



FACULTY OF JURIDICAL SCIENCES

COURSE:

Semester

SUBJECT:

SUBJECT CODE:

NAME OF FACULTY:

Lecture-1



LECTURE 1: Talaq

There are two categories of divorce under the Muslim law:

- 1.) Extra judicial divorce, and
- 2.) Judicial divorce

The category of extra judicial divorce can be further subdivided into three types, namely,

- # By husband- talaq, ila, and zihar.
- # By wife- talaq-i-tafweez, lian.
- # By mutual agreement- khula and mubarat.

The second category is the right of the wife to give divorce under the Dissolution of Muslim Marriages Act 1939.

Talaq: Talaq in its primitive sense means dismissal. In its literal meaning, it means "setting free", "letting loose", or taking off any "ties or restraint". In Muslim Law it means freedom from the bondage of marriage and not from any other bondage. In legal sense it means dissolution of marriage by husband using appropriate words. In other words talaq is repudiation of marriage by the husband in accordance with the procedure laid down by the law.

The following verse is in support of the husband's authority to pronounce unilateral divorce is often cited: Men are maintainers of women, because Allah has made some of them to excel others and because they spend out of their property (on their maintenance and dower) . When the husband exercises his right to pronounce divorce, technically this is known as talaq. The most remarkable feature of Muslim law of talaq is that all the schools of the Sunnis and the Shias recognize it differing only in some details. In Muslim world, so widespread has been the talaq that even the Imams practiced it . The absolute power of a Muslim husband of divorcing his wife unilaterally, without assigning any reason, literally at his whim, even in a jest or in a state of intoxication, and without recourse to the court, and even in the absence of the wife, is recognized in modern India. All that is necessary is that the husband should pronounce talaq; how he does it, when he does it, or in what he does it is not very essential.

In Hannefa v. Pathummal, Khalid, J., termed this as "monstrosity" . Among the Sunnis, talaq may be express, implied, contingent constructive or even delegated. The Shias recognize only the express and the delegated forms of talaq.

SELF-TEST QUESTIONS

S.NO	Question	Option (a)	Option (b)
1.			
2.			
3.			
4.			
5.			

Answers: 1-(),2-(), 3-(),4-(),5-()