

Friday Khutbah – 29/03/2013

### The Rights of the Divorced Women

One of the blessings of Allah (*Subhanahu wa ta'ala*) upon human beings is that he legislated and prescribed marriage for them through which they attain many religious and worldly benefits. These include satisfying the sexual desire, having children, finding peace and tranquillity, the preservation of the human species through the process of sexual reproduction and so on. However, these benefits can only be realised if the relationship is maintained in a reasonably stable condition.

Despite the high hopes and with the best intentions in a happy matrimonial life, the marital relationship could not be expected to be cheerful and undisturbed at all times. To expect a completely trouble-free marital life is unrealistic, and it is part of good sense to expect shortcomings and deficiency.

Problems that are not beyond resolution may arise at times. Every possible effort must be exerted to solve such problems. Divorce is a big disaster. It breaks up the family and leaves the children displaced and unsettled. This might have a negative effect upon them in their future lives. It is for this that divorce is the permissible act that is most disliked to Allah as the Prophet (*salla Allahu alaihi wasallam*) said.

A Muslim must know that the most beloved of all evil acts of man to *Shaytan*, the accursed, is divorce. In the *Hadith* Rasulullah (*salla Allahu alaihi wasallam*) said: “*Shaytan* puts his throne on water and sends his soldiers. One of them would come and he (*Shaytan*) would ask him: ‘What have you done? He would reply: I persuaded so and so until he cut off ties with his relatives. He (*Shaytan*) would say: You have not done anything (significant). He would mend ties with his relatives. He would then ask another one: What have you done? He would answer: I persuaded so and so until he disobeyed his mother and father. *Shaytan* would say: You have not done anything. He would return to them. He would then ask another one: What have you done? He would answer: I persuaded so and so until he divorced his wife. *Shaytan* would bring him closer and embrace him and say: You are the one! You are the one! You are the one!

*Shaytan* is surely pleased as he likes disintegration and dispersion and hates harmony and accord.

The husband, relatives and righteous people must do their best to patch the gap and remove the causes of disagreement between the married couple. However, if it is not at all possible to find a solution and all the efforts leading to peace have failed, divorce has been legislated as the last option. The continuity of marriage in these circumstances might lead to more evil and harm for both husband and wife. One such harm happened recently when a Muslim man hit his estranged wife with an iron rod. This left the disaffected wife in coma for sometime. He fled to Germany but was caught and brought back to Ireland where he is now in prison awaiting sentence.

Since the right of divorce lies with the husband, he must behave in responsible and wise manner. If things are getting difficult between him and his wife and he is considering divorce, he must consult with scholars or people of knowledge and experience perhaps there is a way out of divorce. If the result after consultation and deep consideration is to divorce, he then must follow the correct procedure for divorce called *Al-Talaq Al-Sunni*. I have spoken about this before. I would not find time to talk about it today as I intend to talk about something

else which is the right of the divorced women, but in brief there are two important considerations in *Al-Talaq Al-Sunni*. These are the timing of divorce and the number of the pronounced divorce at a time. Divorce is not to be made at any time but at the correct time specified by the Shari'ah. The husband must not pronounce more than one *Talaq* at a time.

As for the right of the divorced woman, Allah (*Subhanahu wa ta'ala*) has ordained certain rights for her in order to give her some comfort because she is the party which comes worse out of divorce. In the book of Allah (*Subhanahu wa ta'ala*) there is special care for the rights of the divorced women. In *surah al-Baqarah* there are verses which deal with the issue of divorce and the rulings regarding it. There is a special *surah* in the Qur'an which is devoted for divorce; *surat at-Talaq*. Allah (*Subhanahu wa ta'ala*) mentioned in this *surah* the rulings regarding divorce, the revoking (withdrawing) of divorce, the types of *iddats* (waiting periods) for women and the rights of the divorced woman.

Allah (*Subhanahu wa ta'ala*) has prohibited harming the woman by keeping her constrained and duty-bound to a marriage which does not exist in reality. This could be either by divorcing her and then revoking the divorce during the *iddat* or by refusing to give divorce leaving her suspended - when he is not interested in her.

During the time of *Jahiliyyah* (ignorance – pre-Islamic time) and also at the beginning of Islam, a man would divorce his wife any number of times – may be hundred times or more- as long as he revokes the divorce during her *iddat*. This continued until the following Qur'anic verse was revealed. "Divorce is twice, after that, either you retain her on reasonable terms or let her off kindly."

In addition to the divorce cases which we witness here at this *Masjid*, which are alarmingly on the increase, there are also many cases in which women are kept suspended neither married nor divorced.

I can recall there of these cases which are still pending. The first case is of a woman who had some dispute with her husband. The husband left the country angrily in 2010 (more than two years) leaving the wife and their two children behind. After some time he left his homeland and went to another country for Jihad. Neither his wife nor his family know his exact whereabouts or if he is alive or dead. She has started a *khu'la* proceeding with the Islamic Shari'ah Council.

Another woman contacted me a few days ago saying that she had some problems with her husband. She said that the husband divorced her but there were no witnesses. When she asked him to come to the Mosque to have their divorce witnessed and documented, he refused. He left to London and – according to her - he is planning to go home. I advised her to contact her guardians – her family- to talk to him so that she can be released, but she told me that he is refusing to talk to them.

As for the third woman her marriage had finished a long time ago, and she and her husband have been living separately for a number of years; however, the husband is refusing to divorce her. She made an application to the Islamic Shari'ah Council for *khul'a*. Recently, and after two years of waiting, the Council issued a verdict dissolving the marriage. Part of the decision is that she should return the *mahr* (dowry) to him. She accepted the decision and came up with the money; however, the husband is not willing to come forward to collect the money and it seems that he is refusing to accept the decision of the Shari'ah Council.

We seek refuge with Allah (*Subhanahu wa ta'ala*) from oppression and transgression and from a heart that only thinks about revenge. We ask Allah (*Subhanahu wa ta'ala*) to grant us fairness and justice with those who are under our care and those whom we are in charge of. We ask Him to give us *Tawfiq* to act upon the knowledge which we have.

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Second Khutbah:

Have *Taqwa* of Allah (ta'ala), fear and obey Him and discharge the rights of others upon you during your lifetime otherwise these rights will be taken from you on the Day of Judgement. The Prophet (*salla Allahu alaihi wa sallam*): said: "Rights will be repaid to those who are entitled to them on the day of *Qiyamah* so much so that retaliation against a horned sheep will be taken for a hornless one." (Reported by Muslim.)

This was also illustrated in what I have mentioned last Friday: When the believers pass over the *sirat*- and only the believers will pass- they will be stopped on a bridge between *al-Jannah* and *an-Nar* (Heaven and Hell) where retaliations against one another for wrongs and injustices committed against one another will take place. Only after they are cleansed, they will be permitted to enter *al-Jannah*.

So, not only there will be retaliations between human beings but also between animals – as the Prophet (*salla Allahu alaihi wasallam*) said.

It is a duty upon whoever divorces his wife to discharge her rights. He must not use what she is entitled to as a means to blackmail or take revenge from her. This is utter injustice.

Anyone who is keeping his wife in limbo should fear Allah (*subhanahu wa ta'ala*) and refrain from such transgression. His family and friends must prevent him from doing so. The family of the woman must do everything possible to release her from captivity

It is also a duty upon the Muslim community to stand against the oppressor and reprimand him with the strongest Shari'ah admonishment. If he does not desist from his wrongful act, they should resort to legal means to free the captive women. A nation which gives a deaf ear and turns a blind eye to injustices risks drawing the punishment of Allah (*subhanahu wa ta'ala*) upon itself. In the *Hadith*, the Prophet (*salla Allahu alaihi wasallam*) said: "If you see my *Ummah* fearing to say to the oppressor: You are an oppressor, then they are finished. (Reported by Imam Ahmed.)