

GENERAL CAUSES OF DIVORCE IN ISLAM

(Conditions under which divorce is allowed in Islam)

1. If the husband has been by any cause deprived of his organ of generation. In this case the wife can obtain instant divorce if the defect occurred before marriage. Cases of evident madness and leprosy are treated in the same way.
2. If the husband is proved impotent after marrying the wife, divorce is sought because if the two are left together, the woman may indulge in adultery to get sexual satisfaction.
3. Apostasy from Islam. When a man or woman apostatizes from Islam, then an immediate dissolution of the marriage takes place, whether the apostasy.
4. Insufficient dowry. If the stipulated dowry is not given when demanded, divorce takes place if the husband promised to pay it in future and fails to fulfill his promise, the wife has a right to divorce her.
5. Refusal of Islam. If one of the parties embrace Islam, and the other one refuses to embrace the new faith, then divorce takes place.
6. If a husband charges his wife with adultery, the charge is investigated, but if there is no proof, and the man swears his wife is guilty, and the wife swears she is innocent, then divorce must be decreed.
7. When a husband makes a vow not to have carnal intercourse with his wife for no less than four months, and keeps the vow unviolated, an irreversible divorce takes place.
8. Reason of property. If a husband become the proprietor of his wife (a slave), or the wife the proprietor of her husband (a slave), divorce takes place.
9. An invalid marriage of any kind, arising from incomplete *nikah* (marriage ceremony) or from affinity (compelled by a kin without one of the couple's consent), or from consanguinity (a blood relationship).
10. Difference of country. For example, if a husband flee from land of enmity i.e. a non-Muslim country to country of Islam and his wife refuse to perform *flight* to accompany him, she is divorced.
11. If a man converts to Islam with more than four wives, he is asked to divorce some of them and remain with a maximum of four as allowed in **Q (4:3)**.
12. Cruelty of one partner. If one partner is constantly cruel to another, instead of hurting each other if they are forced to stay together, Islam allows them to divorce.
13. Difference in race or tribe. A woman cannot be compelled to marry a man who belongs to a tribe she does not want and in case of such a marriage she may ask for divorce.

FORMS OF DIVORCE

1. Woman initiated divorce (Khul'a)

- This is a form of divorce asked by the wife if she feels that she has reasons no longer binding her with the husband in marriage.
- Islam allows it on condition that the Muslim judge is satisfied that the couple can no longer live together happily and the wife can pay back dowry unless the husband is caught in dirtiness. It may be due to the following conditions;
- *Inability of the husband to look after her in matters like dressing, shelter, feeding and other.*
- *Inability of the husband to satisfy her sexually.*
- *If the husband denounces Islam.*
- *If the woman was forced into marriage.*
- *If both were non-Muslims and the wife converts to Islam.*
- *If the husband is imprisoned for life.*
- *If the husband commits adultery.*
- *If the husband goes missing for a while without her knowing his whereabouts.*
- *If the husband's male organs are amputated.*
- *If the husband becomes insane or attacked by chronicle diseases.*

2. L'ana

- This is a form of divorce in which the husband accuses the wife of adultery but has no visible evidence to support his accusation while the woman denies it.
- If the husband insists that his wife committed adultery, L'ana (cursing) is sought to separate them whether the accusation is true or false.
- Authority to this form of divorce is given by Allah in **Q (24:6-9)**;

“And for those who accuse their wives and have no evidence except their own, let each of them testify by swearing four times by Allah that his charge is true, calling down in the fifth time up on himself the curse of Allah if he is lying. But they shall spare her the punishment if she swears four times by Allah that his charge is false and calls down Allah's wrath up on herself if it is true.”

- If both have sworn and each has borne witness of his or her truthfulness and called for the wrath of Allah on himself or herself if he or she told a lie, they are separated forever.

3. Husband initiated divorce (Talaq)

- This is a form of divorce in which the husband decides to let the wife go i.e a divorce initiated by the husband. It may be due to the following conditions;
- *If the wife commits shirk.*

- *If the woman is caught in adultery.*
- *If the wife becomes mentally unconscious (insane).*
- *If the wife turns away from Islam.*
- *If the wife refuses to embrace Islam in case the husband becomes a Muslim.*
- *If the wife denounces Islam.*
- *If the wife denies her husband sex.*

4. Fask

- This is a form of divorce sought by the couple through the Qadhi's court. It may be due to the following conditions;
- *Impotence of the husband.*
- *Serious defects in the marriage contract.*
- *Failure by the husband to maintain the wife.*
- *In case one partner becomes an apostate.*
- *If the husband goes missing for no genuine reasons.*
- *Imprisonment of the husband for life.*
- *When one of the partners denounces Islam.*
- *Immigration of the husband to another country for permanent residence while the wife is not ready to follow him.*
- E.t.c

5. Mutual divorce

- This is a form of divorce as a result of mutual agreement between the husband and wife to end their marriage after getting satisfied that they cannot live together. This is done in presence of the Qadhi and some witness.
- However, the husband must spend three months looking after the wife but without sex to ascertain that she is not pregnant.

RULES AND PROCESSES FOR EFFECTING DIVORCE

1. Divorce is permitted in Islam as a last resort if it is not possible to continue a marriage.
2. Certain steps need to be taken to ensure that all options have been exhausted and both parties are treated with respect and justice.
3. When a marriage is in danger, couples are advised to pursue all possible remedies to rebuild the relationship. Divorce is allowed as a last option, but it is discouraged.

[The Prophet Muhammad](#) once said;

"Of all the lawful things, divorce is the most hated by Allah."

4. For this reason, the first step a couple should make is to really search their hearts, evaluate the relationship, and try to reconcile because all marriages have ups and downs, and this decision should not be arrived at easily.
5. Couples should evaluate their own needs and weaknesses and think through the consequences. They should try to remember the good things about each other, and find forgiveness and patience in their hearts for minor annoyances.
6. They should communicate with each other about their feelings, fears, and needs. During this step, the assistance of a neutral [Islamic counselor](#) may be helpful for some people.
7. If, after thoroughly evaluating their marriage, and find that there is no other option than divorce, there is no shame in proceeding to the next step. [Allah](#) gives divorce as an option because sometimes it is truly the best interest of all concerned.
8. Nobody needs to remain in a situation that causes personal distress, pain, and suffering. In such cases, it is more merciful that they each go their separate ways, peacefully and amicably.
9. It should be recognized, though, that Islam outlines certain steps that need to take place both before, during, and after a divorce. The needs of both parties are considered. Any children of the marriage are given top priority.
10. Guidelines are given both for personal behavior and legal process. Following these guidelines may be difficult, especially if one or both spouses feel wronged or angry but they should strive to be mature and just.
11. The couples should remember Allah's words in the Quran: *"The parties should either hold together on equitable terms or separate with kindness."* **Q (2:229).**
12. Selecting arbiters. Before a decision is made about divorce, it is only fair to involve family elders in an attempt to reach a reconciliation because they know each party personally, including their strengths and weaknesses, and would hopefully have their best interests at heart. If they approach the task with sincerity, they may be successful in helping the couple work their issues out.

Allah says in Q (4:35); *"And if you fear a breach between the two, appoint an arbiter from his relatives and an arbiter from her relatives. If they both desire reconciliation Allah will effect harmony between them. Verily Allah has full knowledge, and is aware of everything."*

13. If this attempt fails, after all due efforts, then it is recognized that divorce may be the only option. The couple proceeds to pronouncing a divorce. The procedures for actually filing for divorce depend on whether the move is initiated by the husband or the wife.
14. When a divorce is initiated by the husband, it is known as *Talaq*. The pronouncement by the husband may be verbal or written, and should only be done once. Since the husband is

seeking to break the [marriage contract](#), the wife has full rights to keep the dowry (*Mahr*) paid to her.

15. If the wife initiates a divorce, there are two options. In the first case, the wife may choose to return her dowry to end the marriage. She forgoes the right to keep the dowry since she is the one seeking to break the marriage contract. This is known as *Khul'a*.

Allah says in Q (2:229)

"It is not lawful for you (men) to take back any of your gifts except when both parties fear that they would be unable to keep the limits ordained by Allah. There is no blame on either of them if she gives something for her freedom. These are the limits ordained by Allah so do not transgress them"

16. In the second case, the wife may choose to petition a judge for divorce, with the cause. She is required to offer proof that her husband had not fulfilled his responsibilities. In this situation, it would be unjust to expect her to also return the dowry. The judge makes a determination based on the facts of the case and the law of the land.
17. In any Islamic divorce procedure, there is a three-month waiting period called *Iddah* before the divorce is finalized. During this time, the couple continues to live under the same roof but sleeps apart. This gives them time to calm down, evaluate the relationship, and perhaps reconcile.
18. During the waiting period, the husband and wife are free to resume their relationship at any time, thus ending the divorce process without the need for a new marriage contract.
19. Another reason for the waiting period is a way of determining whether the wife is expecting a child. If the wife is pregnant, the waiting period continues until after she has [delivered and breastfed](#) the child.
20. During the entire waiting period, the wife has the right to remain in the [family home](#) and the husband is responsible for her support.
21. If the waiting period is completed without reconciliation, the divorce is complete and takes full effect. The husband's financial responsibility for the wife ends, and she often returns to her own family home.
22. It is best for the couple to formalize the divorce in the presence of the two witnesses, verifying that the parties have fulfilled all of their obligations. At this time, the wife is free to remarry if she wishes.
23. Islam discourages Muslims from going back and forth about their decisions, engaging in emotional blackmail, or leaving the other spouse in limbo.

Allah says in Q (2:231);

"When you divorce women and they fulfill the term of their Iddah, either take them back on equitable terms or set them free on equitable terms; but do not take them back to injure

them, (or) to take undue advantage. If anyone does that, he wrongs his own soul..."

24. If a couple decides to reconcile, after the divorce is finalized, they must start over with a new contract and a new dowry (*Mahr*). To this effect, there is a limit on how many times the same couple may marry and divorce. If a couple decides to remarry after a divorce, this can only be done twice.

Allah says in Q (2:229); *"Divorce is to be given two times, and then (a woman) must be retained in good manner or released gracefully."*

25. After the third divorce, the couple may not remarry again. First, the woman must seek fulfillment in marriage to a different man. Only after she is divorced or widowed from this second marriage partner, would it be possible for her to reconcile again with her first husband if they choose.
26. This seemingly strange rule is intended to prevent the husband from initiating a third divorce in a frivolous (playful) manner, knowing that the decision is irrevocable and Secondly, it helps to show the two individuals that they were simply not a good match for each other.

The wife may find happiness in a different marriage or she may realize, after [experiencing marriage](#) with someone else that she wishes to reconcile with her first husband after all.