

## SINGAPORE<sup>1</sup>

### OVERVIEW OF MUSLIM FAMILY LAWS & PRACTICES

(Updated as at 31 May 2017)

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
<p><b>Equality of spouses in marriage</b></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 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 ap-</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.<sup>2</sup> Gender equality is not specifically mentioned.</p> <p>Article 12(3) of the Constitution allows for different personal laws based on religious belief.<sup>3</sup> With the exception of Singapore's Muslim minority 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.<sup>4</sup></p> <p>The Administration of Muslim Law Act (AMLA) is the main codified</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 spouses and referred to marital union as "marital enterprise".<sup>9</sup> For instance, in <i>NK v NL</i>,<sup>10</sup> the court</p>	<p>Singapore has reservations to Articles 2(a)-(f), 16(1)(a), 16(1)(c), 16(1)(h), 16(2) and 29(2) of CEDAW.<sup>13</sup></p> <p>The Government of Singapore in its 2015 report to the CEDAW Committee explained that:<sup>14</sup></p> <ul style="list-style-type: none"> <li>The principle of equality before the law is enshrined in Singapore's Constitution; Singapore does not have specific</li> </ul>	<p>Muslim parties may choose whether to seek redress in the <i>Shari'ah</i> Court 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</p>	<p>According to the 2016 UNDP Human Development Report, Singapore ranked 5 on the UNDP Human Development Index and 11 on the UNDP Gender Inequality Index.<sup>16</sup></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%).<sup>17</sup></p>

<sup>1</sup> This Musawah project to map Muslim Family Laws globally was 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.

<sup>2</sup> Article 12 of Singapore's Constitution (1963), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:f112e119-f024-4c49-9ac3-d4e0e94ebc85>

<sup>3</sup> Article 12(3) of Singapore's Constitution (1963), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:f112e119-f024-4c49-9ac3-d4e0e94ebc85>; Ahmad Nizam bin Abbas, "The Islamic Legal System in Singapore", (Pacific Rim Law & Policy Journal, 21:1, 2012), p. 163, <https://digital.law.washington.edu/dspace-law/bitstream/handle/1773.1/1097/21PRPLJ163.pdf?sequence=1>

<sup>4</sup> Women's Charter (1961), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:f970e7b1-2a7b-49ec-b760-061d1a85888c>

<p><i>licable? 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>law that governs matters relating to marriage and family relations of the Muslim minority community in Singapore.<sup>5</sup> The law is generally silent on the Muslim school of thought that is applicable in the event that a particular personal status matter is not sufficiently addressed by AMLA. However:<sup>6</sup></p> <ul style="list-style-type: none"> <li>• Section 33 of AMLA provides that the religious rulings (<i>fatwas</i>) of the Islamic Religious Council of Singapore (MUIS) should follow the rules of Shafi'i jurisprudence (<i>fiqh</i>) unless it is in the public interest to follow the tenets of another accepted Muslim school of thought; and</li> <li>• Section 114 lists the authoritative Muslim texts that the <i>Shari'ah</i> court may refer to when deciding a matter relating to succession and inheritance.</li> </ul>	<p>said that “marriage is an equal cooperative partnership of efforts and the entire process involve 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 for the application of civil law and commence civil proceedings in the Family Justice</p>	<p>gender equality or anti gender discrimination legislation; and women enjoy strong legal protection;</p> <ul style="list-style-type: none"> <li>• As a multi-religious society, Singapore has two legal regimes that govern marriage and divorce - civil law (Women’s Charter) and Muslim law (Administration of Muslim Law Act or AMLA);</li> <li>• Muslim law, as set out in the AMLA, is</li> </ul>	<p>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</p>	
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<sup>9</sup> AYL v AYR [2013] 1 SLR 476 at 23  
<sup>10</sup> [2007] 3 SLR(R) 743, <http://www.singaporelaw.sg/sglaw/laws-of-singapore/case-law/free-law/court-of-appeal-judgments/13231-nk-v-nl-2007-3-slr-743-2007-sgca-35>  
<sup>13</sup> United Nations Treaty Collection Website, [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-8&chapter=4&clang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&clang=en)  
<sup>14</sup> Singapore State party report, U.N. Doc. CEDAW/C/SGP/5 (2015), paras. 2.1, 16.4, 16.9-16.11, 16.25-16.28; <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>  
<sup>16</sup> UNDP, “Human Development Report 2016”, Table 5, pp. 214-217, [http://hdr.undp.org/sites/default/files/2016\\_human\\_development\\_report.pdf](http://hdr.undp.org/sites/default/files/2016_human_development_report.pdf)  
<sup>17</sup> 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>  
<sup>5</sup> 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>  
<sup>6</sup> Sections 33, 114 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>; Ahmad Nizam bin Abbas, “The Islamic Legal System in Singapore”, (Pacific Rim Law & Policy Journal, 21:1, 2012), p. 166, <https://digital.law.washington.edu/dspace-law/bitstream/handle/1773.1/1097/21PRPLJ163.pdf?sequence=1>

	<p>The majority of Muslims in Singapore are Sunni Muslims of the Shafi'i school of thought.<sup>7</sup></p> <p>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.<sup>8</sup> AMLA does not contain an equivalent provision.</p>	<p>Courts with regard to: (i) children (custody, care &amp; control and access); and (ii) disposition or division of property on divorce. In addition, maintenance of the wife and children are heard in the Family Justice Court.<sup>11</sup></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: (i) the practice and procedure applicable in civil proceedings where appropriate; and (ii)</p>	<p>administered by various agencies including MUIS, the <i>Shari'ah</i> court and the Registry of Muslim Marriages (ROMM);</p> <ul style="list-style-type: none"> <li>• 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</li> </ul>	<p>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.<sup>15</sup></p>	
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<sup>7</sup> Ahmad Nizam bin Abbas, "The Islamic Legal System in Singapore", (Pacific Rim Law & Policy Journal, 21:1, 2012), p. 166, <https://digital.law.washington.edu/dspace-law/bitstream/handle/1773.1/1097/21PRPLJ163.pdf?sequence=1>

<sup>8</sup> Sections 46 of the Women's Charter (1961), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:f970e7b1-2a7b-49ec-b760-061d1a85888c>  
<sup>11</sup> Sections 16-17A of the Supreme Court of Judicature Act, <https://goo.gl/0IIPrH>; Sections 34-35A of the Administration of Muslim Law Act (1966), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:da899b47-f141-4218-a27a-99ed1aee6ce1>

<sup>15</sup> Section 17A of the Supreme Court of Judicature Act, <https://goo.gl/0IIPrH>; Sections 35A-36 of the Administration of Muslim Law Act (1966), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:da899b47-f141-4218-a27a-99ed1aee6ce1>

		<p>laws and procedures on specific issues such as maintenance and custody used in religious courts from other countries, particularly Malaysia.<sup>12</sup></p>	<p><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>		
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<sup>12</sup> Ahmad Nizam bin Abbas, "The Islamic Legal System in Singapore", (Pacific Rim Law & Policy Journal, 21:1, 2012), p. 174, <https://digital.law.washington.edu/dspace-law/bitstream/handle/1773.1/1097/21PRPLJ163.pdf?sequence=1>

			<ul style="list-style-type: none"> <li>• Recognising that the practice of Muslim law varies among countries; MUIS is tasked with monitoring developments of Muslim laws; and the Fatwa Committee of MUIS meets regularly to discuss points of Muslim law, review current practices and recommends new measures to ensure that Muslim laws and practices in Singapore remain progressive;</li> <li>• Singapore has withdrawn its 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</li> </ul>		
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			of minorities in the practice of their personal and religious law. In particular, this allows the operation of Muslim law in Singapore.		
<p><b>Minimum and equal legal age for marriage</b></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>The minimum legal age for marriages is 18 for Muslim females and males as per Section 96(4) of AMLA. However, Section 96(5) provides that a state appointed official (<i>kadi</i>) who must be Muslim, male and of good character and religious standing may authorise the marriage of a girl below 18 but has attained the age of puberty.<sup>18</sup></p> <p>The law does not stipulate an absolute minimum age below which a marriage may not be authorised.</p> <p>Pursuant to Section 133 of AMLA the unlawful solemnisation and registration of a marriage is an offence.<sup>19</sup></p>	<p>A <i>kadi</i> only authorises the marriage of a girl below 18 under special circumstances.<sup>20</sup></p>	<p>The Government of Singapore in its 2015 report to the CEDAW Committee explained that:<sup>21</sup></p> <ul style="list-style-type: none"> <li>• AMLA was amended in 2008 to raise the minimum age of marriage for Muslims from 16 to 18 years for both genders, in line with civil law; and</li> <li>• The Singaporean government, in partnership with</li> </ul>	<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.<sup>22</sup></p>	<p>Marriages of girls below 18 are rare and have significantly dropped over time. Based on official data, in 2009, there were 29 marriages involving Muslim girls below 18. In 2014, this figure fell sharply by 38% to 18.<sup>23</sup></p>

<sup>18</sup> Sections 96(4)-96(5) of the Administration of Muslim Law Act (1966), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:da899b47-f141-4218-a27a-99ed1aee6ce1>

<sup>19</sup> Section 133 of the Administration of Muslim Law Act (1966), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:da899b47-f141-4218-a27a-99ed1aee6ce1>

<sup>20</sup> Singapore State party report, U.N. Doc. CEDAW/C/SGP/5 (2015), para. 16.23, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

			Malay Muslim organisations, actively highlight the adverse implications of marrying at such a young age, through public education initiatives.		
<p><b>Women's consent to marriage</b></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 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)</p>	<p>Regardless of their age, both prospective brides and grooms must consent to the marriage. Consequently, <i>ijbar</i> marriages are prohibited.</p> <p>The mandatory registration of marriages is provided for in Section 102 of AMLA. Non-registration of a marriage does not necessary invalid a marriage. However, the failure to register a marriage is an offence.<sup>24</sup></p> <p>AMLA obligates a <i>kadi</i> to be satisfied with the validity of the marriage before registering the</p>			<p>It is mandatory for both the brides and grooms to sign the register of marriages and marriage certificate. Consent of the parties are thus implied.<sup>26</sup></p> <p>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</p>	

<sup>21</sup> Singapore State party report, U.N. Doc. CEDAW/C/SGP/5 (2015), paras. 16.23, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>; Information obtained from Singapore advocate, April 2017

<sup>22</sup> Registry of Muslim Marriages, "Marriage Process at a Glance", [https://www.romm.gov.sg/about\\_marriage/romm\\_marriage\\_process.asp](https://www.romm.gov.sg/about_marriage/romm_marriage_process.asp)

<sup>23</sup> Singapore State party report, U.N. Doc. CEDAW/C/SGP/5 (2015), para. 16.23, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

<sup>24</sup> Sections 102, 109, 130(1) 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>

<sup>26</sup> Registry of Muslim Marriages, "Marriage Process at a Glance", [https://www.romm.gov.sg/about\\_marriage/romm\\_marriage\\_process.asp](https://www.romm.gov.sg/about_marriage/romm_marriage_process.asp); Information obtained from Singaporean advocate, December 2016

<p>Paras. 15-16 GR21 Paras. 25-26, 33-34 GR29</p>	<p>marriage and mandates him to summon relevant persons to appear before him to produce evidence or documents regarding the validity of the marriage. He may refuse to register marriage but must provide his reasons for refusing to do so.<sup>25</sup></p>			<p>marriage certificate.<sup>27</sup> The <i>taklik</i> is usually read out by the groom during the solemnisation of the marriage. 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.<sup>28</sup></p> <p>The standard <i>taklik</i> provisions state that where the husband:</p> <ul style="list-style-type: none"> <li>(i) leaves his wife for a continuous period of four months or more, intentionally or unintentionally; or</li> <li>(ii) fails to maintain his wife for the same period in spite of her obedience; or</li> <li>(iii) commit any action that causes his wife physical injury, damage to her property or to lose her self-respect, and</li> </ul>	
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<sup>25</sup> Sections 103(4)-103(6), 104 of the Administration of Muslim Law Act (1966), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:da899b47-f141-4218-a27a-99ed1aee6ce1>

<sup>27</sup> Information obtained from Singapore advocate, April 2017

<sup>28</sup> Section 48 of the Administration of Muslim Law Act (1966), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:da899b47-f141-4218-a27a-99ed1aee6ce1>; Registry of Muslim Marriages, "Solemnisation of Muslim Marriage", [https://www.romm.gov.sg/about\\_marriage/romm\\_solemnisation\\_muslim\\_how.asp](https://www.romm.gov.sg/about_marriage/romm_solemnisation_muslim_how.asp)



				<p>she complains to the <i>Shari'ah</i> Court and if her complaint is proved, then she is divorced by one <i>talaq</i>.<sup>29</sup></p> <p>Registration of Muslim marriages in Singapore fall under the purview of the Registry for Muslim Marriages (ROMM). The procedure for registration of marriages is further detailed in the Muslim Marriage and Divorce Rules<sup>30</sup> and also simplified for public understanding on the website of the ROMM.<sup>31</sup> Upon registration of a marriage, the <i>kadi</i> will provide a copy of the marriage certificate to both spouses.<sup>32</sup></p>	
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<sup>29</sup> Information obtained from Singaporean advocate, April 2017; KpakBingBing Wedding Directory, "Solemisation for Muslim-Maly Marriage Singapore", *Blog post*, 28 April 2016, <http://kpakbingbing.com/2016/04/28/solemnization-for-muslim-malay-marriage-in-singapore/>

<sup>30</sup> Muslim Marriage and Divorce Rules, <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:3b0d2473-a95f-4655-8521-f90e3d76a1d5>  
<sup>31</sup> Registry of Muslim Marriages, "Marriage Process at a Glance", [https://www.romm.gov.sg/about\\_marriage/romm\\_marriage\\_process.asp](https://www.romm.gov.sg/about_marriage/romm_marriage_process.asp); Nadzirah Samsudin,

"Rethinking the Muslim marriage contract", *AWARE*, 4 July 2012, <http://www.aware.org.sg/2012/07/rethinking-the-muslim-marriage-contract/>  
<sup>32</sup> Section 108 of the Administration of Muslim Law Act (1966), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:da899b47-f141-4218-a27a-99ed1aee6ce1>

<p><b>Women’s capacity to enter into marriage</b></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 marital 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>Regardless of her age, a prospective bride requires the consent of a marital guardian (<i>wali</i>) to enter into marriage.<sup>33</sup></p> <p>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 solemnise the marriage.<sup>34</sup></p> <p>Muslims may marry non-Muslims. The marital union is a civil marriage and falls under the purview of Women’s Charter.<sup>35</sup></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><sup>36</sup> 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 be unsubstantiated and rejected. The marriage was</p>	<p>The Government of Singapore in its 2015 report to the CEDAW Committee 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. The ROMM has incorporated the right of the woman to be heard with regard to the <i>wali</i> requirement in its administrative procedures.<sup>37</sup></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.<sup>38</sup></p>	
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<sup>33</sup> Section 95 of the Administration of Muslim Law Act (1966), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:da899b47-f141-4218-a27a-99ed1aee6ce1>

<sup>34</sup> Section 95(3) of the Administration of Muslim Law Act (1966), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:da899b47-f141-4218-a27a-99ed1aee6ce1>

<sup>35</sup> Section 3(4) of the Women’s Charter (1961), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:f970e7b1-2a7b-49ec-b760-061d1a85888c>

<sup>36</sup> [1990] 5 SSAR 31

<sup>37</sup> Singapore State party report, U.N. Doc. CEDAW/C/SGP/5 (2015), para. 16.13, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

<sup>38</sup> Rule 4 of the Marriage and Divorce Rules, <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:3b0d2473-a95f-4655-8521-f90e3d76a1d5>

		allowed to proceed with the <i>kadi</i> acting as <i>wali</i> .			
<p><b>Polygamous marriages</b></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 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>A Muslim man may marry up to four wives at one time. He is required by law to seek the permission of the <i>kadi</i> to enter into a polygamous marriage.<sup>39</sup></p> <p>Temporary marriages is not a known practice in Singapore.<sup>40</sup></p>	<p>In <i>Saheeda Banu v Osman Mohamed Sabeer</i>,<sup>41</sup> the wife objected to the husband's application for a 2<sup>nd</sup> 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 30% of his income and to house the two wives in separate homes.</p> <p>In <i>Adam bin Ariffin</i>,<sup>42</sup> the Appeal Board allowed the husband's application for a 2<sup>nd</sup></p>	<p>The Government of Singapore in its 2015 report to the CEDAW Committee explained that all applications for polygamous marriages are rigorously reviewed by ROMM. Only applicants deemed able to meet the stringent requirements are allowed to take a second wife. The first wife may voice her objection to ROMM. If the application is approved and the first wife is dissatisfied with ROMM's decision, she may go to the</p>	<p>A formal application must be made to the <i>kadi</i> in the ROMM for polygamous marriages. The <i>kadi</i> must hold an inquiry and may require the prospective groom, the prospective wife and her <i>wali</i>, the existing wife or wives as well as any other relevant person to attend the inquiry and give any evidence. All relevant parties will be given the opportunity to be heard, including the opportunity to examine, cross-examine and re-examine the other party in accordance</p>	<p>Polygamous marriages are rare. Based on official data, about 0.3% of Muslim marriages registered from 2009 to 2014 (27 out of 27,992) were polygamous.<sup>47</sup></p> <p>According to information on the ground, there are some civil society programmes that seek to raise awareness among prospective brides to add a term in their marriage contracts that if their husbands marry a second wife without their permission, they are entitled to</p>

<sup>39</sup> Section 96(3) of the Administration of Muslim Law Act (1966), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:da899b47-f141-4218-a27a-99ed1aee6ce1>; Rule 5 of the Muslim Marriage and Divorce Rules, <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:3b0d2473-a95f-4655-8521-f90e3d76a1d5>; Registry of Muslim Marriages, "Polygyny marriages", [https://www.romm.gov.sg/about\\_marriage/romm\\_polygyny.asp](https://www.romm.gov.sg/about_marriage/romm_polygyny.asp)

<sup>40</sup> Information obtained from Singaporean advocate, December 2016

<sup>41</sup> [1998] 5 SSAR 164

<sup>42</sup> [1999] 5 SSAR 168

<sup>47</sup> Singapore State party report, U.N. Doc. CEDAW/C/SGP/5 (2015), para 16.12, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

		<p>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'afar bin Kassim</i>,<sup>43</sup> the Appeal Board disallowed the husband's application for polygamy as there was no good reason for 2<sup>nd</sup> marriage and that mere financial ability and consent of his wife were insufficient grounds to allow the application.</p>	<p>Appeal Board. Subsequent to the second marriage, the first wife may also file for divorce on the ground of her husband's inequitable treatment.<sup>44</sup></p>	<p>with the law. The <i>kadi</i> will only authorise the polygamous marriage after satisfying himself that there are no obstacles based on AMLA as well as Muslim law to the marriage.<sup>45</sup> The <i>kadi</i> consider the following conditions prior to authorising the marriage:<sup>46</sup></p> <ul style="list-style-type: none"> <li>• The husband has the capacity to provide a life that is balanced in regard to the financial, physical and emotional well-being of his wives;</li> <li>• The husband</li> </ul>	<p>seek divorce in accordance with their marriage contracts.<sup>48</sup> However, more needs to be done on this issue.</p>
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<sup>43</sup> [2010] 5 SSAR 179

<sup>44</sup> Singapore State party report, U.N. Doc. CEDAW/C/SGP/5 (2015), para. 16.12, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

<sup>45</sup> Section 95(3) of the Administration of Muslim Law Act (1966), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:da899b47-f141-4218-a27a-99ed1aee6ce1>; Rule 5 of the Marriage and Divorce Rules, <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:3b0d2473-a95f-4655-8521-f90e3d76a1d5>

<sup>46</sup> Registry of Muslim Marriages, "Polygyny marriages", [https://www.romm.gov.sg/about\\_marriage/romm\\_polygyny.asp](https://www.romm.gov.sg/about_marriage/romm_polygyny.asp)

<sup>48</sup> For instance, the Seminar on "Rethinking the Muslim Marriage Contract" co-organised by AWARE, the National University of Singapore's Department of Malay Studies and the Faculty of Arts and Social Sciences (Religion Cluster) and the Leftwrite Centre LLP held on 14 April 2012 at the National University of Singapore with speakers including Kyai Haji Hussien Muhammad, Dr Ziba Mir-Hosseini and Halijah Mohamad, <http://www.aware.org.sg/2012/07/rethinking-the-muslim-marriage-contract/>

				<p>currently has a good marriage and is not seeking to take on additional wives because his existing marriage is not going well;</p> <ul style="list-style-type: none"> <li>• The benefits that the new marriage will provide such as the new wife will convert to Islam or the new wife can bear children for the husband.</li> </ul>	
<p><b>Divorce rights</b></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</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; and (iv) redemptive divorce (<i>khuluk</i> or <i>khul'</i>). The marriage may also be annulled.<sup>49</sup></p> <p>A husband may unilaterally repudiate the marriage. Section 102(5) of AMLA requires both the</p>	<p>Apostasy (leaving Islam) by one party or both party is a ground to annul the marriage.<sup>57</sup></p> <p>In virtually all applications for divorce by wife, she will be granted a divorce. If the husband is absent in</p>	<p>The Government of Singapore in its 2015 report to the CEDAW Committee explained that.<sup>59</sup></p> <ul style="list-style-type: none"> <li>• Muslim men may seek divorce by pronouncing <i>talak</i> (articulating a word denoting divorce);</li> </ul>	<p>The registration of 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</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</p>

<sup>49</sup> Sections 35(b), 35(c) of the Administration of Muslim Law Act (1966), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:da899b47-f141-4218-a27a-99ed1aee6ce1>

<sup>57</sup> *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]

<sup>59</sup> Singapore State party report, U.N. Doc. CEDAW/C/SGP/5 (2015), paras. 16.14-16.16, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

<p><i>(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 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?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(c) Paras. 17-18 GR21 Paras. 34, 39-40 GR29</p>	<p>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 apply for divorce. Section 130(2) makes it an offence for the failure to meet the requirements of Section 102(5) and prescribes a fine of up to 500 Singapore dollars.<sup>50</sup></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.<sup>51</sup></p> <p>Valid grounds for seeking a judicial divorce by a wife include a husband's: (i) failure to provide</p>	<p>court but divorce papers had been duly served on him, the case will proceed even in his absence.</p> <p>The wife needs only to produce two male Muslim witnesses to give evidence that there has been breach of <i>taklik</i> e.g. non-maintenance for four months, or abandonment for four months, and if the evidence is accepted by Court, a divorce will be granted.</p> <p>If wife cannot prove <i>cerai taklik</i> or <i>fasakh</i>, the matter goes to an arbitration process (<i>hakam</i>).<sup>58</sup> After the</p>	<ul style="list-style-type: none"> <li>Women may seek divorce by means of: (i) <i>Taklik</i>: The <i>Shari'ah</i> court grants this upon a complaint made by a wife, substantiated by proof that her husband has breached one or more of the conditions of marriage agreed to by both parties at the point of marriage, e.g. desertion, non-maintenance, and physical or verbal abuse; (ii) <i>Fasakh</i>: The <i>Shari'ah</i> Court grants a dissolution of the</li> </ul>	<p>waiting period after the divorce (<i>iddah</i>) is over.<sup>60</sup></p>	<p>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.<sup>61</sup></p>
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<sup>50</sup> Section 102(5), 130(2) of the Administration of Muslim Law Act (1966), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:da899b47-f141-4218-a27a-99ed1aee6ce1>

<sup>51</sup> Section 48 of the Administration of Muslim Law Act (1966), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:da899b47-f141-4218-a27a-99ed1aee6ce1>

<sup>58</sup> Section 50 of the Administration of Muslim Law Act (1966), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:da899b47-f141-4218-a27a-99ed1aee6ce1>

<sup>60</sup> Sections 35, 100, 102 of the Administration of Muslim Law Act (1966), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:da899b47-f141-4218-a27a-99ed1aee6ce1>

	<p>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 martial 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 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 women 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.<sup>52</sup></p> <p>In all judicial divorce cases, including those based on a husband's purported cruel treatment,</p>	<p><i>hakam</i> session, inevitably the wife gets a divorce as the arbitrators (<i>hakams</i>) for both husband and wife will (i) advise the husband to pronounce the <i>talaq</i> or (ii) effect divorce through <i>talaq-e-tafwid</i> or '<i>esma</i>'; or (iii) the Court will direct the husband's <i>hakam</i> to pronounce <i>talaq</i> on his behalf.</p> <p>Therefore cases of "<i>gantung tak bertali</i>" is virtually non-existent.</p>	<p>marriage where the husband fails to maintain his wife for three months or more, treats his wife with cruelty or upon any other grounds as recognised under Muslim law; and (iii) <i>Khuluk</i>: The <i>Shari'ah</i> Court grants this if a wife wishes to obtain a divorce but is unable to satisfy the other bases of <i>taklik</i> or <i>fasakh</i> as long as she pays a sum of money to her husband, as agreed or determined by the Court;</p> <ul style="list-style-type: none"> <li>• While the AMLA stipulates an <i>iddah</i> (waiting period before a re-marriage is allowed) for a</li> </ul>		
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<sup>61</sup>  
<sup>52</sup> Information obtained from Singaporean advocate, April 2017  
Section 49 of the Administration of Muslim Law Act (1966), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:da899b47-f141-4218-a27a-99ed1aee6ce1>

	<p>a wife's testimony is insufficient to prove a ground for divorce; she requires two witnesses.<sup>53</sup></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. If both parties are unable to reach a mutual agreement on the amount of compensation to be paid by the wife, the court may assess the amount in accordance with the status and means of the parties. Once the amount of compensation is fixed, and the husband still refuses the divorce, the court will appoint a panel of two arbitrators (<i>hakam</i>) to reconcile the couple in accordance with Section 50 of AMLA. If the reconciliation process fails, the wife will be granted a divorce.<sup>54</sup></p> <p>Section 50 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 hus-</p>		<p>divorced woman only, in practice, the <i>Shari'ah</i> Court will not issue either party with the Divorce Certificate (required if the divorced man wishes to register a new marriage) until the <i>iddah</i> has lapsed. Hence, both men and women are effectively subject to the same waiting period. Further, men are required to maintain their wives during the <i>iddah</i> period and provide a <i>mut'ah</i> (consolatory gift) upon divorce.</p>		
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<sup>53</sup> Section 49(4) of the Administration of Muslim Law Act (1966), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:da899b47-f141-4218-a27a-99ed1aee6ce1>

<sup>54</sup> Sections 47(4)-47(5), 50 of the Administration of Muslim Law Act (1966), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:da899b47-f141-4218-a27a-99ed1aee6ce1>



	<p>band's family and one from the wife's family). If the court is dissatisfied with the reconciliation process 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.<sup>55</sup></p> <p>The mandatory registration of a divorce is provided for in Section 102 of AMLA. Non-registration of a divorce does not necessarily invalidate a divorce. However, the failure to register a divorce is an offence. It is also an offence to register a divorce in contravention of AMLA.<sup>56</sup></p>				
<p><b>Women's financial rights after divorce</b></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 dur-</i></p>	<p>Generally, upon divorce, a woman may be entitled to: (i) financial maintenance during the waiting period after the divorce (<i>iddah</i>); (ii) a consolatory gift (<i>mut'ah</i>); and (iii) a share of the matrimonial assets (<i>harta sepencarian</i>).</p> <p>Under AMLA, a woman may be entitled to financial maintenance during the waiting period after the divorce (<i>iddah</i>). The maintenance amount is dependent on what is</p>	<p>In <i>Mohd Ajis bin Samon v Jamaliah bt Drahan</i>,<sup>71</sup> 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</p>	<p>The Government of Singapore in its 2000 report to the CEDAW Committee explained that under Section 53A of the AMLA, the <i>Shari'ah</i> court is empowered to sign on behalf of party who, without good reason, refuses to sign the necessary</p>		

<sup>55</sup> Section 50 of the Administration of Muslim Law Act (1966), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:da899b47-f141-4218-a27a-99ed1aee6ce1>

<sup>56</sup> Sections 102, 109, 130(2), 133 of the Administration of Muslim Law Act (1966), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:da899b47-f141-4218-a27a-99ed1aee6ce1>

<p><i>ing the waiting 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>Applicable CEDAW Provision Articles 16(1)(c), 16(1)(h) Paras. 30-33 GR21 Paras. 34-35, 43-48 GR29</p>	<p>“just and proper” depending on the circumstances.<sup>62</sup></p> <p>Section 52(2) of 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.<sup>63</sup></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.<sup>64</sup></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</p>	<p>doing so, Section 52(8) mandates the 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>,<sup>72</sup> 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-</p>	<p>documents to sell or transfer ownership of a flat to the other party despite a prior order by the court for the party to do so. This is to address the situation where the aggrieved party had to go through a more circuitous and costly judicial process to seek redress in such cases. A significant number of parties who sought relief through this section were women.<sup>74</sup></p> <p>In its 2015 report to the CEDAW Committee, the Singaporean government informed that the</p>		
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<sup>71</sup> Appeal No: 4/2013

<sup>62</sup> Sections 51(2)-51(3) of the Administration of Muslim Law Act (1966), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:da899b47-f141-4218-a27a-99ed1aee6ce1>

<sup>63</sup> Sections 52(2) of the Administration of Muslim Law Act (1966), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:da899b47-f141-4218-a27a-99ed1aee6ce1>

<sup>64</sup> Sections 52(3)(d), 52(7) of the Administration of Muslim Law Act (1966), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:da899b47-f141-4218-a27a-99ed1aee6ce1>

<sup>72</sup> Appeal Nos: 43 & 44/2013

<sup>74</sup> Singapore State party report, U.N. Doc. CEDAW/C/SGP/2 (2000), para. 11.5 <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

	<p>towards acquiring, improving or 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 resources which each of the parties has or is likely to have in the foreseeable future; (ix) the financial needs,</p>	<p>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>In <i>Siti Zaharah bt Nabi v Nanwi bin Salleh</i>,<sup>73</sup> 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>	<p>Women's Charter was amended in January 2011 to strengthen the enforcement of maintenance orders as follows:<sup>75</sup></p> <ul style="list-style-type: none"> <li>• Empowering the Court to impose a wider range of measures against defaulters, in addition to its existing power of imposing penalties like garnishee orders, fine and jail. Thus the Court may order defaulters to post a banker's guarantee against future defaults, attend financial counselling and/or perform community service. The Court may also request access to the employment information of the</li> </ul>		
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<sup>73</sup> [2007] 1 SSAR 127

<sup>75</sup> Singapore State party report, U.N. Doc. CEDAW/C/SGP/5 (2015), paras. 16.7, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

	<p>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.<sup>65</sup></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 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</p>		<p>defaulter from CPF Board in order to facilitate the direct deductions of maintenance payments from the defaulter's wages.</p> <ul style="list-style-type: none"> <li>• Providing women with the ability to report the maintenance amount owed to designated credit bureau(s). This affects the credit standing of the defaulter, hence discouraging him from defaulting; and</li> <li>• Obligating men to declare to their spouses-to-be (prior to remarriage), their maintenance debts and obligations towards their ex-wives and/or</li> </ul>		
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<sup>65</sup> 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>

	<p>substantially improved during the marriage by the other party or by both parties to the marriage.<sup>66</sup></p> <p>Thus, the division of property between the parties upon divorce is:<sup>67</sup></p> <ul style="list-style-type: none"> <li>• 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 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</li> <li>• Not necessarily equal as there are cases where the wife had received more than 50% share of the matrimonial assets and</li> </ul>		<p>children. This ensures that their spouses-to-be are aware of their maintenance obligations before marrying them.</p> <p>In addition, the Singaporean government informed that:<sup>76</sup></p> <ul style="list-style-type: none"> <li>• A Maintenance Support Central was set up in September 2011 to assist claimants who face problems receiving court-ordered maintenance following a divorce or legal separation. It provides assistance at different stages of the maintenance enforcement process,</li> </ul>		
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<sup>66</sup> Sections 52(3)(d), 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>

<sup>67</sup> Information obtained from Singaporean advocate, December 2016

<sup>76</sup> Singapore State party report, U.N. Doc. CEDAW/C/SGP/5 (2015), paras. 7.14, 16.8, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

	<p>there are also cases where the wife had received less than 50% share.</p> <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.<sup>68</sup></p> <p>Sections 53 of AMLA provides that a <i>Shari'ah</i> court-orders relating to payment for maintenance and <i>mutaah</i> compensation to the wife and children, custody of children and divisions of matrimonial 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.<sup>69</sup></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</p>		<p>including legal advice, information on aid schemes, credit reporting, counselling, support in locating employment, housing and childcare services. Thus far, all the claimants assisted have been women; and</p> <ul style="list-style-type: none"> <li>• Four voluntary welfare organisations were established as Divorce Support Specialist Agencies in January 2015 to provide support for families with divorced parents.</li> </ul>		
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<sup>68</sup> Sections 53(1) of the Administration of Muslim Law Act (1966), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:da899b47-f141-4218-a27a-99ed1aee6ce1>

<sup>69</sup> Sections 53 of the Administration of Muslim Law Act (1966), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:da899b47-f141-4218-a27a-99ed1aee6ce1>

	documentation in the event that the party is absent, or neglects or refuses to do adhere to the court order. <sup>70</sup>				
<p><b>Custody of Children</b></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 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>Child custodial rights (known as right of care and control of a child in Singapore) between women and men are equal. The custody of children is decided based on the welfare and best interest of the child. Children above seven (once they are in primary school) are interviewed by the Court to ascertain their wishes.<sup>77</sup></p> <p>A mother does not automatically lose care and control of children upon remarriage.<sup>78</sup></p>	<p>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 e.g. <i>Jasmin Ismail Frost @ Melor bt Ismail v Adam Alexander Frost @ Adam Frost</i>.<sup>79</sup></p> <p>The courts have also consistently taken a child centric approach (rights of child is superior to rights of either father or mother) and have ruled that the best interest of child would not only cover</p>		<p>A court may refer child dispute cases to various agencies. For instance:<sup>81</sup></p> <ul style="list-style-type: none"> <li>• 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 sends child back to centre and social worker hands child over to mother);</li> <li>• Child inquiry by experts who put</li> </ul>	

<sup>70</sup> Sections 53A of the Administration of Muslim Law Act (1966), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:da899b47-f141-4218-a27a-99ed1aee6ce1>

<sup>77</sup> Information obtained from Singaporean advocate, December 2016

<sup>78</sup> Information obtained from Singaporean advocate, December 2016

<sup>79</sup> Appeal No: 45/2014

<sup>81</sup> Information obtained from Singaporean advocate, December 2016

		the physical, material and emotional aspects of a child's upbringing but also the child's spiritual aspect. Even if child chooses to be with one parent, if in court's view, giving in to child's wishes may compromise his well-being, then the court will not order that child stays with parent of child's choice. <sup>80</sup>		up a report to the Court;	
<p><b>Guardianship of Children</b></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>Applicable CEDAW Provision</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. <sup>82</sup>	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. <sup>83</sup>		After a divorce, a court issues separate orders as follows with regard to children in the marriage: <sup>84</sup>	
				<ul style="list-style-type: none"> <li>Ministry of Social Development and Family who will assist with co-parenting post-divorce. Parties with children below 16 cannot collect divorce certificates unless they have attended a post-divorce co-parenting counselling session.</li> </ul>	
				<ul style="list-style-type: none"> <li>Care and control of children i.e.</li> </ul>	

<sup>80</sup> *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

<sup>82</sup> Information obtained from Singaporean advocate, December 2016

<sup>83</sup> 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>



<p>Articles 16(1)(d), 16(1)(f) Paras. 19-20 GR21</p>		<ul style="list-style-type: none"> <li>• Parents must provide the court with all relevant material facts that would enable the court to make a decision that is in the best interest of the child;</li> <li>• No divorce can alter the fact that someone is the father or mother of the child;</li> <li>• A parent who has daily care and control of the child have a responsibility to ensure that the child's recognition, respect &amp; love of the non-resident parent be preserved and nurtured;</li> <li>• The practice of influencing a child to stay away from a parent has to</li> </ul>		<p>an order pertaining to which parent the children in the marriage live with;</p> <ul style="list-style-type: none"> <li>• Custody of children i.e. an order pertaining to decision-making on major issues having long term effects on the child; and</li> <li>• Access (visitation) rights to the non-resident parent.</li> </ul>	
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<sup>84</sup> 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

		stop. It sows hatred and breaks up family bonds which are incongruous with the Islamic principles of maintaining good relations ( <i>silaturrahim</i> ) and enjoining others to do good.			
<p><b>Family Planning</b></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>The Termination of Pregnancy Act 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."<sup>85</sup></p>				<p>According to World Bank data, the total fertility rate decreased from 5.8 children per woman in 1960 to 1.2 in 2015.<sup>86</sup></p> <p>According to the UN Population Division's 2015 Trends in Contraceptive Use Worldwide:<sup>87</sup></p> <ul style="list-style-type: none"> <li>• 66% of married women aged 15-49 are using a</li> </ul>

<sup>85</sup> Sections 3, 4 of the Termination of Pregnancy Act (1974), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?CompId:e32748de-a09e-430b-bd31-45f8509a164f>

<sup>86</sup> The World Bank, "Fertility rates, total (births per woman)", <http://data.worldbank.org/indicator/SP.DYN.TFRT.IN>

<sup>87</sup> United Nations Population Division, "Trends in Contraceptive Use Worldwide 2015", Annex Table 1, pp. 36-42, <http://www.un.org/en/development/desa/population/publications/pdf/family/trendsContraceptiveUse2015Report.pdf>

					<p>method of contraception, with women mainly using a modern method (58%);</p> <ul style="list-style-type: none"> <li>• 11% of married women aged 15-49 have an unmet need for family planning services; and</li> <li>• 75% of marriage women aged 15-49 had their demands for family planning satisfied by modern methods of contraception.</li> </ul>
<p><b>Personal rights of spouses</b></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 pro-</i></p>	<p>Article 9 of the Constitution prohibits the deprivation of a person's life or personal liberty.<sup>88</sup></p> <p>Article 13 guarantees the freedom of movement and residence of every Singaporean within Singapore.<sup>89</sup></p> <p>Section 46(2) of the Women's Charter provides that the husband</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 travel, drive, study, and receive health</p>

<sup>88</sup> Article 9 of Singapore's Constitution (1963), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:62847936-2328-4409-aa97-2ff69536bc2a>

<sup>89</sup> Article 13 of Singapore's Constitution (1963), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:62847936-2328-4409-aa97-2ff69536bc2a>

<p><i>fect 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>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.<sup>90</sup></p> <p>AMLA does not have the same provisions as in the Women's Charter.</p>				<p>services without much inhibitions.<sup>91</sup></p> <p>According to World Bank data, female labour force participation increased from 51% in 1990 to 58% in 2016.<sup>92</sup> During the same period, the male labour force participation decreased from 79% in 1990 to 76% in 2016.<sup>93</sup></p> <p>According to the 2016 UNDP Human Development Report:<sup>94</sup></p> <ul style="list-style-type: none"> <li>• 76% of women over 25 have at least some secondary education as compared to 82% of men of the same age</li> </ul>
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<sup>90</sup> Sections 46(2), 46(3) of the Women's Charter (1961), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:f970e7b1-2a7b-49ec-b760-061d1a85888c>

<sup>91</sup> Information obtained from Singaporean advocate, December 2016

<sup>92</sup> 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>

<sup>93</sup> 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>

<sup>94</sup> UNDP, "Human Development Report 2016", Tables 5, 9, 14, pp. 214-217, 230-233, 250-253, [http://hdr.undp.org/sites/default/files/2016\\_human\\_development\\_report.pdf](http://hdr.undp.org/sites/default/files/2016_human_development_report.pdf)

					<p>group;</p> <ul style="list-style-type: none"> <li>• The ability of females and males aged 15-24 to read and write a short simple sentence is almost universal; and</li> <li>• 89% of women are satisfied with their freedom of choice as compared to 83% of men.</li> </ul>
<p><b>Inheritance rights</b></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>Generally, inheritance rights between women and men are unequal. Inheritance rights of Muslims are based on Muslim law.<sup>95</sup> 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.</p>		<p>The Government of Singapore in its 2015 report to the CEDAW Committee explained that under Muslim inheritance law (<i>faraidh</i>), men are apportioned a greater share of the inheritance than women. To address this, the MUIS Fatwa Committee issued the following three religious rulings (<i>fatwas</i>) to</p>		<p>According to information on the ground:<sup>102</sup></p> <ul style="list-style-type: none"> <li>• 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</li> </ul>

<sup>95</sup> Sections 111, 112 of the Administration of Muslim Law Act (1966), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:da899b47-f141-4218-a27a-99ed1aee6ce1>

<sup>102</sup> Information obtained from Singaporean advocate, December 2016

<p>Applicable CEDAW Provision Paras. 34-35 GR21 Paras. 49-53 GR29</p>			<p>protect the financial welfare of Muslim women and their dependants under <i>faraidh</i> and to align Muslim law with civil law.<sup>96</sup></p> <ul style="list-style-type: none"> <li>• 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 the death of the other spouse (or co-owner),<sup>97</sup></li> <li>• 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</li> </ul>		<p>education on this issue;</p> <ul style="list-style-type: none"> <li>• 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>;</li> <li>• It would be good if Muslims can be given 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.</li> </ul>
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<sup>96</sup> Singapore State party report, U.N. Doc. CEDAW/C/SGP/5 (2015), paras. 16.17-16.20, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

<sup>97</sup> 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>considered a valid gift,<sup>98</sup></p> <ul style="list-style-type: none"> <li>The 2012 <i>fatwa</i> on revocable insurance nominations allows Muslim policy holders to nominate their spouse or dependants to receive the full payout from the insurance company as a valid gift.<sup>99</sup></li> </ul> <p>The Singaporean government explained that prior to the issuances of the <i>fatwas</i>:<sup>100</sup></p> <ul style="list-style-type: none"> <li>The surviving spouse only serve as the trustee of the deceased spouse's share of the joint tenancy, which would</li> </ul>		
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<sup>98</sup> Islamic Religious Council of Singapore, "Fatwa on CPF Nomination (2010)", <http://www.muis.gov.sg/officeofthemufti/Fatwa/cpf-nomination.html>

<sup>99</sup> 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)

<sup>100</sup> Singapore State party report, U.N. Doc. CEDAW/C/SGP/5 (2015), paras. 16.18, 16.20, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

			<p>subsequently be distributed to other beneficiaries. Under a civil law joint tenancy arrangement, the ownership of a property would vest in the surviving joint tenant upon the death of one joint tenant. Hence the 2008 <i>fatwa</i> on joint tenancy aligns Muslim law with civil law; and</p> <ul style="list-style-type: none"> <li>• The CPF or insurance nominee was only a trustee and would have to return the monies to the estate to be distributed according to <i>faraidh</i>.</li> </ul> <p>The Government of Singapore also informed that MUIS supported three conferences organised by the Muslim Financial</p>		
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			Planning Association to address concerns on perceived inequities concerning Muslim law and highlighted Islamic wealth planning instruments that further protect and benefit Muslim women. <sup>101</sup>		
<p><b>Violence against women in the family</b></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 vic-</i></p>	<p>Singapore has not adopted specific legislation to criminalise acts of domestic violence. However, the Women's Charter contains provisions that are specifically applicable to domestic violence.</p> <p>Section 64 of the Women's Charter defines "family violence" as the commission of any of the following acts:<sup>103</sup></p> <ul style="list-style-type: none"> <li>• Wilfully or knowingly placing, or attempting to place, a family member in fear of hurt;</li> </ul>		<p>The Government of Singapore in its 2015 report to the CEDAW Committee asserted that Singapore does not tolerate any form of violence against women and tackles the issue through a four-pronged strategy as follows:<sup>111</sup></p> <ul style="list-style-type: none"> <li>• Development of a robust legislative</li> </ul>	<p>PPO can be obtained against spouse, former spouse, child (including adopted child &amp; step-child), father or mother, father-in-law or mother-in-law, siblings or "other relative" which includes a person related through marriage or adoption<sup>112</sup>.</p>	<p>According to the 2016 UNDP Human Development Report, about 6% of females over 15 have experienced violence from an intimate partner.<sup>115</sup></p>

<sup>101</sup> Singapore State party report, U.N. Doc. CEDAW/C/SGP/5 (2015), para. 16.22, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

<sup>103</sup> Section 64 of the Women's Charter (1961), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:f970e7b1-2a7b-49ec-b760-061d1a85888c>

<sup>111</sup> Singapore State party report, U.N. Doc. CEDAW/C/SGP/5 (2015), paras. 24.1-24.16, 24.20, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

<sup>112</sup> Sections 64, 65 of the Women's Charter (1961), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:f970e7b1-2a7b-49ec-b760-061d1a85888c>

<sup>115</sup> UNDP, "Human Development Report 2016", Table 12, pp. 242-245, [http://hdr.undp.org/sites/default/files/2016\\_human\\_development\\_report.pdf](http://hdr.undp.org/sites/default/files/2016_human_development_report.pdf)

<p><i>tim to avoid 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 &amp; 19 Para. 40 GR21</p>	<ul style="list-style-type: none"> <li>• Causing hurt to a family member by such act which is known or ought to have been known would result in hurt;</li> <li>• Wrongfully confining or restraining a family member against his will; or</li> <li>• Causing continual harassment with intent to cause or knowing that it is likely to cause anguish to a family member.</li> </ul> <p>Section 64 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.<sup>104</sup></p> <p>Sections 65(1) and 66(1) 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</p>		<p>framework. For instance, the Penal Code was amended in 2008 to make it an offence for a husband to engage in non-consensual sexual intercourse with his wife under certain circumstances where there is evidence of a breakdown in their marital relationship. These clearly signal that her consent to conjugal relations has been withdrawn and the amendments provide the necessary protection for women under these circumstances;</p>	<p>Counselling 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 made<sup>113</sup>.</p> <p>A breach of PPO can trigger a police investigation, prosecution in a criminal court and conviction attracts penalty of fine (not more than 2,000 Singapore dollars) or imprisonment (not more than six months &amp; in second or subsequent conviction, not more than 5,000 Singapore dollars or not more than 15</p>	
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<sup>104</sup> Section 64 of the Women's Charter (1961), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:f970e7b1-2a7b-49ec-b760-061d1a85888c>

	<p>for the protection of the family member.<sup>105</sup></p> <p>Sections 65-67 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) concerned.<sup>106</sup></p> <p>Apart from the Women’s Charter, violence against women is also covered in other legislation including the Penal Code and the Protection from Harassment Act.<sup>107</sup></p> <p>The Penal Code contains some general prohibitions that are applicable to domestic violence. For instance, the Penal Code criminalises: (i) assault of use of criminal force with the intent of outraging a person’s modesty; (ii) rape; (iii) sexual assault by penetration; and (iv) the utterance of any words or making of any sounds or gestures with the intent</p>		<ul style="list-style-type: none"> <li>Establishment of a multi-stakeholder Family Violence Dialogue Group in 2001, a strategic planning group that facilitates the work processes among the agencies providing services for families affected by violence, coordinates public education efforts and develops new areas for collaboration on family violence;</li> <li>Enhancement of professional competence of agencies and institutions handling cases of</li> </ul>	<p>months or both).<sup>114</sup></p>	
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<sup>113</sup> Section 64 of the Women’s Charter (1961), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:f970e7b1-2a7b-49ec-b760-061d1a85888c>

<sup>105</sup> Sections 65(1), 66(10) of the Women’s Charter (1961), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:f970e7b1-2a7b-49ec-b760-061d1a85888c>

<sup>106</sup> Sections 65-67 of the Women’s Charter (1961), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:f970e7b1-2a7b-49ec-b760-061d1a85888c>

<sup>107</sup> Protection from Harassment Act (2014), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:5c68d19d-19ad-49d8-b1a9-5b8ca8a15459>

	<p>of outraging a person's modesty.<sup>108</sup></p> <p>Section 375(4) of the Penal Code generally exempts sexual intercourse by a man with his own wife from being a crime unless the wife is under 13. However, it lifts the exemption under certain circumstances where the marriage has broken down e.g.: (i) wife living separate and apart from husband; (ii) divorce proceeding is ongoing; (iii) a protection order has been obtained by wife against the husband; (iv) a protection order application against a husband is ongoing but not yet concluded; (iv) there is a court injunction in force restraining the husband from having sexual intercourse with wife.<sup>109</sup></p> <p>The provisions in the Women's Charter and all other criminal laws such as the Penal Code apply to all, including Muslims.<sup>110</sup></p>		<p>families affected by violence through specialised training programmes, etc.; and</p> <ul style="list-style-type: none"> <li>• Conduct of public awareness programmes on family violence annually.</li> </ul>		
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<sup>114</sup> Section 65(8) of the Women's Charter (1961), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:f970e7b1-2a7b-49ec-b760-061d1a85888c>  
<sup>108</sup> Sections 354-354A, 375, 376-376E, 509 of the Penal Code (1872), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:21a9d09f-717b-47a5-a93a-5a44aa8ca1a9>  
<sup>109</sup> Section 375(4) of the Penal Code (1872), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:21a9d09f-717b-47a5-a93a-5a44aa8ca1a9>  
<sup>110</sup> Article 12 of Singapore's Constitution (1963), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:62847936-2328-4409-aa97-2ff69536bc2a;>  
 Information obtained from Singapore advocate, December 2016

<p><b>Nationality rights</b></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.<sup>116</sup> The Constitution does not specifically provide for a Singaporean wife to confer her nationality to her foreign husband. The foreign husband of a Singaporean woman may acquire Singaporean citizenship through registration or naturalisation.<sup>117</sup></p> <p>Both a Singaporean mother and father may pass their citizenship to their children wherever they are born.<sup>118</sup></p>		<p>The Government of Singapore in its 2015 report to the CEDAW Committee informed that:<sup>119</sup></p> <ul style="list-style-type: none"> <li>• Women and men in Singapore have equal rights to acquire, change or retain their nationality;</li> <li>• Women and men in Singapore also have equal rights with respect to the nationality of their children whether they are born in Singapore or abroad.</li> </ul>	<p>Both husbands and wives can be the sponsors for their spouses' applications for Singapore citizenship or permanent residence status.<sup>120</sup></p>	
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<sup>116</sup> Article 123(2) of Singapore's Constitution (1963), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:62847936-2328-4409-aa97-2ff69536bc2a>

<sup>117</sup> Articles 123, 127 of Singapore's Constitution (1963), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:62847936-2328-4409-aa97-2ff69536bc2a>

<sup>118</sup> Article 121, 122 of Singapore's Constitution (1963), <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?Compld:62847936-2328-4409-aa97-2ff69536bc2a>

<sup>119</sup> Singapore State party report, U.N. Doc. CEDAW/C/SGP/5 (2015), paras. 9.1-9.2, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

<sup>120</sup> Information obtained from Singaporean advocate, December 2016