

## Al-'Iddah

There is consensus among Muslims about the general necessity of *'iddah*. Its basis is the Qur'an and the Sunnah. As to the Qur'an, we have the following verse:

وَالْمُطَلَّقاتُ يَتَرَبَّصْنَ بِأَنْفُسِهِنَّ ثَلَاثَةَ قُرُوءٍ

***Women who are divorced shall wait, keeping themselves apart, three (monthly) courses.. (2:228)***

As to the Sunnah, there is the Prophet's tradition commanding Fatimah bint Qays:

اعتدي في بيت ابن أم مكتوم

Observe *'iddah* in the house of Ibn Umm Maktum.

They differ, however, regarding: the *'iddah* of a wife separated from her husband due to divorce or annulment of marriage; the *'iddah* of a widow; the *'iddah* of a woman copulated by mistake; the relief of an adulteress (from menses); and the *'iddah* of a wife whose husband has disappeared.

### Divorcee's 'Iddah

The five schools concur that a woman divorced before consummation and before the occurrence of valid seclusion has no *'iddah* to observe. The Hanafi, the Maliki and the Hanbali schools state: If the husband secludes with her without consummating the marriage and then divorces her, she will have to observe *'iddah*, exactly as if consummation had occurred.

The Imamiyyah and the Shafi'is observe: Seclusion has no effect. As mentioned earlier in relation with the distinction between revocable and irrevocable divorce, the Imamiyyah do not require a menopausal wife with whom coitus has taken place to observe *'iddah*. The reasons given by the Imamiyyah for this

opinion were also mentioned earlier.

The *'iddah* for every kind of separation between husband and wife, except the one by death is the *'iddah* of divorce irrespective of its being due to: *khul'*, *li'an*, annulment due to a defect, dissolution arising from *rida'* (breast-feeding), or as a result of difference of religion. [1](#)

Moreover, the schools concur that the *'iddah* is *wajib* on a wife divorced after consummation and that the *'iddah* will be one of the following kinds:

I. The five schools concur that a pregnant divorcee will observe *'iddah* till childbirth in accordance with the verse:

وَأُولَاتُ الْأَحْمَالِ أَجَلُهُنَّ أَنْ يَضَعْنَ حَمْلَهُنَّ

***And as for pregnant women, their term shall end with delivery. (65:4)***

If she is pregnant with more than one child, her *'iddah* will not terminate until she gives birth to the last of them, as per consensus. The schools differ concerning a miscarriage if the foetus is not completely formed: the Hanafi, the Shafi'i and the Hanbali schools observe: Her *'iddah* will not terminate by its detachment. The Imami and the Maliki schools state: It will, even if it is a lump of flesh, so far as it is a foetus.

The maximum period of gestation is two years according to the Hanafis, four years according to the Shafi'is and the Hanbalis, and five years according to the Malikis, as mentioned by *al-Fiqh 'ala al-madhahib al-'arba'ah*. In *al-Mughni*, it is narrated from Malik to be four years. Details of this were mentioned in the chapter on marriage.

A pregnant woman cannot menstruate according to the Hanafi and the Hanbali schools. The Imami, the Shafi'i and the Maliki schools allow the possibility of its occurrence.

She will observe an *'iddah* of three lunar months if she is: an adult divorcee who has not yet menstruated or a divorcee who has reached the age of menopause. [2](#) This age is seventy years according to the Malikis, fifty years according to the Hanbalis, fifty-five years according to the Hanafis, sixty-two years according to the Shafi'is, and according to the Imamiyyah fifty for ordinary women and sixty for those of Qurayshi descent.

Regarding a wife copulated with before her completing nine years, the Hanafis observe: *'iddah* is *wajib* on her even if she is a child. The Maliki and the Shafi'i schools state: *'iddah* is not *wajib* on a minor incapable of intercourse, but *wajib* on one who is capable even if she is under nine. The Imami and the Hanbali schools do not consider *'iddah* *wajib* on a minor under nine years even if she has the capacity for intercourse. (*al-Fiqh 'ala al-madhahib al-'arba'ah*, vol. 4, discussion on the *'iddah* of a menopausal

divorcee).

A divorcee over nine who has had monthlies and is neither pregnant nor menopausal has an *'iddah* of three *quru'*, as per consensus. The Imami, the Maliki and the Shafi'i schools have interpreted the word *qara'* to mean purity from menses. Thus, if she is divorced at the last moment of her present period of purity, it will be counted as a part of *'iddah*, which will be completed after two more of such terms of purity. The Hanafis and the Hanbalis interpret the term to mean menstruation. Thus, it is necessary that there be three monthlies after the divorce, and the monthly during which she is divorced is disregarded. (*Majma' al-anhur*)

If a divorcee undergoing this kind of *'iddah* claims having completed the period, her word will be accepted if the period is sufficient for the completion of *'iddah*. According to the Imamiyyah, the minimum period required for accepting such a claim is twenty-six days and two 'moments', by supposing that she is divorced at the last moment of her first purity, followed by three days of menses (which is the minimum period) followed by a ten-day purity period (which is the minimum period of purity according to the Imamiyyah) followed again by three days of menses, then a second ten-day purity followed by menses. The period of *'iddah* comes to an end with the sole recommencement of menses, and the first moment of the third monthly is to make certain the completion of the third period of purity.

*Nifas* is similar to menses, in the opinion of the Imamiyyah. Accordingly, it is possible for an *'iddah* to be completed in twenty-three days, if the wife is divorced immediately after childbirth but before the commencement of *nifas* (in which case the *'iddah* is 23 days, considering a moment of *nifas* followed by ten days of the first purity, followed by three days of menses – which is the minimum period for it – followed by a second ten-day purity).

The minimum period for accepting such a claim by a divorcee is thirty-nine days according to the Hanafi school, by supposing his divorcing her at the end of her purity, and supposing again the minimum three-day period of menstruation, followed by a 15-day purity (which is the minimum in the opinion of the Hanafis). Thus, three menses, covering nine days, separated by two periods of purity, making up thirty days, make up a total of thirty-nine.

## Maximum Period of 'Iddah

As mentioned earlier, a mature divorcee who has not yet menstruated will observe a three-month *'iddah*, as per consensus. But if she menstruates and then ceases to do so – as a result of her nursing a child or due to some disease – the Hanbali and the Maliki schools observe: She will observe *'iddah* for one complete year. In the later of his two opinions, al-Shafi'i has said: Her *'iddah* will continue until she menstruates or reaches menopause; after this, she will observe an *'iddah* of three months. (*al-Mughni*, vol. 7. "bab al-'idad")

The Hanafi school is of the opinion that if she menstruates once and then ceases perpetually due to

disease or breast-feeding a child, her *'iddah* will not terminate before menopause. Accordingly, the period of *'iddah* can extend for more than forty years in the opinion of the Hanafi and the Shafi'i schools. (*al-Fiqh 'ala al-madhahib al-'arba'ah*, vol. 4. the discussion on *'iddat al-mutallaqah idha kanat min dhawat al-hayd*).

The Imamiyyah observe: If menstruation ceases due to some accidental cause the divorcee will observe an *'iddah* of three months, similar to a divorcee who has never menstruated. If menses resume after the divorce, she will observe *'iddah* for the shorter of the two terms. i.e. three months or three *quru'*. This means that if three *quru'* are completed before three months, the *'iddah* will be over on their completion, and if three months are completed before three *quru'*, then again the *'iddah* will terminate. If she menstruates even a moment before the completion of three months, she will have to wait for nine months, and it will not benefit her if she is later free from menses for a period of three months. After the completion of nine months, if she gives birth before the completion of a year, her *'iddah* will terminate, and similarly if she menstruates and completes the periods of purity. But if she neither gives birth nor completes the periods of purity before the end of the year, she will observe an additional *'iddah* of three months after completing the nine months. This adds up to a year, which is the maximum period of *'iddah* according to the Imamiyyah.<sup>3</sup>

## The Widow's 'Iddah:

There is consensus among the schools that the *'iddah* of a widow who is not pregnant is four months and ten days, irrespective of her being a major or a minor, her being menopausal or otherwise, and regardless of the consummation of her marriage, in accordance with the verse:

وَالَّذِينَ يَتَوَفَّوْنَ مِنْكُمْ وَيَذُرُونَ أَزْوَاجًا يَتَرَبَّصْنَ بِأَنْفُسِهِنَّ أَرْبَعَةَ أَشْهُرٍ وَعَشْرًا

***And those among you who die and leave behind wives, (these wives) should keep themselves waiting for four months and ten days. (2:234)***

This is the case when she is sure of not being pregnant. But if she has a doubt she is bound to wait until delivery or attainment of certainty that she is not pregnant. This is the opinion of many legists belonging to different schools.

The four Sunni schools state: The *'iddah* of a pregnant widow will terminate on delivery, even if it occurs a moment after the husband's death. This permits her to remarrying immediately after giving birth, even if the husband has not yet been buried, as per the verse:

وَأُولَاتُ الْأَحْمَالِ أَجَلُهُنَّ أَنْ يَضَعْنَ حَمْلَهُنَّ

**And as for pregnant women, their term shall end with delivery. (65:4)**

The Imamiyyah state: Her *'iddah* will be whichever is longer of the two terms, i.e. delivery or four months and ten days. Thus if four months and ten days pass without her giving birth, her *'iddah* will continue until childbirth; and if she delivers before the completion of four months and ten days, her *'iddah* will be four months and ten days. The Imamiyyah argue that it is necessary to combine the verse 2:234:

يَتَرَيَّصْنَ بِأَنْفُسِهِنَّ أَرْبَعَةَ أَشْهُرٍ وَعَشْرًا

with the verse 65:4:

أَجَلُهُنَّ أَنْ يَضَعْنَ حَمْلَهُنَّ

The former verse has fixed the *'iddah* at four months and ten days, and it includes both a pregnant and a non-pregnant wife. The latter verse has stipulated the *'iddah* of a pregnant wife to last until childbirth, and it includes both a divorcee and a widow. Thus an incompatibility emerges between the apparent import of the two verses regarding a pregnant widow who delivers before the completion of four months and ten days. In accordance with the latter verse her *'iddah* terminates on delivery, and in accordance with the former the *'iddah* will not terminate until four months and ten days have been completed. An incompatibility also appears if she does not deliver after the completion of four months and ten days; according to the former verse her *'iddah* terminates when four months and ten days are over, and in accordance with the latter the *'iddah* will not terminate because she has not yet delivered. The word of the Qur'an is unequivocal, and it is necessary that parts of it harmonize with one another. Now, if we join the two verses like this:

وَالَّذِينَ يُتَوَفَّوْنَ مِنْكُمْ وَيَذَرُونَ أَزْوَاجًا يَتَرَيَّصْنَ بِأَنْفُسِهِنَّ أَرْبَعَةَ أَشْهُرٍ وَعَشْرًا، وَأُولَاتُ الْأَحْمَالِ أَجَلُهُنَّ أَنْ يَضَعْنَ حَمْلَهُنَّ

the meaning will be that the *'iddah* of a widow who is not pregnant, or is pregnant but delivers within four months and ten days, is four months and ten days; and that of a widow who delivers after four months and ten days is until the time of her delivery.

If someone questions how the Imamiyyah specify the *'iddah* of a pregnant widow to be the longer of the two terms (delivery or four months and ten days) while the verse *وَأُولَاتُ الْأَحْمَالِ* is explicit that the *'iddah* of a pregnant woman terminates on her giving birth, the Imamiyyah say: How have the four schools said that the *'iddah* of a pregnant widow is two years, if the gestation period so extends, in spite of the verse:

وَالَّذِينَ يُتَوَفَّوْنَ مِنْكُمْ وَيَذَرُونَ أَزْوَاجًا يَتَرَيَّصْنَ بِأَنْفُسِهِنَّ أَرْبَعَةَ أَشْهُرٍ وَعَشْرًا

which is explicit that it is four months and ten days? If the questioner replies: The four schools have done so acting in accordance with the verse **أُولَاتِ الْأَحْمَالِ**, the Imamiyyah reply: We have acted in accordance with the verse: **وَالَّذِينَ يَتَوَقَّوْنَ** .

Therefore it is not possible to apply both the verses except by stipulating the longer of the two terms as *'iddah*.

The schools excepting the Hanafi, concur that *al-hidad* is *wajib* on the widow, irrespective of her being major or minor, Muslim or non-Muslim. The Hanafis do not consider it *wajib* for a non-Muslim and a minor widow because they are not *mukallaf* (responsible for religious duties).

The meaning of *al-hidad* is that the woman mourning her husband's death refrain from every adornment that makes her attractive. Its determination depends on prevailing customs and usage.

The Imamiyyah observe: The *'iddah* of divorce will commence on the recital of the divorce, irrespective of the husband's presence or absence. The *'iddah* of a widow commences on the news of his death reaching her, if he is away. But if the husband is present and she comes to know of his death after some time, her *'iddah* will commence from the time of his death, as per the predominant opinion among Imamiyyah legists.

The schools concur that if the husband of a revocable divorcee dies while she is undergoing *'iddah*, she is bound to start anew with a widow's *'iddah* from the time of his death, irrespective of the divorce taking place during the husband's mortal illness or health, because the marital bond between her and the husband has not yet broken. But if the divorce is irrevocable, it will depend. If he divorces her while healthy, she will complete the *'iddah* of divorce and will not have to observe any *'iddah* due to the husband's death, as per consensus, even if the divorce was without her consent. Similar is the case if he divorces her during his mortal illness on her demand. But what if he divorces her during his mortal illness without her demanding it, and then dies before the termination of her *'iddah*? Shall she start the widow's *'iddah*, like a revocable divorcee, or shall she continue to observe the *'iddah* of divorce?

The Imami, the Maliki and Shafi'i schools state: She shall continue to observe the *'iddah* of divorce without changing over to the *'iddah* of widowhood.

According to the Hanafi and the Hanbali schools, she shall change over to the *'iddah* of widowhood.

In short, a revocable divorcee will start observing the *'iddah* of widowhood if the divorcer dies before the termination of her *'iddah* of divorce, and an irrevocable divorcee will continue to observe the *'iddah* of divorce, as per the concurrence of all the schools except the Hanafi and the Hanbali, who exclude an irrevocable divorcee if the divorce takes place during the divorcer's mortal illness without her consent.

## **'Iddah for Intercourse by Mistake**

According to the Imamiyyah, the *'iddah* of 'intercourse by mistake' is similar to the *'iddah* of a divorcee.

Therefore, if the woman is pregnant, she will observe *'iddah* until childbirth; if she has menstruated, her *'iddah* will be three *quru'*, otherwise three months. An 'intercourse by mistake' is, according to the Imamiyyah, one in which the man involved is not liable to penal consequences, irrespective of the woman being one with whom marriage is unlawful (such a wife's sister or a married woman) or lawful (such as any unmarried woman outside the prohibited degrees of marriage). The view held by the Hanbalis is nearly similar to this view, where they observe that every form of sex relations necessitate the observance of *'iddah*. They do not differ from the Imamiyyah except in some details, as indicated below on the discussion of the *'iddah* of a fornicatress.

The Hanafis state: *'Iddah* is *wajib* both as a result of intercourse by mistake or an invalid marriage. *'Iddah* is not *wajib* if the marriage is void. An example of the 'mistake' is a man's having relations with a sleeping woman thinking her to be his wife. An invalid (*fasid*) marriage is one with a woman with whom marriage is lawful but in which some essential conditions remain unfulfilled (such as where a contract has been recited without the presence of witnesses). A void (*batil*) marriage is a contract with a woman belonging to the prohibited degrees of relatives (e.g. sister or aunt). The *'iddah* for intercourse by mistake according to them is three menstruations if she menstruates, or three months if she is not pregnant. If she is pregnant, the *'iddah* will continue until childbirth.

The Malikis state: She will release herself after three *quru'*; if she does not menstruate, by three months; if pregnant, on childbirth.

Whatever be the case, if a man who has had intercourse by mistake dies, the woman will not observe the *'iddah* of widowhood, because her *'iddah* is due to intercourse, not marriage.

## The 'Iddah of a Fornicatress

The Hanafi and the Shafi'i schools, as well as the majority of Imamiyyah legists, remark: *'Iddah* is not required for fornication, because the relations have no sanctity. Thus, marriage and intercourse with a fornicatress is lawful, even if she is pregnant. But the Hanafis permit marriage with a woman pregnant through fornication without allowing intercourse with her before her delivery.

The Malikis state: Fornication is similar to intercourse by mistake. Thus she will release herself in a period equal to the period of *'iddah* except when she is to undergo the punishment, in which case she will release herself after a single menstruation.

The Hanbalis observe: *'Iddah* is as *wajib* on a fornicatress as on a divorcee (*al-Mughni*, vol.6 and *Majma' al-anhur*).

## The 'Iddah of a Kitabiyyah

The schools concur that a *kitabiyyah* (a non-Muslim female adherent of a religion having a scripture)

wife of a Muslim will be governed by the laws applicable to a Muslim wife concerning the necessity of *'iddah*, and *al-hidad* in an *'iddah* of widowhood. But if she is a wife of a non-Muslim *kitabi*, the Imami,<sup>4</sup> the Shafi'i, the Maliki and the Hanbali schools consider *'iddah wajib* upon her. But the Shafi'i, the Maliki and the Hanbali schools do not consider *al-hidad wajib* for her while observing the *'iddah* of widowhood.

The Hanafis state: A non-Muslim woman married to a non-Muslim does not have an *'iddah*. (al-Shi'rani, *Mizan*, bab al-'idad wa al-'istibra')

## Wife of a Missing Husband

A missing person can be in one of these two situations: First, where his absence is continuous but his whereabouts are known and news about him is received. Here, according to consensus, his wife is not entitled to remarry. The second situation arises where there is no more any news of him and his whereabouts. The imams of the various schools differ regarding the law applicable to his wife.

Abu Hanifah, al-Shafi'i according to his later and preferred opinion, and Ahmad according to one of his two traditions, observe: Marriage is impermissible for the wife of a missing husband as long as he may be considered alive on the basis of a usual life-span. Abu Hanifah has fixed this period at 120 years; al-Shafi'i and Ahmad at 90 years.

Malik states: She shall wait for 4 years and then observe an *'iddah* of four months and ten days, after which she may remarry.

Abu Hanifah and al-Shafi'i in the more reliable of his two opinions state: If the first husband returns after she marries another, the second marriage shall become void and she will become the first's wife.

Malik observes: If the first husband returns before the consummation of the second marriage, she will belong to the first husband, but if he returns after consummation she will remain the second's wife. It will be *wajib* however, for the second husband to pay *mahr* to the first.

According to Ahmad, if the second husband has not consummated the marriage she belongs to the first; but if he has, the choice lies with the first husband: he may either reclaim her from the second husband and give him the *mahr* or allow her to remain with him by taking the *mahr*. (*al-Mughni*, vol. 7 and *Rahmat al-ummah*) <sup>5</sup>

The Imamiyyah state: The case of a missing person who is not known to be living or dead will be studied. If he has any assets by which the wife can be maintained, or has a guardian willing to maintain her, or someone volunteering to do it, it is *wajib* for her to patiently wait for him; it is not permissible for her to marry in any circumstance until she learns of his death or his divorcing her. But if the missing husband has neither any property nor someone willing to maintain her, if the wife bears it patiently, well and good; but if she wants to remarry, she will raise the issue before the judge. The judge will order a four-year waiting period for her from the time the issue was brought to him, and then start a search for

the husband during that time.

If nothing is known, and the missing husband has a guardian or an attorney in charge of his affairs, the judge will order him to divorce her. But if the husband has neither a guardian nor an attorney, or has, but has prohibited him from divorcing, and it is not possible to compel him, the judge will himself pronounce the divorce by using the authority granted to him by the *Shari'ah*. After this divorce the wife will observe an *'iddah* of four months and ten days after which she may remarry.

The method of search is that the judge will question about his presence and seek information from those coming from the place where there is a possibility of his being present. The best way of it is to depute a reliable person from among the people of the place where the search is being conducted to supervise the search on his behalf and report to him the result. A search of an ordinary extent is sufficient, and it is neither necessary that his whereabouts be inquired in every place which can possibly be reached, nor that the inquiry be conducted continually. When the search is completed in a period of less than four years in a manner that it becomes certain that further inquiry is fruitless, the search is no longer *wajib*. Yet it is necessary that the wife wait for four years; this is in compliance with an explicit tradition and the demand of precaution in marital ties, as well as the possibility of the husband returning during these four years.

After the completion of this period the divorce will take place and she will observe an *'iddah* of four months and ten days without *hidad*. She is entitled to maintenance during this period, and the spouses inherit from each other as long as she is in *'iddah*. If the husband comes back during the *'iddah*, he may return to her if he wants or let her remain as she is. But if he comes back after the completion of the *'iddah* but before her marrying another, the preferable opinion is that he has no right over her; and more so if he finds her married.<sup>6</sup>

## The Rules Governing 'Iddah

We said in the chapter on maintenance that there is consensus regarding a revocable divorcee's right to maintenance during her *'iddah*. We also said that there is a difference of opinion regarding an irrevocable divorcee during her *'iddah*. Here we shall discuss the following issues:

### Inheritance between a Divorcer and a Divorcee

There is consensus that when a husband revocably divorces his wife, their right of inheriting from each other does not disappear as long as she is in *'iddah*, irrespective of the divorce being given in mortal illness or in condition of health. The right to mutual inheritance is annulled on the completion of the *'iddah*. There is a consensus again regarding the absence of mutual inheritance if the husband divorces his wife irrevocably in health.

## Divorce by a Sick Person

The schools differ when a sick person divorces his wife irrevocably and then dies in the same sickness.

The Hanafis entitle her to inherit as long as she is in *'iddah*, provided the husband is considered attempting to bar her from inheriting from him and the divorce takes place without her consent. In the absence of any of these two conditions she will not be entitled to inherit.

The Hanbalis state: She will inherit from him as long as she does not remarry, even if her *'iddah* terminates.

The Malikis state: She inherits from him even after her remarriage.

Three opinions of al-Shafi'i have been reported, and one of them is that she will not inherit even if he dies while she is observing *'iddah*.

It is notable that apart from the Imamiyyah the other schools speak of a divorce by a sick person only when it is irrevocable. But the Imamiyyah have observed: If he divorces her while sick, she will inherit from him irrespective of the divorce being revocable or irrevocable, on the realization of the following four conditions:

1. That the husband's death occurs before the completion of one year from the date of divorce. Thus, if he dies one year after the divorce, even if by an hour, she will not inherit from him.
2. That she does not remarry before his death. If she does and he dies within a year (of the divorce), she will not inherit.
3. That he does not recover from the illness in which he divorced her. Thus, if he recovers and then dies within a year, she will not be entitled to inherit.
4. That the divorce does not take place on her demand.

## 'Iddah and Location

The schools concur that a revocable divorcee will observe *'iddah* at the husband's home. Therefore, it is not permissible for him to expel her. Similarly, it is not permissible for her to leave it. The schools differ regarding an irrevocable divorcee. The four schools are of the opinion that she will observe *'iddah* like a revocable divorcee, without there being any difference, in accordance with the verse:

وَلَا تُخْرِجُوهُنَّ مِنْ بُيُوتِهِنَّ وَلَا يَخْرُجْنَ إِلَّا أَنْ يَأْتِيَنَّ بِفَاحِشَةٍ مُبَيَّنَةٍ

***Do not expel them from their homes, and neither should they themselves go forth, unless they***

### ***commit an obvious indecency. (65: 1)***

The Imamiyyah state: An irrevocable divorcee is free to decide about her own affairs and may observe *'iddah* wherever she wants, because the marital bond between her and the husband has snapped; neither do they inherit from each other, nor is she entitled to maintenance, unless pregnant. Accordingly, the husband is not entitled to confine her. As to the above verse, they say that it relates specifically to revocable divorcees, and there are many traditions from the Imams of the Ahl al-Bayt (A) to this effect.

### **Marriage with a Divorcee's Sister in 'Iddah**

If a person marries a woman, it is *haram* for him to marry her sister. However, if she dies or is divorced and her period of *'iddah* terminates, it becomes *halal* for him to marry her sister. But is it *halal* for him to marry her sister before her *'iddah* comes to an end? The schools concur that it is *haram* to marry the sister of a divorcee in *'iddah* if the divorce is revocable, and differ where the divorce is irrevocable. The Hanafi and Hanbali schools observe: Neither marriage with her sister is permissible nor the marrying of a fifth wife (if he had four, one of whom he has divorced) until the completion of her *'iddah*, irrespective of the divorce being revocable or irrevocable.

The Imami, the Maliki and the Shafi'i schools state: It is permissible to marry the sister of a divorcee and a fifth wife before the completion of *'iddah* if the divorce is irrevocable.

### **Can a Divorcee in 'Iddah be Redivorced?**

The four schools state: In revocable divorce, he is entitled to divorce her again while she is observing *'iddah*, without returning to her, but not if the divorce is irrevocable (*al-Mughni*, vol.7, chapters on *khul'* and *raj'ah*; *al-Fiqh 'als al-madhab al-'arba'ah*, the discussion on conditions of divorce).

The Imamiyyah observe: Divorce of a divorcee, revocable or irrevocable, does not take place unless he returns to her, because it is meaningless to divorce a divorcee.

- [1.](#) The Imamiyyah state: When the husband, a born Muslim, apostatizes, his wife will observe the *'iddah* of widowhood, and if he apostatizes by returning to his former faith, she will observe a divorcee's *'iddah*.
- [2.](#) As mentioned earlier, the Imamiyyah do not consider *'iddah* wajib for a menopausal woman. But they say: If he divorces her, and she menstruates once before reaching menopause, she will complete her *'iddah* after two more months. The four Sunni schools observe: She will start observing *'iddah* anew, for three months, and her menstruation will not be included in the *'iddah*.
- [3.](#) The authors of *al-Jawahir* and *al-Masalik* have mentioned the prevalent opinion (*mashhur*) in this regard, acting in accordance with the tradition narrated by Sawdah ibn Kulayb. Both have discussed this issue at length and narrated other views which are not *mashhur* and which most Imamiyyah legists have deliberately ignored.
- [4.](#) The following observation has been made in *al-Jawahir*, (vol.5, bab al-'idad). The *'iddah* of a non-Muslim woman is exactly like that of a free Muslim woman in regard to both divorce and death. I have not come across any difference of opinion because of the generality of the proofs and an explicit tradition from al-Sadiq (A) from al-Sarraj, who asked him (A): "What is the *'iddah* of a Christian woman whose husband, a Christian, has died." He replied: "Her *'iddah* is four months and ten days."

[5.](#) This is when she does not raise the issue before a judge. But if she suffers as a result of his absence and files a complaint in court demanding separation, both Ahmad and Malik allow her to be divorced in such a situation. Details follow under the section on divorce by a judge.

[6.](#) See al-Jawahir, appendices to al-'Urwah of al-Sayyid Kazim, al-Wasilah of al-Sayyid Abu al-Hasan, and other books on Imamiyyah fiqh. But the greater part of our discussion is based on al-Wasilah, because it is both comprehensive and lucid.

---

**Source URL:**

<https://www.al-islam.org/divorce-according-five-schools-islamic-law-muhammad-jawad-mughniyya/al-iddah#comment-0>