

The Reminder

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TALAQ!

Divorce has been on the rise in the wider society for many years. In recent times it has also been steadily increasing in the Muslim community. In the UK recent estimations say that 1 in 8 Muslim marriages are ending in divorce and in North America the Muslim divorce rates are now over 30%. The increase in divorce rates is creating new changes within the Muslim community such as the increase in single parent families. In Scotland alone at least 1 in 10 Muslim families are now single parent families.

Islam views marriage as an extremely important institution in society. But Islam is also a practical religion and has allowed divorce as it recognises that sometimes its better for a couple to separate and remarry rather than being in a unhappy relationship for the rest of their lives. However, divorce should only be sought as a last resort when all else fails. This is even more important if children are involved. The Prophet (peace & blessings be upon him) said:

"The most hated of lawful things to Allah (may He be Exalted) is divorce" (Abu Dawud)

Going through divorce can be one of the most stressful periods in a person's life. It is very unfortunate that Muslims have become

so complacent in their attitude towards divorce. Many of them are completely ignorant regarding the rulings of divorce. They don't know how and when to execute a divorce nor the ramifications of their actions. Instead of studying the rulings relating to marriage and divorce through the proper means they choose to imitate divorce scenes seen on soaps and TV shows. They damage their family life through their own negligence and then turn to the scholars expecting them to resolve their issues. A common scene on TV is that of an angry husband saying *"talaq"* 3 times to his wife. This has given many Muslims a misinformed idea that this is the way to divorce in Islam. Scholars say that although this type of divorce is enacted, it is the worst form of divorce (*talaq al bidah*) and it is *haram* (unlawful) to do so. Such ignorance seems to be rampant these days. Unknowingly, some even live on as husband and wife even though islamically their marriage has ended.

Divorce is an extremely serious affair, the Prophet (peace & blessings be upon him) said:

"There are three matters, seriousness in them is serious and joking in them is also serious: nikah (marriage), talaq (divorce) and retraction of talaq" (Tirmidhi)

COMMON MISCONCEPTIONS

It is important that people do not rush into divorce. Divorce should only be considered where reconciliation has failed.

The Quran instructs us:

“And if you have reason to fear that a [married] couple may break up, appoint one arbiter from his family and one arbiter from hers. If they both want to set things aright, God will bring about a reconciliation between them. Behold, God is indeed all-knowing, aware” [4:35]

It is common knowledge that in Islam it is the man who has the power to initiate a divorce. It is true that a husband can divorce his wife both verbally and in writing. However, what is not so well known is that a woman also has the right to initiate a divorce (*khul*) and she can also stipulate in her marriage contract that she has the right to divorce herself. In the latter case she could simply divorce herself similar to the way a man does it, this is known as *tafwid*.

People through their own actions are increasing the divorce rate, through both verbal and written divorce [including emails and texting]. In the heat of the moment they think nothing of using the *“talaq”* expression, and when they calm down and realise what they have done they use the excuse that it was said in anger. Does anyone give divorce when they are calm and happy? Clearly, anger cannot be used as an excuse.

Very few people even know that there is a recommended as well as an unlawful way of giving divorce. It is *haram* [unlawful] to divorce one's wife when she is menstruating or to give her three divorces in one sitting. If divorce has to occur it is recommended to only issue one divorce as this allows for reconciliation to take place. When a divorce takes place a waiting period (*iddah*) is required to be observed by the wife before she may remarry. This period should be completed in the marital home and not the wife's parental home as is commonly thought.

Divorce can be revocable or irrevocable and rulings will change depending on which type of divorce is invoked such as the need for a new marriage contract or whether the wife now needs to observe hijab in front of the husband. Rulings relating to divorce can be very complex, which is why anyone contemplating divorce should seek the advice of a competent local scholar.

BEING CIVILISED

Many divorces end in a nasty way, but this does not necessarily have to happen. The Quran tells us that if separation is necessary then it should be done amicably, respectfully and in a dignified way. The Quran tells us:

"A divorce may be [revoked] twice, whereupon the marriage must either be resumed in fairness or dissolved in a goodly manner" [2:229]

Very often divorced parties vent their anger through slandering their former spouse in public. Each party claims they are innocent and try to portray the other as the oppressor. We should always remember that slandering and backbiting is not permissible. This leads to enmity, animosity and bad feelings amongst families and within the community. It is impossible for third parties to ascertain who is telling the truth 100%, unless they were present at the time of the arguments. The ultimate judge of who was right or wrong is Allah the Almighty and He will hold both spouses accountable for their conduct so there is no need to speculate over who was right or wrong.

Another growing concern is where the relationship breaks down and the husband decides to move out, neither reconciling nor divorcing his wife. In this way the wife is left hanging in limbo not knowing whether she is married or divorced. In many such cases no maintenance is provided for the wife nor the children and the situation can go on for years. Have people forgotten that

Allah the Almighty is watching their behaviour? Have they not read the Quran, which tells us either to reconcile or separate gracefully [2:229]?

TABOOS

Many people are stigmatized by divorce, they are treated as if there is something wrong with them and are often rejected for future marriage proposals without any investigation into their character or circumstances of their divorce. Women can suffer unjustly from divorce as quite often they are blamed for the failure of the marriage, yet this may not be the case at all. They also seem to find it harder to remarry than a divorced man does.

The Companions (May Allah be pleased with them) were the best of people after the Prophets (peace be upon them all), yet divorce occurred amongst them and they got on with their lives and remarried. Are we better than the companions (May Allah be pleased with them)? Even our beloved Prophet (peace & blessings be upon him) married divorced women.

CIVIL DIVORCE

As divorce has increased, a frequently asked question has arisen relating to civil divorce and islamic divorce. If a civil divorce takes place, do the couple still need an islamic divorce? Many scholars in the UK take the position that if the husband initiates a civil divorce or if the wife initiates it and the husband signs the divorce papers, then in both cases this will also count as an islamic divorce.

SOLUTIONS

- Where both parties are not behaving islamically, family and friends should encourage them to act in accordance with the Quran and Sunnah.
- People should not wait until their marriage is beyond repair, they should seek help before it is too late. Seeking assistance as early as possible is essential. Couples should not be overly proud or think that they are not in need of any help. When people physically feel unwell they visit their GP, so when their marriage is in trouble why don't they seek outside help? Sitting down and speaking to a third party about their issues can help them recognise the issues and make a plan for resolving them.
- Problems feed on inactivity. Not taking pro-active steps to solve marital problems will lead to other problems.
- The only long term solution to reducing the divorce rate in the community is better educational preparation for what marriage entails through pre-marital and post-marital education. As the saying goes **"prevention is the best cure"**.
- Divorce is a serious matter and people should always refer to a competent Islamic scholar for clarification.

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UNITY FAMILY SERVICES

Unity Family Services is Scotland's first and only family advice, guidance and support charity [charity no. SC038791] dedicated to the needs of the Muslim community. Since its launch in late 2008, Unity has been contacted over 1000 times. The vast majority of cases are related to marriage and divorce. Unity has been working resolutely to support Muslim families despite limited resources. Without ongoing financial support from the Muslim community, the charity will not be able to sustain itself, expand to provide further services or to meet the growing needs of disharmonious Muslim families.

How many people do you know who are suffering in their family lives? Play your role in helping a Muslim family. Remember charity starts at home and that this project cannot succeed without your support. The Prophet (peace & blessings be upon him) said:

"Shall I not tell you of something that is better than fasting, prayer and charity?" They said: Yes. He said: "Reconciling between two people" [Tirmidhi]

As part of Unity's preventative work Shaykh Amer Jamil, Unity's family support consultant delivers pre-marital and post-marital courses regularly all over the UK. Shaykh Amer is a specialist in Islamic family law and is also a law graduate. Pre-marital and post-marital courses are scheduled for september in Glasgow. Details of the courses and on how to donate to Unity are available at www.unityfamily.co.uk



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