

# Divorce in the Qur'an

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وَإِنْ يَتَفَرَّقَا يُغْنِ اللَّهُ كُلًّا مِّن سَعَتِهِ وَكَانَ اللَّهُ وَاسِعًا حَكِيمًا

And if husband and wife do separate, Allah shall provide for each of them out of His abundance: for Allah is indeed Infinite, Wise

(4:130)

## Context

In what follows it is important to understand the context of the male/female husband/wife relationship in the Qur'an. For a short treatment on this see here. As a summary, in the family/marital relationship, the husband is the figure of authority and leadership with both greater responsibilities and rights than the wife. Given the authority and responsibilities of the male/husband in the marital dynamic, it makes sense that Allah targets most of the ayaat below to the men. This serves two functions:

- It guides the men on how they should act and restricts them from acting in a manner that is unjust.
- It informs the women of what they should expect from their husbands in the context of marital breakup and gives them sanction and support to ask for it.

In the emotionally difficult time of a marital breakup, it makes sense to target guidance on righteous conduct on the party that has more capability to inflict injustice.

## Surah 2

### Oaths

وَلَا تَجْعَلُوا اللَّهَ عُرْضَةً لِأَيْمَانِكُمْ أَنْ تَبَرُّوا وَتَتَّقُوا وَتُصْلِحُوا بَيْنَ النَّاسِ وَاللَّهُ سَمِيعٌ عَلِيمٌ

And do not allow your oaths in the name of Allah to become an obstacle to virtue and Allah-consciousness and the promotion of peace between people: for Allah is all-hearing, all-knowing.

(2:224)

لَا يُؤَاخِذُكُمُ اللَّهُ بِاللَّغْوِ فِي أَيْمَانِكُمْ وَلَكِنْ يُؤَاخِذُكُمْ بِمَا كَسَبْتُمْ قُلُوبُكُمْ وَاللَّهُ عَفُورٌ حَلِيمٌ

Allah will not take you to task for oaths which you may have uttered without thought, but will take you to task [only] for what your hearts have conceived [in earnest]: for Allah is much-forgiving, forbearing.  
(2:225)

لِّلَّذِينَ يُؤْلُونَ مِن نِّسَائِهِمْ تَرَبُّصُ أَرْبَعَةِ أَشْهُرٍ فَإِن فَأُوأ فَإِنَّ اللَّهَ عَفُورٌ رَّحِيمٌ

For those who swear off their wives is four months of waiting; and if they (husbands) go back - behold, Allah is much-forgiving, a dispenser of grace.  
(2:226)

وَإِن عَزَمُوا الطَّلَاقَ فَإِنَّ اللَّهَ سَمِيعٌ عَلِيمٌ

But if they are resolved on divorce -behold, Allah is all-hearing, all-knowing.  
(2:227)

- Do not continue with the oath to disregard your wife and your duties to her just because you made the oath. Do not make the oath itself be the obstacle to virtue and Allah consciousness.
- At this point, the husband's abstention from his wife has a maximum duration of 4 months. If by the end of the 4 months, he does not return to proper relations, then divorce must take place.
  - I do not understand this 4 month period as a general approach to divorce as this period is one that removes right(s) of the wife while still fully married. I see it rather as Allah limiting the period of time a husband may swear off his wife.

وَالْمُطَلَّاتُ يَتَرَبَّصْنَ بِأَنْفُسِهِنَّ ثَلَاثَةَ

قُرُوءٍ

وَلَا يَحِلُّ لَهُنَّ أَنْ يَكْتُمْنَ مَا خَلَقَ اللَّهُ فِي أَرْحَامِهِنَّ إِنْ كُنَّ يُؤْمِنْنَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ وَبُعُولَتُهُنَّ أَحَقُّ بِرَدِّهِنَّ فِي ذَلِكَ إِنْ أَرَادُوا إِصْلَاحًا وَلَهُنَّ مِثْلُ الَّذِي عَلَيْهِنَّ بِالْمَعْرُوفِ وَلِلرِّجَالِ عَلَيْهِنَّ دَرَجَةٌ وَاللَّهُ عَزِيزٌ حَكِيمٌ

And the divorced women shall wait by themselves for three monthly periods, and it is not lawful for them to conceal what Allah may have created in their wombs, if they believe in Allah and the Last Day. And during this time their husbands are fully entitled to take them back, if they desire reconciliation; but, in accordance with justice, women have rights similar to their responsibilities, and men have a degree over them (in both rights and responsibilities). And Allah is almighty, wise.  
(2:228)

- At the end of the 4 month period (if applicable), if the husband does not return to normal relations with his wife, then the wife and husband become divorced.
  - The waiting period is three menstrual periods for divorced women. What does 3 menstrual periods mean?
    - The word quruu' (above linked to dictionaries, note especially dictionary 10 that has a more comprehensive set of meanings also found in Lane's Lexicon linked to next) and found also [here](#) (go to قُرُوءٌ section) the word has been taken to mean: the menstruation, the clear period between menstruations. The latter meaning (period between menstruations) in my opinion is the stronger meaning from reading the dictionaries as it works well with the fundamental meaning of root qara'.

- However, given that theoretically there can be both meanings (and sunni schools of thought have alternatively used one or the other), how can we decide? See the discussion as it relates to surah 65.
- Why is this important?
- Because, if we understand it as menstruations, theoretically the minimum waiting period would be 3 full menstruations (5 day ave.) + 2 clear periods (23 day ave.). This would on average be 61 days.
- If we understand it as the clear periods, then the minimum waiting period would be 3 clear periods (23 day ave.) + 2 menstrual periods (5 day ave.) + witnessing the start of a third menstrual period (1 day). This would be an average of 80 days and assumes that the iddah was started right after a menstrual cycle ended. It could be possible that if started at the middle of a clear period that 3 menstrual periods (5 day ave.) would be witnessed + 3 clear periods (23 day ave.) and this would be 84 days.
- There is a sizeable difference between the two periods of 61 and 80.
- From [here](#) and [here](#), it is clear that menstrual cycles can be shorter or longer than the average figures used above.
  - This period would/could come after the 4 month period mentioned in 2:226 if there was a 4 month period.
- The women should not conceal pregnancy from their former husbands.
  - This may have in it an implication that during the iddah (waiting period), there would be no sexual relations. This is because such activities could lead to a pregnancy discovered only after the 3 month iddah.
- What does the phrase “wait by themselves mean”?
  - It could imply they do not get remarried as the husbands can take them back in this waiting period if they desire reconciliation.
  - It could also ensure that pregnancy detected in this three-month period would not be confused should she get married again in this time.
- Husbands can take the women/wives back if they desire reconciliation.
  - They would be able to cancel the process of divorce without having to fully remarry in this period.

الطَّلَاقُ مَرَّتَانِ فَإِمْسَاكٌ بِمَعْرُوفٍ أَوْ تَسْرِيحٌ بِإِحْسَانٍ وَلَا يَحِلُّ لَكُمْ أَنْ تَأْخُذُوا مِمَّا آتَيْتُمُوهُنَّ شَيْئًا إِلَّا أَنْ يَخَافَا أَلَّا يُقِيمَا حُدُودَ اللَّهِ فَإِنْ خِفْتُمْ أَلَّا يُقِيمَا حُدُودَ اللَّهِ فَلَا جُنَاحَ عَلَيْهِمَا فِيمَا افْتَدَتْ بِهِ تِلْكَ حُدُودُ اللَّهِ فَلَا تَعْتَدُوهَا وَمَنْ يَتَعَدَّ حُدُودَ اللَّهِ فَأُولَئِكَ هُمُ الظَّالِمُونَ

Divorce is twice, thereafter (the wife) must be kept/retained in fairness or released/set free in a goodly manner. And it is not lawful for you to take back anything of what you have given to your wives unless both [partners] have cause to fear that they may not be able to keep within the bounds set by Allah: hence, if you have cause to fear that the two may not be able to keep within the bounds set by Allah, there shall be no sin upon either of them for what the wife may give up/ransom [to her husband] in order to free herself. These are the bounds set by Allah; do not, then, transgress them:

for they who transgress the bounds set by Allah-it is they who are evildoers!

(2:229)

- Husbands that divorce their wives are not allowed to take back anything (this is the marital gift and anything else they may have received) they have given their wives.
- The only time that a husband may get back some of what was given to the wife is if they mutually agree that something he gave her would cause both of them to not abide by Allah’s laws and she chooses to give it back.

- The term used is ransom, this implies that the woman gives it up to free herself. It implies also that it would be something contentious between the two.

فَإِنْ طَلَّقَهَا فَلَا تَحِلُّ لَهُ مِنْ بَعْدُ حَتَّى تَنْكِحَ زَوْجًا غَيْرَهُ فَإِنْ طَلَّقَهَا فَلَا جُنَاحَ عَلَيْهِمَا أَنْ يَتَرَاجَعَا إِنْ ظَنَّا أَنْ يُقِيمَا حُدُودَ اللَّهِ وَتِلْكَ حُدُودُ اللَّهِ يُبَيِّنُهَا لِقَوْمٍ يَعْلَمُونَ

And if he divorces her (the third time), she shall thereafter not be lawful unto him unless she first takes another man for husband; then, if the latter divorces her, there shall be no sin upon either of the two if they return to one another, provided that both of them think that they will be able to keep within the bounds set by Allah: for these are the bounds of Allah which He makes clear unto people of knowledge.

(2:230)

- The Husband and wife can divorce 2 times. If they divorce the third time they cannot remarry unless the requirements of 2:230 are met.

وَإِذَا طَلَّقْتُمُ النِّسَاءَ فَبَلَغْنَ أَجَلَهُنَّ فَأَمْسِكُوهُنَّ بِمَعْرُوفٍ أَوْ سَرِّحُوهُنَّ بِمَعْرُوفٍ وَلَا تُمْسِكُوهُنَّ ضِرَارًا لَنْتَعْتَدُوا وَمَنْ يَفْعَلْ ذَلِكَ فَقَدْ ظَلَمَ نَفْسَهُ وَلَا تَتَّخِذُوا آيَاتِ اللَّهِ هُزُوعًا وَادْكُرُوا نِعْمَتَ اللَّهِ عَلَيْكُمْ وَمَا أَنْزَلَ عَلَيْكُمْ مِنَ الْكِتَابِ وَالْحِكْمَةِ لِيُعْظَمَ بِهِ وَاتَّقُوا اللَّهَ وَاعْلَمُوا أَنَّ اللَّهَ بِكُلِّ شَيْءٍ عَلِيمٌ

And when you divorce women and they reach the end of their term, then either retain/keep them in a fair manner or release them/set them free in a fair manner. But do not retain them in order to hurt [them]: for he who does so sins indeed against himself. And do not take [these] messages of Allah in a frivolous spirit; and remember the blessings with which Allah has graced you, and all the revelation and the wisdom which He has bestowed on you from on high in order to admonish you thereby; and remain conscious of Allah, and know that Allah has full knowledge of everything.

(2:231)

- The husband should not take back his wife with the intention to hurt her (perhaps through deception), rather it should be for genuine reconciliation.
- We should not take the process of divorce and the regulations for it lightly.
- We must always remain conscious of Allah in our actions.

## Do not Hinder the Divorced Woman from Moving on

وَإِذَا طَلَّقْتُمُ النِّسَاءَ فَبَلَغْنَ أَجَلَهُنَّ فَلَا تَعْضُلُوهُنَّ أَنْ يَنْكِحْنَ أَزْوَاجَهُنَّ إِذَا تَرَاضَوْا بَيْنَهُمْ بِالْمَعْرُوفِ ذَلِكَ يُوعَظُ بِهِ مَنْ كَانَ مِنْكُمْ يُؤْمِنُ بِاللَّهِ وَالْيَوْمِ الْآخِرِ ذَلِكَمْ أَرْكَى لَكُمْ وَأَطْهَرُ وَاللَّهُ يَعْلَمُ وَأَنْتُمْ لَا تَعْلَمُونَ

And when you have divorced the women, and they have reached (the end) of their appointed term/time, do not prevent them from marrying their husbands, if they mutually agree on equitable terms. This is an admonition unto every one of you who believes in Allah and the Last Day; it is the most virtuous [way] for you, and the purest. And Allah knows, whereas you do not know.

(2:232)

- We must not hinder the women from marrying their husbands.
  - This likely refers to after the first two divorces. People should not get in the way of the two remarrying should they mutually agree to do so.

## Support and Maintenance Regulations

وَالْوَالِدَاتُ يُرْضِعْنَ أَوْلَادَهُنَّ حَوْلَيْنِ كَامِلَيْنِ لِمَنْ أَرَادَ أَنْ يُتِمَّ الرَّضَاعَةَ وَعَلَى الْمَوْلُودِ لَهُ رِزْقُهُنَّ  
وَكَسْوَتُهُنَّ بِالْمَعْرُوفِ لَا تُكَلَّفُ نَفْسٌ إِلَّا وُسْعَهَا لَا تُضَارَّ وَالِدَةٌ بِوَلَدِهَا وَلَا مَوْلُودٌ لَهُ بِوَالِدِهِ وَعَلَى  
الْوَارِثِ مِثْلُ ذَلِكَ فَإِنْ أَرَادَا فِصَالًا عَنْ تَرَاضٍ مِنْهُمَا وَتَشَاوُرٍ فَلَا جُنَاحَ عَلَيْهِمَا وَإِنْ أَرَدْتُمْ أَنْ  
تَسْتَرْضِعُوا أَوْلَادَكُمْ فَلَا جُنَاحَ عَلَيْكُمْ إِذَا سَلَّمْتُمْ مَا آتَيْتُمْ بِالْمَعْرُوفِ وَاتَّقُوا اللَّهَ وَاعْلَمُوا أَنَّ اللَّهَ بِمَا  
تَعْمَلُونَ بَصِيرٌ

And the mothers may nurse their children for two whole years, if they wish to complete the period of nursing; and it is incumbent upon him who has begotten the child to provide in a fair manner for their sustenance and clothing. No human being shall be burdened with more than he is well able to bear: neither shall a mother be made to suffer because of her child, nor, because of his child, he who has begotten it. And the same duty rests upon the [father's] heir. And if both [parents] decide, by mutual consent and counsel, upon separation, they will incur no sin [thereby]; and if you decide to entrust your children to milk-mothers, you will incur no sin provided you ensure, in a fair manner, the safety of the child which you are handing over. But remain conscious of Allah, and know that Allah sees all that you do.

(2:233)

- The divorced woman that is pregnant can expect support from her ex-husband for the duration of the pregnancy and weaning of the child.
  - From 65:6, the iddah period would extend until the end of the pregnancy and 2:233 explains that the father must support during the period of weaning also.
- The separation mentioned near the end of the ayah is that of the wife and child (ending motherly nursing) and potentially giving the child safely to a milk mother.
  - This requires mutual consent as it may imply extra cost for the man as he would have to maintain both mother, child and the cost of the milk mother for the duration of the nursing period.

لَا جُنَاحَ عَلَيْكُمْ إِنْ طَلَقْتُمُ النِّسَاءَ مَا لَمْ تَمْسُوهُنَّ أَوْ تَفْرِضُوا لَهُنَّ فَرِيضَةً وَمَتَّعُوهُنَّ عَلَى الْمَوْسِعِ قَدْرَهُ  
وَعَلَى الْمُقْتِرِ قَدْرُهُ مَتَاعًا بِالْمَعْرُوفِ حَقًّا عَلَى الْمُحْسِنِينَ

You will incur no sin if you divorce women while you have not yet touched them nor settled a dower upon them; but [even in such a case] make an obligatory provision for them - the affluent according to his means, and the poor according to his means - a provision in an equitable manner: this is a duty upon all who would do good.

(2:236)

- Our attitude in divorce should be of mercy and kindness, even to the women that men have only been married to briefly.
  - Such women are due an obligatory provision from the man.

وَإِنْ طَلَّقْتُمُوهُنَّ مِنْ قَبْلِ أَنْ تَمْسُوهُنَّ وَقَدْ فَرَضْتُمْ لَهُنَّ فَرِيضَةً فَرِيضَةً فَرِيضَةً مَا فَرَضْتُمْ إِلَّا أَنْ يَعْفُونَ أَوْ  
يَعْفُوَ الَّذِي بِيَدِهِ عُقْدَةُ النِّكَاحِ وَأَنْ تَعْفُوا أَقْرَبُ لِلتَّقْوَى وَلَا تَنْسُوا الْفَضْلَ بَيْنَكُمْ إِنَّ اللَّهَ بِمَا تَعْمَلُونَ  
بَصِيرٌ

And if you divorce them before having touched them, but after having settled a dower upon them, then [give them] half of what you have settled - unless it be that they forgo their claim or he in whose hand is the marriage contract forgoes his claim [to half of the dower]: and to forgo what is due to you is more in accord with Allah-consciousness. And do not forget the favour between you: verily, Allah sees all that you do.

(2:237)

- The one in whose hand is the marriage contract is the husband.
  - This is because he is the one that can forego the half that is due to him.

وَالْمُطَلَّاتِ مَتَاعٌ بِالْمَعْرُوفِ حَقًّا عَلَى الْمُتَّقِينَ

And the divorced women, too, shall have [a right to] provision in a goodly manner: this is a duty for all who are conscious of Allah.

(2:241)

- This follows on from 2:240 talking about the maintenance left for widowed women.
  - The term used in 2:241 for provision is the same as that used in 2:236. It would imply that when divorced, women should be given some provision in respect to their future needs in the same way the future needs of the widowed woman is considered in 2:240.

## Surah 4

### Changing or Replacing a Wife

وَإِنْ أَرَدْتُمْ اسْتِبْدَالَ زَوْجٍ مَّكَانَ زَوْجٍ وَآتَيْتُمْ إِحْدَاهُنَّ قِنطَارًا فَلَا تَأْخُذُوا مِنْهُ شَيْئًا أَتَأْخُذُونَهُ بُهْتَانًا وَإِثْمًا مُّبِينًا

But if you desire to give up a wife and to take another in her stead, do not take away anything of what you have given the first one, however much it may have been. Would you, perchance, take it away by slandering her and thus committing a manifest sin?

(4:20)

وَكَيفَ تَأْخُذُونَهُ وَقَدْ أَفْضَىٰ بَعْضُكُمْ إِلَىٰ بَعْضٍ وَأَخَذْنَ مِنْكُمْ مِّيثَاقًا غَلِيظًا

And how could you take it away after you have given yourselves to one another, and she has received a most solemn pledge from you?

(4:21)

### Nushuz

الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَىٰ بَعْضٍ وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ فَالصَّالِحَاتُ قَانِتَاتٌ حَافِظَاتٌ لِّلْغَيْبِ بِمَا حَفِظَ اللَّهُ وَاللَّاتِي تَخَافُونَ نُشُوزَهُنَّ فَعِظُوهُنَّ وَاهْجُرُوهُنَّ فِي الْمَضَاجِعِ وَاضْرِبُوهُنَّ فَإِن أَطَعْنَكُمْ فَلَا تَبْغُوا عَلَيْهِنَّ سَبِيلًا إِنَّ اللَّهَ كَانَ عَلِيمًا كَبِيرًا

“Men are to care for and take responsibility of women, because Allah has given the one more than the other, and because they support them from their means. Therefore/so the righteous women are devoutly obedient (to the husband), and guard in (the husband's) absence what Allah would have them guard. As to those women on whose part you fear rebellion and ill-conduct (nushuz), admonish them (first), (Next), refuse to share their beds, (And last) send them forth / beat them\*; but if they obey you, seek not against them Means (of annoyance): For Allah is Most High, great.”

(4:34)

\* see bullets below.

وَإِن خِفْتُمْ شِقَاقَ بَيْنِهِمَا فَابْعَثُوا حَكَمًا مِّنْ أَهْلِهِ وَحَكَمًا مِّنْ أَهْلِهَا إِن يُرِيدَا إِصْلَاحًا يُوَفِّقِ اللَّهُ بَيْنَهُمَا إِنَّ اللَّهَ كَانَ عَلِيمًا خَبِيرًا

And if you (pl.) fear a split/rift between the two, send an arbitrator from his people and an arbitrator from her people. If they both desire reconciliation, Allah will cause it between them. Indeed, Allah is ever Knowing and Acquainted [with all things].

(4:35)

- Nushuz from the above context could include:
  - The wife not listening to or disobeying the husband.
  - Not guarding what should be guarded in his absence. This could include his secrets, her honour and his, etc.

- 4:34 can be understood (pending further analysis) with 2:226 to mean that when women are acting badly the husband should: -
  - Talk to them and warn them of the consequences of their behaviour.
  - Stop sharing their bed (from 2:226 we understand that this can be for a maximum of 4 months, however being in a different context, the 4 month period may not directly apply). At this point the rift between the two is clearly serious and if even this step does not remedy the situation, then the next and final step is to be taken.
  - Set them forth or send them away. اضْرِبُوهُنَّ has been rendered by me as ‘send them forth’ rather than ‘beat them’. The reason for this is that there is no *extent* associated with the command to beat, this introduces vagueness that is not clarified (as far as I know) elsewhere. For this reason, a meaning that is less vague has been selected. It may be wrong, always analyse for yourself with an open mind.
- 4:35 tells us that those among their people/families that fear a split/rift (the above interpretation of “send them away” may receive some support from this) should try to assign arbiters from both sides.
- If the interpretation above is correct, then the people/family would seek to help after the husband stops sharing a bed and before he sends her away.
- Under normal talaq circumstances the husband cannot make his ex-wife leave during an iddah unless she has been openly immoral (65:1).
  - However, if the interpretation above is correct, then this would be a case where normal Iddah guidelines are not followed due to a case of ongoing and stubborn nushuz/rebellion. Here reconciliation in a theoretical iddah period is probably unlikely.
  - The term talaq/divorce is not mentioned here.

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

And if a woman fears ill-treatment (Nushuz) from her husband, or that he might turn away from her, there is no sin upon them if they make terms of settlement between them - and settlement is best. And present in the self is selfishness. But if you do good and fear Allah - then indeed Allah is ever, with what you do, Acquainted.

(4:128)

وَلَنْ تَسْتَطِيعُوا أَنْ تَعْدِلُوا بَيْنَ النِّسَاءِ وَلَوْ حَرَصْتُمْ فَلَا تَمِيلُوا كُلَّ الْمَيْلِ فَتَذَرُوهَا كَالْمُعَلَّقَةِ وَإِنْ تُصْلِحُوا وَتَتَّقُوا فَإِنَّ اللَّهَ كَانَ غَفُورًا رَحِيمًا

And you will never be able to be equal between wives, even if you should strive [to do so]. So do not incline completely [toward one] and leave another hanging. And if you amend [your affairs] and fear Allah - then indeed, Allah is ever Forgiving and Merciful.

(4:129)

وَإِنْ يَتَفَرَّقَا يُغْنِ اللَّهُ كُلًّا مِنْ سَعَتِهِ وَكَانَ اللَّهُ وَاسِعًا حَكِيمًا

But if they (dual) separate, Allah will enrich each [of them] from His abundance. And ever is Allah Encompassing and Wise.

(4:130)

- In the case where the wife fears ill treatment from her husband or that he is turning away from her they should try to settle things.

- Allah highlights the stinginess in 4:128 as a serious human flaw in this context. The term الشُّحُّ refers to a high degree of stinginess or avarice in respect of wealth, property, kindness or beneficence (Lane Lexicon).
- This may imply a husband being financially and emotionally stingy.
- When we look at 4:129, we see another aspect of the issue is the emotional turning away a husband may do as highlighted by the situation where he clearly/openly favours one wife over another.
  - This would imply injustice and stinginess with time and emotion.
- Should settlement of the issue between the wife and husband not be possible, Allah tells us in 4:130 that he will enrich both from his abundance should they separate.
  - Separation is mentioned here without mention of Talaq or iddah (waiting period).
- Perhaps for women fearing nushuz, the process is analogous (though not identical) to the Nushuz guidelines in 4:34 where after the wife speaks to her husband and tries to get him to amend his ways she can decide to separate from her husband. The involvement of people from both sides may take place here also.

## Surah 33

### Special Case of Divorce

يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا نَكَحْتُمُ الْمُؤْمِنَاتِ ثُمَّ طَلَقْتُمُوهُنَّ مِنْ قَبْلِ أَنْ تَمْسُوهُنَّ فَمَا لَكُمْ عَلَيْهِنَّ مِنْ عِدَّةٍ تَعْتَدُونَهَا فَمَعَهُنَّ وَسِرَّحُوهُنَّ سَرَاحًا جَمِيلًا

O YOU who have attained to faith! If you marry believing women and then divorce them before you have touched them, you do not need a waiting period on their part: hence, make [at once] provision for them, and release them in a becoming manner.

(33:49)

- There is no waiting period here.
- This tells us that we have 3 processes or kinds of divorce that can be initiated by men:
  - Where the couple have been intimate, a period of waiting whereby any pregnancy can be known. This is through the standard post divorce 3 menstrual cycle waiting period.
  - Where the couple have not been intimate, no period of waiting is needed as part of the divorce process. Theoretically the 4 month abstention period could take place even in this circumstance, though it is less likely.
  - Where the couple have been intimate but due to stubborn nushuz by the wife and after having spoken to her and stopped sharing the bed, separation can take place with no Iddah.

## Surah 58

### Zihaar

الَّذِينَ يُظَاهِرُونَ مِنْكُمْ مَنْ نِسَائِهِمْ مَا هُنَّ أُمَّهَاتِهِمْ إِنْ أُمَّهَاتُهُمْ إِلَّا اللَّائِي وَلَدْنَهُمْ وَإِنَّهُمْ لَيَقُولُونَ مُنْكَرًا  
مِّنَ الْقَوْلِ وَزُورًا وَإِنَّ اللَّهَ لَعَفُوفٌ غَفُورٌ

Those of you who imply their wives' backs are as their mother's, they can never be [as] their mothers: none are their mothers except those who gave birth to them: and so, behold, they utter a saying that runs counter to reason, and is [therefore] false. But, behold, Allah is indeed an absolver of sins, much-forgiving:

(58:2)

وَالَّذِينَ يُظَاهِرُونَ مِنْ نِسَائِهِمْ ثُمَّ يَعُودُونَ لِمَا قَالُوا فَتَحْرِيرُ رَقَبَةٍ مِّن قَبْلِ أَنْ يَتَمَاسَا ذَلِكَم تَوْعَظُونَ بِهِ  
وَاللَّهُ بِمَا تَعْمَلُونَ خَبِيرٌ

and those of you who imply their wives' backs are as their mother's, and thereafter would go back on what they have said, [their atonement] shall be the freeing of a human being from bondage before the couple may touch one another again: this you are [hereby] exhorted to do - for Allah is fully aware of all that you do.

(58:3)

فَمَنْ لَّمْ يَجِدْ فَصِيَامُ شَهْرَيْنِ مُتَتَابِعَيْنِ مِنْ قَبْلِ أَنْ يَتَمَاسَا فَمَنْ لَّمْ يَسْتَطِعْ فَاِطْعَامُ سِتِّينَ مِسْكِينًا ذَلِكَ  
لِتُؤْمِنُوا بِاللَّهِ وَرَسُولِهِ وَتِلْكَ حُدُودُ اللَّهِ وَلِلْكَافِرِينَ عَذَابٌ أَلِيمٌ

However, he who does not have the ability to do so shall fast [instead] for two consecutive months before the couple may touch one another again; and he who is unable to do it shall feed sixty needy ones: this, so that you might prove your faith in Allah and His Apostle. Now these are the bounds set by Allah; and grievous suffering [in the life to come] awaits all who deny the truth.

(58:4)

## Surah 65

### The Waiting Period and other Regulations

يَا أَيُّهَا النَّبِيُّ إِذَا طَلَّقْتُمُ النِّسَاءَ فَطَلِّقُوهُنَّ

لِعِدَّتِهِنَّ  
وَأَحْصُوا

الْعِدَّةَ وَاتَّقُوا اللَّهَ رَبَّكُمْ لَا تُخْرِجُوهُنَّ مِنْ بُيُوتِهِنَّ وَلَا يَخْرُجْنَ إِلَّا أَنْ يَأْتِيَنَّ بِفَاحِشَةٍ مُّبَيِّنَةٍ وَتِلْكَ حُدُودُ اللَّهِ وَمَنْ يَتَعَدَّ حُدُودَ اللَّهِ فَقَدْ ظَلَمَ نَفْسَهُ لَا تَدْرِي لَعَلَّ اللَّهَ يُحْدِثُ بَعْدَ ذَلِكَ أَمْرًا

O PROPHET! When you (pl.) divorce women, divorce them for the waiting period appointed for them, and reckon the period [carefully and fully], and be conscious of Allah, your Sustainer. Do not expel them from their homes (F. Pl.); and neither shall they leave unless they become openly guilty of immoral conduct. These, then, are the bounds set by Allah - and he who transgresses the bounds set by Allah does indeed sin against himself: [for, O man, although] you know it not, after that [first breach] Allah may well cause something new to come about.

(65:1)

- This command is to the prophet and everyone else.
- This would imply that the commencement of divorce and the waiting period are two elements in a process of divorce.
- We must count the period carefully and fully. The two words in Arabic with links in them are intensive in meaning and imply carefulness in counting and comprehensiveness in counting. The second word adds the implication of counting to the last one of a thing (See [here](#) in the section for احصاء) while the first word also has the meaning of counting in reference to a counted period of time for the woman.
- Women should not be made to leave the place they are staying during the iddah period, whether that is the marital home or some other place (see 65:6). The feminine plural is used in relation to the place they live, meaning it is referring to the women specifically. If it was being general it would use buyutikum, not buyutihin, this is what leaves open that where they live could be with or without their divorcing husbands.

فَإِذَا بَلَغْنَ أَجَلَهُنَّ فَأَمْسِكُوهُنَّ بِمَعْرُوفٍ أَوْ فَارِقُوهُنَّ بِمَعْرُوفٍ وَأَشْهِدُوا ذَوَيْ عَدْلٍ مِّنكُمْ وَأَقِيمُوا الشَّهَادَةَ لِلَّهِ ذَلِكَ يُؤَظِّقُ بِهِ مَنْ كَانَ يُؤْمِنُ بِاللَّهِ وَالْيَوْمِ الْآخِرِ وَمَنْ يَتَّقِ اللَّهَ يَجْعَلْ لَهُ مَخْرَجًا

And so, when they reach the end of their waiting-term, either retain them in a fair manner or part with them in a fair manner. And let two just persons from among your own community witness; and do yourselves bear true witness before Allah: thus are admonished all who believe in Allah and the Last Day. And unto everyone who is conscious of Allah, He grants a way out,

(65:2)

- If the divorce is witnessed here, we have 1 finalised divorce process.

وَيَرْزُقْهُ مِنْ حَيْثُ لَا يَحْتَسِبُ وَمَنْ يَتَوَكَّلْ عَلَى اللَّهِ فَهُوَ حَسْبُهُ إِنَّ اللَّهَ بَالِغُ أَمْرِهِ قَدْ جَعَلَ اللَّهُ لِكُلِّ شَيْءٍ قَدْرًا

and provides for him in a manner beyond all expectation; and for everyone who places his trust in Allah He [alone] is enough. Verily, Allah always attains to His purpose: [and] indeed, unto everything has Allah appointed its [term and] measure.

(65:3)

وَاللَّائِي يَيْسَنَ مِنَ الْمَحِيضِ مِنْ نِسَائِكُمْ إِنْ ارْتَبْتُمْ فَعِدَّتُهُنَّ ثَلَاثَةُ أَشْهُرٍ وَاللَّائِي لَمْ يَحِضْنَ وَأُولَاتُ الْأَحْمَالِ أَجَلُهُنَّ أَنْ يَضَعْنَ حَمْلَهُنَّ وَمَنْ يَتَّقِ اللَّهَ يَجْعَلْ لَهُ مِنْ أَمْرِهِ يُسْرًا

Now as for such of your women as are beyond the age of menstrual periods, as well as for such as did not have any menstrual periods (when they would normally be expected to), their waiting-period - if you have any doubt [about them being pregnant and/or the waiting period] - shall be three months; and as for those who are with child, the end of their waiting-term shall come when they deliver their burden. And for everyone who is conscious of Allah, He makes it easy to obey His commandment:

(65:4)

ذَلِكَ أَمْرُ اللَّهِ أَنْزَلَهُ إِلَيْكُمْ وَمَنْ يَتَّقِ اللَّهَ يَكْفُرْ عَنْهُ سَيِّئَاتِهِ وَيُعْظِمُ لَهُ أَجْرًا

This is Allah's commandment, which He has bestowed upon you from on high. And unto everyone who is conscious of Allah will He pardon his bad deeds, and will grant him a vast reward.

(65:5)

أَسْكِنُوهُنَّ مِنْ حَيْثُ سَكَنْتُمْ مِنْ وُجْدِكُمْ وَلَا تُضَارُوهُنَّ لِتُضَيِّقُوا عَلَيْهِنَّ وَإِنْ كُنَّ أُولَاتٍ حَمْلٍ فَأَنْفِقُوا عَلَيْهِنَّ حَتَّى يَضَعْنَ حَمْلَهُنَّ فَإِنْ أَرْضَعْنَ لَكُمْ فَآتُوهُنَّ أُجُورَهُنَّ وَأَنْتُمْ بَيْنَكُمْ بِمَعْرُوفٍ وَإِنْ تَعَاسَرْتُم فَاسْتَرْضِعْ لَهُ أُخْرَى

Lodge them [from where]/[in the manner] you lodge in accordance with your means; and do not harass them with a view to making difficulty for them. And if they happen to be with child, spend freely on them until they deliver their burden; and if they nurse your offspring [after the divorce has become final], give them their [due] recompense; and take counsel with one another in a fair manner [about the child's future]. And if both of you find it difficult [that the mother should nurse the child], let another woman nurse it on behalf of him [who has begotten it].

(65:6)

- The iddah is:
  - If there is doubt, the period is three months in the case there are no menstrual cycles either due to menopause or due to some condition.
  - The duration of the pregnancy.
  - Three menstrual cycles. But what does this mean (see discussion for surah 2 earlier)? In 65:4, we are told if there is any doubt about the period (for example if there are no menstruations for whatever reason, when you would expect there to be), then default to three (lunar) months, that is  $29.5 \times 3 = 88.5 = 89$  days. From the discussion for surah 2 we saw that there is actually some doubt about the meaning of quruu'.
  - My solution to the doubt in the meaning of quruu' is to use the meaning that is closer to the 89 day period, namely, quruu' refers to clear periods between menstruations.
- 65:1 and 65:6 make clear that during the iddah, the woman cannot be removed from where she lives against her will unless there has been open immorality.

- These ayaat bring up the question of how an unmarried man and woman can live in the same space for 3 months. The answer to this is in 65:1 and considering the Iddah period as part of the divorce process, and so this is a special case.
- This means that upon the declaration of divorce and before the end of the iddah period, the man and woman are in an intermediate state where they are not fully divorced. This is a state in which they neither act like a married couple in terms of sexual intercourse nor do they act like a typical unmarried man and woman. Without this understanding, the regulation of 65:1 and 65:6 are hard to impossible to implement (imagine living in a tiny home).

لِيُنْفِقْ ذُو سَعَةٍ مِّن سَعَتِهِ وَمَن قُدِرَ عَلَيْهِ رِزْقُهُ فَلْيُنْفِقْ مِمَّا آتَاهُ اللَّهُ لَا يُكَلِّفُ اللَّهُ نَفْسًا إِلَّا مَا آتَاهَا  
سَيَجْعَلُ اللَّهُ بَعْدَ عُسْرٍ يُسْرًا

[In all these respects,] let him who has ample means spend in accordance with his amplitude; and let him whose means of subsistence are scanty spend in accordance with what Allah has given him: Allah does not burden any human being with more than He has given him - [and it may well be that] Allah will grant, after hardship, ease.

(65:7)