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The Rules of Divorce

Issue 861: It is conditional that the man who divorces his wife be sane and the obligatory precaution is that he be mature (Baaligh) and that his divorce be of his own volition without compulsion. Thus, the forced divorce is invalid. (It is conditional) that his intention be serious also. According to this, then, it is not proper to utter the Seeghah of divorce in jest.

Issue 862: It is obligatory, according to obligatory precaution, that the Seeghah of divorce be performed in correct 'Arabic and it is obligatory that two just men hear it. When the husband himself desires to divorce, he states the Seeghah of divorce and mentions the name of his wife, for example he says:

زَوْجِتي فَاطِمَةُ طَالقُ

My wife Fatimah is divorced

When he appoints a person (to perform the divorce as his representative), it is obligatory that the representative (Wakeel) say:

زَوْجَتةُ مُوُكّلي طَالقُ

The wife of the person I represent is divorced

Issue 863: It is conditional that the woman at the time of her divorce be free of menstruation and afterbirth bleeding and her husband has not had intercourse with her in that period of purity (i.e., when she is free of bleeding). If he had intercourse with her in the state of menstruation or afterbirth bleeding which has preceded this period of purity, the divorce is not sufficient according to precaution. Rather, it is obligatory that he wait until she menstruates another time, then, becomes pure (the explanation of these two conditions is forthcoming in the upcoming issue).

Issue 864: It is proper to divorce the wife in the state of menstruation and afterbirth bleeding in three

situations:

1) When her husband has not had intercourse with her after marriage, without exception.

2) When she is pregnant.

3) When the woman is absent and it is not possible for the man or it is difficult for him to be aware of the state of purity of his wife.

Issue 865: When he imagined the purity of his wife from menstruation and divorced her, then, he became aware that at the time of the divorce she was in the state of menstruation, his divorce is invalid. In the reverse of that, when he imagined that she was in the state of menstruation and he divorced her with that, then, it became clear that she was pure in that time, the divorce is proper.

Issue 866: When (a man) knows that his wife is in the state of menstruation or afterbirth bleeding, then, he leaves or he travels or he desires to divorce her and it is not possible for him to become aware of her state, it is obligatory that he wait for a period of time wherein she usually becomes pure for menstruation or afterbirth bleeding, then, if he wants, he can divorce her.

Issue 867: When a man has intercourse with his wife, then, he desires to divorce her, it is obligatory that he wait until she menstruates, then, becomes pure. However, when she is pregnant, it is permissible that he divorce her after having intercourse with her without delay. Likewise, is the menopausal woman (Yaa'isah), meaning she who is more than fifty years old.

Issue 868: When a man has intercourse with his wife who was pure from menstruation and afterbirth bleeding, then, he travels and he does not possess the means to know her state, then, if he desires to divorce her, the obligatory precaution is that he awaits the minimum of one month, then, divorce her.

Issue 869: The woman who does not menstruate due to an illness or some other reason, when the man desires to divorce her, it is obligatory that he allow a period of three months to pass from (the time of) his intercourse with her avoiding intercourse with her in this period. Then, he can divorce her after that, if he wants.

Issue 870: There is no divorce for the temporary wife, rather, the temporary wife emerges from this marriage when the established period concludes or he grants her the remainder of the period (of the temporary marriage). Her purity from the month custom is not conditional and, likewise, there is no need to call upon witnesses.

The Seclusion ('Iddah) of Divorce

Issue 871: It is obligatory for the divorced woman to seclude herself (in 'Iddah) except when her husband had never had intercourse with her or he divorced her before she reached nine years of age or

she was menopausal (meaning she is more than fifty years of age). In these three situations, it is permissible for her to marry another after her divorce directly.

Issue 872: The precaution in the period of seclusion ('Iddah) with relation to the woman who menstruates is that she wait for the amount of time in which she menstruates two times and becomes pure. Then, after she menstruates a third time, her seclusion concludes.

Issue 873: It is obligatory upon the woman who does not see a monthly custom when she is of the usual age of menstruation, that her husband divorce her after intercourse with the preceding conditions, that she observe a period of seclusion ('Iddah) for three months after the divorce. The intention of three months is when she was divorced in the beginning of the lunar month that she waits for three complete lunar months from that time. When she was divorced on the fifth of the lunar month, for example, she waits until the fifth day of the fourth lunar month so that her seclusion concludes on that day.

Issue 874: The termination of the seclusion of the pregnant divorced woman is the birth of her child or its miscarriage, although the child be born an hour after the divorce. Then, she can marry after that without delay.

Issue 875: The beginning of the seclusion ('Iddah) of the temporary marriage is after the completion of the established period (of marriage), when she menstruates, in the amount of two complete menstrual cycles. When she does not menstruate, it is forty five days.

Issue 876: The beginning point of the seclusion of divorce is the moment in which the Seeghah of divorce is executed whether the divorced woman knows of that or does not know. Even when she comes to know after the seclusion ('Iddah) that she had already been divorced before, it is not obligatory upon her to observe a second seclusion.

The Seclusion of a Woman whose Husband has Died

Issue 877: It is obligatory upon the woman whose husband has died to observe seclusion for four months and ten days whether the marriage is permanent or temporary, whether he had intercourse with her or had no intercourse with her. Even the menopausal woman is obligated to observe the seclusion of the deceased.

When the woman is pregnant, it is obligatory that she wait until she delivers her child. When she delivers before the conclusion of four months and ten days, it is obligatory that she observe the remainder of the period which completes the four months and ten days.

Issue 878: It is obligatory for her in the seclusion of the deceased to avoid covering with decorative clothing and using Kohl (antimony) and all that is counted as an embellishment.

Issue 879: When the husband is absent and died on a journey, the beginning of the seclusion of the

deceased is from the time when the information reaches his wife.

Issue 880: When the woman says: *I have finished my seclusion*, it will be accepted from her with the condition that it not be a situation of suspicion. Rather, the obligatory precaution is that it should be a situation of reliability.

The Irrevocable and Revocable Divorce

Issue 881: Divorce is of two types: Irrevocable divorce (Baa'in) and revocable divorce (Raj'i). The irrevocable divorce is that divorce in which the man does not have the right of returning (Rujoo') to his wife (the intent of return or Rujoo') is that the man returns to his relationship with his wife without a new contract and they live together as they had been husband and wife.

The irrevocable divorce has five types:

1) The divorce of the woman who has not completed nine years of age.

2) The divorce of the menopausal woman (Yaa'isah) who has passed fifty years of age.

3) The divorce of the woman whom her husband had not had intercourse with her after the marriage.

4) The divorce of the woman who has been divorced three times.

5) The Khala' and Mubaara'ah divorce whose explanation is coming afterward.

Whatever is aside from these are the revocable divorce (Raj'i), meaning that it is permissible for the man to return to his wife during the seclusion ('Iddah) without need of renewing the contract.

Issue 882: When a man divorces a woman with the revocable divorce, it is not permitted for him to remove her from the house except in some of the instances which are mentioned in the detailed jurisprudence books. Likewise, it is forbidden for the woman herself to leave the house for unnecessary activities.

The Rules of Revoking the Divorce (Rujoo')

Issue 883: It is permissible in the revocable divorce that the man returns to his wife without the need of performing the Seeghah of a new contract. The revocation of the divorce is of two types:

1) That the man states words whose meaning is that he accepts the marriage of that woman a second time.

2) That the man performs an action which implies this meaning (i.e. that he accepts the return to married life).

Issue 884: It is not obligatory that the man have anyone to witness his return to his wife or inform the woman of his return to her. Rather, it is correct when he says: *I have returned to my wife*, without anyone understanding it.

Issue 885: When a man divorces his wife another time (meaning, a second time), then, marries her or returns to her (in her seclusion and according to the obligatory precaution in every time of intercourse with her) and after seeing menstruation and purity, he can divorce her. In the third divorce, that woman becomes forbidden for him. She will not be lawful for him unless she marries another man in a permanent marriage after the period of seclusion ('Iddah) passes. Then, (if the second husband) divorces her, it is permissible for her first husband to marry her another time.

Khala' Divorce

Issue 886: The woman who does not desire to continue living with her husband and fears that if their marriage continues she will fall into disobedience, it is permissible for her to give her dowry (Mahr) or another sum for which he will divorce her. This is called the Khala' divorce.

Issue 887: According to obligatory precaution, the Seeghah of Khala' divorce is in the following manner:

When the husband himself desires to execute the Seeghah of divorce, he mentions the name of his wife in it saying:

زَوْجَتِي فاطِمَةُ خَلَعْتُها عَلى ما بَذَلَتْ فَهِيَ طالِقٌ

My wife Fatimah is removed for what she has offered, she is divorced

When the husband desires to have his representative execute the Seeghah, then, the obligatory precaution is that he appoints a person from the side of the woman and another person from the side of the man and, when, for example, the name of the husband is Muhammad and the name of the wife is Fatimah, the representative of the woman says

عَنْ مُوَكِّلَتِي فاطِمَةَ بَذَلْتُ مَهْرَها لِمُوَكِّلِي مُحَمَّدٍ لِيَخْلَعَها عَلَيْهِ

On behalf of the person whom I represent I offer her dowry to the person whom you represent, Muhammad, in order that he divorce her (*as Khala'*)

Then, the representative of the man says immediately afterward:

زَوْجَةُ مُوَكِّلِي خَلَعْتُها عَلى ما بَذَلَتْ فَهِيَ طالِقٌ

The wife of the man I represent, he has removed her for what she has offered, she is divorced.

When a woman desires to offer something other than her dowry, it is also obligatory to mention it at the time of executing the Seeghah.

Mubaara'ah Divorce

Issue 888: When the spouses, each one of them, dislike each other and the wife offers her dowry or some other property for the man to divorce her, that is called Mubaara'ah divorce.

Issue 889: The obligatory precaution is that the Seeghah of Mubaara'ah is executed in the following manner:

When the man himself desires to execute the Seeghah of Mubaara'ah divorce and the name of his wife is, for example, Fatimah, he says:

بارَأْتُ زَوْجَتِي فاطِمَةُ عَلى ما بَذَلَتْ فَهِيَ طالِقٌ

I disavow my wife Fatimah for what she has offered, she is divorced

When the wife has offered another property other than the dowry, it is also obligatory for her to mention it.

When a representative of the man executes the Seeghah, he says:

بارَأْتُ زَوْجَةَ مُوَكِّلي عَلى ما بَذَلَتْ فَهِيَ طالِقٌ

I disavow the wife of the man I represent for what she has offered, then, she is divorced

of course, it is necessary that the wife has already given her dowry before that or something lesser to her husband in exchange for the Mubaara'ah divorce.

Issue 890: The obligatory precaution is that the Seeghah of the Mubaara'ah divorce be executed in proper 'Arabic. However, there is nothing preventing the wife from offering her property in Persian or any other language (based on the translation of the following):

بَذَلَتْ لَكَ المال الفُلانِي لِتُطلَقَّني

I offer this property of such and such to you in order for you to divorce me.

Issue 891: It is permissible for the woman to seek the return of her offering during the seclusion ('Iddah) of the Khala' or Mubaara'ah divorce. When she gets the return of her offering, it is permissible for the husband to return to her and take her as his wife another time with no need of a new contract.

Issue 892: The property which the husband takes for the Mubaara'ah divorce, it is obligatory that it not be more than the dowry. Rather, the precaution is that it be less than that. However, there is no objection in the Khala' divorce that the amount be whatever quantity.

Issue 893: When the woman makes it conditional at the time of the marriage that by her own she will select divorce if her husband travels or becomes addicted to narcotics or he becomes unable to support her, this condition is invalid. However, when she makes it conditional that she should be the representative on the behalf of her husband, then she will divorce herself in these situations, this appointment is proper and she has the right to divorce herself in this situation.

Issue 894: The woman who cannot find her husband and does not know whether he is alive or not, when she desires to seek a divorce and marry another man, it is obligatory that she consult a just Mujtahid and act in accordance to the particular duty mentioned in the noble law.

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