

الاستفسارات والفتاوى

يسرنا ويسعدنا ان نداء بسلسلة السين والجيم الفقهي وها هنا بعض الاسئلة المطروحة والاجوبة الشرعية وباللله التوفيق . (رئيس التحرير)

السؤال الاول :

بعث بيتي ووضعت المال بصندوق النقد الاسلامي ، والآن بعد مرور عام خسر الصندوق وانا ادفع ايجارا ١٠٠٠ روية شهريا فكيف ادفع الزكاة وهل انقص مبالغ الايجار من قيمة الزكاة ؟

الجواب : هذه الاموال بعد بيع البيت هي في البنك وديعة استثمارية فتجب فيها الزكاة لانها مرضودة للنماء والزيادة ولا عبرة بالخسارة ، مادام المال بلغ نصابا وحال عليه الحول ولو كنت في بيتك ولم تبعه فلا زكاة عليه لانه حينئذ بيت للسكن . وتجب الزكاة على الوديعة بعد خصم الديون الحالية عليك وكذلك تخصم الايجارات التي تاحرت في سدائها ، والله تعالى ورسوله اعلم بالصواب .

سؤال ٢ :

اريد ان اتزوج بالفتاة الكتابية فما هي الضوابط الشرعية بذلك ؟

الجواب : الزواج بالكتابية يا اخی الفاضل مقبول ولكن غير محبوب عند الشرع الشريف . فننصحك ان لا تتزوج بالكتابية وتحاول ان تجد زوجة مسلمة من بنات المسلمين ولا تضع نفسك في الحرج وان كنت مسرا على الزواج بالكتابية وقد شغلك حبيها فما هي الضوابط :

اولا : ان يستوتق من كتابيتها فقد تكون مسيحية اسما ولكنها ملحدة حقيقة كالبهائية مثلا :

حد يعمل في الارض خير لاهل الارض من ان يمطروا اربعين صباحا ☆ الحديث

ثانياً: ان تكون محصنة اى عفيفة لا تباع جسدها لمن يريد او على الاقل تكون تانية مما وقعت فيه من اخطاء

ثالثاً: الا تكون من قوم معادين للمسلمين كاليهودية فى عصرنا هذا
رابعاً: الا يكون فى ذلك مضرة على الزواج او على الاولاد منها او على بنات المسلمين كان تكون الجالية الاسلاميه محدودة العدد ، فاذا تزوج غير مسلمة كسدت سوق مسلمة مقابلها.
فاذا راعيت هذه الشروط الاربعه فلا باس عليك ان تتزوج الكتابية .
وندعوا الله ان يهدينا واياك الى سبيل الهداية .

سؤال ٣

ما حكم شراء الشهادات المالية من البنوك ؟ كما هناك بعض البنوك تباع شهادات تدخل فيها بسحب على مبلغ من النقود والشهادة بسعر محدود فما حكم ذلك ؟

الجواب : يحرم المشاركة بشراء الشهادات التى تباعها بعض البنوك كما بينت فى سؤالك ايها الاخ الحبيب . وحرمة شرائها بسبب الامرين :

الامر الاول : لانها من الربا

والامر الثانى : لانها شبيهة بالقمار

اما الربا ، فان المبلغ المدفوع انما يدفع بصفة القرض ، فهو دين من صاحب المال على البنك مقابل هذا القرض يخول البنك صاحبه الدخول فى السحب وهذه فائدة جرهما القرض ، والقاعدة الشرعية تقول ، كل قرض جر نفعا فهو ربا .

اما شبهها بالقمار فلان نية الداخل هى الدخول فى السحب وليس استثمارا او غيره فاذا حالقه النصيب اخذ اضعاف ما دفع والارجع اليه ما دفع .

ووالله ورسوله اعلم بالصواب .

خذ يعمل فى الارض خير لاهل الارض من ان يمطروا اربعين صباحا ☆ الحديث

- Hadrat Abdullah bin Abbas رضی اللہ عنہ reports that:
 "The wife of Hadrat Thabit bin Qais came to the Holy Prophet ﷺ and submitted: "I have no complaint against Thabit's mannerism and religion but I do not like infidelity in Islam or she says: "I do not like to be ungrateful inspite of being a Muslim." The Holy Prophet ﷺ said: "Will you return his garden?" She replied: "Yes". Thus, she returned the garden and the Holy Prophet ﷺ ordered for the separation." (Bukhari)

7. Annulment of marriage by court

A Muslim woman can get her marriage annulled by a Muslim court or a jurist for the following reasons:

- The husband is a destitute and cannot cater to the basic needs of his wife.
- The husband has abandoned his wife for good without giving her divorce and without leaving any property behind.
- The husband tyrannises his wife and does not fulfil her conjugal rights.
- Hadrat Abu Hurairah رضی اللہ عنہ says that the Holy Prophet ﷺ said:
 "The person who cannot afford the expenses of his wife, their marriage should be annulled." (Daru Qutni, V:3, P:297, Sunan-e-Kubra, V:7, P:471)

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husband has necessitated. This process is also called Hilalah. The Holy Quran says:

“Then if she is divorced (for the third time) then that woman will not be lawful to him, until she lives with another husband.” (2:230)

The Holy Prophet ﷺ says:

“You cannot marry him (the first husband) until you must enjoy the nuptial bliss from him (the second husband) and he must enjoy the nuptial bliss from you.” (Bukhari)

6. Khula (Divorce at the instigation of wife)

Khula means divorce at the instance of the wife who pays a compensation. Following things are indispensable for the validity of Khula:

- ☆ The offer of Khula from any one of the husband and wife.
- ☆ The acceptance of Khula.
- ☆ The validity of wedding.
- ☆ The wealth (compensation) against which Khula is given.
- ☆ To pronounce the word Khula or any synonym of it.

Allah ﷻ says:

“And it is not allowed to you to take back something of what you have given to the women, but if both fear that they could not keep the limits of Allah ﷻ.

Then, if you fear that the twain shall not remain just on the same limits then there is no sin on them for that which the woman ransoms herself.” (2:229)

Hence, it has become crystal clear that if a woman is being oppressed by her husband and she can no more endure his afflictions and torments, she may offer him money and get divorce on this base.

The reporter says that he asked: "Did you count that divorce?" Hadrat Abdullah bin Umer رضی اللہ عنہ said: Why not?" (Muslim, Kitabut Talaag)

3. Divorce in fun

If a person gives her wife divorce in fun or in game, that divorce will also be valid. Our Holy Prophet ﷺ says:

"Three things are taken as serious in seriousness and also even in fun: marriage, divorce and to resume conjugal links." (Tirmidhi, V:1, P:142)

4. To divorce without uttering words

If a husband gives divorce to his wife in his heart i.e. without pronouncing the word, it will not be effective. The Holy Prophet ﷺ says:

"Allah has forgiven the thoughts which float through the hearts of my Ummah till they act upon them or speak of them." (Ibn-e-Majah)

5. Three divorces at a time

The Holy Prophet ﷺ, almost twenty companions of the Holy Prophet ﷺ, the heads of four schools of thought and thousands of theologians are of the view that if a person gives three divorces to his wife simultaneously or in different meetings, all three divorces will be valid.

Hadrat Fatima bint Qais says that her husband gives her three divorces while setting out to Yaman and the Holy Prophet ﷺ declared them effective. (Ibn-e-Majah)

As a result the marriage bond between the two will be irrevocably dissolved and the parties cannot remarry until the wife may marry, after the completion of mandatory waiting period, another person who must also consummate the marriage. If the second husband, due to any reason divorces her or dies, then she can marry her previous husband provided she has passed her prescribed waiting period which the divorce or the death of her second

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become stale. The mother-in-law wishes the daughter-in-law to be a perfect organizer who can run a house without any discrepancy and does not endure even a slight mistake on her part. On the other hand, the daughter-in-law wants to enjoy full independence and does not like any interference from her mother-in-law. As a result obstinacy and stubbornness perform their role and the gulf between two parties yawns to such an extent that it can not be bridged. The best solution to this problem is that the girl should consider her in-laws to be her real father, mother, brother and sister and the in-laws should take her as the real member of their family. She must give proper honour to her father and mother-in-law and they, in response, must expose their love, affection and tender feelings to her. Moreover, both parties must turn full thought to the following saying of the Holy Prophet ﷺ:

“He who severs the relation, will not enter Paradise.” (Bukhari)

Some important points

1. Divorce during pregnancy

Divorce during pregnancy is also valid. The specification of prescribed waiting period for them also reinforces this point. Moreover, the Holy Prophet ﷺ said:

“He should resume the conjugal relation with her and then (if he wants) divorce her when she will be clean or pregnant.” (Muslim, Ibn-e-Majah)

2. Divorce during menstruation

Divorce during menstruation will be effective. Anas bin Sireen reports that Hadrat Abdullah bin Umer رضی اللہ عنہ said that he divorced his wife during her menstrual period. Hadrat Umer رضی اللہ عنہ narrated this case to the Holy Prophet ﷺ. The Holy Prophet ﷺ said:

“Command him to resume marital affairs and divorce her when she will be in her clean period.”

“They are your garments and you are their garments.” (2:187)

Second reason

Sometime a person divorces his previous wife and marries another girl just for the sake of heavy dowry which she will bring to his home. But they are forgetful of this reality that wealth is a fleeting thing which can abandon you and lead you to abject poverty. Allah ﷻ who has endowed you with immense property, can seize everything from you. So we should keep the following Hadith in our mind:

“A pious wife is one of the best bounties of the world.” (Nasaai)

Third reason

Some time parents choose a partner for their son or daughter who is absolutely incompatible with him or her. Actually, this is a matter of entire life and a little bit negligence on the part of the parents can cause everlasting chaos in the lives of the husband and the wife. Parents ought to show stringent concern in these sensitive issues and it would be better if they arrange a meeting between the expected husband and wife under their own tutelage. This act is allowed in Islamic law and it will work a great deal in creating better understanding between the couples but remember they must not meet alone in any case. The Holy Prophet ﷺ says:

“Have a glimpse of the one you want to marry, it will increase love between you.” (Tirmidhi)

Note: It is an exceptional case otherwise, it is not allowed for a boy to see a girl and vice versa.

Fourth reason

Another major cause of divorce is conflict between the mother-in-law and the daughter-in-law. In the beginning, there establish very pleasant ties among all family members but with the passage of time, these links

“O believers! When you marry Muslim women, then divorce them before touching them, in that case you have no period of waiting which you may count against them.” (Ahzaab, 22:49)

Reasons & solutions

There are many reasons due to which a husband gives divorce to his wife. I may quote here some of them with precious directions put forward by Islam.

First reason

Some husbands regard their wives as an embodiment of errors and mistakes. They always find faults with them by saying:

- ☆ She is not a skilful cook.
- ☆ She is not a good mother or wife or daughter-in-law.
- ☆ She cannot look after the home well.
- ☆ She does not know how to behave in gentry.
- ☆ She is not pretty enough and so on.

But they themselves show apathy to this approach that their wives are human being not angels who are immune from any fault and blunder. Secondly, what good are you lending to them? What is the impact of your company on them? Is not it your duty to groom them and polish their manners to make them as good as you aspire. Thirdly, only the apparent beauty does not matter. It is a transitory thing which melts down as one grows old. All the fascinations, charms of youth dwindle away when a person advances towards the future. Hence, the actual beauty is the beauty of character and deportment which benefits you throughout your life and not only the physical beauty which will betray you very soon. Fourthly, you should also remember that you have faults to your credit too. As they tolerate you and screen your deficiencies, so you must screen their discrepancies because the Holy Quran says:

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☼ Talaaq-e-Bidat (The Heretical divorce)

The divorce which is given disregarding the traditional way is called heretical divorce. It comprises the following modes of giving divorce.

- ☆ To give three divorces at a time.
- ☆ To give divorce during menstrual period.
- ☆ To give two or more divorces in one's period of purity.
- ☆ To give divorce in that period of purity during which he has practised coitus with his wife.

Divorce & prescribed waiting period

It has the different rules according to the different states of divorcees. The detail is as under:

- ◎ If the divorcee is pregnant, she will have to wait till she delivers the baby:

“And the period of the pregnant women is when they give birth to children.” (Al-Talaaq, 28:4 — Kanzul Iman)
- ◎ In the case of women who experience menstruation, the mandatory waiting period is three menstrual periods:

“And divorced women should keep their souls away till three menstruation.” (2:288 — Kanzul Iman)
- ◎ The girls who have not reached the age of puberty, or the women who have reached the menopause, will wait for a period of three months:

“And as to your women who have no hope of menstruation; if you are in doubt, then their prescribed period is three months, and for those who have not yet menstruated.” (Al-Talaaq, 28:4)
- ◎ If a husband divorces his wife before the consummation of marriage, there will be no waiting period for her:

☆ میں نے امام محمد سے بڑھ کر کوئی تصحیح نہیں دیکھا (امام محمد بن اور بس شافعی)

Types of divorce

There are three types of divorce.

☼ Talaq-e-Ahsan (The better divorce)

The husband should give only one divorce to his wife in her period of purity during which he has not practised sexual intercourse with her. Hadrat Abdullah bin Umer رضی اللہ عنہما says:

“The traditional way of divorce is that a person may divorce his wife during her period of purification without practising sexual intercourse with her.”
(Ibn-e-Majah)

Note: In this case, the husband can resume normal conjugal relations before the expiry of the prescribed waiting period. But on the expiry of the waiting period, the wife will be free to marry a third party of her choice or remarry her previous husband.

☼ Talaq-e-Hasan (The good divorce)

In above case, the husband gives only one divorce to his wife and let the waiting period passes away after which the wife can marry any other person but in this case a person gives one divorce to his wife during her clean period without practising coitus with her then again after her next menstrual period when she is clean, he pronounces another divorce without having a sexual intercourse with her and so on. Hence, after the third divorce, the wife will become a stranger for him and all solid walls of the fort of marriage will collapse down.

The philosophy behind these two types of divorce is that following the above mentioned way of giving divorce, a husband will have ample time to rethink about the dire consequences which lie in the wake. Moreover, the time that is a great healer can also cool down his temper and he may, forgetting all previous bitterness, start a new life with his wife.

ruthlessly. Even in this case Islam does not leave its followers unguided. The Holy Prophet ﷺ says:

- "Beat them to such an extent that it must not cause any bruise." (Bukhari)
- "No one of you must beat his wife like a concubine that when day ends, one may start to practise sexual intercourse with her." (Bukhari)
- "If need arises then you may beat them so lightly that it must not leave any bruise (on the body) and likewise do not beat on the face." (Abu Dawud)

But at the same time this point must be kept in mind that the Holy Prophet ﷺ himself never enjoyed this liberty. Hadrat Aisha ؓ reports that:

"The Holy Prophet ﷺ did never beat any servant or a woman." (Abu Dawud)

Third step

If all these prefatory steps fail, then the Holy Quraan again plays its role and advises to resolve the dispute by means of arbitration:

"And if you fear a dispute between husband and wife, then appoint an arbiter from the side of the family of man and an arbiter from the side of the family of woman, if these two will desire reconciliation, then Allah ﷻ will cause unity between them. Undoubtedly, Allah ﷻ is Knowing, Aware." (Al-Nisa, 5:35 — Kanzul Iman)

Final step

When all efforts towards reconciliation prove fruitless and there remains no ray of hope for creating understanding and pacification between the cross couple, then in such unavoidable circumstances, Islam recommends divorce as a last resort which is a very realistic approach to absolve a couple from the responsibility of a flaccid marriage bond.

حدیث فی الارض خیر لاهل الارض من ان یمطروا اربعین صباحا ☆ الحدیث

practice, he must have liked her other practices.”
(Muslim)

Second step

If first step does not work then the Quran suggests three other ways to maintain the sacred marriage contract:

“And as to those women whose disobedience you fear, then admonish them and sleep apart from them, and beat them (lightly), then if they come under your command, then seek not any way of excess against them.” (Al-Nisa, 5:34)

In this stage, three suggestions are recommended:

1. Admonishment

Kind words and kind deeds have a magic power to console the broken heart and drive away hatred even from the mind of a deadly enemy:

“A gentle word, like summer rain

May soothe some heart and banish pain.”

Hence, first of all a husband should advise his wife in a very gentle way and try his best to persuade her through his convincing and logical arguments. He should keep on counselling his wife, keeping in mind that as a continuous flow of water on a rock wears it out, he can also melt the ice frozen between them.

2. Sleep apart

Another psychological method which this verse suggests to adopt is to keep the wife away from one's affection. This will be really very painful experience and this torturous indifference of the husband to the wife will humble her sooner or later.

3. Light beating

If the second preliminary step may not exercise its effect on wife then he can go for corporal punishment. But it never means that the husband should beat his wife black and blue by punching, smacking or whacking her

- The Holy Prophet ﷺ remarked:
"Those who get Khula (without a valid reason), are hypocrites." (Tirmidhi V:1, P:142)
- The Holy Prophet ﷺ informed:
"The Satan places his throne on the water and then sends his troops. In his sight, the closest to him is the one who causes the most mischief. One of his troops comes and says: "I have done so and so." "You have done nothing", he replies. Then another out of them says: "I did not leave a person but after causing separation between him and his wife". He asks him to come close to him and says: "Yes, You have done something valuable." (Muslim)

All above mentioned Ahadith announce that Islam strives to impede all the ways to divorce and when minor disputes escalate into conflicts even then it does not leave a person in lurch but guides him as a sincere friend.

Step by step guidance

First step

At the very outset of a conflict between a husband and a wife Islam suggests some significant preliminary steps to bridge the wide chasm between them. When a husband takes a dislike to his wife, Allah ﷻ advises him saying:

"And treat them fairly; then if you dislike them, it is likelihood that you may dislike a thing and wherein Allah ﷻ has placed much good." (Al-Nisa, 4:19 — Kanzul Iman)

It is a fact that a wife is not a flawless creature. She does possess bad as well as good qualities. So, we should always consider the good qualities of a wife and ignore her flaws & short comings. The Holy Prophet ﷺ says:

"No believing man must harbour grudge against any believing woman. If he dislikes any of her

④ Islam and divorce

Islam being a balanced and rational religion neither bans to give divorce nor encourages this practice. It is illogical to force a husband and a wife to live together when they have grown extreme resentment against each other and their house has turned into a warfield. On the other hand Islam does not boost a husband or a wife to hanker to get separation on trifles.

Divorce — A repulsive thing

Divorce is not at all a pleasant thing and is legalized in very indispensable circumstances. Many sayings of the Holy Prophet ﷺ bear witness that to give divorce is not an appreciable but a bad practice.

○ The Holy Prophet ﷺ says:

“Out of all things permitted by Allah ﷻ, divorce is the most offensive thing in the sight of Allah ﷻ.”
(Abu Dawud, Mishkat)

○ The Holy Prophet ﷺ declared:

“The fragrance of Paradise will be forbidden for a woman who seeks divorce from her husband without any reason.” (Tirmidhi, Mishkat)

It means they will remain deprived of the fragrance of Paradise.

○ The Holy Prophet ﷺ commanded:

“Marry and do not give divorce: Undoubtedly, the Emyrean of the Beneficent (Allah) shakes due to divorce.” (Al-Qurtabi, the commentary)

○ The Holy Prophet ﷺ said:

It is a great sin in Allah's view that a person may marry a woman and then after getting his wish, give her divorce and may not pay her jointure as well.”
(Hakim)

Obviously, this measure was even worse and provided no solution to a separated man or a woman.

The new era of Christianity is exceedingly contrary to the previous one. Now, firstly, they give the right of giving divorce not only to men but also to women. Secondly, it is as easy for a man and a woman to give divorce and hunt another partner as to change the dress. According to a survey, the rate of giving divorce in England, has increased six times more within last three years. In England the rate of divorce is 58% and in Sweden the half of marriages end in divorce.

(The Nida-e-Millat, Lahore, Feb. 21, 1997)

According to American Census Bureau, seven thousand couples contract marriages in America and three thousand and three hundred couples (nearly 50%) out of them divorce each other.

② Ancient Rome

In ancient Rome, divorce was taken as a toy in the hands of playful children and marriages were terminated on very flimsy ground. Seneca, the famous Roman Philosopher and statesman, has severely criticized his countrymen for the high incidence of divorce among them. He says:

“Now divorce is not regarded as something shameful in Rome. Women calculate their age by the number of husbands they have taken.”

③ Hinduism

In Hinduism, there are eight types of marriages and in four types their religion does not permit any person to give divorce to his wife whereas in other four types there are some restrictions and a husband or a wife can get separation observing those limitations. (Arth Shaster, P:342)

Detriments of Divorce

By Irfan Butt.



Divorce, etymologically, means to leave, to separate or to set free, whereas, legislatively, it means to bring the marriage bond to an end.

The striking and basic feature of marriage is its permanence and Islam categorically stresses a married couple to shun all tiffs and conflicts, and strive to maintain such an environment at home which may bolster up mutual understanding among all family members. This is so because stable family relations are considered a cornerstone of a healthy society.

Divorce in different religions

① Christianity

In past, divorce was totally prohibited in Christianity and the husband and wife were compelled to remain together, both by religion and law, though an extremely suffocating environment might be prevalent between them. They would argue from the following saying of Hadrat Isa عليه السلام which was actually meant to strengthen the wedlock and not to prohibit divorce even in exigency.

“Man should not separate them whom Allah has wedded.” (Mathew, 19:6)

Again, if they are separated, under extreme circumstances, neither man nor the woman can contract marriage with any body else. As Bible points out:

“And I tell you that whosoever abandons his wife for any reason other than adultery and marries another woman, commits fornication.” (Mathew, 19:9)