

14 b

I. ISSUES THAT COULD CAUSE PROBLEMS IN MARRIAGES

i) Menstruation Surah 2:

222 And they ask thee about menstruation.^a Say: It is harmful;^b so keep aloof from women during menstrual discharge and go not near them until they are clean. But when they have cleansed themselves, go in to them as Allāh has commanded you. Surely Allāh loves those who turn much (to Him), and He loves those who purify themselves.

223 Your wives are a tilth for you, so go in to your tilth when you like,^a and send (good) beforehand for yourselves. And keep your duty to Allāh, and know that you will meet Him. And give good news to the believers.

224 And make not Allāh by your oaths a hindrance to your doing good and keeping your duty and making peace between men.^a And Allāh is Hearing, Knowing.

225 Allāh will not call you to account for what is vain in your oaths, but He will call you to account for what your hearts have earned. And Allāh is Forgiving, Forbearing.^a

226 Those who swear that they will not go in to their wives^a should wait four months; then if they go back, Allāh is surely Forgiving, Merciful.^b

227 And if they resolve on a divorce,^a Allāh is surely Hearing, Knowing.

وَيَسْأَلُونَكَ عَنِ الْمَحِيضِ قُلْ هُوَ آذٌ مِّنْ
فَاعْتَرِزُوا لِلنِّسَاءِ فِي الْمَحِيضِ وَلَا تَقْرَبُوهُنَّ
حَتَّىٰ يَنْظُرْنَ فَأَظْهَرْنَ فَاُولَٰئِكَ مِمَّنْ
حَيْثُ أَمَرَكُمُ اللَّهُ إِنَّ اللَّهَ يُحِبُّ الْمُتَّوَابِينَ

وَيُحِبُّ الْمُتَطَهِّرِينَ ﴿٢٢٢﴾

رِسَالًا لَّكُمْ حَرْثٌ لَّكُمْ فَأَتُوا حَرْثَكُمْ أَنَّى
يَشَاءُوا وَلَا قَوْلٌ لَّكُمْ بِهِ وَالْقَوْلُ لِلَّهِ
وَاعْلَمُوا أَنَّكُمْ مُلْفُوهٌ وَيَسِّرُوا لِلْمُؤْمِنِينَ ﴿٢٢٣﴾

وَلَا تَجْعَلُوا اللَّهَ عُرْصَةً لِّإِيمَانِكُمْ أَنْ تَبَرُّوا
وَتَتَّقُوا وَتُصْلِحُوا بَيْنَ النَّاسِ وَاللَّهُ سَمِيعٌ عَلِيمٌ ﴿٢٢٤﴾

لَا يُؤَاخِذُكُمُ اللَّهُ بِاللَّغْوِ فِي أَيْمَانِكُمْ وَلَكِنْ
بِأَخْذِكُمْ بِمَا سَبَّحْتُمْ فُلُوهُنَّ وَاللَّهُ عَفُورٌ رَّحِيمٌ ﴿٢٢٥﴾

لِّلَّذِينَ يُؤْتُونَ مِن رِّسَالِهِمْ تَرَبُّصًا أَرْبَعَةَ
أَشْهُهُ قَرَانَ قَاءً وَقَرَانَ اللَّهِ عَفُورٌ رَّحِيمٌ ﴿٢٢٦﴾

وَإِنْ عَزَمُوا الطَّلَاقَ فَإِنَّ اللَّهَ سَمِيعٌ عَلِيمٌ ﴿٢٢٧﴾

Although, menstruation is not clinically recommended for sexual relationship, this is merely for obvious medical reasons. However, this menstruation period has led to much misinformation which has many thinking that the menstruating women are unclean; this is because of mistranslation of the Arabic. The word “*adiya*” or “*azun*” does not only mean harmful. It also means to lead to harm; damage, hurt, wrong, annoyance; irritation and troublesome. Depending on the discharge experienced and the pain accompanying it, it would have a different meaning. It is rather surprising that the translators take the first word that comes into their minds. Furthermore, the word *tathir* in the context taken with the above explanation would mean cleansing of the discharge so that a healthy sexual relation could take place. It must be understood that menstruation is a result of a legitimate body function and cannot by any stretch of one’s imagination be taken as dirty in the sense that most understand it.

This clinical restrictions sometimes lead to husbands refusing to act this situation and take oaths to stay away from their wives. The repentance period would then be 4 months before resuming sexual relations.

14 b

ii) Zihar Surah 33:

4 Allāh has not made for any man two hearts within him;^a nor has He made your wives whom you desert by *Zihār*, your mothers, nor has He made those whom you assert (to be your sons) your sons. These are the words of your mouths. And Allāh speaks the truth and He shows the way.^b

مَا جَعَلَ اللَّهُ لِرَجُلٍ مِنْ قَلْبَيْنِ فِيْ
جَوْفِهِ ۗ وَمَا جَعَلَ اٰرْوَاجَكُمْ اَلْوَالِدِ
تُظَاهِرُونَ مِنْهُنَّ اُمَّهَاتِكُمْ ۗ وَمَا جَعَلَ
اَدْعِيَاءَكُمْ اَبْنَاءَكُمْ ۗ ذٰلِكُمْ قَوْلُكُمْ
يَا فَوَاحِشُ ۗ وَاللّٰهُ يَخْبَرُ الْحَقَّ وَهُوَ
بَصِيْرٌ السَّمِيعُ ۝

And then Surah 58:

3 And those who put away their wives by calling them their mothers, then go back on that which they said, must free a captive before they touch one another. To this you are exhorted; and Allāh is Aware of what you do.

4 But he who has not the means, should fast for two months successively before they touch one another, and he who is unable to do so should feed sixty needy ones. That is in order that you may have faith in Allāh and His Messenger. And these are Allāh's

وَ الَّذِيْنَ يُظَاهِرُوْنَ مِنْ نِسَائِهِمْ ثُمَّ
يَعُوْدُوْنَ لِمَا قَالُوْا فَتَحْرِیْرُ سَرَقَبَةٍ
مِّنْ قَبْلِ اَنْ يَّتَمَسَّ ذٰلِكُمْ كُوْحُلُوْنَ
بِهٖ ۗ وَاللّٰهُ بِمَا تَعْمَلُوْنَ خَبِيْرٌ ۝
فَمَنْ لَّمْ يَجِدْ فَصِيَامًا شَهْرَيْنِ
مُتَتَابِعَيْنِ مِنْ قَبْلِ اَنْ يَّتَمَسَّ ۗ
فَمَنْ لَّمْ يَسْتَطِعْ فَاِطْعَامًا سِتِّیْنَ
مِسْكِيْنًا ۗ ذٰلِكَ لِيُتَّقُوْا بِاللّٰهِ وَ
رَسُوْلِهِ ۗ وَ تِلْكَ اَحْدُوْدُ اللّٰهِ وَ

Through anger and frustrations husbands sometimes utter words that could have very serious repercussions in marriages. Thus Allah has put restraints in their actions by this concept of *Zihar*. Where husbands utter such words, to belittle their wives; thereafter, to return to their marital bed would require the **freeing of a slave; or fasting for 2 months successively or the feeding of 60 needy people.**

Besides the normal events the above two incident also contribute to issues in mariages.

iii) Inability of Husband to Maintain Family could also lead to failure in marriage Surah 5

236 There is no blame on you if you divorce women while yet you have not touched them, nor appointed for them a portion. And provide for them, the wealthy according to his means and the straitened according to his means, a provision according to usage. (This is) a duty on the doers of good.^a

لَا جُنَاحَ عَلَیْكُمْ اِنْ كَلَفْتُمُ النِّسَاءَ مَا لَمْ
تَمْسُوْهُنَّ اَوْ تَمْسُوْهُنَّ فَرِيْضَةً ۗ وَمِمَّا عَمِلْتُمْ
عَلَى الْمَوْسِعِ قَدْرُهُ وَعَلَى الْمَقْتِرِ قَدْرُهُ مِمَّا
يَا الْمَعْرُوْنِ ۗ حَقًّا عَلَى الْمُحْسِنِيْنَ ۝

14 b

iv) Expiation or Kaffara for Oaths not Addressed above Surah 2:

89 Allāh will not call you to account for that which is vain in your oaths, but He will call you to account for the making of deliberate oaths; so its expiation^a is the feeding of ten poor men with the average (food) you feed your families with, or their clothing, or the freeing of a neck. But whoso finds not (means) should fast for three days. This is the expiation of

لَا يُؤَاخِذُكُمُ اللَّهُ بِاللَّغْوِ فِي أَيْمَانِكُمْ
وَلَكِنْ بِمَا عَمَدْتُمُ الْأَيْمَانَ
فَكَفَّارَتُهُ إِطْعَامُ عَشْرَةِ مَسْكِينٍ مِنْ
أَوْسَطِ مَا تَطْبَخُونَ لِعِيلاتِكُمْ أَوْ كِسْوَتُهُمْ
أَوْ تَحْرِيرُ رَجُلٍ ۚ فَمَنْ لَمْ يَجِدْ فَصِيَامُ
ثَلَاثَةِ أَيَّامٍ ۚ ذَلِكَ كَفَّارَةُ أَيْمَانِكُمْ إِذَا

your oaths when you swear. And keep your oaths.^b Thus does Allāh make clear to you His messages that you may give thanks.

خَافْتُمْ ۗ وَالْحَقُّ لَكُمْ كَذَلِكَ يَسْرِينِ
اللَّهُ لَكُمْ آيَاتِهِ لَعَلَّكُمْ تَشْكُرُونَ ﴿٨٩﴾

V. POLYGAMY

Refer details at end of this article “Islam – And the Plurality of Wives; Polygamy or Polygyny”.

vi. INADEQUATE CARE AND PREPARATION FOR SEXUAL RELATIONS SURAH 2:222 and VERSE 223

223 Your wives are a tilth for you, so go in to your tilth when you like,^a and send (good) beforehand for yourselves. And keep your duty to Allāh, and know that you will meet Him. And give good news to the believers.

نِسَاءُكُمْ حَرْثٌ لَكُمْ فَأْتُوا حَرْثَكُمْ أَنَّى
شِئْتُمْ ۖ وَقَدِّمُوا لِنَفْسِكُمْ ۗ وَاتَّقُوا اللَّهَ
وَاعْلَمُوا أَنَّكُمْ مُلاقُونَ ۗ وَبَشِّرِ الْمُؤْمِنِينَ ﴿٢٢٣﴾

Sending of good may relate to creating the right atmosphere and exchanging of gifts in accordance with the limits of Allah with proper care and respect.

J. TALAQ (THE DIVORCE PROCESS)

It is important to note that whereas Allah has given guidelines concerning *Nikah*, The Quran does not give detail explanation concerning the process; whereas concerning *Talaq* the Quran explains the process in detail, because this is where abuse and negligence takes place.

It must be understood that Divorce is not a single act that takes place at the stroke of a pen, but if one studies all the verses in the Quran one would realise that *Taalq* is a process and thus Divorcement is the correct translation when discussing the process of *Talaq*.

14 b

ARBITRATORS STEP ONE SURAH 4

35 And if you fear a breach between the two, appoint an arbiter from his people and an arbiter from her people. If they both desire agreement, Allāh will effect harmony between them.

Surely Allāh is ever Knowing, Aware.^a

وَأِنْ خِفْتُمْ شِقَاقَ بَيْنِهِمَا فَابْعَثُوا
حَكْمًا مِنْ أَهْلِهِ وَحَكْمًا مِنْ أَهْلِهَا
إِنَّ يَتَرَدَّ إِضْلَاحًا يَرْضَى اللَّهُ بِتَوَافُقِهِمَا
إِنَّ اللَّهَ كَانَ عَلِيمًا حَكِيمًا ﴿٣٥﴾

When there is evidence of the marriage is in trouble and that assistance is needed to resolve the situation, it is advisable from the above Verse that outside help be sought, for obvious reasons. Couples should not try and resolve the problem on their own as this would exacerbate the situation. The procedure would be to enter into a negotiation and arbitration period and the person (normally marriage councillor, or a representative of a court where this is possible) would then appoint an arbiter from the husband's family and an arbiter from the family of the wife (this would be the first choice; failing which near relatives or friends can also be appointed). The result of the negotiations must be accepted by the married couple. It must be understood that agreement, reconciliation or settlement here would mean one of the two alternates and that would be a friendly resolve to continue with the marriage or commence with the *Talaq process*.

The above process means that the couple are not brought face to face until it is suitable to do so; but there must be a sincere intention to reach a resolution through the negotiation process. This process can also be initiated by the wife; **Surah 4:**

128 And if a woman fears ill-usage from her husband or desertion^a no blame is on them if they effect a reconciliation between them. And reconciliation is better. And avarice is met with in (men's) minds. And if you do good (to others) and keep your duty, surely Allāh is ever Aware of what you do.

وَإِذَا الْمَرْأَةُ خِفَتْ مِنْ بَعْلِهَا نُشُورًا أَوْ
إِعْرَاضًا فَلَا جُنَاحَ عَلَيْهِمَا أَنْ يُصْلِحَا
بَيْنَهُمَا صُلْحًا وَالصُّلْحُ خَيْرٌ وَأُخْبِرَتِ
الْأَنْفُسُ الشَّرَّ وَأَنْ تُحْسِنُوا وَتَتَّقُوا فَإِنَّ
اللَّهَ كَانَ بِمَا تَعْمَلُونَ خَبِيرًا ﴿١٢٨﴾

ARBITRATORS CAN ALSO BE REQUESTED BY WIFE SURAH 2 VERSE 128

Where the wife fears cruelty or desertion on her husband's part and requires a process for reconciliation or an amicable settlement.

14 b

128 And if a woman fears ill-usage from her husband or desertion^a no blame is on them if they effect a reconciliation between them. And reconciliation is better. And avarice is met with in (men's) minds. And if you do good (to others) and keep your duty, surely Allāh is ever Aware of what you do.

وَإِنْ امْرَأَةٌ خَافَتْ مِنْ بَعْلِهَا نُشُورًا أَوْ إِعْرَاضًا فَلا جُنَاحَ عَلَيْهِمَا أَنْ يُصْلِحَا بَيْنَهُمَا صُلْحًا وَالصُّلْحُ خَيْرٌ وَأُخْزِرَتِ الْأَنْفُسُ الشُّحَّ وَإِنْ تُحْسِنُوا وَتَتَّقُوا فَإِنَّ اللَّهَ كَانَ بِمَا تَعْمَلُونَ خَبِيرًا ۝

129 And you cannot do justice between wives, even though you wish (it), but be not disinclined (from one) with total disinclination, so that you leave her in suspense. And if you are reconciled and keep your duty, surely Allāh is ever Forgiving, Merciful.

وَلَنْ تَسْتَطِيعُوا أَنْ تَعْدِلُوا بَيْنَ النِّسَاءِ وَكُونُوا حَرِصِينَ فَلا تَبِيلُوا كُلُّ الْمَيْلِ فَتَذَرُوهَا كَالْمُعَلَّقَةِ وَإِنْ تُصْلِحُوا وَتَتَّقُوا فَإِنَّ اللَّهَ كَانَ عَفُورًا رَحِيمًا ۝

130 And if they separate, Allāh will render them both free from want out of His ampleness. And Allāh is ever Ample-giving, Wise.

وَإِنْ يَتَفَرَّقَا يُغْنِ اللَّهُ كُلًّا مِنْ سَعَتِهِ وَكَانَ اللَّهُ وَاسِعًا حَكِيمًا ۝

In Surah 58 Verse 1 a similar advice is give as above:

1 Allāh indeed has heard the plea of her who pleads with thee about her husband and complains to Allāh; and Allāh hears the contentions of both of you.^a Surely Allāh is Hearing, Seeing.

قَدْ سَمِعَ اللَّهُ قَوْلَ الَّتِي تُجَادِلُكَ فِي زَوْجِهَا وَتَشْتَكِي إِلَى اللَّهِ وَاللَّهُ يَسْمَعُ الْخَفَاةَ وَالنَّاسِئَاتِ إِنَّ اللَّهَ سَمِيعٌ بَصِيرٌ ۝

When the arbiters arrive at a situation wherein the only way forward would be to proceed with the divorcement then they would inform the “authorities” (as elaborated above) to proceed with the process of *Talaq*; It is not the prerogative of **any one of the wedded couple** to institute the commencement of the process.

STEP TWO SURAH 2

229 Divorce may be (pronounced) twice;^a then keep (them) in good fel-

الطَّلَاقُ مَرَّتَيْنِ فَلا مَعْصِيَةَ لِمَنْ أَتَى مِنْهُنَّ وَأُولَئِكَ يَتَذَكَّرُونَ

lowship or let (them) go with kindness.^b And it is not lawful for you to take any part of what you have given them,^c unless both fear that they cannot keep within the limits of Allāh. Then if you fear that they cannot keep within the limits of Allāh, there is no blame on them for what she gives up to become free thereby.^d

بِإِحْسَانٍ وَلَا يَجِدُ لَكُمْ أَنْ تَأْخُذُوا مِنْهَا شَيْئًا مِمَّا كُنْتُمْ تَتْلُونَ وَالَّذِينَ يَتَّقُوا اللَّهَ يَجْعَلْ لَكُمْ فِي أَمْوَالِكُمْ أَسْفَافًا لِيَتَذَكَّرُوا فِيهَا وَالَّذِينَ شَكَّوْا فِي اللَّهِ فَأُولَئِكَ سَاءَ مَا يَحْكُمُونَ ۝

The pronouncement of revocable divorce is twice. And herein departure takes place or reconciliation and the dowry and/or gifts are not taken back except for Khula, which will be discussed later. However, there could be an agreement concerning financial arrangement. If the process is revoked then the third process can be addressed in kindness.

14 b

IDDAH SURAH 2

228 And the divorced women should keep themselves in waiting for three courses.^a And it is not lawful

for them to conceal that which Allāh has created in their wombs, if they believe in Allāh and the Last Day. And their husbands have a better right to take them back in the meanwhile if they wish for reconciliation.^b And women have rights similar to those against them in a just manner,^c and men are a degree above them.^d And Allāh is Mighty, Wise.

وَالْمُطَلَّغَاتُ يَتَرَبَّصْنَ بِأَنْفُسِهِنَّ ثَلَاثَةَ قُرُوءٍ
وَلَا يَحِلُّ لَهُنَّ أَنْ يَكْتُمْنَ مَا خَلَقَ اللَّهُ فِي
أَرْحَامِهِنَّ إِنْ كُنَّ يُؤْمِنُونَ بِاللَّهِ وَالْيَوْمِ
الْآخِرِ وَ يُعْمَلُ لَهُنَّ آجُرٌ بِرَدْوَنَ فِي ذَلِكَ إِنْ
أَرَادُوا إِصْلَاحًا وَلَهُنَّ مِثْلُ الَّذِي عَلَيْهِنَّ
بِالْمَعْرُوفِ وَالرِّجَالُ عَلَيْهِمْ كَدَرَجَةً
وَاللَّهُ عَزِيزٌ حَكِيمٌ

The period of Iddah (waiting) is three lunar months or three menstrual period, as this would indicate if there is any pregnancy issues to be addressed. Iddah is not mean't to "imprison" the wife in a house. She is free to do her business, attend classes, pick her children and leave them at school any and all such activities that is required to be fulfilled. In this period she is not supposed to arrange any marriage ties etc.

A summary of the above 2 process is thus:

- I) Pronouncement of first Talaq
- II) Iddah of three lunar months or three menstrual period
- III) Resumption of marriage or
- IV) If non-resumption then first *Talaq is effected*.
- V) Post the above is couple require resumption of marital ties
- VI) Then a *Nikah* has to take place.
- VII) If after any period of time there is further friction then i) to vi) takes place.

During the above process; the wife is not forced to leave the marital home and that she and the children must be taken care of as previously, according to the standarad of living of the husband and what was the norm till now. The woman undergoing the divorcement will not be turned out of the marital home, unless and until there has been bad faith on the part of the wife or she has been undertaking any indecent activity (the proof, of course, will be in accordance with the laws of slandering of women, in the Quran). This is an accordance with

14 b

Surah 65:

1 O Prophet, when you divorce women, divorce them for their prescribed period,^a and calculate the period; and keep your duty to Allāh, your Lord. Turn them not out of their houses — nor should they themselves go forth — unless they commit an open indecency. And these are the limits of Allāh. And whoever goes beyond the limits of Allāh, he

يَا أَيُّهَا النَّبِيُّ إِذَا طَلَقْتُمُ الْمَرْءَاتِ فَطَلِقُوهُنَّ
لِعَدَّتِهِنَّ وَأَحْصُوا الْعِدَّةَ ۚ وَاتَّقُوا
اللَّهَ رَبَّكُمْ لَا تُخْرِجُوهُنَّ مِنْ
بُيُوتِهِنَّ وَلَا يَخْرُجْنَ إِلَّا أَنْ يَأْتِيَنَّ
بِقَالِحَتَيْهِمَا ۚ وَمِنْ ذَلِكَ حُدُودُ
اللَّهِ وَمَنْ يَتَعَدَّ حُدُودَ اللَّهِ
ظَلَمَ نَفْسَهُ ۗ لَا تَدْرِي لَعْنُ اللَّهِ

indeed wrongs his own soul. Thou knowest not that Allāh may after that bring about an event.^b

2 So when they have reached their prescribed time, retain them with kindness or dismiss them with kindness, and call to witness two just ones from among you, and give upright testimony for Allāh. With that is admonished he who believes in Allāh and the Latter Day. And whoever keeps his duty to Allāh, He ordains a way out for him,

يُخْرِتُ بَعْدَ ذَلِكَ أَمْرًا ۝

فَإِذَا بَلَغْنَ أَجَلَهُنَّ فَأَمْسِكُوهُنَّ
بِإِحْسَانٍ أَوْ قَارِهُوهُنَّ بِمَعْرُوفٍ
وَ أَشْهِدُوا ذَوْيَ عَدْلٍ مِنْكُمْ
وَ آقِمُوا الشَّهَادَةَ لِلَّهِ ذَٰلِكُمْ يُوعَظُ
بِهِ مَنْ كَانَ يُؤْمِنُ بِاللَّهِ وَالْيَوْمِ
الْآخِرَةِ ۚ وَمَنْ يَتَّقِ اللَّهَ يَجْعَلْ لَهُ
مَخْرَجًا ۝

IDDAH OF PREGNANT WOMEN SURAH 65:

4 And those of your women who despair of menstruation, if you have a doubt, their prescribed time is three months, and of those, too, who have not had their courses. And the pregnant women, their prescribed time is that they lay down their burden. And whoever keeps his duty to Allāh, He makes his affair easy for him.

وَالَّذِينَ يَحْسَبْنَ مِنَ الْمَحِيضِينَ مِنْ
نِسَائِكُمْ إِنْ امْرَأَتُهُمْ فَعِدَّتُهُنَّ
كَالْعِدَّةِ ۚ وَالَّذِينَ لَمْ يَحِضْنَ ۚ وَأُولَٰئِكَ
الْحَصَالُ أَجَلُهُنَّ أَنْ يَضَعْنَ حَمْلَهُنَّ ۚ
وَ مَنْ يَتَّقِ اللَّهَ يَجْعَلْ لَهُ مِنْ
أَمْرِهِ يُسْرًا ۝

The waiting period or Iddah in every step of the process would be until the birth of the child takes place.

14 b

MAINTENANCE OF WIFE AND CHILDREN DURING AND AFTER TALAQ SURAH 2 VERSE 236

233 And mothers^a shall suckle their children for two whole years, for him who desires to complete the time of suckling. And their maintenance and their clothing must be borne by the father according to usage. No soul shall be burdened beyond its capacity. Neither shall a mother be made to suffer harm on account of her child, nor a father on account of his child; and a similar duty (devolves) on the (father's) heir.^b But if both desire weaning by mutual consent and counsel, there is no blame on them. And if you wish to engage a wet-nurse for your children, there is no blame on you so long as you pay what you promised according to usage. And keep your duty to Allāh and know that Allāh is Seer of what you do.

234 And (as for) those of you who die and leave wives behind, such women should keep themselves in waiting for four months and ten days;^a when they reach their term, there is no blame on you for what they do for themselves in a lawful

manner.^b And Allāh is Aware of what you do.

235 And there is no blame on you respecting that which you speak indirectly in the asking of (such) women in marriage or keep (the proposal) concealed within your minds. Allāh knows that you will have them in your minds, but give them not a promise in secret unless you speak in a lawful manner. And confirm not the marriage tie until the prescribed period reaches its end.^a And know that Allāh knows what is in your minds, so beware of Him; and know that Allāh is Forgiving, Forbearing.

236 There is no blame on you if you divorce women while yet you have not touched them, nor appointed for them a portion. And provide for them, the wealthy according to his means and the straitened according to his means, a provision according to usage. (This is) a duty on the doers of good.^a

وَالْوَالِدَاتُ يُرْضِعْنَ أَوْلَادَهُنَّ حَوْلَيْنِ
كَامِلَيْنِ لِمَنْ أَرَادَ أَنْ يُنْفِقَ الرِّضَاعَةَ
وَعَلَى الْمَوْلُودِ لَهُ رِشْقُهُنَّ وَكِسْوَتُهُنَّ
يَا الْمَعْرُوفُ لَا تَحْكَمْتَ نَفْسٌ إِلَّا رُشْعَهَا لَا
تُضَارُّ وَالِدًا وَالْوَالِدَاتُ يُرْضِعْنَ أَوْلَادَهُنَّ
يَوْمَئِذٍ وَعَلَى الْوَالِدِ رِشْقُهُنَّ وَإِنْ كُنَّ
أَسْرًا فَضَالًا عَنِ تَرَاضٍ بَيْنَهُمَا وَتَشَاوُرٍ
فَلَا جُنَاحَ عَلَيْهِمَا وَإِنْ أَرَدْتُمْ أَنْ تَسْتَرْضِعُوا
أَوْلَادَكُمْ فَلَا جُنَاحَ عَلَيْكُمْ إِذَا سَأَلْتُمْ بِمَا
أَنْتُمْ بِالْمَعْرُوفِ وَالنَّفْسُ لِلَّهِ وَالْعِلْمُ لِلَّهِ
أَنْ اللَّهَ بِمَا تَعْمَلُونَ بَصِيرٌ ﴿٢٣٣﴾

+

وَالَّذِينَ يَتَوَفَّوْنَ مِنْكُمْ وَيَذَرُونَ أَزْوَاجًا
يَكْرِهْنَ يَا أَنْفُسَهُنَّ أَرْبَعَةَ أَشْهُرٍ وَعَشْرًا
فَإِذَا بَلَغْنَ أَجَلَهُنَّ فَلَا جُنَاحَ عَلَيْكُمْ فِيمَا
فَعَلْنَ فِي أَنْفُسِهِنَّ بِالْمَعْرُوفِ وَاللَّهُ بِمَا

تَعْمَلُونَ خَبِيرٌ ﴿٢٣٤﴾

وَلَا جُنَاحَ عَلَيْكُمْ فِيمَا عَرَّضْتُمْ بِهِ مِنْ
خِطْبَةِ النِّسَاءِ أَوْ أَكْتُمْتُمْ فِي أَنْفُسِكُمْ طَعْمًا
اللَّهُ أَنْتُمْ سَتَدَّكُمْ وَنَهْنُ وَلَكِنْ لَا تُوَاعِدُوهُنَّ
سِرًّا إِلَّا أَنْ تَقُولُوا قَوْلًا مَعْرُوفًا وَلَا تَعْرَضُوا
عُقْدَةَ النِّكَاحِ حَتَّى يَبْلُغَ الْكِنْبُ أَجَلَهُ ط
اعْلَمُوا أَنَّ اللَّهَ يَعْلَمُ مَا فِي أَنْفُسِكُمْ
فَلَا حُدُودَ وَالْعِلْمُ لِلَّهِ وَالْعِلْمُ لِلَّهِ عَفْوٌ حَلِيمٌ ﴿٢٣٥﴾

لَا جُنَاحَ عَلَيْكُمْ إِنْ طَلَقْتُمُ النِّسَاءَ مَا لَمْ
تَمْسُوهُنَّ أَوْ تَفْرِضُوا لَهُنَّ فَرِيضَةً وَمَتَّعُوهُنَّ
عَلَى الْمَوْسِمِ قَدْرَهُ وَعَلَى الْمُقْتِرِ قَدْرَهُ مَتَاعًا
يَا الْمَعْرُوفُ حَقًّا عَلَى الْمُحْسِنِينَ ﴿٢٣٦﴾

The husband provides for the wife according to his means and what the wife has been accustomed to during marriage.

The maintenance of the children is the responsibility of the husband as indicated in 2:236 above.

It must, however, be remembered that the maintenance of the children remains with the family or grandfather (husband's father) in the case of the husband having died and the grandfather inherits; Refer Surah 2 Verse 233 above.

14 b

Because of the Quranic laws governing upkeep of children and laws governing wills and inheritances the Quran does **not allow that the wife should conceal any pregnancy or unsurety of same.**

KHULA SURAH 2:

229 Divorce may be (pronounced) twice;^a then keep (them) in good fel-

الطَّلَاقِ مَرَّتَيْنِ فَإِمْسَالِكُمْ يَعْزُوبِينَ أَوْ تَسْرِيحِكُمْ

lowship or let (them) go with kindness.^b And it is not lawful for you to take any part of what you have given them,^c unless both fear that they cannot keep within the limits of Allāh. Then if you fear that they cannot keep within the limits of Allāh, there is no blame on them for what she gives up to become free thereby.^d

بِإِحْسَانٍ وَلَا يَجِدَ لَكُمْ أَنْ تَأْخُذُوا مِنْهَا شَيْئًا مِمَّا كُنْتُمْ تَكْفُونَ إِنْ يَخَافَا أَلَّا يُقِيمَا حُدُودَ اللَّهِ فَإِنْ خِفْتُمْ أَلَّا يُقِيمَا حُدُودَ اللَّهِ فَخَلَا جُنَاتِكُمْ عَلَيْهِمَا فِيمَا افْتَدَتْ بِهِ ذَلِكَ خُذُوا اللَّهُ حُدُودَ اللَّهِ فَالَّذِينَ تَعَدَّوْا مِنْ بَعْدِ

The clause “then if they fear that they cannot keep within the limits of Allah” in the above Verse, the wife is allowed to annul her marriage through the concept of Khul’a, but she will have to repay her dowry in full or by agreement a certain percentage of it. The Iddah period, however, will have to be effected by her

NO CONSUMATION OF MARRIAGE MEANS THAT THERE IS NO IDDAH, SURAH 33

49 O you who believe, when you marry believing women, then divorce them before you touch them, you have in their case no term which you should reckon.^a But make provision for them and set them free in a goodly manner.

يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا تَكَرَّمْتُمُ الْمُؤْمِنَاتِ ثُمَّ طَلَقْتُمُوهُنَّ مِنْ قَبْلِ أَنْ تَسْجُدُوا فِيهَا فَمَا عَلَيْكُمْ مِنْ عِدَّةٍ تَعْتَدُونَهَا كَتَبْتُمُوهُنَّ وَسَوْجَدْتُمُوهُنَّ سَرَاحًا جَمِيلًا ۝

Where the marriage was not consummated (no sexual act had taken place between husband and wife) then there will not be an Iddah period but the other requirements of upkeep and remaining in the marital house etc would have to be in place.

Continuation of process per i) to vii) above means that

- i) Reconciliation (resumption of marital relations) during the first and second Iddah marriage is intact but the two *tallaq* are effective.
- ii) If Iddah has elapsed then *Nikah* needs to be effected, **Surah 2:**

232 And when you divorce women and they end their term, prevent them not from marrying their husbands if they agree among themselves in a lawful manner.^a With this is admonished he among you who believes in

وَإِذَا طَلَقْتُمُ النِّسَاءَ فَإِنْ عَزَّوْنَ فَلَا تَعْضُدُوهُنَّ أَنْ يَنْكِحْنَ أَزْوَاجَهُنَّ إِذَا تَرَاضَوْا بَيْنَهُمْ بِالْمَعْرُوفِ ذَلِكَ يُوعَظُ بِهِ مَنْ كَانَ مِنْكُمْ يُؤْمِنُ بِاللَّهِ وَالْيَوْمِ

Allāh and the Last Day. This is more profitable for you and purer. And Allāh knows while you know not.

الْآخِرِ ذَلِكَ كُمْ أَنْزَلْنَا لَكُمْ وَأُظْهِرْنَا وَاللَّهُ يَعْلَمُ وَأَنْتُمْ لَا تَعْلَمُونَ ۝

14 b

STEP THREE SURAH 2:

230 So if he divorces her (the third time),^a she shall not be lawful to him afterwards until she marries another husband. If he divorces her, there is no blame on them both if they return to each other (by marriage), if they think that they can keep within the limits of Allāh.^b And these are the limits of Allāh which He makes clear for a people who know.

قَالَ طَلَّقَهَا فَلَا كُفْرَ لَهُ مِنْ بَعْدِ حَتَّى
تَنْكِحَ زَوْجًا غَيْرًا فَإِنْ طَلَّقَهَا فَلَا جُنَاحَ
عَلَيْهِمَا أَنْ يَتَرَاجَعَا إِنْ كَلَّمَا أَنْ يُغَيِّمَا
حُدُودَ اللَّهِ وَتِلْكَ حُدُودُ اللَّهِ يُبَيِّنُهَا
لِقَوْمٍ يَعْلَمُونَ ﴿٢٣٠﴾

Subsequent to the second *Talaq* if the marriage continues to have problems and the couple now decide to annul their marriage then the third *Talaq* comes into effect and thereafter the marriage is irrevocably annulled permanently and there shall not be reconciliation etc. However, the divorced woman will only be lawful to her previous husband if she marries someone in the normal process and then through unfortunate circumstances gets divorced in the normal process of events then only will she be able to marry the previous husband. It must be noted that this process **MUST NOT BE CONTRIVED as there is NO HALAALU in Islam.**

COURT PROCEEDINGS

Talaq and Nikah are both regulated in the Quran and Muslims need to follow these aspects no matter where the proceedings commence and end. Since the Quran does not object to proceedings being conducted by non-Muslims court judgements will be considered binding as long as cognisance of the Quranic law is paramount. There must be an arbitration process with Iddah and the steps as ordered by the Quran. Depending on circumstances where the court pronounces a divorce without the arbitration process, this could be treated as the first *talaq and so on*. The difficulty would arise when it becomes necessary to nullify the court divorce and proceed as this being the first *Talaq*.

In the absence of a Muslim Personal law in South Africa or in any Muslim minority country the Quranic principles must be adhered to strictly.

Any action by married couples to beat the law of a country by getting divorced, is only playing with the law of Allah and the Quranic rules would apply.

There is NO SUCH THING AS A THREE-IN-ONE TALAQ and the question of Halaalu in Islam. These are totally contrary to Quranic principles and is an action of Kufr. May Allah grant us the wisdom and the knowledge of the Quran so that we can practice what Allah has written down in the Quran.

17 And our duty is only a clear deliverance (of the message).

وَمَا عَلَيْكَ إِلَّا الْبَلَاغُ الْمُبِينُ ﴿١٧﴾