

Simplified Rules of Islamic Divorce (part 1 of 2)

Description: The types and procedures of divorce is a detailed subject among Muslim jurists, but this two-part lesson will aim to cover the basic rules of divorce in Islam with little technical language.

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Objectives

- To understand the rationale of the Quran to allow divorce.
- To understand that divorce is the last resort, not the first step to resolve marital conflict.
- To understand the obligatory, recommended, permitted, disliked, and forbidden types of divorce.
- To learn about 'iddah' or types of 'waiting periods'.

Arabic Terms

- *Iddah* - waiting period.
- *Sunnah* - The word *Sunnah* has several meanings depending on the area of study however the meaning is generally accepted to be, whatever was reported that the Prophet said, did, or approved.

Marriage in Islam is a solemn covenant, a God-given blessing, and a means of expressing love and compassion.



Islam tolerates divorce in view of the imperfections of human nature. While the continuity of marriage is taken for granted, it does not exclude the other possibility. People's hearts and minds change over time for different reasons. An outright prohibition would have meant we are living in an "ideal" world devoid of deficiencies. Such a

prohibition would be incompatible with the Islamic ideology which prescribes only what is humanly attainable. The change may be unavoidable and lead to alienation between spouses and thus defeat the purpose of marriage. The Quran refers to grounds for divorce in this context. If the spouses may not be able to observe the limits set by Allah or implement His laws of marital life, then a divorce may be negotiated. Divorce is generally resorted to when marital life becomes impossible and there is little chance of reconciliation.

In the event of disputes between the spouses, the Quran has specified certain preliminary steps such as admonishment in a kind manner to settle the disputes and sustain the marriage. If these preliminary steps fail, an effort must be made to resolve the dispute by arbitration:

“If you fear a breach between them (husband and wife) appoint a judge from his family and judge from her family, if they both (arbitrators) wish for peace, Allah will cause their reconciliation. Allah is All-Knowing, the Most Great.” (Quran 4:35)

When all effort towards reconciliation fail and there is no prospect whatsoever of reconciliation, then in such an event the husband may exercise his right of divorce as an instrument of last resort.

Divorce is defined as ‘dissolution of marriage’ and is mentioned in the Quran and *Sunnah*. Since marriage is a contract, divorce is seen as dissolution of that contract and deemed to certain conditions.

Categories of Divorce According to Five Rulings

1. Obligatory

Divorce becomes obligatory when there is unbearable harm, usually on part of the wife.

2. Disliked

Divorce done without a pressing necessity is disliked. It is not allowed for a husband to divorce his wife if there is no good reason because it results in harm, stress, and emotional pain which is forbidden.

3. Permissible

Divorce is lawful when a marriage fails to realize its objectives.

4. Recommended

A husband is recommended to resort to divorce if the wife does not adhere to her basic religious duties, in cases of negligence to Allah’s rights, or in cases of infidelity.

5. Forbidden

By scholarly consensus, divorce is forbidden during a woman’s menstrual period or the

interval between a woman's cycles in which they have enjoyed sexual intercourse.

All factors related to divorce – timing, preceding steps, and consequences – are check points imposing limitations on divorce. Several conditions must be met before a divorce can be “pronounced”^[1] by the husband:

- a) The husband must be sane, conscious, alert, and free from excessive anger. If he acts under the influence of intoxications, his divorce is invalid according to some jurists.
- b) He must be free of external pressures. If he pronounces the divorce against his will, i.e. being under pressure, the pronouncement is void.
- c) There must be a clear intention on his part to terminate the marriage.
- d) Divorce must be given in the period of purity. The marriage contract cannot be cancelled at any time at the arbitrary will of the husband. The Quran state, ‘When you divorce women, divorce them at their prescribed periods.’ (Quran 65:1) The ‘prescribed periods’ referred to in the verse means the period of purity in which sexual relations have not taken place. The benefit of prescribing a fixed time is that the possibility of reconciliation remains, tempers may cool, and normal life may be restored in the period.

Iddah or ‘Waiting Period’

The concept of ‘waiting period’ will become clearer in the second lesson. For now, please understand the different types of *iddah*.

1. A woman who experiences menstruation, the mandatory period of waiting is three cycles:

**‘And divorced women shall wait for three menstrual periods.’
(Quran 2:228)**

2. Women who have passed the age of monthly cycles, shall wait for a period of three months:

**‘And those of your women who have passed the age of monthly courses, their prescribed period if they have doubt is three months, and for those (minors) who have no courses (it is the same).’
(Quran 65:4)**

3. In the case of pregnant women, the ‘waiting period’ is until delivery of the child:

**‘The period of pregnant women is until they deliver their burdens.’
(Quran 65:4)**

Endnotes:

^[1] More details on this in Part 2

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