all Muslims or are there different codified laws for different sects within Islam? If uncodified, or if codified laws do not sufficiently address a particular issue, how is the issue addressed e.g. what Muslim school of law is applicable? Do these laws explicitly state gender-stereotypical roles between husbands and wives e.g. the husband is the head of the household or the wife is the primary caregiver?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(c) Paras. 17-18 GR21 Paras. 54-55 GR29</p>	<p>community, marriage and family relations of all communities in Singapore regardless of religion are governed by the Women’s Charter which exclusively recognise civil marriages.⁴ Section 46 of the Women’s Charter states that upon solemnisation of their marriage, a husband and wife will be mutually bound to cooperate with each other in safeguarding the interests of the marriage and in caring and providing for the children; they will also have equal rights in the running of the matrimonial household.⁵</p> <p>For Muslims and Islamic law, the Administration of Muslim Law Act (AMLA)⁶ is the main codified law that governs matters in the administration of Islam. In short, AMLA could be described as the ‘one stop shop’⁷ for law for Muslims in Singapore providing both</p>	<p>spouses and referred to marital union as “marital enterprise”. For instance, in NK v NL, the court said that “marriage is an equal cooperative partnership of efforts and the entire process involves mutual respect for both spousal contributions.”</p> <p>Generally, cases relating to marriage and family relations of Singapore’s Muslim minority community are adjudicated by the <i>Shari’ah</i> courts. However, parties to a Muslim marriage may opt to allow for the application of civil law and commence civil proceedings in the Family Justice Courts</p>	<p>paragraphs 1(a), 1(c), 1(h), and article 16, paragraph 2, arguing that compliance with these provisions would be contrary to Singapore’s religious or personal laws.</p> <p>In its 6th CEDAW Periodic Review Report in 2021, Singapore noted that it ‘continues to build an environment where both men and women are equally empowered to achieve their potential and</p>	<p>According to the Singapore Ministry of Social and Family Development, in 2015, about 25% of households in Singapore were headed by women (1990: 17%).²¹ This concept of ‘Head of Household’ was criticised in the Concluding Observations to Singapore’s 5th periodic review and was abolished in 2020.²²</p>
---	---	--	---	---

⁴ Women’s Charter (1961), <https://sso.agc.gov.sg/Act/WC1961>

⁵ Sections 46 of the Women’s Charter (1961), <https://sso.agc.gov.sg/Act/WC1961>

⁶ Administration of Muslim Law Act (1966), <https://sso.agc.gov.sg/Act/AMLA1966?ProvIds=pr35-&ViewType=Within&Phrase=nullification&WiAI=1>

⁷ Kerstin Steiner, 'Branding Islam: Islam, Law and Bureaucracies in Southeast Asia' (2018) 37(1) *Journal of Current Southeast Asian Affairs* 27.

²¹ Ministry of Social and Family Development, “Singapore’s Demographic: Heads of Households”, <https://www.msf.gov.sg/research-and-data/Research-and-Statistics/Pages/Singapore-Demographic-Heads-of-Households.aspx>

²² Singapore State Part Report, UN Doc CEDAW/C/SGP/6, para. 60, https://digitallibrary.un.org/record/3959356Singaporehttps://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=3&CountryID=157

	<p>procedural rules and limited substantive rules for the Muslim minority community in Singapore most of whom are Sunni and belong to the Shafi'i school of thought.⁸</p> <p>Yet a preference for a particular school of thought, is unlike in neighbouring Southeast Asian countries, not codified in AMLA. AMLA has provisions for the Majlis Ugama Islam Singapura (Islamic Religious Council of Singapore or MUIS) and its legal committee to 'ordinarily follow the tenets of the Shafi'i school of law'⁹ while such an explicit reference is missing for the Syariah courts which generally appear to avoid discussion of the different classical schools of legal thought.¹⁰</p>	<p>with regard to: (i) children (custody, care & control and access); and (ii) disposition or division of property on divorce.</p> <p>In addition, maintenance of the wife and children are heard in the Family Justice Court.¹²</p> <p>Case law suggests that when deciding on matters regarding marriage and family relations, judges tend to draw on a number of sources to justify their ruling. These include:</p> <p>(i) the practice and procedure</p>	<p>career aspirations.¹⁸</p>		
--	--	--	---	--	--

⁸ Singapore Census of Population 2020, Statistical Release 1: Demographic Characteristics, Education, Language and Religion, https://www.singstat.gov.sg/publications/reference/cop2020/cop2020-sr1/census20_stat_release1 Ahmad Nizam bin Abbas, "The Islamic Legal System in Singapore", (Pacific Rim Law & Policy Journal, 21:1, 2012), p. 163

⁹ Section 33 Administration of Muslim Law Act (1966), <https://sso.agc.gov.sg/Act/AMLA1966?ProvlDs=pr35-&ViewType=Within&Phrase=nullification&WiAl=1>

¹⁰ In a study covering 50 cases on matters of divorce spanning 30 years from 1976 to 2006, selected from the Syariah Court, the Appeal Board, and a few High Court decisions by Lindsey and Steiner, only one out of 50 cases made explicit mention of a particular maddhab. T. Lindsey and K. Steiner, *Islam, Law and the State in Singapore* (London: I.B.Tauris, 2012), p. 210

¹² Sections 16-17A of the Supreme Court of Judicature Act, <https://sso.agc.gov.sg/Act/SCJA1969>; Sections 34-35A of the Administration of Muslim Law Act (1966), <https://sso.agc.gov.sg/Act/AMLA1966?ProvlDs=pr35-&ViewType=Within&Phrase=nullification&WiAl=1>

¹⁸ Singapore State Part Report, UN Doc CEDAW/C/SGP/6, para. 3, <https://digitalibrary.un.org/record/3959356Singapore> https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=3&CountryID=157

	<p>However, section 35(3) AMLA allows for the Syariah Courts to apply 'Muslim law, as varied where applicable by Malay custom' as the law to be applied. This opens the door for the so-called Anglo-Malay maddhab in former British colonies in Southeast Asia to be used.</p> <p>This notion of an colonial Anglo-Malay maddhab is also present in section 114 AMLA which lists rather 'archaic' authoritative Muslim texts that the <i>Shari'ah</i> court may refer to when deciding a matter relating to succession and inheritance.¹¹</p>	<p>applicable in civil proceedings where appropriate.</p> <p>There appears to be a divide between the two courts—the lower Syariah Court and the Syariah Appeal Board. The Appeal Board, writing mostly in English, refers more often to AMLA and uses Islamic principles to support legislative interpretation. The case of <i>Aminah binte Abdullah v Mohahd Rais bin Ra</i>^{13j} illustrates this point. Here the Appeal Board referred to statute and Islamic law criticising the subordinate Syariah Court for not</p>			
--	---	--	--	--	--

¹¹ These authoritative texts concern Muslim law on succession and inheritance, some of which are texts from British India dating from the 19th to the 20th centuries. In general, the relevance and suitability of these sources for contemporary Singapore are highly questionable, but this has not been brought up yet in discussions of reforming AMLA. Kerstin Steiner, "Comparative Law in Syariah Courts: A Case Study of Singapore, Malaysia and Brunei", in *Comparative Law before the Courts*, eds Mads Adenas and Duncan Fairgrieve, (Oxford: Oxford University Press, 2015), p.599 . In the survey covering 50 cases on matters of divorce spanning 30 years from 1976 to 2006, selected from the Syariah Court, the Appeal Board, and a few High Court decisions conducted by Lindsey and Steiner, only two cases referred to texts listed in section 114 AMLA; both cases were from the 1980s, T. Lindsey and K. Steiner, *Islam, Law and the State in Singapore* (London: I.B.Tauris, 2012)

¹³ *Aminah binte Abdullah v Mohahd Rais bin Rai*, Appeal Case No. 15/1987.

		<p>adhering to the principles of fair hearing and the right to be heard. The decision started by acknowledging that this issue was 'quite familiar to common law practitioners but uncharacteristically still new turf to Syariah lawyers'; and</p> <p>(ii) laws and procedures on specific issues such as maintenance and custody used in religious courts from other countries, particularly Malaysia as provided by in section 35(3) AMLA.</p> <p>The case of <i>Zainoon binte Ibrahim v Mohamed Zain bin Ismail</i>¹⁴ illustrates this point. In this case, it was held for the first time that the principle of <i>harta sepencarian</i></p>			
--	--	--	--	--	--

¹⁴ Zainoon v Mohamed Zain [1981] 2 MLJ 111.

		<p>(matrimonial property, jointly acquired property during marriage) was applicable in independent Singapore departing from previous historical precedents, who did not allow for this principle to be applied.</p> <p>Using section 35(3) AMLA, reference was made to Malaysian cases including <i>Roberts alias Kamarulzaman v Umme Kalthom</i>¹⁵ and <i>Mohamed v Commissioner of Lands and Mines, Terengganu & Anor</i>¹⁶. The court held that, while these cases were not binding, they are highly persuasive. Furthermore, it was argued that Malay custom in Singapore is Adat Temenggong, which 'is much the</p>			
--	--	--	--	--	--

¹⁵ Roberts alias Kamarulzaman v Umme Kalthom [1965] 3 LNS 1, [1966] 1 MLJ 163.

¹⁶ Mohamed v Commissioner of Lands and Mines, Terengganu & Anor [1968] 1 LNS81, [1968] 1 MLJ 227.

		same as that found in the States of Malaya', thus allowing for the principle of <i>harta sepencarian</i> to be applied.			
<p>Minimum and equal legal age for marriage</p> <p><i>Is there a minimum age of marriage? Are there exceptions to the minimum age (e.g. min. age at 18, with exceptions to 16)? Is there an absolute minimum age without exceptions? Is there equality in the minimum age of marriage? Does the minimum age of marriage match the age of majority? Is there a minimum age verification process before the marriage is concluded?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(2) Paras. 36-39 GR21</p>	<p>Under the Women's Charter the minimum legal age for civil marriage is 18 years unless a special licence has been obtained.²³ A similar framework can be found in the case for Muslim marriages where the minimum age for the spouses is 18 years²⁴ with the exception that in special circumstances a marriage of a girl who is below 18 years but has attained puberty can take place.²⁵</p>	<p>A kadi only authorises the marriage of a girl below 18 under special circumstances.</p>	<p>The Government has developed several initiatives in regard to addressing the issue of minor marriages.</p> <p>Since 2017, mandatory marriage preparation programs have been established for both, civil²⁶ and Muslim marriages.²⁷ Participation in this program is</p>	<p>An application to solemnise a marriage must be made to the Registry of Muslim Marriages (ROMM). Photocopies of identity cards or passports must be submitted where the age of both parties are verified.²⁹</p> <p>Pursuant to Section 133</p>	<p>Minor marriages, that is marriages where one spouse is below 21 years has been declining over the years and in the case of</p> <ul style="list-style-type: none"> ○ civil marriages falling below 1 percent for the first time in 2021 (0.3 % for grooms and 0.3% for brides).³¹ ○ Muslim marriages, it is still above the rate for civil marriages at 2.5 percent in 2022 (0.8% for grooms and 2.3% for brides).³²

²³ Sections 9 and 21 Women's Charter (1961), <https://sso.agc.gov.sg/Act/WC1961>

²⁴ Section 96(4) Administration of Muslim Law Act (1966), <https://sso.agc.gov.sg/Act/AMLA1966?ProvIds=pr35-&ViewType=Within&Phrase=nullification&WiAl=1>

²⁵ Section 96(5) Administration of Muslim Law Act (1966), <https://sso.agc.gov.sg/Act/AMLA1966?ProvIds=pr35-&ViewType=Within&Phrase=nullification&WiAl=1>

²⁶ Sections 17A and 180 Women's Charter (1961) , <https://sso.agc.gov.sg/Act/WC1961>

²⁷ Sections 94A and 145 Administration of Muslim Law Act (1966), <https://sso.agc.gov.sg/Act/AMLA1966?ProvIds=pr35-&ViewType=Within&Phrase=nullification&WiAl=1> and rule 3A Muslim Marriage and Divorce Rules, <https://sso.agc.gov.sg/SL/3-R1?DocDate=20110829.&ProvIds=P11I-#pr5->

²⁹ Attend an Appointment with ROMM <https://www.marriage.gov.sg/muslim/marriage-process/book-and-attend-appointment>

³¹ Statistics on Marriage and Divorces 2021, <https://www.singstat.gov.sg/-/media/files/publications/population/smd2021.ashx>

³² Statistics on Marriage and Divorces 2021, <https://www.singstat.gov.sg/-/media/files/publications/population/smd2021.ashx>

			required if a person is below 18 years of age or even if one party to the marriage is between 18-20 years old. Previously there was only the voluntary education programs that the Singaporean government in collaboration with the Malay Muslim organisations had offered. ²⁸	AMLA the unlawful solemnisation and registration of a marriage is an offence. ³⁰	
<p>Women’s consent to marriage</p> <p><i>Is a marriage valid without the woman’s consent? Is the practice of forcing women to marry against their will (ijbar) prohibited? Is there a standard marriage contract? If so, what are its broad provisions and is there anything particular in the contract that ought to be highlighted on the</i></p>	<p>Regardless of her age, a prospective bride requires the consent of a marital guardian (<i>wali</i>) to enter into marriage.³³ A <i>kadi</i> may act as guardian in the absence of a <i>wali</i>. In addition, if the guardian of a prospective bride opposes the marriage on grounds that the <i>kadi</i> considers to be unreasonable, the <i>kadi</i> may</p>			Registration of Muslim marriages in Singapore falls under the purview of the Registry for Muslim Marriages (ROMM). The procedure for	There is a standardised marriage contract. The marriage contract is known as the <i>taklik</i> . It is in written form and the standard clauses are printed in the marriage certificate. ⁴⁰ The <i>taklik</i> is usually read out by the groom during the solemnisation of the marriage.

²⁸ For details on the background to these initiatives and the development leading to it, see Tim Lindsey and Kerstin Steiner, “Islam, Law and the State in Southeast Asia: Singapore”, (New York, NY: I.B. Tauris, Vol. II, 2012), Chapter 4.

³⁰ Section 133 of the Administration of Muslim Law Act (1966), <https://sso.agc.gov.sg/Act/AMLA1966?ProvlDs=pr35-&ViewType=Within&Phrase=nullification&WiAI=1>

³³ Section 95 Administration of Muslim Law Act (1966), <https://sso.agc.gov.sg/Act/AMLA1966?ProvlDs=pr35-&ViewType=Within&Phrase=nullification&WiAI=1>

⁴⁰ Information obtained from Singapore advocate, April 2017.

<p><i>basis that it advances women's rights or otherwise? Is it mandatory to register a marriage?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(b) Paras. 15-16 GR21 Paras. 25-26, 33-34 GR29</p>	<p>solemnise the marriage.³⁴</p> <p>Muslims may marry non-Muslims. The marital union is a civil marriage and falls under the purview of Women's Charter.³⁵</p>			<p>registration of marriages is further detailed in the Muslim Marriage and Divorce Rules³⁶ and also simplified for public understanding on the website of the ROMM.³⁷</p> <p>ROMM for instance is responsible for checking the required documentation and they have to declare that both are willing to be married.³⁸</p> <p>Upon registration of a marriage, the</p>	<p>A breach of one or more of the conditions in the <i>taklik</i> may give rise to a wife's entitlement to seek a divorce under <i>cerai taklik</i>.⁴¹</p>
--	--	--	--	---	---

³⁴ Section 95(3) Administration of Muslim Law Act (1966), <https://sso.agc.gov.sg/Act/AMLA1966?ProvIds=pr35-&ViewType=Within&Phrase=nullification&WiAI=1>

³⁵ Section 3(4) Women's Charter (1961), <https://sso.agc.gov.sg/Act/WC1961>

³⁶ Muslim Marriage and Divorce Rules, <https://sso.agc.gov.sg/SL/3-R1?DocDate=20110829.&ProvIds=P11I-#top>

³⁷ Muslim Marriage Process, <https://www.marriage.gov.sg/muslim/marriage-process>

³⁸ Muslim Marriage Process, <https://www.marriage.gov.sg/muslim/marriage-process/book-and-attend-appointment>

⁴¹ Section 48 Administration of Muslim Law Act (1966), <https://sso.agc.gov.sg/Act/AMLA1966?ProvIds=pr35-&ViewType=Within&Phrase=nullification&WiAI=1>

				<i>kadi</i> will provide a copy of the marriage certificate to both spouses. ³⁹	
<p>Women’s capacity to enter into marriage</p> <p><i>Is consent of a marital guardian (wali) required? If so, can a woman choose her own wali? Can a woman go before a court or other competent authority to seek permission to marry if her wali refuses to consent to her marriage? Can a woman negotiate her martial rights prior to marriage and can these rights be changed during marriage? If so, who can change these rights and under what circumstances e.g. mutual consent?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(a), 16(1)(b) Paras. 15-16 GR21 Para. 34 GR29</p>	<p>Prospective brides and grooms over 20 do not require the consent of a guardian to enter into marriage. Prospective brides and grooms below 20 require the consent of their guardian and mother or judge to enter into marriage.</p> <p>Article 9 of the PSC provides that both females and males have the right to conclude their marriage by themselves or through their proxies.⁴²</p> <p>Article 6 of the PSC provides that the marriage of a minor is subject to the consent of his or her guardian and mother. If the guardian or mother refuses consent, the minor may seek the authorisation of a judge to get married.⁴³</p>	<p>Reported cases show that the <i>kadi</i> and Appeal Board generally do not accept the <i>wali</i>’s grounds for refusing consent e.g. groom is from a different race or lower social and economic background. For instance, in <i>Re Abu Samah bin Md Dros</i>⁴⁵ the father’s reasons for refusing his consent – the groom’s family did not know Muslim law as well as the groom had placed the bride under a spell and had confined her in their home – were found to</p>	<p>The Government of Singapore has continuously reiterated that although AMLA requires a woman to have a <i>wali</i> for her marriage, the marriage may be solemnised by a <i>kadi</i> if the <i>kadi</i> considers that the grounds on which the <i>wali</i> refuses to consent to the marriage are unsatisfactory.⁴⁶ ROMM has incorporated the right of the woman to be heard with regard to the <i>wali</i></p>	<p>The application for a <i>kadi</i> to be the <i>wali</i> must be made to the ROMM. The decision made by the <i>kadi</i> either to allow or disallow the application is appealable to the Appeal Board.⁴⁸</p>	

³⁹ Section 108 of the Administration of Muslim Law Act (1966), <https://sso.agc.gov.sg/Act/AMLA1966?ProvIds=pr35-&ViewType=Within&Phrase=nullification&WiAI=1>

⁴² Article 9 of the Personal Status Code (1956), <http://www.legislation.tn/sites/default/files/codes/Statutpersonnel.pdf>

⁴³ Article 6 of the Personal Status Code (1956), <http://www.legislation.tn/sites/default/files/codes/Statutpersonnel.pdf>

⁴⁵ *Re Abu Samah bin Md Dros* [1990] 5 SSAR 31.

⁴⁶ Singapore State Party Report, U.N. Doc. CEDAW/C/SGP/6 (2021), para. 224, <https://digitallibrary.un.org/record/3959356?Singapore>

⁴⁸ Rule 4 Muslim Marriage and Divorce Rules, <https://sso.agc.gov.sg/SL/3-R1?DocDate=20110829.&ProvIds=P11I-#top>

	Pursuant to Article 11 of the PSC, both spouses may stipulate any condition relating to persons or property in their marriage contract. The failure to meet these conditions allows either spouse to seek divorce. ⁴⁴	be unsubstantiated and rejected. The marriage was allowed to proceed with the <i>kadi</i> acting as <i>wali</i> .	requirement in its administrative procedures. ⁴⁷		
<p>Polygamous marriages</p> <p><i>Does the law prohibit polygamy or impose strict conditions on such practice? Is the permission of the court required for a polygamous marriage? Is the permission of an existing wife required for a polygamous marriage? Is it necessary to inform an existing wife of the polygamous marriage? Are temporary marriages such as traveler's marriages (misyar) recognised? Is it necessary to</i></p>	<p>AMLA allows for polygamous marriages to take place.⁴⁹</p> <p>Temporary marriages are not a known practice in Singapore.⁵⁰</p>	<p>In <i>Saheeda Banu v Osman Mohamed Sabeer</i>,⁵¹ the wife objected to the husband's application for a 2nd wife but the Appeal Board allowed it as the husband: (i) had considerable income; and (ii) had given a written undertaking to provide for his wife and children with at least</p>	<p>The Government of Singapore has continuously emphasised that all applications for polygamous marriage are 'rigorously' reviewed by ROMM.⁵⁴</p>	<p>It is interesting to note that despite the fact that AMLA does provide for polygamous marriages, the overview page of ROMM states on the process of</p>	<p>Polygamous marriages have been steadily declining from 0.4% in 2010 to 0.18% of Muslim marriages in 2020.⁶⁰</p>

⁴⁴ Article 11 of the Personal Status Code (1956), <http://www.legislation.tn/sites/default/files/codes/Statutpersonnel.pdf>

⁴⁷ Singapore State Party Report, U.N. Doc. CEDAW/C/SGP/5 (2015), para. 16.13, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=3&CountryID=157

⁴⁹ Section 96(3) Administration of Muslim Law Act (1966), <https://sso.agc.gov.sg/Act/AMLA1966?Provs=pr35-&ViewType=Within&Phrase=nullification&WiAI=1>; and Rule 5 Muslim Marriage and Divorce Rules, <https://sso.agc.gov.sg/SL/3-R1?DocDate=20110829.&Provs=P1II-#top>.

⁵⁰ Information obtained from Singaporean advocate, December 2016

⁵¹ *Saheeda Banu v Osman Mohamed Sabeer* [1998] 5 SSAR 164

⁵⁴ Singapore State Party Report, U.N. Doc. CEDAW/C/SGP/5 (2015), para 16.12, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=3&CountryID=157 and more previously the Singapore State Party Report, UN Doc CEDAW/C/SGP/6, para. 223, <https://digitallibrary.un.org/record/3959356Singapore> https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=3&CountryID=157

⁶⁰ Singapore State Party Report, UN Doc CEDAW/C/SGP/6, para. 223, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=3&CountryID=157

<p><i>register a polygamous marriage? Can a woman stipulate in the marriage contract that her intended husband cannot enter into a polygamous marriage?</i></p> <p><u>Applicable CEDAW Provision</u> Para. 14 GR21 Para. 34 GR29</p>		<p>30% of his income and to house the two wives in separate homes.</p> <p>In <i>Adam bin Ariffin</i>,⁵² the Appeal Board allowed the husband's application for a 2nd wife as: (i) the wife agreed to it; (ii) the wife and the candidate have a cordial relationship with each other; (iii) the candidate also helps the family by tutoring the children in their school work.</p> <p>In <i>Ja'afer bin Kassim</i>,⁵³ the Appeal Board disallowed the husband's application for polygamy as there was no good reason for 2nd marriage and that mere financial ability and consent of his wife were insufficient grounds to allow the application.</p>		<p>Muslim marriages, that under eligibility criteria, that 'you cannot be currently married to any other person, or have any existing marriage application with ROM or ROMM'.⁵⁵ This can be constructed to imply that polygamous marriages are no allowed.</p> <p>Still, the procedure as laid down in the legal framework requires an inquiry to be</p>	
--	--	---	--	---	--

⁵² *Adam bin Ariffin* [1999] 5 SSAR 168

⁵³ *Ja'afer bin Kassim* [2010] 5 SSAR 179

⁵⁵ Muslim Marriage Process <https://www.marriage.gov.sg/muslim/marriage-process#muslimMarriageProcessPageEligibility>

				<p>held in which the groom , the bride and her wali and any other person able to give evidence can be summoned by the <i>kadi</i>.⁵⁶ These parties are given the opportunity to be heard, give evidence and be cross-examined and re-examined.⁵⁷ If the kadi allows for the polygamous marriage to take place, the first wife can lodge an appeal with the Appeal Board.⁵⁸</p>	
--	--	--	--	---	--

⁵⁶ Section 96(3) Administration of Muslim Law Act (1966), <https://sso.agc.gov.sg/Act/AMLA1966?ProvIds=pr35-&ViewType=Within&Phrase=nullification&WiAI=1>; and Rule 5 (1) Muslim Marriage and Divorce Rules, <https://sso.agc.gov.sg/SL/3-R1?DocDate=20110829.&ProvIds=P1II-#top> .

⁵⁷ Rule 5 (2) Muslim Marriage and Divorce Rules, <https://sso.agc.gov.sg/SL/3-R1?DocDate=20110829.&ProvIds=P1II-#top>.

⁵⁸ Rules 5 (6) and 39 (2) Muslim Marriage and Divorce Rules, <https://sso.agc.gov.sg/SL/3-R1?DocDate=20110829.&ProvIds=P1II-#top>

				Following the additional marriage, the first wife may also file for divorce based on inequitable treatment. ⁵⁹	
<p>Divorce rights</p> <p><i>Is there equal right to divorce between women and men? Can the husband divorce without reason and without having to go to court? What are the main forms of divorce? Can all forms of divorce be sought only through the courts? Are the grounds for divorce the same for the husband and wife? Is unilateral divorce by repudiation (talāq) prohibited? If unilateral divorce is not prohibited, what is the procedure i.e. is the presence of the spouse to be divorced required, are</i></p>	<p>AMLA provides for four different mechanisms for divorce: (i) unilateral repudiation (<i>talak</i> or <i>talaq</i>); (ii) conditional divorce (<i>cerai taklik</i>); (iii) judicial divorce (<i>fasakh</i>); and (iv) redemptive divorce (<i>khuluk</i> or <i>khul</i>).⁶¹ The marriage may also be nullified.⁶²</p> <p>A husband may unilaterally repudiate the marriage. Section 102(5) AMLA requires both the husband and wife to appear personally before the <i>Shari'ah</i> Court within seven days of the pronouncement of the <i>talaq</i> to</p>		<p>As a matter of policy, ROMM applies the waiting period (<i>iddah</i>) that is applicable to a woman upon divorce also to the former husband. During the waiting period, a new marriage for the former husband will not be registered.⁶⁶</p>	<p>Before being able to file for divorce, couples are required to undergo a mandatory counselling program, and in the case of children, there is also a mandatory parenting program that has to be completed.⁶⁷</p>	<p>The majority of divorces under civil and Islamic law are filed by the wives with 71.2 per cent of the divorces initiated by wives in 2021.⁷⁵</p> <p>The main reasons for divorce are 'infidelity or extra-marital affairs' (20.7% for both husband and wives) followed by desertion for divorce initiated by husbands (11.6%) and financial problems for divorces initiated by wives (15.7%).⁷⁶</p>

⁵⁹ Singapore State Party Report, UN Doc CEDAW/C/SGP/6, para. 223, <https://digitallibrary.un.org/record/3959356Singapore>
https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=3&CountryID=157

⁶¹ Sections 46B – 49 Administration of Muslim Law Act (1966), <https://sso.agc.gov.sg/Act/AMLA1966?ProvlDs=pr35-&ViewType=Within&Phrase=nullification&WiAI=1>

⁶² Sections 35(c), 35(d) Administration of Muslim Law Act (1966), <https://sso.agc.gov.sg/Act/AMLA1966?ProvlDs=pr35-&ViewType=Within&Phrase=nullification&WiAI=1>
This can for instance be done on the grounds of apostasy of the spouse, see *Salbiah bt Abdul Salam v Abdul Shariff s/o Moideen*, Appeal No: 12/1998; *Md Roslan b Ahmad @ Royston Wu Chiren v Yong Tien Sin @ Amelia Yong*, Summons No: 28677, unreported

⁶⁶ Singapore State Party Report, U.N. Doc. CEDAW/C/SGP/6 (2021), para. 226, <https://digitallibrary.un.org/record/3959356Singapore>

⁶⁷ Marriage Counselling Program, <https://www.syariahcourt.gov.sg/Divorce/Process-Pre-Divorce/Marriage-Counselling-Programme>

⁷⁵ Statistics on Marriage and Divorces 2021, <https://www.singstat.gov.sg/-/media/files/publications/population/smd2021.ashx>

⁷⁶ Statistics on Marriage and Divorces 2021, <https://www.singstat.gov.sg/-/media/files/publications/population/smd2021.ashx>

<p>witnesses required, does the spouse seeking divorce need to go to court, is the divorced spouse informed of the divorce? Is the unilateral right to divorce delegated to the wife? If so, is it by law or through the marriage contract? Is it mandatory to register a divorce?</p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(c) Paras. 17-18 GR21 Paras. 34, 39-40 GR29</p>	<p>apply for divorce.</p> <p>A married woman may, if entitled to a divorce pursuant to the terms of her written <i>taklik</i> made at or after her marriage, apply to the Court to declare that such divorce has taken place. The Court must, before pronouncing the divorce, examine the written <i>taklik</i> and conduct the necessary inquiry into the validity of the divorce. If the court is satisfied that the divorce is valid in accordance with Muslim law, it must confirm the divorce.⁶³</p> <p>Valid grounds for seeking a judicial divorce (<i>fasakh</i>) by a wife include a husband's: (i) failure to provide maintenance for more than three months; (ii) insanity or incurable or severe illness; (iii) continuing impotence; (iv) imprisonment of more than three years; (v) failure to perform his marital obligations with his wife for more than one year without reasonable cause. In addition, a wife may seek divorce on the basis that her husband treats</p>			<p>In addition to the mandatory pre-filing marriage counselling, section 50 AMLA provides that in all cases of divorce (<i>talak</i>, <i>cerai taklik</i>, judicial divorce and <i>khuluk</i>), the court may require the couple to undergo a reconciliation process through the appointment of two arbitrators (one from the husband's family and one from the wife's family). If the court is dissatisfied with the reconciliation process</p>	<p>According to information on the ground, in practice, a wife will inevitably get a divorce whether the husband agrees to the divorce or not and even instances where she is unable to prove a breach of the <i>taklik</i> or one of the grounds for judicial divorce. The reconciliation process will end up with either: (i) the husband voluntarily pronouncing <i>talaq</i>; or (ii) the husband delegating the right to divorce to the wife (<i>talaq-e-tafwid</i> or <i>'esma</i>); or (iii) if the husband refuses to do either (i) or (ii), the court will direct the husband's <i>hakam</i> to pronounce <i>talaq</i> on the husband's behalf.⁷⁷</p>
--	--	--	--	--	---

⁶³ Section 48 of the Administration of Muslim Law Act (1966), <https://sso.agc.gov.sg/Act/AMLA1966?ProvlDs=pr35-&ViewType=Within&Phrase=nullification&WiAI=1>
⁷⁷ Information obtained from Singaporean advocate, April 2017

	<p>her with cruelty which include the following treatment: (i) habitually assaults her or makes her life miserable by cruelty of conduct even if such conduct does not amount to physical ill-treatment; (ii) associates with women of ill repute or leads an infamous life; (iii) attempts to force her to lead an immoral life; (iv) obstructs her observance of her religious profession or practices; (v) lives and cohabitates with another woman who is not his wife; or (vi) if he has more wives than one, does not treat her equitably in accordance with the requirements of Muslim law.⁶⁴</p> <p>A wife may seek redemptive divorce (<i>khuluk</i> or <i>khul'</i>), whereby she is granted a divorce in exchange for a mutually-agreed compensation to be paid to the husband.⁶⁵ If both parties are unable to reach a mutual agreement on the amount of compensation to be paid by the wife, the court may</p>			<p>conducted by the first panel of two arbitrators or if the arbitrators are unable to agree, the court may appoint a second panel of two arbitrators.⁶⁸</p> <p>If the reconciliation process fails, the wife will be granted a divorce⁶⁹ by either</p> <ul style="list-style-type: none"> (i) the husband voluntarily pronouncing <i>talaq</i>; or (ii) the husband delegating the right to divorce to the wife 	
--	---	--	--	--	--

⁶⁴ Section 49 of the Administration of Muslim Law Act (1966), <https://sso.agc.gov.sg/Act/AMLA1966?Provs=pr35-ViewType=Within&Phrase=nullification&WiAI=1>
⁶⁵ Section 47(4) Administration of Muslim Law Act (1966), <https://sso.agc.gov.sg/Act/AMLA1966?Provs=pr35-ViewType=Within&Phrase=nullification&WiAI=1>
⁶⁸ Section 50 Administration of Muslim Law Act (1966), <https://sso.agc.gov.sg/Act/AMLA1966?Provs=pr35-ViewType=Within&Phrase=nullification&WiAI=1>
⁶⁹ Sections 47(4)-47(5), 50 of the Administration of Muslim Law Act (1966), <https://sso.agc.gov.sg/Act/AMLA1966?Provs=pr35-ViewType=Within&Phrase=nullification&WiAI=1>

	<p>assess the amount in accordance with the status and means of the parties.</p>			<p>(<i>talaq-e-tafwid</i> or '<i>esma</i>'); or (iii) if the husband refuses to do either (i) or (ii), the court will direct the husband's <i>hakam</i> to pronounce <i>talaq</i> on the husband's behalf.⁷⁰</p> <p>In all judicial divorce cases, including those based on a husband's purported cruel treatment, a wife's testimony is insufficient to prove a ground for divorce; she requires two witnesses.⁷¹</p> <p>The registration of</p>	
--	--	--	--	---	--

⁷⁰ Information obtained from Singaporean advocate, April 2017

⁷¹ Section 49(4) of the Administration of Muslim Law Act (1966), <https://sso.agc.gov.sg/Act/AMLA1966?ProvIds=pr35-&ViewType=Within&Phrase=nullification&WiAI=1>

				<p>a divorce is mandatory; divorce can only be registered by the <i>Shari'ah</i> court or the <i>kadi</i> at the ROMM; and a divorce certificate cannot be issued to both husband and wife until the wife's waiting period after the divorce (<i>iddah</i>) is over.⁷² Non-registration of a divorce does not necessarily invalid a divorce. However, the failure to register a divorce is an offence. Section 130(2) AMLA makes it an offence for the failure to</p>	
--	--	--	--	--	--

⁷² Sections 35, 100, 102 Administration of Muslim Law Act (1966), <https://sso.agc.gov.sg/Act/AMLA1966?ProvIds=pr35-&ViewType=Within&Phrase=nullification&WiAI=1>

				<p>meet the requirements of Section 102(5) and prescribes a fine of up to 500 Singapore dollars.⁷³</p> <p>It is also an offence to register a divorce in contravention of AMLA.⁷⁴</p>	
<p>Women’s financial rights after divorce</p> <p><i>Is there a legal concept of matrimonial assets? Is there equal division of marital property upon dissolution of the marriage? Is the woman’s role as wife and mother recognised as contribution to the acquisition of assets? What spousal maintenance are available to the wife after a divorce? Is she entitled to maintenance during the waiting</i></p>	<p>Generally, upon divorce, a woman may be entitled to:</p> <p>(i) financial maintenance during the waiting period after the divorce (<i>iddah</i>);</p> <p>(ii) a consolatory gift (<i>mut’ah</i>); and</p> <p>(iii) a share of the matrimonial assets (<i>harta sepencarian</i>).</p> <p>Section 51 AMLA provides for financial maintenance that is ‘just and proper’ during the waiting period after the divorce</p>	<p>In <i>Mohd Ajis bin Samon v Jamaliah bt Drahman</i>,⁸⁶ the Appeal Board sent a reminder that Section 52(7) AMLA requires the court to divide matrimonial assets upon divorce to achieve the objective of a just and equitable distribution and in doing so, Section 52(8) mandates the</p>	<p>In 2021, the Government of Singapore in its 6th report to CEDAW stressed that Muslim women are, in comparison to their former husbands, granted financial ‘special rights’ and that ‘men do not have</p>		

⁷³ Section 102(5), 130(2) of the Administration of Muslim Law Act (1966), <https://sso.agc.gov.sg/Act/AMLA1966?ProvIds=pr35-&ViewType=Within&Phrase=nullification&WiAI=1>

⁷⁴ Sections 102, 109, 130(2), 133 of the Administration of Muslim Law Act (1966), <https://sso.agc.gov.sg/Act/AMLA1966?ProvIds=pr35-&ViewType=Within&Phrase=nullification&WiAI=1>

⁸⁶ *Mohd Ajis bin Samon v Jamaliah bt Drahman* Appeal No: 4/2013

<p><i>period after the divorce (iddah)? Is she entitled to a consolatory gift or compensation upon divorce (mut'ah)? Who is responsible for the financial maintenance of children following a divorce? Can the couple agree to the division of assets acquired during marriage in the marriage contract? Can this stipulation be amended? If so, by who and on what basis e.g. mutual consent?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(c), 16(1)(h) Paras. 30-33 GR21 Paras. 34-35, 43-48 GR29</p>	<p>(iddah).</p> <p>Section 52(2) AMLA provides that upon divorce, a woman may apply to the court for a consolatory gift (<i>mutaah or mut'ah</i>). The amount of <i>mutaah</i> compensation is dependent on what the court considers just in accordance with Muslim law.⁷⁸</p> <p>Section 52 of AMLA mandates the <i>Shari'ah</i> court to order any matrimonial assets to be divided between the parties or any such asset to be sold and the proceeds of any such sale to be divided between the parties.⁷⁹</p> <p>When making such an order, the court is obliged to consider what is “just and equitable” and take into account all considerations including: (i) the extent of the contributions made by each party in money, property or work towards acquiring, improving or</p>	<p>court to have regard to all circumstances of the case, especially matters enumerated in Section 52(8)(a) to (m), which comprise both financial and non-financial contributions.</p> <p>In <i>Abdul Bashir s/o Aidek v Asiah bt Md Hassan</i>,⁸⁷ the Appeal Board emphasised that there is no starting presumption of an equal division of matrimonial assets and reiterated that the proper proportion to be given to each party must be: (i) fact-specific to each case; and (ii) recognition must be given to both economic and non-economic efforts by each party to the marriage.</p>	<p>equivalent rights against their ex-wives'.⁹³</p>		
--	---	---	--	--	--

⁷⁸ Sections 52(2) of the Administration of Muslim Law Act (1966), <https://sso.agc.gov.sg/Act/AMLA1966?ProvIds=pr35-&ViewType=Within&Phrase=nullification&WiAI=1>

⁷⁹ Sections 52(3)(d), 52(7) of the Administration of Muslim Law Act (1966), <https://sso.agc.gov.sg/Act/AMLA1966?ProvIds=pr35-&ViewType=Within&Phrase=nullification&WiAI=1>

⁸⁷ Appeal Nos: 43 & 44/2013

⁹³ Singapore State Party Report, U.N. Doc. CEDAW/C/SGP/6 (2021), para. 227, <https://digitallibrary.un.org/record/3959356Singapore>

	<p>maintaining the property; (ii) any debt owing by either party for their joint benefit or for the benefit of any child of the marriage; (iii) the needs of the children, if any, of the marriage; (iv) the extent of the contributions made by each party to the welfare of the family, including looking after the home or caring for the family or any aged or infirm relative or dependant of either party; (v) any agreement between the parties with respect to the ownership and division of the property made in contemplation of divorce; (vi) any period of rent-free occupation or other benefit enjoyed by one party in the matrimonial home to the exclusion of the other party; (vii) the giving of assistance or support by one party to the other party (whether or not of a material kind), including the giving of assistance or support which aids the other party in the carrying on of his or her occupation or business; (viii) the income, earning capacity, property and other financial</p>	<p>In addition, in the case of Khadijah binte Omar v Mohamed Yusoff bin Seeni Rawther, the Appeal Board seemed equally cavalier with a wife's share of assets. In this decision, the Board 'rounded up' (actually 'rounded down') the amount in the husband's.⁸⁸</p> <p>However, there is inconsistent case law available in regard to how the wife's conduct can suddenly become a consideration in the issue of maintenance. In the case of Z... binte H...v A... bin K..⁸⁹ the Appeal Board's primary reason for not accepting the appellant's appeal on the issues of nafkah iddah and mut'ah was that 'there were many nagging concerns the</p>			
--	---	--	--	--	--

⁸⁸ Khadijah binte Omar v Mohamed Yusoff bin Seeni Rawther (Appeal Cases No. 02/2001 and No. 03/2001).

⁸⁹ Z... binte H...v A... bin K... (Appeal Case No. 18/2000) [names anonymised].

	<p>resources which each of the parties has or is likely to have in the foreseeable future; (ix) the financial needs, obligations and responsibilities which each of the parties has or is likely to have in the foreseeable; (x) the standard of living enjoyed by the family before the breakdown of the marriage; (xi) the age of each party and the duration of the marriage; (xii) any physical or mental disability of either of the parties; and (xiii) the value to either of the parties of any benefit (such as a pension) which, by reason of the dissolution or annulment of the marriage, that party will lose the chance of acquiring.⁸⁰</p> <p>Section 52(14) defines matrimonial assets widely to include: (i) any asset acquired before the marriage by one party or both parties to the marriage which has been substantially improved during the marriage by the other party or by both parties to the marriage; and (ii) any other asset of any nature acquired</p>	<p>board had about the conduct and forthrightness of the appellant' relating indeed to the profession of the appellant and that her work as masseuse was a front for sex work, although there was no substantial evidence to support this allegation.⁹⁰</p> <p>In <i>Katijah Bee binte Ahmad v Abdullah bin Mira Sahib</i>, an inappropriate analogy was made in the sense that "[i]f a wife requests a divorce she is like a worker who asks to resign from her job [. . .] the person who requests [the resignation] does not deserve to claim any compensation or redundancy payment/ pension or any right to something for which she no longer wants</p>			
--	---	---	--	--	--

⁸⁰ Sections 52(7), 52(8) of the Administration of Muslim Law Act (1966), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?CompId:da899b47-f141-4218-a27a-99ed1aee6ce1>

⁹⁰ T. Lindsey and K. Steiner, *Islam, Law and the State in Singapore* (London: I.B.Tauris, 2012), p. 215

	<p>during the marriage by one party or both parties to the marriage, but does not include any asset (not being a matrimonial home) that has been acquired by one party at any time by gift or inheritance and that has not been substantially improved during the marriage by the other party or by both parties to the marriage.⁸¹</p> <p>Thus, the division of property between the parties upon divorce is:⁸²</p> <ul style="list-style-type: none"> • Not confined to the matrimonial home but also other assets such as: (i) business assets, including commercial properties used for business or investments; (iii) savings and other investments, including cash in bank, share portfolio, savings with the Central Provident Fund (CPF) and pensions; (ii) employment 	<p>to bear any responsibility.”⁹¹</p> <p>Still, in <i>Siti Zaharah bt Nabi v Nanwi bin Salleh</i>,⁹² the Court found that even if there is evidence of disobedience (<i>nusyuz</i>) on the wife’s part, she will be entitled to <i>mutaah</i> compensation. <i>Mutaah</i> is payable to the former wife even if she is the Plaintiff and she gets divorce not through <i>cerai taklik</i> or judicial divorce but through the <i>hakam</i> process.</p>			
--	---	---	--	--	--

⁸¹ Sections 52(3)(d), 52(7), 52(8) of the Administration of Muslim Law Act (1966), <https://sso.agc.gov.sg/Act/AMLA1966?ProvlDs=pr35-&ViewType=Within&Phrase=nullification&WiAI=1>

⁸² Information obtained from Singaporean advocate, December 2016

⁹¹ Katijah Bee binte Ahmad v Abdullah bin Mira Sahib (Syariah Summons No. 18726).

⁹² *Siti Zaharah bt Nabi v Nanwi bin Salleh* [2007] 1 SSAR 127

	<p>benefits such as pension, gratuity, stock options, insurance policies; (iii) vehicles; and (iv) jewellery other than what may be of insignificant value or possessing only sentimental value; and</p> <ul style="list-style-type: none"> • Not necessarily equal as there are cases where the wife had received more than 50% share of the matrimonial assets and there are also cases where the wife had received less than 50% share. <p>Following a divorce, the <i>Shari'ah</i> court is mandated to make order for the custody, maintenance and education of the minor children of the parties.⁸³</p> <p>Sections 53 of AMLA provides that a Syariah Court orders relating to payment for maintenance and <i>mutaah</i> compensation to the wife and children, custody of children and divisions of matrimonial</p>				
--	---	--	--	--	--

⁸³ Sections 53(1) of the Administration of Muslim Law Act (1966), <https://sso.agc.gov.sg/Act/AMLA1966?ProvIds=pr35-&ViewType=Within&Phrase=nullification&WiAI=1>

	<p>assets are to be treated as orders made by the Family Justice Court under the Women's Charter for the sole purpose of the enforcement of the order by the Family Justice Court and the Family Justice Court will have jurisdiction to enforce the order based on the provisions of the Women's Charter.⁸⁴</p> <p>Section 53A empowers the <i>Shari'ah</i> court to execute the necessary documentation on behalf of the party ordered by the court to execute such documentation in the event that the party is absent, or neglects or refuses to do adhere to the court order.⁸⁵</p>				
<p>Custody of Children</p> <p><i>Do parents have equal rights over the custody of their children? If no, who has priority right over the custody of the child? Is custody decided based on the best interest of the child? Do mothers automatically lose custody upon</i></p>	<p>Under Singaporean law, there is a difference between custody and care of children. Custodial rights are covered in the Guardianship of Infants Act⁹⁴ supplemented by the Women's Charter⁹⁵ and AMLA in the case of Muslim marriages. Custodial rights grant the custodial</p>	<p>Standard practice appears to be that children under the age of <i>mumayyaz</i> (in Singapore generally understood to mean under the age of seven) should remain with their</p>		<p>In custody cases, the Syariah Court may request a 'Social Report' from the Ministry of Social and Family</p>	

⁸⁴ Sections 53 of the Administration of Muslim Law Act (1966), <https://sso.agc.gov.sg/Act/AMLA1966?ProvIds=pr35-&ViewType=Within&Phrase=nullification&WiAI=1>
⁸⁵ Sections 53A of the Administration of Muslim Law Act (1966), <https://sso.agc.gov.sg/Act/AMLA1966?ProvIds=pr35-&ViewType=Within&Phrase=nullification&WiAI=1>
⁹⁴ Guardianship of Infants Act 1934 <https://sso.agc.gov.sg/Act/GIA1934>.
⁹⁵ Women's Charter 1961, <https://sso.agc.gov.sg/Act/WC1961>

<p><i>remarriage or if she is deemed disobedient or when the child reaches a designated age when custody goes to father?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(d), 16(1)(f) Paras. 19-20 GR21</p>	<p>parent(s) authority in making major decisions (education, religion, healthcare) regarding their child and is usually joint custody.⁹⁶ Care and control is usually given to one parent and concerns day-to-day matters.</p> <p>According to section 52(3) AMLA, the Syariah Court is authorised upon the application of the party to decide on custody of children.</p> <p>A mother does not automatically lose care and control of children upon remarriage.⁹⁷</p>	<p>mother, unless the mother is shown to be unfit or incapable of looking after children.⁹⁸ Children above seven (once they are in primary school) are interviewed by the Court to ascertain their wishes. It is however noteworthy that while the wishes of the child are taken into account, these wishes can be overruled if the court does not consider the child's wishes in the child's best interest⁹⁹ or indeed if there are questions regarding the credibility of the child's statement.¹⁰⁰</p>		<p>Development. ¹⁰² For instance:¹⁰³</p> <ul style="list-style-type: none"> • Divorce Specialist Support Agency for assisted transfer (mother brings child to centre and a social worker will help the father have access. After access, the father 	
---	---	--	--	--	--

⁹⁶ *Zaini bin Ibrahim v Rafidah bte A Rahman* (2007) 3 SSAR 135 where the (Syariah) Appeal Board incorporated the concept of joint-custody expounded by the (civil) Court of Appeal in *CX v CY* (2005) 3 SLR(R) 690.

⁹⁷ Information obtained from Singaporean advocate, December 2016

⁹⁸ *Mohamed Rohaizad bin Ahmad v Noraini binte Ahmad* (Appeal Case No. 22/2001).

⁹⁹ *Mohamed Ausman s/o Mohamad Ashraf v Maria d/o Berang Kutu & Mrs Maria Mohamad Ausman* (Syariah Summons No. 17975); *Rosemawati bt Rafi v Md Hisham bin Ibrahim* (Appeal no: 15/2010); *Daud Salim Liem Sin Thang v Hayati bt Atnaw* [2003] 3 SSAR 124.

¹⁰⁰ *AO v AP* (2012) 6 SSAR 22 where the Appeal Board raised the question of credibility of the handwritten notes of the children. As such a report on the child's welfare according to section 43B Administration of Muslim Law Act (1966), <https://sso.agc.gov.sg/Act/AMLA1966?ProvlDs=pr35-&ViewType=Within&Phrase=nullification&WiAI=1> or rule 25A Muslim Marriage and Divorce Rules, <https://sso.agc.gov.sg/SL/3-R1?DocDate=20110829.&ProvlDs=P11I-#top>

¹⁰² Ministry of Social and Family Development, <https://www.msf.gov.sg/policies/Marriages/Divorce-and-Child-Custody/Pages/default.aspx>

¹⁰³ Information obtained from Singaporean advocate, December 2016

		<p>So in general, numerous cases have reiterated that the principle of the welfare alone overrides any other consideration cases relating to care and control, custody and access of children.¹⁰¹</p>		<p>sends child back to centre and social worker hands child over to mother);</p> <ul style="list-style-type: none"> ● Child inquiry by experts who put up a report to the Court; ● Ministry of Social Development and Family who will assist with co-parenting post-divorce. Parties with children below 16 cannot 	
--	--	--	--	--	--

¹⁰¹ *Jasmin Ismail Frost @ Melor bt Ismail v Adam Alexander Frost @ Adam Frost* (Appeal No: 45/2014).

				collect divorce certificates unless they have attended a post-divorce co-parenting counselling session.	
<p>Guardianship of Children</p> <p><i>Do parents have equal rights over the guardianship of their children? If no, who has priority right over the guardianship of the child? Is guardianship decided based on the best interest of the child?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(d), 16(1)(f) Paras. 19-20 GR21</p>	<p>Child guardianship rights (known as custodial rights in Singapore) between women and men are equal. Joint custody orders (the right to make major decisions having long-term effects on children such as matters relating to a child's education and health) are the norm and sole custody orders are the exception.¹⁰⁴</p>	<p>Then President of the <i>Shari'ah</i> court in a presentation stated the following four axioms as those laid out by the Appeal Board when arriving at a decision in custody disputes:¹⁰⁵</p> <ul style="list-style-type: none"> Parents must provide the court with all relevant an material facts that would enable the court to make a 		<p>After a divorce, a court issues separate orders as follows with regard to children in the marriage:¹⁰⁶</p> <ul style="list-style-type: none"> Care and control of children i.e. an order pertaining to which parent the 	

¹⁰⁴ Information obtained from Singaporean advocate, December 2016

¹⁰⁵ Alfian Yasrif Kuchit, "Muslim Jurisprudence on Child Custody Cases in Singapore Post-2010", *Syariah Court Singapore*, <https://www.syariahcourt.gov.sg/syariah/back-end/Attachments/MuslimJurisprudenceonChildCustodyCasesinSingaporePost2010.pdf>

¹⁰⁶ Singapore Legal Advice, "The Guide to Child Custody, Care and Control, and Access in Singapore", <https://singaporelegaladvice.com/law-articles/the-guide-to-child-custody-in-singapore/>; Information obtained from Singaporean advocate, December 2016

		<p>decision that is in the best interest of the child;</p> <ul style="list-style-type: none"> • No divorce can alter the fact that someone is the father or mother of the child; • A parent who has daily care and control of the child have a responsibility to ensure that the child's recognition, respect and love of the non-resident parent be preserved and nurtured; • The practice of influencing a child to stay away from a parent has to stop. It sows hatred and breaks up family bonds which are incongruous with the Islamic principles of maintaining good relations 		<p>children in the marriage live with;</p> <ul style="list-style-type: none"> • Custody of children i.e. an order pertaining to decision-making on major issues having long term effects on the child; and • Access (visitation) rights to the non-resident parent. 	
--	--	---	--	---	--

		(<i>silaturrahim</i>) and enjoining others to do good.			
<p>Family Planning</p> <p><i>Do women require the consent of the husband to practise family planning, including abortions and sterilisation in law or in practice?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(e), 12 Paras. 21-23 GR21</p>	<p>Family planning as such is not governed in the statutory laws that are passed for Muslims. However, family planning is covered in a series of <i>fatawa</i>¹⁰⁷ published by MUIS, the Islamic Religious Council of Singapore.¹⁰⁸</p> <p>Several <i>fatawa</i> allow for the use of contraceptive devices, including Intra-Uterine Device) provided that they are safe to use.¹⁰⁹</p> <p>The rulings of the <i>fatawa</i> are not necessarily conform with the secular legislative framework, see for instance in the case of sterilisation and abortion.</p> <p>Sterilisation is legalised under the Voluntary Sterilisation Act 1974¹¹⁰ provided that consent is</p>				<p>Singapore's approach to family planning has changed significantly over the decades. In its first phase it was designed to slow down and reverse the birth boom following World War II. During that time the Singapore Family Planning and Population Board was established in the 1960s¹¹⁶ complemented by the 'Stop at Two' programme which encouraged stopping at two children.¹¹⁷</p> <p>However this resulted in a significant drop in the fertility rate which decreased from 5.8 children per woman in 1960 to 1.1 in 2020¹¹⁸ and Singapore is now trying to reverse this</p>

¹⁰⁷ Fatwa (plural fatawa) is legal opinion of a qualified religious scholar. In Singapore, one of the most significant responsibility of the Mufti is issuing such a fatwa which can be requested by any person through a letter addressed to the Secretary, request such a 'ruling', section 32(1) of the AMLA. In addition, any court (including the Syariah Court) may refer any question of 'Muslim law' to MUIS for its opinion, section 32(4) and (5) of the AMLA.

¹⁰⁸ MUIS Fatawa, <https://muisfatwa.pressbooks.com/chapter/family-planning-and-reproductive-technology/>

¹⁰⁹ MUIS Fatwa Decision 31/5/1976, <https://muisfatwa.pressbooks.com/chapter/family-planning-and-reproductive-technology/>

¹¹⁰ Voluntary Sterilisation Act 1974, <https://sso.agc.gov.sg/Act/VSA1974>

¹¹⁶ See History SG "Singapore Family Planning & Population Board is established", <https://eresources.nlb.gov.sg/history/events/0b5c578a-f160-4958-97b0-d3e78ba38a05>

¹¹⁷ See History SG "National Family Planning Campaign is launched", <https://eresources.nlb.gov.sg/history/events/eea3d96d-93aa-455a-ac8a-1564d1b6d215>

¹¹⁸ The World Bank, "Fertility rates, total (births per woman)", <https://data.worldbank.org/indicator/SP.DYN.TFRT.IN?locations=SG>

	<p>given, section 3. There is a consistent ruling that sterilisation is prohibited regardless of whether the certain sanction will be placed on the mother.¹¹¹ The prohibition on sterilization is also applicable to a vasectomy for a man.¹¹² The Termination of Pregnancy Act¹¹³ authorises Singaporean women to have an abortion during the first 24 weeks of the pregnancy. After 24 weeks, the pregnancy may be aborted if the woman's life or health is at risk. The abortion must be undertaken by "an authorised medical practitioner acting on the request of a pregnant woman and with her written consent."¹¹⁴ In an earlier fatwa in 1976, abortion was deemed contrary to Islamic law unless the life of the mother was in danger or the foetus was less than 120 days</p>				<p>trend in the second phase which is characterised by a pro-natalist population policy.¹¹⁹ Data on contraception in Singapore is relatively scarce compared to other countries. The only data available is that 39.2% of all women of reproductive age are using a contraceptive.¹²⁰</p>
--	--	--	--	--	--

¹¹¹ MUIS Fatwa Decision 19/12/1974 where the mother already has four children, and if she gives birth to another, she will not be entitled to maternity leave and other educational benefits, and instead will be charged an accouchement fee, <https://muisfatwa.pressbooks.com/chapter/family-planning-and-reproductive-technology/>

¹¹² MUIS Fatwa Decision 31/5/1976, <https://muisfatwa.pressbooks.com/chapter/family-planning-and-reproductive-technology/>

¹¹³ Termination of Pregnancy Act 1974, <https://sso.agc.gov.sg/Act/TPA1974>

¹¹⁴ Sections 3, 4 of the Termination of Pregnancy Act (1974), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:e32748de-a09e-430b-bd31-45f8509a164f>

¹¹⁹ See History SG ""Have three, or more if you can afford it" is announced", <https://eresources.nlb.gov.sg/history/events/1d106f7e-aca1-4c0e-ac7a-d35d0772707d>

¹²⁰ UN Department of Economic and Social Affairs "Contraceptive Use by Method 2019" Data Booklet, https://www.un.org/development/desa/pd/sites/www.un.org.development.desa.pd/files/files/documents/2020/Jan/un_2019_contraceptiveusebymethod_databooklet.pdf

	old and was conceived out of wedlock. This was revised a decade later and restricted abortion to cases where the life of the mother is in danger ¹¹⁵				
<p>Personal rights of spouses</p> <p><i>Does a woman need the consent of her spouse or guardian to work, choose a profession, leave the house, travel, drive, receive various health services, study, etc. on her behalf? Does a woman have the right to retain her birth name upon marriage or to choose her family name? Can a woman protect her personal rights through her marriage contract?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(g) Para. 24 GR21 Para. 34 GR29</p>	<p>The Constitution provides several rights including liberty of person under Article 9 which prohibits the deprivation of a person's life or personal liberty;¹²¹ and Article 13 which guarantees the freedom of movement and residence of every Singaporean within Singapore.¹²²</p> <p>Section 46(2) of the Women's Charter provides that the husband and wife have the right separately to engage in any trade or profession or social activities. Section 46(3) provides that the wife has the right to use her own name and surname separately.¹²³ However, AMLA does not have the same provisions as in the Women's Charter.</p>				<p>The United Nations' (UN) Human Development Report 2020 ranked Singapore 11th out of 189 countries in its HDI ranking with high scores in quality of education and quality of standard of living.¹²⁴ In respect to education data for 2021,</p> <ul style="list-style-type: none"> ○ the average literacy rate among residents aged 15 years or over is 97.6% (male 98.9% and female 96.4%); ○ post-secondary qualification among residents aged 25 years or over is 61.8% (male 65.6% and female 58.5%); and ○ the mean years of schooling among

¹¹⁵ MUIS Fatwa Decision 31/5/1976 and Fatwa Decision 11/12/1986, <https://muisfatwa.pressbooks.com/chapter/family-planning-and-reproductive-technology/>

¹²¹ Article 9 of Singapore's Constitution (1963), <https://sso.agc.gov.sg/Act/CONS1963>

¹²² Article 13 of Singapore's Constitution (1963), <https://sso.agc.gov.sg/Act/CONS1963>

¹²³ Sections 46(2), 46(3) of the Women's Charter (1961), <https://sso.agc.gov.sg/Act/WC1961>

¹²⁴ UNDP, "Human Development Report 2020", table of quality of human development, <https://hdr.undp.org/system/files/documents/hdr2020pdf.pdf>

				<p>residents aged 25 years or over is 11.6 years (male 12 years and female 11.3 years)</p> <p>illustrating that there is less of gender gap in education.</p> <p>According to World Bank data, the total labor force participation at national estimate sits at 70% in 2021¹²⁵ with female labour force participation sitting at 59% in 2021, with a downward trend that commenced in 2015.¹²⁶ In the same period the male labour force participation has been relatively stable in the mid-70ies% sitting at 76.7% in 2021.¹²⁷</p> <p>According to information on the ground, in reality, many Muslim women are in the labour force through necessity as well as choice. They are also able to freely</p>
--	--	--	--	---

¹²⁵ The World Bank “Labor Force Participation Rate, Total (% of total population ages 15+) (modelled ILO estimate)”

<https://data.worldbank.org/indicator/SL.TLF.CACT.NE.ZS?locations=SG>

¹²⁶ The World Bank, “Labour Force Participation Rate, Female (% of female population ages 15+) (modelled ILO estimate)”,

<http://data.worldbank.org/indicator/SL.TLF.CACT.FE.ZS>

¹²⁷ The World Bank, “Labour force participation rate, male (% of male population ages 15+) (modelled ILO estimate)”,

<http://data.worldbank.org/indicator/SL.TLF.CACT.MA.ZS>

					<p>travel, drive, study, and receive health services without much inhibitions.¹²⁸</p> <ul style="list-style-type: none"> •
<p>Inheritance rights</p> <p><i>Are women and men in the same degree of relationship to a deceased entitled to equal shares in the estate and to equal rank in the order of succession? Are there procedures to address any inequalities in inheritance between women and men e.g. can a will be written, can beneficiaries agree to inherit equal shares of the estate or can the children agree to forgo their inheritance in favour of their mother upon the death of their father?</i></p> <p><u>Applicable CEDAW Provision</u> Paras. 34-35 GR21 Paras. 49-53 GR29</p>	<p>Generally, inheritance rights between women and men are unequal. Inheritance rights of Muslims are based on Muslim law. In many instances, for example in the cases involving widows and widowers as well as siblings, a woman is entitled to half the share of a man.¹²⁹</p>		<p>The MUIS Fatwa Committee has issued numerous <i>fatawa</i> on Muslim inheritance law (<i>faraidh</i>) in order to protect the financial welfare of women and their dependants.¹³⁰ These <i>fatawa</i> include</p> <ul style="list-style-type: none"> • The 2008 <i>fatwa</i> on joint tenancy recognises the surviving spouse (or co-owner) as the legal owner of a jointly held property upon 		<p>According to information on the ground:¹³⁵</p> <ul style="list-style-type: none"> • Although there is an increased awareness of the need for estate planning so that dependents can be protected upon death of the breadwinner in the family, more needs to be done in terms of public education on this issue; • Estate planning merely mitigates the hardships caused by <i>faraidh</i> and does not remove the inherent structural inequality and hardship in <i>faraidh</i>; • It would be good if Muslims can be given

¹²⁸ Information obtained from Singaporean advocate, December 2016

¹²⁹ Sections 111, 112 of the Administration of Muslim Law Act (1966), <https://sso.agc.gov.sg/Act/AMLA1966?Provids=pr35-&ViewType=Within&Phrase=nullification&WiAI=1>

¹³⁰ Singapore State Party Report, U.N. Doc. CEDAW/C/SGP/6 (2021), para. 24, <https://digitallibrary.un.org/record/3959356Singapore>

¹³⁵ Information obtained from Singaporean advocate, December 2016

			<p>the death of the other spouse (or co-owner).¹³¹ This fatwa was expanded upon in 2019 in a new fatwa that recognises joint-tenancy as religiously valid without the requirement of further documentation. According to this new fatwa, 'a wife is recognised as an equal partner (in terms of house ownership) regardless of her financial contribution to the purchase of the house.' This results in civil law and</p>		<p>the legal right to choose whether to distribute their estates according to Muslim law or civil law. Currently, there is no choice as legally Muslims estates must be distributed in accordance with Muslim law.</p>
--	--	--	---	--	--

¹³¹ Islamic Religious Council of Singapore, "Fatwa on Joint Tenancy (2008), [http://www.muis.gov.sg/officeofthemufti/Fatwa/joint-tenancy\(2008\).html](http://www.muis.gov.sg/officeofthemufti/Fatwa/joint-tenancy(2008).html)

			<p>Islamic law being now consistent in that regard.¹³²</p> <ul style="list-style-type: none"> • The 2010 <i>fatwa</i> on CPF nominations recognises that when Muslim CPF account holders make a nomination of their CPF savings in favour of their spouse or children upon their death, it is considered a valid gift.¹³³ • The 2012 <i>fatwa</i> on revocable insurance nominations allows Muslim policy holders to nominate their spouse or dependants to 		
--	--	--	---	--	--

¹³² Singapore State Party Report, U.N. Doc. CEDAW/C/SGP/6 (2021), para. 231, <https://digitallibrary.un.org/record/3959356?locations=SG>

¹³³ Islamic Religious Council of Singapore, “Fatwa on CPF Nomination (2010)”, <http://www.muis.gov.sg/officeofthemufti/Fatwa/cpf-nomination.html>

			receive the full payout from the insurance company as a valid gift. ¹³⁴		
<p>Violence against women in the family</p> <p><i>Are there laws that define what constitute domestic violence such as battery, female circumcision, marital rape and other forms of sexual assault and violence that affect a woman's mental health which are perpetuated by traditional attitudes? Is there specific legislation that recognises domestic violence as a crime? Is the husband allowed to discipline his wife? Can a suspected perpetrator marry his alleged abused victim to avoid</i></p>	<p>There are different laws that are applicable to domestic violence against women including the Women's Charter (1962),¹³⁶ Penal Code (1871),¹³⁷ Vulnerable Adults Act (VAA),¹³⁸ Criminal Procedure Code (CPC),¹³⁹ Children and Young Persons Act (CYPA),¹⁴⁰ Protection from Harassment Act (POHA)¹⁴¹ and Prevention of Human Trafficking Act (PHTA).¹⁴²</p> <p>The main ones are the Women's Charter (1962) and the Penal Code (1871).</p>		<p>Singapore continues to reiterate its non-tolerance of 'any form of violence against all persons, including women, both within and outside the family context' and still employs its 'four-pronged strategy' consisting of legislative amendments, multi-stakeholder</p>	<p>The procedure for cases involving domestic violence include obtaining (i) a Personal Protection Order (PPO); (ii) the newly established Expedited Protection Order (EPO); (iii) Domestic</p>	<p>A 2019 study conducted by Ipsos in collaboration with United Women Singapore observed an increase in domestic abuse since 2016 with three in 10 Singaporeans claiming that either they or people close to them have experienced domestic abuse.¹⁶⁵</p> <p>In 2021, the police reported for the first time the number of reports made on family violence which amounted to</p>

¹³⁴ Islamic Religious Council of Singapore, "Fatwa on Revocable Insurance Nomination (2012)", [http://www.muis.gov.sg/officeofthemufti/Fatwa/revocable-insurance-nomination\(eng\).html](http://www.muis.gov.sg/officeofthemufti/Fatwa/revocable-insurance-nomination(eng).html)

¹³⁶ Women's Charter (1962), <https://sso.agc.gov.sg/Act/WC1961>

¹³⁷ Penal Code (1871), https://sso.agc.gov.sg/Act/PC1871?Provlids=P41_1-#top

¹³⁸ Vulnerable Adults Act (VAA)(2018), <https://sso.agc.gov.sg/Act/VAA2018>


¹³⁹ Criminal Procedure Code (CPC) (2010), <https://sso.agc.gov.sg/Act/CPC2010>

¹⁴⁰ Children and Young Persons Act (CYPA) (1993), <https://sso.agc.gov.sg/Act/CYPA1993>

¹⁴¹ Protection from Harassment Act (POHA) (2014) <https://sso.agc.gov.sg/Act/PHA2014> The Code has provisions on harassment, alarm or distress (section 4), causing fear, provocation or facilitation of violence (section 5) and unlawful stalking (section 7). Aligned with the Penal Code it also allows for increased maximum penalties in case the victim was a vulnerable person, section 8A, or the victim was in an intimate relationship with the offender, section 8B.

¹⁴² Prevention of Human Trafficking Act (PHTA) (2014) <https://sso.agc.gov.sg/Act/PHTA2014>

¹⁶⁵ Cheow Sue-Ann, (2019), "3 in 10 here affected by domestic abuse: Study" TNP, 10 December 2019, <https://tnp.straitstimes.com/news/singapore/3-10-here-affected-domestic-abuse-study>

<p><i>punishment? Are there support services for women who are the victims of aggression or abuses?</i></p> <p><u>Applicable CEDAW Provision</u> GRs 12 & 19 Para. 40 GR21</p>	<p>The Women’s Charter (1962) provides protection against family violence regardless of gender or religion¹⁴³ under Part VII Protection of the Family. Section 64 of the Women’s Charter defines “family violence” as the commission of any of the following acts:¹⁴⁴</p> <ul style="list-style-type: none"> • Wilfully or knowingly placing, or attempting to place, a family member in fear of hurt; • Causing hurt to a family member by such act which is known or ought to have been known would result in hurt; • Wrongfully confining or restraining a family member against his will; or • Causing continual harassment with intent to cause or knowing that it is likely to cause anguish to a 		<p>approach, capacity building and education campaigns.¹⁶⁰</p> <p>There have been significant law reforms between 2015 and 2021 in order to strengthen and expand the protection of women against domestic violence, including the previously discussed changes by repelling the immunity for marital rape and increasing the penalties for perpetrators that are either in a</p>	<p>Exclusion Order (DEO); and (iv) a Counselling Order.</p> <p>PPO can be obtained against spouse, former spouse, child (including adopted child & step-child), father or mother, father-in-law or mother-in-law, siblings or “other relative” which includes a person related through marriage or adoption¹⁶¹. A Counselling</p>	<p>5, 135 reports for 2020.¹⁶⁶</p> <p>Illustrating the relevance of domestic violence in case of Muslim divorces, it is the third common reason for divorce for Muslims wives.¹⁶⁷</p>
--	---	---	--	--	---

¹⁴³ The Women’s Charter is only not applicable to Muslim marriages and these ‘criminal’ provisions are applicable to Muslims as well. Compare Article 12 of Singapore’s Constitution (1963), <https://sso.agc.gov.sg/Act/CONS1963>

¹⁴⁴ Section 64 of the Women’s Charter (1961), <https://sso.agc.gov.sg/Act/WC1961>

¹⁶⁰ Singapore State Party Report, U.N. Doc. CEDAW/C/SGP/6 (2021), para. 192, <https://digitallibrary.un.org/record/3959356Singapore>

¹⁶¹ Sections 64, 65 of the Women’s Charter (1961), <https://sso.agc.gov.sg/Act/WC1961>

¹⁶⁶ Wong Shiyong (2021), "5,135 family violence cases reported in 2020 as police release figures for first time The Straits Times, 21 January 2021, <https://www.straitstimes.com/singapore/police-release-figures-on-family-violence-offences-for-first-time-5135-reports-made-in>

¹⁶⁷ Statistics on Marriage and Divorces 2021, <https://www.singstat.gov.sg/-/media/files/publications/population/smd2021.ashx>

	<p>family member.</p> <p>Section 64 of the Women’s Charter also states that family violence does not include any force used lawfully in self-defence or by way of correction towards a child below 21 years of age.¹⁴⁵</p> <p>Sections 65(1) and 66(1) of the Women’s Charter mandate a court to issue a protection order or an expedited protection order restraining a perpetrator or suspected perpetrator from using family violence against the family member after being satisfied that family violence has been committed or is likely to be committed against a family member and that it is necessary for the protection of the family member.¹⁴⁶</p> <p>Sections 65-67 of the Women’s Charter also mandate the court to make other ancillary orders to the protection order or expedited protection order that it thinks is necessary for the protection or personal safety of the family member(s)</p>		<p>‘close relationship’ or ‘intimate relationship’ in the Penal Code.</p>	<p>Order can be included in a PPO where the respondent or protected person or both or their children is mandated to attend counselling.</p> <p>If there is a breach of a PPO, an application for Domestic Exclusion Order can be made¹⁶².</p> <p>A breach of PPO can trigger a police investigation, prosecution in a criminal court and conviction attracts penalty of fine or</p>	
--	---	--	---	--	--

¹⁴⁵ Section 64 of the Women’s Charter (1961), <https://sso.agc.gov.sg/Act/WC1961>

¹⁴⁶ Sections 65(1), 66(10) of the Women’s Charter (1961), <https://sso.agc.gov.sg/Act/WC1961>

¹⁶² Section 64 of the Women’s Charter (1961), <https://sso.agc.gov.sg/Act/WC1961>

	<p>concerned.¹⁴⁷</p> <p>In 2020, a Taskforce on Family Violence established in 2020 and a report released in 2021 making several recommendations including enhancing the protection of victims.¹⁴⁸ As a result of this report a current review of the Women’s Charter (1962) is under way.¹⁴⁹</p> <p>Apart from the Women’s Charter (1962), there are other laws applicable to domestic violence including the Penal Code (1871)¹⁵⁰ and the Protection from Harassment Act.¹⁵¹</p> <p>The Penal Code contains some general prohibitions that are applicable to domestic violence under Chapter XVI Offences affecting the human body. For instance, the Penal Code criminalises:</p>			<p>imprisonment.¹⁶³</p> <p>The Expedited Protection Orders (EPO) can also be now granted in urgent cases requiring a less onerous standard of proof.</p> <p>In 2021, the specialist Protection from Harassment Court also became operationalised. The Court aims to provide “efficient and expedient relief to</p>	
--	---	--	--	---	--

¹⁴⁷ Sections 65-67 of the Women’s Charter (1961), <https://sso.agc.gov.sg/Act/WC1961>

¹⁴⁸ Report by the Taskforce on Family Violence, September 2021, <https://www.msf.gov.sg/publications/pages/Taskforce-on-Family-Violence-Report-Tackling-Family-Violence.aspx>

¹⁴⁹ See Press Release by the Ministry of Social and Family Development, 6 April 2022, <https://www.msf.gov.sg/media-room/Pages/MSF-Seeks-Views-On-Proposed-Amendments-To-The-Womens-Charter-In-Relation-To-Family-Violence.aspx>

¹⁵⁰ Penal Code (1871), https://sso.agc.gov.sg/Act/PC1871?Provids=P41_1-#top

¹⁵¹ Protection from Harassment Act (2014), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:5c68d19d-19ad-49d8-b1a9-5b8ca8a15459>

¹⁶³ Section 65(8) of the Women’s Charter (1961), <https://sso.agc.gov.sg/Act/WC1961>

	<ul style="list-style-type: none"> ● assault of use of criminal force with the intent of outraging a person's modesty¹⁵²; ● rape¹⁵³; ● sexual assault by penetration¹⁵⁴; and ● the utterance of any words or making of any sounds or gestures with the intent of outraging a person's modesty.¹⁵⁵ <p>The Penal Code in has been revised in order</p> <ul style="list-style-type: none"> ● to increase the maximum penalties for selected offences committed against persons that were either in a 'close'¹⁵⁶ or 'intimate'¹⁵⁷ relationship to twice the previous maximum punishment; ● to repeal the previous immunity of man from marital 			victims ¹⁶⁴	
--	--	--	--	------------------------	--

¹⁵² Section 354 of the Penal Code (1871), https://sso.agc.gov.sg/Act/PC1871?ProvIds=P41_1-#top

¹⁵³ Section 375 of the Penal Code (1871), https://sso.agc.gov.sg/Act/PC1871?ProvIds=P41_1-#top

¹⁵⁴ Sections 376 -376 AA of the Penal Code (1871), https://sso.agc.gov.sg/Act/PC1871?ProvIds=P41_1-#top

¹⁵⁵ Sections 377BA of the Penal Code (1871), https://sso.agc.gov.sg/Act/PC1871?ProvIds=P41_1-#top

¹⁵⁶ Section 74D of the Penal Code (1871), https://sso.agc.gov.sg/Act/PC1871?ProvIds=P41_1-#top

¹⁵⁷ Section 74C of the Penal Code (1871), https://sso.agc.gov.sg/Act/PC1871?ProvIds=P41_1-#top

¹⁶⁴ Singapore State Party Report, UN Doc CEDAW/C/SGP/6, para. 189, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=3&CountryID=157

	<p>rape;¹⁵⁸ and</p> <ul style="list-style-type: none"> ● to increase the protection of minors.¹⁵⁹ 				
<p>Nationality rights</p> <p><i>Does a wife have the right to confer her citizenship on foreign husbands and children? Can the nationality of an adult woman be arbitrarily removed because of marriage or dissolution of marriage or because her husband or father changes his nationality?</i></p> <p><u>Applicable CEDAW Provision</u> Article 9 Para. 6 GR21</p>	<p>A Singaporean man may pass his nationality to his non-Singaporean wife under Article 123(2) of the Constitution.¹⁶⁸</p> <p>The Constitution does not specifically provide for a Singaporean wife to confer her nationality to her foreign husband. As such, the foreign husband of a Singaporean woman may acquire Singaporean citizenship through the general process of registration or naturalisation.¹⁶⁹</p> <p>Both a Singaporean mother and father may pass their citizenship to their children wherever they are born if the parents are in a legal marriage.¹⁷⁰</p> <p>In the case of children born</p>		<p>The Government of Singapore in its 6th Periodic Review Report 2021 confirmed that women and men in Singapore have equal rights to acquire, change or retain their nationality.¹⁷³</p>	<p>Both husbands and wives can be the sponsors for their spouses' applications for Singapore citizenship or permanent residence status.¹⁷⁴</p>	

¹⁵⁸ Section 375 (4) of the Penal Code (1871), https://sso.agc.gov.sg/Act/PC1871?Provlds=P41_1-#top

¹⁵⁹ Sections 376A-376EE of the Penal Code (1871), https://sso.agc.gov.sg/Act/PC1871?Provlds=P41_1-#top

¹⁶⁸ Article 123(2) of Singapore's Constitution (1963), <https://sso.agc.gov.sg/Act/CONS1963>

¹⁶⁹ Articles 123, 127 of Singapore's Constitution (1963), <https://sso.agc.gov.sg/Act/CONS1963>

¹⁷⁰ Article 121, 122 of Singapore's Constitution (1963), <https://sso.agc.gov.sg/Act/CONS1963>

¹⁷³ Singapore State Party Report, UN Doc CEDAW/C/SGP/6, para. 94, <https://digitalibrary.un.org/record/3959356Singapore>

¹⁷⁴ Information obtained from Singaporean advocate, December 2016

	<p>outside of marriage,¹⁷¹ only Singaporean women have the rights with children acquiring citizenship.¹⁷²</p>				
--	---	--	--	--	--



¹⁷¹ Singapore still differentiates between legitimate and illegitimate children in certain areas including citizenship. For statistics between 2006-2015 on single birth and birth where the mother is not married to the father named in the birth certificate, see <https://www.msf.gov.sg/media-room/pages/statistics-on-children-born-in-singapore-without-father-s-name-on-bc-or-to-unmarried-parents.aspx> This number has been declining in recent years with the average being around 830 from 2016-2021, Michelle Ng, “Annual births for single unwed mothers trending down since 2013: Sun Xueling”, The Straits Times, 3 August 2021, <https://www.straitstimes.com/singapore/politics/annual-births-to-single-unwed-mothers-trending-down-since-2013-sun-xueling>

¹⁷² Singapore State Party Report, UN Doc CEDAW/C/SGP/6, para. 95, <https://digitallibrary.un.org/record/3959356?location=Singapore> See also for instance the information provided by the Ministry of Foreign Affairs for registration of citizenship by descent for overseas born children, <https://www.mfa.gov.sg/Overseas-Mission/Xiamen/Consular-Services/Registration-of-Citizenship-by-Descent>

ACCESS TO JUSTICE (please include sources to information as much as possible)

SYSTEM	PROCEDURES	CHALLENGES FOR WOMEN	GOOD PRACTICES IN COURT SYSTEM
<p><i>How are Muslim family law (i.e. marriage and family related) cases administered in your country? (E.g. Do you have a Quazi/Kadhi court system, family courts or civil courts?)</i></p> <p><i>How many courthouses/court rooms around the country that administer Muslim family law cases?</i></p> <p><i>If civil or Kadhi courts - what cases are handled by what courts?</i></p> <p><i>How many Muslim family law-related judges? Are there women working within the court system as judges/marriage registrars e.t.c?</i></p> <p><i>Do lawyers represent clients?</i></p> <p>Muslim parties may choose whether to seek redress in the <i>Shari'ah</i> Court</p>	<p><i>Are the procedures pertaining to family matters (e.g. divorce, maintenance etc) are defined in the family law and/or are there guidelines/policies available for judges/Kadhis?</i></p> <p><i>In general practice do judges/Kadhis follow procedures?</i></p> <p><i>How much judicial discretion do judges/Kadhis have over marriage and family matters?</i></p> <p><i>Are there appeal processes?</i></p> <p>Muslim law, as set out in AMLA, is administered by various agencies including MUIS, the <i>Shari'ah</i> courts and the Registry of Muslim Marriages (ROMM).</p>	<p><i>What are some key challenges that Muslim women face in accessing justice on family law matters?</i></p> <p><i>(E.g. lack of accessibility, costly, bad procedures, delayed processes, gender insensitive judges, etc?)</i></p> <p>Since 1999, there is concurrent jurisdiction between the civil and the Syariah Court on matters concerning disposition or division of property on divorce or nullification of marriage, or the payment of <i>emas kahwin</i>, marriage expenses, maintenance and consolatory gifts (<i>mutaah</i>).</p> <p>As such it has become necessary to set out stay proceedings for the different courts.¹⁷⁶ Yet not all jurisdictional conflicts have been resolved through the statutory provisions with case law filling in the gaps. One particular problem concerns the</p>	<p><i>Are there any good practices, procedures or policies that you would like to share pertaining to how courts in your country deal with family law cases?</i></p> <p><i>(E.g. prioritising certain types of cases, timely delivery of decisions, clear procedure, etc)</i></p> <p>Despite the challenges in the concurrent jurisdiction, in a seminar in 2018, the then Presiding Judge of the Family Justice Courts, Justice Debbie Ong described the relationship Family Justice Courts and the <i>Syariah</i> Court share a “<i>strong working relationship</i>”.¹⁸⁵ Indeed certain amendments in the civil family system and the <i>Syariah</i> legal system appear to be going hand-in-hand. One</p>

¹⁷⁶ Section 17A(3) of the Supreme Court of Judicature Act 1970 states that the High Court shall stay proceedings where the matter involves the custody of a child or disposition or of property on divorce **and** proceedings are pending before the *Syariah* Court or if the decree or order for divorce has been made by the *Syariah* Court. On the other hand, the *Syariah* Court is to stay proceedings if a matter comes before it pertaining to maintenance of wife during the subsistence of marriage or to the maintenance of a child, **and** civil proceedings are pending.

¹⁸⁵ Justice Debbie Ong “Opening address at the Opening of the Muslim Practice Course”, 13 October 2018, https://www.judiciary.gov.sg/docs/default-source/news-docs/muslim-practice-course-13-oct-2018.pdf?sfvrsn=e805ca73_2

<p>or Civil Court in post-divorce related matters i.e.: (i) child custody, care and control and access; and (ii) division of matrimonial assets. The ability to exercise this choice is primarily dependent on: (i) the matter of concern; (ii) consent between the parties to opt for civil proceedings; and (iii) in the absence of consent of both parties, whether the <i>Shari'ah</i> Court grants permission to the party concern to seek redress in the Civil Court. Thus, with regard to custody of children and disposition or division of property on divorce: (i) if both parties consent to subject themselves to the jurisdiction of the Civil Court, the Civil Court will adjudicate either or both of the matters; (ii) If one party wishes the Civil Court to adjudicate either or both of the matters in the face of objections by the other party, an application must be made to the <i>Shari'ah</i> Court for leave in order to have either or both of the matters adjudicated in the Civil Court. If permission is not granted, the <i>Shari'ah</i> Court will adjudicate either or both the matters.¹⁷⁵</p>	<p>AMLA has been amended for closed alignment with civil law: (i) Muslim women and men can opt to pursue some matters in the Family Court instead of the <i>Shari'ah</i> Court. These include divorce-related matters such as custody of children and disposition or division of property; (ii) The enforcement of a <i>Shari'ah</i> Court orders has been made easier with the elimination of the need to register the order with the District Court before it becomes enforceable. Thus, like non-Muslim women, Muslim women may commence enforcement proceedings at the Family Justice Court without any prior registration; and (iii) Aggrieved parties may lodge a Magistrate's complaint at the Family Justice Court for breach of <i>Shari'ah</i> Court orders, which is punishable upon conviction with a maximum sentence of six months' imprisonment.</p>	<p>question of when exactly the stay proceedings arise.</p> <p>In the case of <i>Pereira Dennis John Sunny v Faridah Bte V Abdul Latiff</i>¹⁷⁷ where the couple obtained a divorce within the Syariah legal system. However, before the divorce was granted, the husband initiated proceedings in the civil system regarding the parties' respective shares of joint properties. The wife submitted an application for stay on the grounds that proceedings were pending before the Syariah Court which included the matrimonial assets. This application for stay was dismissed by the High Court stating that section 17A(3)(a) of the SCJA is only applicable where civil proceedings were commenced on or after proceedings commenced in the Syariah Court. Moreover the High Court held that the determination of beneficial ownership of joint properties does not rest on the matrimonial status of the parties and as such common law principles of property ownership and trust were applicable.</p> <p>Another challenge for the Syariah Court regarding divorces granted overseas. In</p>	<p>noteworthy change is the move to a less adversarial approach to divorce and better protecting the interest of the child in the processes.¹⁸⁶ This is for instance evident in the significant number of support mechanisms available, especially in the pre-marriage counselling and mentoring program as well as in the case of divorce the mandatory counselling program and mandatory parenting program if children are involved.</p>
--	---	---	---

¹⁷⁵ Section 17A of the Supreme Court of Judicature Act, <https://goo.gl/0iIPrH>; Sections 35A-36 of the Administration of Muslim Law Act (1966), <https://sso.agc.gov.sg/Act/AMLA1966?ProvIds=pr35-&ViewType=Within&Phrase=nullification&WiAl=1>

¹⁷⁷ *Pereira Dennis John Sunny v Faridah Bte V Abdul Latiff* (2017) 5 SLR 529.

¹⁸⁶ Justice Debbie Ong "Opening address at the Opening of the Muslim Practice Course", 13 October 2018, https://www.judiciary.gov.sg/docs/default-source/news-docs/muslim-practice-course-13-oct-2018.pdf?sfvrsn=e805ca73_2

		<p>the case of <i>TMO v TMP</i>¹⁷⁸ concerned a Muslim divorce granted overseas and the division of matrimonial properties. In this case the Syariah Court stated that it would not have jurisdiction as according to section 52(3) AMLA it had not decreed the divorce. The civil courts, including the District Court and the High Court considered themselves unable to grant the relief as they had no jurisdiction under the Women’s Charter for Muslim divorces. This would have left the women stranded in legal no-man’s land or ‘legal vacuum’ except that the Court of Appeal allowed the appeal stating that the High Court retained residual jurisdiction over matters not falling within the Syariah Court jurisdiction.¹⁷⁹</p> <p>Indeed cases with international character are increasing in general in Singapore, with divorces involving at least one party who is a non-Singapore citizen increasing from 33% in 2011 to 41% in 2018. The issue of forum non conveniens in international divorces in the Syariah legal system needs to be addressed.¹⁸⁰</p>	
--	--	---	--

¹⁷⁸ *TMO v TMP* (2017) 1 SLR 585.

¹⁷⁹ Being left stranded in legal vacuum is a quite common problem in plural legal systems. In neighbouring Malaysia this can happen in cases of apostasy and unilateral conversions of a child upon divorce, see for example T. Lindsey and Kerstin, *Islam, Law and the State in Malaysia* (London: I.B.Tauris, 2012), p. 220-228; Kerstin Steiner (2013) “The Case Continues? The High Courts in Malaysia and Unilateral Conversion of a Child to Islam by One Parent” 14(2) *Australian Journal of Asian Law*; Kerstin Steiner (2018), “Malaysia at the crossroads? The never-ending discourse between Islam, Law, and Politics” 4 *Journal of Religious and Political Practice* {Steiner, 2013 #1888}

¹⁸⁰ Justice Debbie Ong “Opening address at the Family Conference: Supporting Healing and Reconstructing”, 2 July 2019, https://www.judiciary.gov.sg/docs/default-source/news-docs/family-conference-2019.pdf?sfvrsn=b011b6f5_0

		<p>Another problem arises with the enforcement of Syariah Court Orders as the enforcement of Syariah Court orders on maintenance (nafkah iddah and muta'ah), or custody, care or control or access, is made in the Family Justice Courts (FJC). Under section 53 AMLA, parties may lodge a Magistrate's Complaint for any such breaches of the Court order. These orders called the 'BOSCO' which stands for Breach of Syariah Court Orders¹⁸¹ are the more common orders in the FJC; there were 259 BOSCO cases in 2015 241 cases in 2016; 174 cases in 2017;¹⁸² 155 cases in 2018; 150 cases in 2019¹⁸³; 130 cases in 2020¹⁸⁴</p>	
--	--	---	--

¹⁸¹ Justice Debbie Ong "Opening address at the Opening of the Muslim Practice Course", 13 October 2018, https://www.judiciary.gov.sg/docs/default-source/news-docs/muslim-practice-course-13-oct-2018.pdf?sfvrsn=e805ca73_2

¹⁸² Justice Debbie Ong "Opening address at the Opening of the Muslim Practice Course", 13 October 2018, https://www.judiciary.gov.sg/docs/default-source/news-docs/muslim-practice-course-13-oct-2018.pdf?sfvrsn=e805ca73_2

¹⁸³ "One Judiciary Annual Report 2019", https://www.judiciary.gov.sg/docs/default-source/publication-docs/one_judiciary_annual_report_2019.pdf?sfvrsn=7184ac95_4

¹⁸⁴ "One Judiciary Annual Report 2020", https://www.judiciary.gov.sg/docs/default-source/publication-docs/one-judiciary-annual-report-2020.pdf?sfvrsn=c92468bc_0