

Chapter – 47

Divorce and Dowry

(طلاق ومهر)

❖ الطَّلَاقُ مَرَّتَانٍ -

Divorce (that could be revoked) is up to two times. (02:229)

❖ فَإِنْ طَلَّقَهَا فَلَا تَحِلُّ لَهُ مِنْ بَعْدُ حَتَّىٰ تَنْكِحَ زَوْجًا غَيْرَهُ فَإِنْ طَلَّقَهَا فَلَا جُنَاحَ عَلَيْهِمَا أَنْ يَتَرَاجَعَا.

And if he divorces her again (the third time), she will not be lawful to him until she has stayed with another husband; and if the other husband divorces her, then it is no any wrongdoing for them to reunite. (02:230)

❖ وَآتُوا النِّسَاءَ صَدُقَاتِهِنَّ نِحْلَةً -

And give the women their bridal money (dowry) willingly. (04:04)

❖ الطَّلَاقُ مَرَّتَانٍ ----- أَنْ اللَّهُ بِكُلِّ شَيْءٍ عَلِيمٌ - (02:229 to 231)

❖ وَالْمُحْصَنَاتُ مِنَ النِّسَاءِ----- وَاللَّهُ غَفُورٌ رَحِيمٌ - (04:24 to 25)

❖ يَا أَيُّهَا النَّبِيُّ إِذَا طَلَّقْتُمُ النِّسَاءَ فَطَلِّقُوهُنَّ لِعَدَّتِهِنَّ----- لَا تَدْرِي

لَعَلَّ اللَّهَ يُحْدِثُ بَعْدَ ذَلِكَ أَمْرًا - (65:01)

Marriage is a permanent contract. But, due to unavoidable circumstances sometimes it breaks. This disruption of bond is called divorce.

❖ Divorces are of three types:

1. **Revocable Divorce** (طلاق رجعي): The divorce in which husband and wife can rejoin is called Revocable Divorce. This can happen two times only. More than that is not permitted.
2. **Irrevocable Divorce** (طلاق بائن): The divorce in which husband and wife are separated but if they want to rejoin it is possible but for this they need to make a new contract with new dowry. This divorce is known as Irrevocable Divorce. In this, husband uses harsh words for divorce, such as “Now you go to your parent’s house”, “From today onwards the camel’s rope is in your hand”, “I give you the ultimate divorce” etc.
3. **Offensive Divorce** (طلاق مغلظة): Third divorce is a final divorce. After this, woman will be totally free. Later, if both men and women wish to rejoin, it is not allowed. However, the new marriage is only possible when woman marries to someone and then her second husband gives divorce to her.

According to Islamic Laws, the right way of giving divorce is that husband should give one divorce in that period when wife has no menstruation. Within one month or so if husband and wife could not come out of their dispute then one more divorce may be given but should be in the period when wife has no menstruation. Similarly, if this dispute continues and there is no possibility of restoration then one more divorce may be given but this should be in the period when wife has no menstruation. This will be third and final divorce.

If two or three divorces are given at a time this will be effective divorce, but it will be considered as an inappropriate way. During the time of Muhammad صلى الله عليه وسلم and Khalifah Abu Baker Siddique رضى الله عنه using the words “divorce”, “divorce”, “divorce”, three times, was considered as emphasis, but treated as one divorce. But in the period of Khalifah Umer the dialects were changed. He referred to many linguistic experts who unanimously gave this verdict that this repetition of word would not be reflected as ‘Emphasis’ but would be accounted for its ‘Implementation’. Therefore, in this situation three divorces would be effective. --- At this juncture some scholars raised objection for this interpretation of dialect and said that it is an alteration in religion. In fact this is their personal misunderstanding which is not acceptable.

During the divorced period, wife will stay in the house of husband. Husband has to bear the expenses. This period is called **عدة** (Waiting Time). This waiting period has many advantages. Firstly there will be no intermixing of genetic element. Secondly, the divorced women can call her relatives.

In case of divorce the prescribed time for the ‘Waiting Period’ is 3 months. If husband is died then this period will be 4 months and 10 days. If woman is pregnant then this will extend up to the delivery of the child. Man has to pay the dowry in full. However, if both husband and wife have not spent even one night together, then the dowry will be half.

Dear People! The system of paying dowry is introduced by Islam. In case of divorce or death of husband, taking care of woman and providing food and shelter to woman has also been made obligatory in Islam. It is because, after the death of husband, woman can manage for her next life.

❖ Dowry is of two kinds:

- **Expedited Dowry** (**مهر معجل**): That money or wealth or property which is paid immediately at the time of marriage ceremony is called ‘Expedited Dowry’.
- **Postponed Dowry** (**مهر مؤجل**): The due dowry which is paid after divorce or death of husband is called ‘Postponed Dowry’. Imam Abu Hanifah says that there is no maximum limit of dowry but the minimum is 10 Dirhams. Other Imams say that dowry can consist of all valuable items.
- **Note:** However, at the time of marriage contract if the item of dowry was not dealt with, then at the time of payment this will be given as **مهر مثل** (**Dower of the Like**), means it will be paid according to the customary dower of woman’s family.

Dear People! There is an unfortunate condition which is widespread nowadays that the fee of Qazi is paid very quickly. Dress expenditures of the bridegroom are also given very efficiently. But the dowry of bride! That is paid at the time of divorce only. Over and above, the amount of dowry is fixed so high that if husband wants to pay, even then it is beyond his reach. What is the ultimate result? Disputes start rising between husband and wife. Life becomes miserable. Husband cannot even think of divorce, because if he takes any action how he would pay the huge amount of dowry! He has only

one way to settle down this matter is the payment in installment, i.e. half of his salary per month. In these circumstances, wife cannot live happily nor is she given divorce.

For a long period Men used to show their dictatorship on women, but now it has become tradition that women are unfair with men. These days there is neither love nor respect between husband and wife. Oh such an awful freedom!

Surat-ul-Baqarah Verse 229 and Surat-un-Nisa Verse 04 says that if woman surrenders or returns her dowry it will be okay. But Surat-un-Nisa Verse 20 describes differently. In fact, if woman is dishonest and man is truthful then demand for pardoning the dowry will be appropriate. But if man is dishonest and woman is truthful then demand to surrender the dowry will not be legitimate.

In the days of Noble Prophet one of his Companions gave a garden as dowry to his wife. But, later woman did not like her husband therefore she went to the Prophet and requested for an arrangement of separation (خلع). The Noble Prophet ordered woman to return the garden and told men to leave her.

These days one more misunderstanding has developed that in case of separation (خلع) husband cannot be forced to leave his wife. Look! It means Qazi has to do give simple advices only and do nothing! Contrary to this, in many situations he may become man's officiator and can give the divorce on behalf of man.

Dear People! It should be clear to all that the provision of divorce is available in Islam only. Man can give divorce and woman can demand for separation. So Islam gives free hand for both men and women but in certain limits. One more thing to be noted that divorce is legal but it is considered as a worst action too. It is never liked. --- In Christianity the divorce is only possible if one of them remained involved in the adultery (زنا). What sort of shameless separation it is? However, after observing Muslim tradition of divorce, now some Non-Muslims are also accepting to this system.
