

### **Kinds of Divorce**

Marriage under Muslim law is a civil contract and not sacrament. It is ordained by God in Holy Quran and it is for comfort, love and companionship. It is the bounden duty of husband to keep his wife with love and affection, respect and provide the maintenance during subsistence of marriage. Islam has laid down parameters for spouses to live within those bounds and if parties transgress those parameters they should relieve each other i.e. they may break matrimonial tie with kindness.

The word pronouncement of divorce in any form whatsoever, necessarily implies and presupposes pronouncement of divorce in any manner whatsoever permissible under Muslim law. The pronouncement of divorce must be a conscious and independent act. The term pronouncement has not been defined in the Muslim Family Law Ordinance 1961. Therefore, the ordinary Muslim Law on pronouncement of divorce shall continue to apply notwithstanding the provision of Muslim Family Law Ordinance.

Divorce is pronounced and executed under section 7 of Muslim Family Law Ordinance 1961. Under the Muslim Family Law there are three kinds of divorce: (i) talaq-e-Ahsan (ii) talaq-e-Hassan and (iii) Talaq-e-biddat. The former is pronounced once during a tuhr followed by abstinence from sexual intercourse from a period of iddat. The latter is three pronouncements simultaneously; divorce becomes irrevocable according to paragraph 312 of Muhammadan Law by Mulla after the period of iddat in case of divorce ahsan and on the completion of third pronouncement irrespective of the period of iddat in the latter case. Since the divorce in the latter case becomes irrevocable at once, it is known as talaq-e-bain.

Accordingly to Ameer Ali on Muhammadan Law volume II writing among the Hanfi's are said to be two kinds viz. Marsumah (customary) and Ghair Marsumah (non customary). When repudiation is given by a wife of the description called customary, it is effective even when there is no real intention on the part of the husband to divorce the wife. But where the writing though Marsumah is written, so that it is not intelligible or it is written on something that cannot be deciphered, there will be no divorce even if he had an intention. In the case of non customary writings, if there be any ambiguity the divorce will not take effect. When there is no ambiguity and the meaning of the writer is manifest the repudiation is valid. The detail is discussed on page 233 of the digest of Muhammadan Law by Baillie.