



The ignorance dilemma

90-day period, if the husband withdraws the notice, Talaq will not take place. If the husband fails to inform the Council after pronouncing Talaq thrice, divorce will not take effect between the two. This is a common misconception prevailing in our society. Many women like Humaira have suffered at the hands of their husbands due to the ignorance of this fact.

Dissolution of marriage is yet another type of divorce in which a woman can get her marriage dissolved through courts. In this case, she has to file a suit for dissolution in the

family court where she lives. Her marriage can be dissolved on the following grounds:

1) If the whereabouts of the husband are not known for the period of four years.

2) If the husband has neglected to provide the wife maintenance for a period of two years.

3) If the husband has, in contravention of the rules laid down in the Muslim Family Laws Ordinance 1961, contracted a second marriage.

4) If the husband has been sentenced to imprisonment for a period of seven years or upwards.

5) If the husband has failed to perform, without reasonable cause, his marital obligations for a period three years.

6) If the husband was impotent at the time of marriage and continues to be so.

7) And if the husband has been insane for the period of two years or is suffering from leprosy or a virulent venereal disease.

A woman can also get her marriage dissolved through Khula. She has to give evidence in court that she dislikes her husband to such an extent that she cannot live with him willingly. In applying khula, the

wife however, has to agree to forgo her *haq mehr*, or return any gifts given to her by her husband. Khula and dissolution of marriage are the worst forms of divorce, which make a woman's life torturous and full of social and psychological pressures. She also has to go through the tiresome court procedures involving humiliating and disgraceful attitude from the judges, lawyers and general public.

Mubarat is the case when both husband and wife agree to dissolve their marriage. They don't need to go to the court in this situation. The couple has to write a notice divorcing each other and send it to the Union Council or Committee, which then proceeds in a similar manner as in the case of Talaq. However, one spouse cannot withdraw the notice without the permission of the other.

The delegated right of divorce means that the woman has the same rights to divorce her husband in a manner, which is used by men. If the wife has been conceded this right, which is the 18th clause of the



to go to court to get a divorce. She only has to send a written notice to the union Council or Committee intimating that she has pronounced divorce upon herself. She must also send a copy of the notice to her husband. The Council then proceeds in a similar manner as having received a notice of Talaq. The wife can also recall the notice any time before the end of 90 days.

It is thus important to register marriage and divorce in the Union Council. And if one fails to do so, the law can very well go against the innocent women, who cannot prove their legal status in that case. Most of the women though are unaware of this fact and its consequences. They remain ignorant of the law that can charge them of adultery and zina if the divorce is not registered. It is, however, the duty of the husband to do this but since women have very little understanding of law, men usually do not fulfill this requirement due to ulterior motives.

The document of *nikahnam* is very important but unfortunately, is discriminatory in nature. Clause number 18 states: "Whether the bride is maiden, a widow or a divorced - whereas there is no such requirement for a man to inform his status. Then, and more importantly, the clause number 19 states: "Whether the husband has delegated the power of divorce to the wife, if so, on what conditions."

First of all, this right should be given to a woman by law. The husband should not be in a position to effect it at all. A change would save many women from being harassed in order to get a divorce.

Secondly, it should not be compulsory in the *nikahnam* to inform a woman of her rights regarding marriage dissolution. She should be informed about the procedure of registration of divorce.

The 1961 Marriage Act was intended to protect women against various generalities regarding divorce. But the law has been misinterpreted and has put women in a state of social, psychological and moral apprehension, eating away the substance of their lives. It has been so to speak, that it has put them by the state.

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