

Part 6: Iqaaat (Unilateral Pronouncement)

Muhaqqiq divided these into eleven Chapters. In Iq'aa pronouncing a formula is necessary, but it does not have two sides. It is done unilaterally.

Chapter One: Kitab Altalaq

Dissolution of marriage It is either Absolute (Bain) or Revocable (Raje'e). The revocable Talaq is that in which the husband has the power of revocation during the Iddat period, while in the absolute, the husband has no power of revocation. This chapter discusses all the laws in this connection. It also sets down all the conditions for Talaq to be valid.

Chapter Two: Kitab Alkhula' & Mubaraat

These are two other types of absolute divorce. Khula' is when wife has a dislike for her husband and asks him to divorce her in exchange of a sum, or all or part of her Mahr. In such a case, when the husband agrees to divorce, he forfeits the power of revocation, except when the wife agrees to take back the money or ransom she gave.

Mubaraat is when dislike is mutual, and in this case also the wife has to pay some ransom to the husband. However, the ransom paid in the case of Mubaraat should not exceed the Mahr. This divorce is also absolute.

Chapter Three: Kitab Aldhihar

In the preIslamic era, when husband said to his wife "you are on me like the back of my mother", it was construed as Divorce. Islam has effected an important change. It does not recognise Dhihar as a form of divorce, but whoever does this ought to pay kaffara before he can resume conjugal relations with his wife. This kaffara is freeing a slave, and if that is not possible, he shall fast for two consecutive months. And if that is not possible also, then he should feed sixty poor.

Chapter Four: Kitab Aleela'

It is an oath by God, wherein the husband swears that he would never have conjugal relation with his wife, or that he would not have the relation for a period exceeding four months. In such a case, when the wife complains to Hakime Shara', the husband would be given a choice either to divorce her or to abrogate the oath. Naturally, if the husband abrogates the oath, he will pay the expiation (kaffara). In general, Islam forbids abrogating the oaths, but in this case it recommends.

Chapter Five: Kitab Allian

This chapter deals with the slander or denial of a child. The law of accusing someone without adequate proof etc. are also discussed. Husband stands before Hakime Sharia and pronounces Lian, saying four times: "God is my witness, that I am truthful in my accusation against my wife". Then he says: "May God curse me if I were not speaking the truth".

Thereafter, the wife says four times: "God be my witness that my husband has lied and accused me wrongly". Then she adds: "Curse of God befall me if I was lying". When this process is complete, the marriage is irrevocably dissolved.

Chapter Six: Kitab Alitq

It discusses about freeing the slaves. Islam does not encourage slavery that is why we do not find a chapter on 'alRiqq', (enslaving); the only chapter is 'alItq' (freeing, liberating). The chapter outlines circumstances in which the slaves are voluntarily or automatically liberated.

Chapter Seven: Kitab Altadbeer, Mukatibah & Isteelad

This chapter deals with specific circumstances which lead to freeing the slaves. Altadbeer is when the master makes a will stating that his slave will be free upon his death. Mukatibah is when a slave wishes to enter into an agreement with his master that he be freed in exchange of some consideration.

The Holy Quran says that if the master finds the slave capable and righteous, he should accede to the wishes of the slave, and also endow him with some of his own wealth. Isteelad is an automatic process. When a female slave, for example, becomes pregnant by her master, such a female slave will revert to her offspring upon her husband's (master's) death. And since she is the mother, and Islam does not allow anyone to be a slave of his or her forbearers however high, and descendants however low, the female slave will automatically be free.

Chapter Eight: Iritab Aliqrar

It deals with admission and is connected with the judiciary. When a person makes a claim against someone and has no evidence or witness to substantiate it, the claim is not admissible. But if the debtor himself wishes to admit the debt, which is Iqrar, then it is deemed adequate.

Chapter Nine: Kitab Aljialah

It means offering a wage or reward. Apparently, it resembles the act of hiring a worker or a labourer for a particular piece of work against agreed amount. But in Jialah, the employer does not hire a particular person, he makes a public announcement stating that whoever would do a certain job for him, he would pay him a certain amount.

Chapter Ten: Kitab Alayman

Ayman is plural of Yameen, which means an oath. In this chapter, the sanctity of a religious oath, taken in the name of Allah, is discussed. It describes the implication of taking an oath in the name of Allah, the types of oath, perjury and the expiation for one who breaks the oath.

Chapter Eleven: Kitab Alnadhr

Nadhr is a solemn vow, or pledge made in the name of Allah. It explains the formula which one has to pronounce or at least to have it in mind before nadhr is formally established, and the occasions for nadhr. A nadhr made for a mubah (ordinarily permissible) thing, having no legitimate benefit here or hereafter, is not valid. Both oath and nadhr are a covenant made with Allah and they must be honoured.

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