

## Divorce

Divorce as it is practiced in many traditional Muslim communities (particularly in the Arab world) is one of the worst “bulls of inequity” imaginable. When I was first learning about Islam it was a great blessing that I did not know about these practices! I had never heard that only the husband can initiate a divorce. Nor had I heard that all he has to do is pronounce the divorce three times and it is permanent. Nor did I know that the husband always takes the children.

Though, thank God, these practices are not universal, just the fact that much of the Muslim world justifies them by saying they are God’s laws, would have discouraged me from ever reading the Quran. And I know I would never have considered becoming a Muslim.

Fortunately, all of these practices are cultural rather than Quranic. The Quran strictly regulates divorce. It is not a simple matter of the husband “repudiating” his wife by declaring three times that he divorces her. Rather, a long process is involved, with great emphasis placed on conciliation from the very beginning. The following verse shows this:

*If a woman senses oppression or desertion  
from her husband,  
the couple shall try to reconcile their differences,  
for conciliation is best for them.  
Selfishness is a human trait,  
and if you do good and lead a righteous life,  
God is fully Cognizant of everything you do.  
(Quran: The Final Testament 4:128)*

From this verse several things become clear. First, a husband should not oppress nor desert his wife. Then, if the wife feels

that she is being mistreated, she should speak up, for how else can the couple come to the point of reconciling their differences? This means that she must take responsibility for her own feelings and her own life. She cannot expect her husband to know what she is thinking and feeling.

This has always been one of my failings. I expect my husband to know what I need, without my telling him. When I look at this realistically I can see how self centered and selfish this is. He has his own life, his own set of concerns and old emotional wounds to heal. Those are his responsibility. If I need emotional support or different treatment from him, it is my responsibility to let him know in a non-blaming, loving way. I also must make sure that what I need is clear, first of all to myself, and then to him. And I have to realize that he may or may not be able to meet my need at that very moment.

The Hollywood and fairy tale notion of love gives us very unhealthy expectations. It depicts a world where all one has to do is find the perfect mate, and all other problems disappear. In reality, no one else is going to magically meet our every need and make us queen of the universe. Sadly, this cultural fantasy of love is commonly accepted throughout our society. I believe it is one of the main reasons for the frighteningly high rate of divorce. Once that state of unrealistic magic called "being in love" settles down to a more normal state of real love, people often think that something is wrong with the relationship. If they fell in love with someone incompatible in the first place, they are probably right. But sometimes even if the relationship is quite good, people end it because they are no longer "in love," as they understand it.

Actually, being in love often has very little to do with love at all. Think about that sensation. It is a very selfish one. "I can't live without him," is its typical refrain. There is little or no consideration of what is good for him, or yourself for that matter. It is an obsessive state. Finally reality sets in and you see the object of your affection as a normal human being, with all his defects as well as his strengths. He is no longer the knight

in shining armor who was going to save you from the drabness of everyday life.

In short, most of us tend to have an unrealistic and selfish view of love and marriage. As we saw in the above verse it is clear that God understands this aspect of our nature very well. When there are problems, He tells us to try to reconcile. He tells us that we are selfish by nature, and that overcoming that selfishness is best for us.

If things in the marriage actually come to the point where separation seems likely, the following verse brings in the family, and arbitration is required:

*If ye fear a breach  
Between them twain,  
Appoint (two) arbiters,  
One from his family,  
And the other from hers;  
If they wish for peace,  
God will cause  
Their reconciliation:  
For God hath full knowledge,  
And is acquainted  
With all things.  
(The Holy Quran IV:35 [4:35])*

With the family involved, arbitration and counseling will naturally take place. I had always thought of marriage counseling and arbitration as very modern and enlightened psychological approaches to the problems of a troubled marriage. Actually I still think that is accurate – the Quran is very modern and enlightened, though it was revealed 1400 years ago.

If the conciliation and arbitration do not work, there is a cooling off period before the divorce takes effect. This is another “new” concept in modern divorce law:

*For those who take  
An oath for abstention*

*From their wives,  
A waiting for four months  
Is ordained;  
If then they return,  
God is Oft-forgiving,  
Most Merciful.  
But if their intention  
Is firm for divorce,  
God heareth  
And knoweth all things.  
(The Holy Quran II:226-27 [2:226-27])*

If the couple decides to go through with the divorce, the woman must wait three menstrual cycles before she can marry someone else. The divorce is not final until after that interim. So, even after the four months of cooling off, there is another period of about three months before the divorce is final. That leaves plenty of time for the couple to reconsider, plenty of time for them to be sure that they really want to divorce.

Unlike the traditions, the Quran does not say that only the man can initiate the divorce. In fact, in the following verse it is clear that the woman can cause the divorce:

*If you divorce them before touching them,  
but after you had set the dowry for them,  
the compensation shall be half the dowry,  
unless they voluntarily forfeit their rights,  
or the party responsible for causing the divorce  
chooses to forfeit the dowry.  
To forfeit is closer to righteousness.  
You shall maintain the amicable  
relations among you.  
God is Seer of everything you do.  
(Quran: The Final Testament 2:237)*

Thus, “the party responsible for causing the divorce” can be either the woman or the man. And either side can choose to

forfeit the dowry. Also, Chapter 4 Verse 128, quoted above, commands the couple to try to reconcile when a woman “*senses oppression or desertion.*” This is then followed by verse 130:

*If the couple must decide to part,  
God will provide for each of them  
from His bounties.  
God is Bounteous, Most Wise.  
(Quran: The Final Testament 4:130)*

In this verse the first phrase, “*If the couple must decide to part,*” makes it clear that both the man and the woman are involved in the decision of whether or not to divorce. Marriage is basically an agreement between the husband and the wife with God’s sanction. It only makes sense that either party can end it.

There is just one situation where the husband’s wishes do hold sway over those of the wife. That is the situation where a woman is pregnant. If the husband wishes to resume the marriage under these circumstances, his wishes shall take precedence over those of the wife, not for his own sake, but for that of the unborn child:

*The divorced woman shall wait  
three menstruations  
(before marrying another man).  
It is not lawful for them to conceal  
what God creates in their wombs,  
if they believe in God and the Last Day.  
(In the case of pregnancy),  
the husband’s wishes shall supercede  
the wife’s wishes, if he wants to remarry her.  
The women have rights,  
as well as obligations, equitably.  
Thus, the man’s wishes prevail  
(in case of pregnancy).  
God is Almighty, Most Wise.  
(Quran: The Final Testament 2:228)*

Given the major hormonal changes a pregnant woman goes through, this provision seems reasonable. There is nothing to say that the woman cannot initiate a divorce later if she still feels she must. However, this provides a stabilizing period for her where her emotional and spiritual being can come back to its normal state after the great demands of pregnancy and giving birth. It also gives a chance to the whole family to go back to normal before a decision to divorce is made.

When divorce does take place, the divorced woman has certain rights. For example, she may stay in the home, or leave it if she wishes:

*If you divorce the women,  
once they fulfill their interim  
(three menstruations),  
you shall allow them to live  
in the same home amicably,  
or let them leave amicably.  
Do not force them to stay  
against their will, as a revenge.  
Anyone who does this wrongs his own soul.  
Do not take God's revelations in vain.  
Remember God's blessings upon you,  
and that He sent down to you  
the scripture and wisdom to enlighten you.  
You shall observe God,  
and know that God is aware of all things.  
(Quran: The Final Testament 2:231)*

The father may request the mother to continue to nurse a child if the child is under two years old. If she is nursing her divorced husband's child, he shall provide for her equitably:

*Divorced mothers shall nurse their infants  
two full years, if the father so wishes.  
The father shall provide the mother's food  
and clothing equitably.  
No one shall be burdened beyond his ability.*

*No mother shall be harmed  
on account of her infant,  
nor shall the father be harmed  
because of his infant.  
(If the father dies), his inheritor shall  
assume these responsibilities.  
If the infant's parents mutually agree to part,  
after due consultation,  
they commit no error by doing so.  
You commit no error by hiring nursing mothers,  
so long as you pay them equitably.  
You shall observe God,  
and know that God is Seer  
of everything you do.  
(Quran: The Final Testament 2:233)*

This verse is a very important one. It spells out the right of the father to request the mother to nurse their child. It makes it clear that neither party shall be harmed in the divorce. It also makes it clear that the decision to part is mutually agreed upon "after due consultation." And it specifies that the father shall provide for the mother.

Even when there are not nursing children involved, the wife receives a fair alimony. The Quran refers first to the provision for a widow (also termed alimony), and then immediately after addresses the situation of a divorcee:

*The divorcees also shall be  
provided for, equitably.  
This is a duty upon the righteous.  
(Quran: The Final Testament 2:241)*

This shows that alimony is due the wife, whether or not she is nursing her former husband's child. Furthermore, if a man has given his wife a great deal, and then wishes to divorce her, he cannot take back anything he gave to her, as these next verses demonstrate:

*But if ye decide to take  
One wife in place of another,  
Even if ye had given the latter  
A whole treasure for dower,  
Take not the least bit of it back:  
Would ye take it by slander  
And a manifest wrong?  
And how could ye take it  
When ye have gone in  
Unto each other, and they have  
Taken from you a solemn covenant?  
(The Holy Quran IV:20-21 [4:20-21])*

Please note that Yusuf Ali understood this to refer to the dowry given to the first wife. However, other translations, including Rashad Khalifa's do not specify that it need be the dowry. Nothing that was given to the first wife can be taken back.

Probably the most painful area of divorce is that of assigning custody for the children. Among many Muslims it is a foregone conclusion that the child will go to the father. But the Quran does not specify this. While the father has the right to request the mother to nurse their baby, the Quran does not specify which party gets the children. This tells us that each situation should be decided on its particular circumstances, with the principle in mind that no one should be harmed on account of the children (Quran 2:233 quoted above).

The only situation that the Quran discusses in this regard is the case where a woman going through a divorce discovers she is pregnant. As quoted above, the Quran indicates that the husband can choose for the marriage to continue (Quran 2:228 quoted above). However, if the marriage does end in divorce, the Quran does not specify which parent gets the children.

Whatever the circumstances of the divorce, God stresses that:

*"...You shall maintain the amicable  
relations among you."  
(Quran: The Final Testament 2:237 and 65:6)*



Personally, I have a great aversion to divorce. I believe it is one of the most painful things anyone can go through. This pain is not restricted to the husband and wife. Children suffer terribly in most divorces. And members of the extended family also suffer. After all, the parents of the wife are losing a “son” and the parents of the husband are losing a “daughter.” Moreover, grandparents often lose easy contact with their grandchildren as the result of divorce.

If divorce must take place, I can think of no more merciful way than that specified in the Quran.

In summary, marriage is a sacred bond and God strongly encourages its preservation. Divorce is allowed, but only after attempts to reconcile and cooling off periods have failed. If divorce does take place, both parties are protected and their rights safeguarded. Finally, as difficult as it is, divorce should be amicable.



*I know of no more poignant or inspiring story relating to divorce than the following. It clearly demonstrates some of the most painful aspects of the traditional understanding of divorce, and the strength of the submitting soul to rise above such pain.*

### “Talaaq, talaaq, talaaq”

My family was a victim of the traditional understanding of divorce. What happened was out of ignorance. My parents were both good people. Had they known what the Quran really means by divorcing three times, none of the following drama would have happened.

My parents were married young. My father, like all men of his generation, was raised with the idea that men are superior to women, and that they, as men, could do whatever they wanted.

Women were not educated, and could read only the Quran. But the practice was to read it only for blessing, not for understanding. To question and examine was not allowed. We are so fortunate to be able to examine the verses and study the Quran to understand it. It is such a blessing. You have no idea what a blessing!

My mother went to visit her brother with me, her new two-month old baby. She had just returned. Every morning my father ate *foul* (Egyptian beans) with boiled eggs. This morning, she was rushed and she gave my father his foul without the eggs.

It made him furious. He was so angry that he said she should go back to her brother. And he shouted out the terrible words "*Talaaq, talaaq, talaaq*" (meaning "I divorce you, I divorce you, I divorce you"). So, my mother had to leave and go back to her brother holding me.

[*Editor's note:* The Quran says you can only divorce twice and still remarry the same woman unless she remarries and her new husband divorces her (Quran 2:229). The traditional understanding is that the husband just has to pronounce the word three times and the divorce is final, and remarriage impossible.]

When she told her family what had happened, they said that the divorce was final, so she had to stay there. My uncle did not want to deal with me. When my mother was asleep he took me from her and gave me to his son and told him to take me back to my father. He was to tell my father that my mother had said "Throw her to him."

When my father heard this lie, he was very angry and did not want to have anything to do with her. He hired a nursing mother for me. When that woman did not have enough milk for me, they would take me to other women who could nurse me or give me goat's milk. Sometimes these women would sneak me to my mother, who was almost beside herself. She had ten years of marriage before I was born, so you can imagine how dear I was to her.

When she remarried I kept hoping my stepfather would divorce her so she could marry my father again. But my father

had remarried too. My stepmother was very, very mean to me. Sometimes she would cook and then hide the food from me. So my father divorced her. I was ten years old when he married a very good woman, who gave me a wonderful half brother, *Mā Shā Allah!* [Editor's note: "*Mā Shā Allah*" can be translated "This is what God has given me."]

I was very upset that I could not be with my mother. There she was alive, but I could not be with her. I never got enough of her, and I think it affected my whole life. But Praise God that He gave me my dear brother. And I think the pain I suffered made me ask questions. Because of that God guided me to the truth of following the Quran alone. If I had to do it again I would go through it all, every step without hesitation, to get to where I am now. Praise God!

– I. R., Egypt

