

# **DIVORCE PROCEEDINGS: ISLAMIC LAW PERSPECTIVE**

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## **Divorce Proceedings: Islamic Law Perspective**

First, let me congratulate the participants in the year 2017 induction course for newly appointed Judges and Kadi's on their appointment to the Judicial offices.

I am honored by the invitation of the National Judicial Institute to write and present this paper titled "Divorce Proceedings: Islamic Perspective"

### **Background:**

A Muslim marriage is ordinarily a relationship for life based on mutual consent of the parties. Marriage in Islam is a special type of civil contract, it follows that the parties to it have a right as in other contracts, to continue the contract of marriage or to discontinue it on reasonable grounds.

If it is established that a husband and wife cannot live together in peace and harmony, they are given the option to separate. Divorce is also permitted when the wife's conduct is undesirable as when she does injury to her husband or she is not chaste. Divorce is obligatory on the husband when he is incapable of matrimonial intimacy or cannot maintain his wife, and the like. This rule is based on a Qur'anic text wherein husbands have been enjoined "to keep the wives with kindness or separate from them in good terms"

{فَامْسَاكٌ بِمَعْرُوفٍ أَوْ تَصْرِيحٌ بِإِحْسَانٍ} (البقرة: 231)

Divorce is permitted as a matter of necessity for the avoidance of greater evil which may result from the continuance of a marriage. But even in such cases an attempt is first to be made for reconciliation by referring the matter to arbitration. Thus it is laid down in the Qur'an,

{وَأِنْ خِفْتُمْ شِقَاقَ بَيْنِهِمَا فَابْعَثُوا حَكَمًا مِنْ أَهْلِهِ وَحَكَمَا مِنْ أَهْلِهَا إِنْ يَرِيدَا إِصْلَاحًا يُوَفِّقُ اللَّهُ بَيْنَهُمْ، إِنَّ اللَّهَ عَلِيمٌ خَبِيرٌ} (النساء: 35)

"If you fear a split between them (the spouses), send one arbitrator from his people and one from her people. If they desire to set things right, Allah shall bring about harmony between them. Surely, Allah is All-Knowing, All-Aware".

According to the spirit of the law it is only when disagreement continues and efforts to bring about reconciliation prove unavailable that the parties may dissolve the marriage.

The Muslim Jurists and Judges used to follow faithfully the following injunction laid down in the Qur'an. To keep them (the wives) with kindness and or separate (from them) with humanity<sup>1</sup>. One of the Islamic scholars has stated a very useful rule in this connection; he says that if a marriage causes injury to the wife on account of any defect in the husband then let the marriage be dissolved. The judges used to be realistic in considering the wife's complaint and scrupulously guarded her happiness. They would free a wife from the marriage – tie if they were satisfied that it was impossible for her to live happily with her husband owing to some defect in him. Thus in a case a wife was granted divorce when her husband was found suffering from halitosis (offensive breath) to such a degree that the wife would not tolerate it<sup>2</sup>.

### **Marital Obligation**

It is also to be seen for the dissolution of a marriage whether the spouses are faithfully and sincerely fulfilling the marital obligations incumbent on them.

The following are some of the important obligations of a husband according to the Muslim jurists:

- a. To protect the wife
- b. To maintain her
- c. To pay her dower
- d. To make himself attractive and to be sexually fit so that she (the wife) should not feel completely neglected or be dissatisfied with the marriage on that ground.
- e. To treat the wife with affection and kindness. This includes permission to visit her parents and relatives.
- f. Not to obstruct her in the performance of her religious duties
- g. To grant her freedom from the bond of marriage when he has no inclination towards her.

The important marital obligations of the wife are:

- a. To look after the domestic comforts of her husband
- b. To be respectful, obedient and faithful to him
- c. To make herself available to him at all reasonable times
- d. To make herself attractive to him
- e. To suckle the children during the prescribed or usual period of time; if so desired by the husband, and to bring up the children properly.

Some of these obligations cast a legal duty on the husband or the wife, as the case may be, while others are in the nature of moral obligations only.

It is not every failure of the marital obligations on the part of one party that entitles the other party to dissolution of the marriage and such right can be exercised only when the failure is of a serious nature.<sup>3</sup>

Divorce in Islam can take a variety of forms, some initiated by the husband and some initiated by the wife. The main traditional legal categories are Talaq (divorce), Khul'i, (mutual divorce), judicial divorce and oath.

Islamic law provides that the relationship between the spouses should be ideally based on love and compassion (mawadda wa Rahma)

{ومن آياته أن خلق لكم من أنفسكم أزواجا لتسكنوا إليها وجعل بينكم مودة ورحمة إن في ذلك لآيات لقوم يتفكرون} (الروم: 21)

And important decisions concerning both spouses should be made by mutual consent when mutual harmony cannot be attained; sometimes it is advised that the spouses bring the marriage to an end without rancor. See Qur'an 2: 231

{وإذا طلقتم النساء فبلغن أجلهن فأمسكوهن بمعروف أو سرحوهن بمعروف، ولا تمسكوهن ضرارًا لتعتدوا، ومن يفعل ذلك فقد ظلم نفسه..} (البقرة: 231)

*“When you have divorced women, and they have approached (the end of) their waiting period, then, either retain them with fairness or release them with fairness. Do not retain them with wrongful intent, resulting in cruelty on your part, and whoever does this, actually wrongs himself; do not take the verses of Allah in jest, and remember the grace of Allah on you and what He has revealed to you of the Book and the wisdom, giving you good counsel thereby, and fear Allah, and be sure”<sup>4</sup>*

Although this decision is not to be taken lightly, and the community is called upon to intervene by appointing arbiters from the two families to attempt reconciliation as mentioned earlier on.

{فإن خفتم شقاق بينهما فابعثوا حكما من أهله وحكما ممن أهلها إن  
يريدا إصلاحا يوفق الله بينهما، إن الله كان عليما خبيراً} (النساء:  
35)

The holy Qur'an established two further means to avoid hasty divorce it prescribes (Iddah) waiting periods of three menstrual circles before the divorce is final in order to give the husband time to consider his decision<sup>5</sup>.

Islam substantially reformed the gender inequality of divorce practices that existed in pre-Islamic Arabia, although some harmful elements survived patriarchal and others flourished even in our present time. The early Islamic reforms include giving the wife a possibility to initiate divorce, abrogation of the husband's claim to his wife's property, condemnation of divorce without compelling reason, criminalizing unfounded claims of infidelity made by the husband, and institution of financial responsibilities of the husband toward his divorced wife. Islam limited the number of divorce to three, after which the man cannot take his wife back without an intervening marriage to another man<sup>6</sup>. Qur'an 2: 229 provides "Divorce is twice; then either to retain in all fairness, or to release nicely".

### **The Common Norm of Divorce (Attalaq)**

The term Talaq may be defined as release from the marriage tie immediately or eventually, by the use of certain words, whether spoken or written, by the husband<sup>7</sup>. For a divorce to be effective and valid it requires neither justification nor court approval. Requiring a justification was seen as being potentially detrimental to the reputation of both spouses; since it may expose family secrets to public scrutiny. It is also assumed that men would have no interest in initiating divorce without good cause given the financial obligation it would incur. However Islamic law jurist imposed certain restriction on valid divorce for example the declaration must be in clear terms; the husband must be of sound mind and not coerced. Upon divorce, the wife is entitled to the full payment of mahar if it had not already been paid. The husband is obligated to financially support her until the end of the waiting period or delivery of her child, if she is pregnant. In addition, she has a right to child support, when she has custody of the children, post-divorce financial assistance or parting gift

called mut'atul Talaq and any past maintenance due which Islamic law requires to be paid in the course of marriage<sup>8</sup>.

The initial declaration of Talaq is considered to be revocable divorce (Talaq Raj'i) which does not terminate the marriage. The husband can revoke the divorce at any time during the waiting period (Iddah) which lasts three full menstrual cycles. The waiting period is intended to give the couple an opportunity for reconciliation, and also a means to ensure that the wife is not pregnant. Resumption of sexual relations automatically retracts the divorce; the wife retains all her rights during the waiting period. The divorce becomes final when the waiting period expires. This is called a minor divorce (al-baynuna al-sughra) and the couple can remarry. If the husband divorces his wife for the third time, it triggers a major divorce (al-baynuna al-kubra) after which the couple cannot remarry without an intervening consummated marriage to another man<sup>9</sup>.

### **Dissolution of Marriage by the Wife**

A wife can herself dissolve her marriage by the exercise of khiyar al-bulugh (option of puberty) or under Tafwid that is when the power of divorce has been delegated to her by the husband. She can also have recourse to khul.

### **Dissolution of Marriage by the Court at the instance of the Wife**

A marriage can be dissolved by the court at the instance of the wife on the following grounds.

- a. When the husband's conduct is such as has been specifically disapproved of by Islam.
- b. When the husband is suffering from a serious mental or physical defect which renders the condition of the marriage unsafe or undesirable for the wife.
- c. When she was a minor at the time of her marriage.
- d. When she was given in marriage by her guardian and her dower is unreasonably low, that is, lower than the customary dower.
- e. When the husband accuses her of being unchaste<sup>10</sup>.

### **Tafwid (Delegated Talaq)**

The husband can delegate the right of divorce to his wife. This delegation can be made at the time of drawing up the marriage contract (Nikah), with or without conditions. Many women included such terms in their marriage contracts. Commonly the contract gave the wife the right to divorce herself if the husband married a second wife. Delegated divorce is called Talaq al-tafawid or Takhyeer<sup>11</sup>.

### **Divorce Considered with regard to the Mode of Expression**

The language used by a husband to divorce his wife may or may not be clear enough to denote his intention of divorcing her. The pronouncement of divorce considered with regard to lucidity of expression is divided into two kinds, namely:

1. Sareeh or express or plain and
2. Kinayah or implied or ambiguous.

(1) *Sareeh or clear expression*: A sareeh or clear pronouncement of divorce is one which is given in such spoken words the meaning of which is unmistakable, as for example, when a husband says to his wife, “I have divorced you” or “you are divorced” such a pronouncement of divorce includes the use of expressions that have acquired a particular significance by long usage and are not used in any other sense than of divorce, and are well understood as implying divorce, in such a situation, no proof of intention to divorce is required under the four schools of Islamic jurisprudence. Divorce given by sareeh or clear pronouncements, the law will hold that the husband meant what the actual words used by him conveyed without permitting him to explain that he meant something else. In sareeh expressions, the actual intention of a husband who divorces his wife is immaterial and a raj’i divorce shall be effective. It is the intention conveyed by his words in divorcing his wife that shall be taken into consideration and the validity and effectiveness of the divorce would not be governed by any mental reservation on the part of the husband to the effect that the divorce pronounced by him was not a genuine divorce.

(2) *Kinayah or implied expression of divorce*: Kinayah or implied expression of divorce means an expression which is ambiguous as opposed to a clear

expression.. The ambiguous expressions are such as can mean a divorce as well as something else and in which the real purpose of the speaker is not clear but is concealed. A divorce is not effective by a kinayah expression unless there is intention of which there is proof or it can be gathered from the surrounding circumstances or there is a mention of divorce. As a kinayah expression does not denote divorce alone but may also mean something else, hence intention is requisite in such cases to determine the meaning of the pronouncement<sup>12</sup>.

The sunni jurist have given a very large number of example of expressions of kinayah or implied divorce which would or would not effect a divorce unless the intention of the husband is ascertain.

Few are given below:--

- “you are not to me as a wife”
- “I have no need of you”
- “Leave my house”
- “go back to your family”
- “you are of no use to me”
- “ I do not desire you”
- “I am unlawful to you”
- “ I give up all relations with you and will have no connection of any sort with you”
- “ you are no body to me”
- “go to your own relations”<sup>13</sup>

### **Conditional Divorce**

A condition can be attached while pronouncing a divorce so that the divorce takes effect only upon the fulfillment of the condition to which it is subject. The condition may refer to the occurrence or non-occurrence of a certain specified future event or it may refer to a certain place or time. A conditional divorce remains in suspense and the marriage subsists till the condition, subject to which it was pronounced, is fulfilled. A divorce is effective as soon as the condition is fulfilled. If, however, the condition becomes impossible of fulfillment then the declaration of the husband, that is, the conditional divorce becomes ineffective, and the marriage continues to subsist as before<sup>14</sup>.

If the divorce is made contingent on a default on the part of the husband in the performance of certain condition or conditions agreed upon between the parties, a divorce would be effective on the occurrence of the breach of the condition. If the divorce is given subject to the fulfillment of two or more conditions, the divorce would be effective only when all the conditions are fulfilled<sup>15</sup>.

It is essential that the conditions should be definite, certain and possible. If the declaration is ambiguous or relates to something that is uncertain or impossible then not only the condition but the declaration of divorce itself shall be void. Thus if a husband were to say to his wife, “if you do not immediately return the purse you have removed from my pocket then you are divorced” and it should happen that the purse is in his own pocket then the wife shall not be divorced for it is not possible for the wife to restore the purse.

### **Triple Pronouncement of Divorce<sup>16</sup>**

There is a great controversy regarding the effect of triple pronouncement of divorce at one and the same time. The difference in the opinions of the Muslim jurists is due to the difference in their interpretation and application of the law. One set of jurists is of the opinion that no leniency is to be shown in the application of the laws so that people should not take undue advantage on that account. Abu Hanifah and Malik therefore, hold three repetitions of divorce to be final. The other set of jurists explain that Allah wants that people should be dealt with leniently so that they may not be put to hardship and also to minimize the chances of separation. Hence, they hold the three repetitions to amount to one divorce only.

### **Khul'i (Mutual Divorce)<sup>17</sup>**

Khul'i is a contractual type of divorce that is initiated by the wife. It is justified on the authority of Qu'ran 2: 229

{فإن خفتم ألا يقيما حدود الله فلا جناح عليهما فيما افتدت به} (البقرة: 229)

*“if you apprehend that they (husband and wife) would not maintain the limits set by Allah, then, there is no sin on them in what she gives up to secure her*

release. These are the limits set by Allah. Therefore, do not exceed them. Whoever exceeds the limits set by Allah, then, those are the transgressors. It is further based on a hadith in which the prophet of Islam Muhammad (S.A.W) instruct a man to agree to his wife's wish of divorce if she gives back a garden received from him as a dowry. A khul'i is concluded when the couple agrees to a divorce in exchange for a monetary compensation paid by the wife. Such divorce is final and irrevocable, effective when the contract is concluded.<sup>18</sup>

If a husband pressure his wife to agree to khul'i instead of pronouncing divorce, which would let him avoid the attendant financial responsibility of divorce, it is considered to be valid but he would be ordered to refund the amount he collected from the wife<sup>19</sup>.

ففيما زواه البخاري عن ابن عباس رضي الله تعالى عنهما: "أن امرأة ثابت بن قيسأت النبي صلى الله عليه وسلم فقالت يا رسول الله، ثابت بن قيس ما أعتب عليه في خلق ولا دين، ولكن أكره الكفر في الإسلام. فقال رسول الله صلى الله عليه وسلم: "أتردّين عليه حديقته؟" قالت: نعم. قال رسول الله صلى الله عليه وسلم: "أقبل الحديقة، وطلقها تطليقة"<sup>20</sup>

The couple cannot reconcile during the waiting period defined as in the case of Talaq. But the husband is required to pay maintenance to the wife if she is pregnant or she has a nursing baby, unless the requirement is waived by the contract<sup>21</sup>.

## JUDICIAL DIVORCE

A marriage can be dissolved by means of judicial divorce. Either party can petition a court to obtain judicial divorce, but they must have compelling grounds for dissolving the marriage such as cruelty; husband's failure to provide maintenance, infidelity; desertion, moral or social incompatibility; certain ailment; and imprisonment harmful to the marriage<sup>22</sup>.

Judicial divorce can also be sought over violation of terms stipulated in the marriage contract. Different legal schools recognized different subsets of these grounds for divorce. The Maliki School which recognized the widest range of

grounds for divorce, also stipulates a category of harm (Darar) which give the judge significant discretion of interpretation.

### DISSOLUTION OF MARRIAGE BY OATH<sup>23</sup>

The husband can end marriage through three types of oath: continence, ILA, ZIHAR, and denial of partiality (Li'an) the first two types were pre-Islamic practices confirmed by the Qur'an. See Qur'an 2:226 – 227 for ILA. See also Qur'an 58: 2 – 4. For ZIHAR, for Li'an see Qur'an 24: 6 – 9.

ILA is an oath whereby the husband vows to refrain from sexual relations with his wife for at least four months. If he fulfills his oath, the marriage discontinues<sup>24</sup> and the wife is entitled to divorce upon petition to the court.

In ZIHAR oath, husband declares that his wife is sexually prohibited to him as his mother; the husband is able to break the oath and resume the marriage by expiation that is by means of freeing a slave, feeding 60 poor persons or fasting 2 consecutive months Qur'an 58:4.

In the li'an oath, the husband denies paternity of his wife's child. The wife is given an opportunity to take an oath denying infidelity, and if she does so and the husband persists in his accusation, the marriage is dissolved by a Judge and the couple can never remarry again.<sup>25</sup>

### **Post-Divorce Financial Support (Mut'at Al-Talaq)<sup>26</sup>**

Mut'at al-talaq, post-divorce financial support, or post-divorce payment to be made by the husband to his ex-wife, in an attempt to uplift her self-esteem and turn down the negative impact of the social and economic humiliation associated with the term "divorced woman".

MUT'AT AL-TALAQ is one of the three fixed rights that are due to women beside their own share of inheritance: the dowry at the time of the marriage performance; the maintenance throughout the course of the marriage; the *MUT'AT AL-TALAQ* after the occurrence of the irrevocable divorce; and their allocated shares of inheritance upon the death of the husband.

Mut'atul Talaq is profoundly rooted in the divine scripture as clearly illustrated in the following verses.

*“And for divorced woman is a suitable Mut’at. (Post-divorce support) this is a duty on the righteous”<sup>27</sup>*

*“There is no blame on you if you divorce women before consummation or the fixation of their dowry; but bestow in them Mut’at- al- Talaq, the wealthy according to his means and the poor according to his means; (such mut’at of a reasonable amount is due for those who wish to do the right thing.”<sup>28</sup>*

{وللمطلقت متع بالمعروف، حقا على المتقين} (البقرة: 241).

{لا جناح عليكم إن طلقتم النساء ما لم تمسوهن أو تفرضوا لهن فريضة، ومتعهن على الموسع قدره وعلى المقتر قدره، متاعا بالمعروف، حقا على المحسنين} (البقرة: 236)

### **Commentaries of the Qur’an on Post-Divorce Support**

TAFSIR AL-TABARI: Al-Imam Al-Tabari is among the oldest Qur’anic commentators. In his commentary on the foregoing Qur’anic verse, he strongly advocated for women’s right in the post-divorce support. He sturdily defended his belief that payment of Mut’atul Al-Talaq to a divorced woman is an obligation on the husband by virtue of the aforementioned Qur’anic verses. And after reporting different opinions on this matter, he said: “I believe what represent the truth, among all of the above jurist argument is the argument of those who say that post-divorce support is mandatory for all divorced women, because Allah has said, “for all divorced women Mut’at as a duty on the Muttaqing” the leaned jurist was further quoted saying in his tafsir: it is my conviction that post-divorce support is an obligatory payment on the husband who divorce his wife and he is liable to pay her just like he is liable to pay her due dowry, and he will never be exonerated from such an obligation until he pays her or her proxies or heirs, and that post-divorce support is like other debts that are due to her, and the husband can be subjected to incarceration and his property can be sold for not paying his divorced wife her post-divorce due<sup>29</sup>.

### **Tafsir Al-Qurtabi**

Imam Al-Qurtabi quoted Ibn Umar, Ali bin Abi Talib sa, id ibn Jubair, and other prominent companion of the prophet Muhammad( peace and blessing of Allah be upon him) who hold that the rule on post-divorce support came in the form

of a command and therefore is a binding rule (Wajib) although Imam Malik is of the view that post-divorce support is not Wajib but recommended<sup>30</sup>.

### **Post-Divorce Support from Prophetic Tradition**

It was reported that prophet Muhammad (S.A.W) married a woman called Umrah from the tribe of Kilab, before consummation of the marriage she was divorced, the prophet (S.A.W) paid her what was due to her according to post-divorce right and sent her back to her family<sup>31</sup> in this prophetic practice we learned that despite the short time Umrah spent in the prophet's house, he granted her post-divorce support. In another Hadith, a man from Al'ansar divorced his wife before consummation of the marriage, the prophet (S.A.W) directed the husband to pay her post-divorce financial support<sup>32</sup>.

Many of the prophet companions, including Uthman bin affan, Abdur Rahman Ibn Auf, the judge shuraih, and Hasan Ibn Abi Talib give Mut'ah paid post-divorce support to their divorced wives<sup>33</sup>.

Muslim jurist have two different views on post-divorce financial support, some jurist say it is mandatory (Wajib) relying on the verses of the Qur'an and prophetic tradition mentioned earlier on. While some say it is (mandub) recommended. However, despite this vast authority extracted from the primary source of Islamic Law i.e Qur'an and Hadith supporting post-divorce financial assistance, the Nigerian Sharia Court Judges did not hold that concept as worthy of making pronouncement on it in spite of the large number of divorce cases that came before them. In practice this principle is almost totally ignored, and buried under the prevailing rubbles of custom.

It has been the tradition and culture in our society today that the divorced women, along with their children are returned back to their family home without any financial support from the husband thereby making them destitute, confused and sometime depressed not knowing from where would they start life again.

### **Post-Divorce Financial Support Reflection through Case Study<sup>34</sup>**

A couple married in their home town and later settled overseas, where they lived and raised their children. Both the husband and the wife were medical doctors. They accumulated large wealth in cash and real estate worth millions,

after sometime; the husband proposed that his wife should quit practicing as a physician and stay home to care for him and the children. She accepted the proposal and quit. Some years later, the husband wanted to divorce her for personal reasons, when she learned about his intention for divorcing her, she was disturbed and her concern was to have custody of her minor children and some post-divorce financial support, she thought about engaging a lawyer to help her in court, but the husband convinced her that resorting to legal tussle in court is not going to serve the interest of the family, and the legal system of the country of their residence is not the same with Islamic law of marriage and divorce which both of them are bound by. He told her that an alternative to the court would adjudicate on the matter in accordance with Islamic law in a way that will satisfy the family.

The couple appeared before an Islamic law arbitration panel and signed a prepared binding arbitration agreement.

The panel conducted all prerequisite investigation including family history, the husband's attitude, annual business income, the best interest of the children, and so forth. The panel found the husband guilty of the following:-

- Being an abusive husband to his wife and children.
- Planning to inflict a despotic divorce against the wife for no justification other than her age.
- Deceiving his wife to accept Islamic law arbitration panel with intention that she would be entitled only to three month of post-divorce support known as the Iddah period.

The panel made the following award as its decision:

- The wife will be granted divorce effective from the date of the decision.
- The wife will be granted 1 million Dollars in cash from the husband's accumulated assets for her post-divorce financial support, including her Iddah period expenses.
- The wife will be granted one of the two mansions with all the furniture therein.
- The wife will be granted custody of her minor children, as well as allowances for upkeep of the children on monthly basis.

The husband rejected the decision of the arbitration panel, and went on appeal to court, he lost and further appealed to special appellate court, in the process of

hearing the appeal, his lawyers and friends advise him to withdraw the appeal and accept the decision of the arbitration panel to avoid further expenses and possible additional responsibility which might be enforced against him by the special appellate court.

### **Conclusion: Urgent call to Muslim Jurists**

Muslim jurists should take a proactive role in reviving the application of post-divorce support (Mut'at-al-talak) as it has been clearly decided by the Qur'an and the sunnah. There are numerous reasons for reinforcing the application of post-divorce support, in our modern time.

Below are some reasons:

- It is a command of Allah as reported in a number of verses in the Holy Scripture.
- It has been supported and illustrated by the prophetic tradition, the companions of the prophet, and the successors.
- It is a manifestation of the Islamic profoundly rooted principle of justice and fairness for all in general and toward women in particular.
- It is for the best interest of the minor children who are the first victims of many arbitrary subjective divorces.
- It serves as a means to deter harm of all kinds that would befall divorced women who are now crying out for help, but receiving none.

In this days it is common when a Muslim woman gives up her schooling or her secured profession and career in order to get married and serve the husband and the household and raise the parties' children, or if a woman worked years and years in her husband's business then eventually got divorced, I am of the view that, it is unjust act to kick her out of the house and the business and leave her with no post-divorce financial support or property to settle down.

Finally it is worthy to note that, the issue is not only about better or fairer treatment to divorced women, but it is about justice and fairness for the voiceless and vulnerable members in our society.

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- <sup>1</sup> Qur'an (2:231).
- <sup>2</sup> Muslim law of Divorce by K.N. Ahmad page: 16
- <sup>3</sup> Ibid page: 21
- <sup>4</sup> Qur'an 2:231.
- <sup>5</sup> Qur'an 2:228.
- <sup>6</sup> Divorce legal foundation Abed Awad and Hany Mawla.
- <sup>7</sup> Fathul Qadir Vol: 3, 20
- <sup>8</sup> The Oxford Encyclopedia of Islam and women.
- <sup>9</sup> Women in Muslim family law. Pp 30 – 31.
- <sup>10</sup> Muslim law of Divorce by K.N. Ahmad p 24.
- <sup>11</sup> Ibid p 34.
- <sup>12</sup> Ibid p 74.
- <sup>13</sup> Ibid p 77.
- <sup>14</sup> Ibid p 79.
- <sup>15</sup> Ibid p 80.
- <sup>16</sup> Al-fiqhul maliki fi saubihil jaded by Muhammad bashir Ashshaqfa, Vol 4, p 244.
- <sup>17</sup> Ibid p 272.
- <sup>18</sup> Mawahibul Jalil vol 5 p 269.
- <sup>19</sup> Al-fiqhul Islami wa adillatuhu by Dr. wahbatuz-zuhair Vol 7, p 477.
- <sup>20</sup> Hadith repoted in sahihul bukhari No. 5273.
- <sup>21</sup> Al-fiqhul maliki fi saubihil jaded by Muhammad bashir Ashshaqfa, Vol 4, p 289.
- <sup>22</sup> Muslim law of Divorce by K.N. Ahmad p 23 – 24.
- <sup>23</sup> Al-fiqhul maliki fi saubihil jaded by Muhammad bashir Ashshaqfa, Vol 4, pp 331 – 394.
- <sup>24</sup> Jawami'ul Iklil Vol 1 p 368.
- <sup>25</sup> See fawakihul-Dawani vol 2, p 54.
- <sup>26</sup> Al-fiqhul Islami wa adillatuhu by Dr. wahbatuz-zuhair Vol 7, pp 305 – 310.
- <sup>27</sup> Qur'an 2: 241.
- <sup>28</sup> Qur'an 2: 236.
- <sup>29</sup> Jami al-bayan an ta'awil ay alqur'an Vol 2 pp 80 – 82.
- <sup>30</sup> Al-jami al-ahkamul Qur'an Vol 3 pp 200 – 201.
- <sup>31</sup> Uyunul Athar fi funun al-maghazi wa al-sham'il wa al-siyar Vol 1, p 389.
- <sup>32</sup> Ibid.
- <sup>33</sup> Jami'ul ahkamul Qur'an, Al-qurdubi. Vol 3, pp 201 – 203.
- <sup>34</sup> Post-divorce financial support from the Islamic perspective; Dr. Muhammad Adam El-sheikh pp 10 – 11.