

Family Law (Internals)

1. What are the primary sources of Muslim law?

The primary sources of Muslim law include:

- **Quran:** The holy book of Islam, which serves as the fundamental source of all laws.
- **Sunna (Traditions of Prophet Muhammad):** The actions, sayings, and approvals of Prophet Muhammad that provide guidance on various legal matters.
- **Ijma (Consensus of Scholars):** The unanimous agreement of Islamic scholars on specific legal issues when the Quran and Sunna do not provide clear guidance.
- **Qiyas (Analogical Reasoning):** The process of deriving legal rulings for new situations by drawing analogies with existing principles from the Quran and Sunna.

2. What are the secondary sources of Muslim law?

The secondary sources include:

- **Customs (Urf):** Established practices that are accepted in a particular community, provided they do not contradict Islamic principles.
- **Judicial Precedents:** Decisions made by courts that serve as guidance for future cases.
- **Legislation:** Laws enacted by governments to regulate Muslim personal laws.
- **Equity, Justice, and Good Conscience:** These principles are used by judges to ensure fairness in cases where no clear legal provision exists.

3. What is the Shariat Application Act, 1937?

The **Shariat Application Act, 1937** was enacted to ensure that Indian Muslims are governed by Islamic personal law in matters such as marriage, divorce, succession, inheritance, and maintenance. Before this Act, customary laws often influenced personal matters, but this legislation ensured the uniform application of Muslim law in India.

4. What are the Sunni schools of Muslim law?

Sunni law is divided into four major schools:

- **Hanafi:** The largest school, known for its flexible and rational approach to legal interpretation.
- **Maliki:** This school relies heavily on the customs of the people of Medina.
- **Shafie:** It emphasizes the use of the Quran and Hadith with limited reliance on Ijma and Qiyas.
- **Hanbali:** The most conservative school, relying strictly on the Quran and Hadith with minimal analogical reasoning.

5. What are the Shia schools of Muslim law?

The major Shia schools include:

- **Zaidya:** A moderate school that follows both Sunni and Shia traditions.
- **Ismailiya:** This school follows the teachings of Ismail, the son of Imam Jafar al-Sadiq.
- **Ithna Ashari:** The largest Shia school, also known as the Twelvers, following the twelve Imams.

6. **What are the essential requisites of a valid Muslim marriage?**

A valid Muslim marriage (Nikah) must fulfill the following essential conditions:

- **Ijab (Offer) and Qabul (Acceptance):** Both parties must mutually consent to the marriage.
- **Presence of Witnesses:** In Sunni law, at least two witnesses are required, while in Shia law, witnesses are not mandatory.
- **Free Consent:** Both parties must enter into the marriage willingly, without coercion or fraud.
- **Absence of Prohibited Relationships:** Marriage is prohibited between certain blood relatives and foster relations.

7. **What are the different kinds of Muslim marriage?**

Under Muslim law, marriages are classified into three types:

- **Valid (Sahih) Marriage:** A marriage that fulfills all legal requirements and is legally recognized.
- **Void (Batil) Marriage:** A marriage that is unlawful from the beginning, such as a marriage within prohibited degrees of relationship.
- **Irregular (Fasid) Marriage:** A defective marriage that can become valid if the defect is removed, such as a marriage without proper witnesses in Sunni law.

8. **What is a valid marriage (Sahih)?**

A **valid marriage (Sahih)** is one that meets all the legal requirements prescribed under Muslim law. It ensures the rights and obligations of both spouses and confers legitimacy upon the children. Such a marriage provides the wife with the right to **Mehr (Dower)** and maintenance.

9. **What is a void marriage (Batil)?**

A **void marriage (Batil)** is one that is completely illegal and has no legal effect. It is considered non-existent in the eyes of the law. Examples include marriages between individuals within prohibited degrees of relationship, such as a man marrying his sister or mother. Children born from such marriages are not considered legitimate.

10. **What is an irregular marriage (Fasid)?**

An **irregular marriage (Fasid)** is one that is defective but can become valid if the defect is rectified. Examples include:

- A marriage without witnesses (in Sunni law).
- A marriage with a woman in her Iddat period.
- A marriage with a non-Muslim woman without conversion (except for those of the People of the Book – Jews or Christians).

11. **What is Iddat in Muslim law?**

Iddat is the mandatory waiting period a Muslim woman must observe after divorce or the death of her husband before remarrying. The purpose of Iddat is to determine pregnancy and ensure lineage clarity. The duration is:

- **Three menstrual cycles** for a divorced woman.
- **Four months and ten days** for a widow.
- **If pregnant, till childbirth.**

12. What is Muta marriage?

Muta marriage is a temporary marriage permitted under Shia law, where the duration and dower (Mehr) are predetermined. It automatically dissolves once the agreed period expires. Sunni law does not recognize Muta marriage, as it considers marriage to be a permanent contract.

13. What is the Doctrine of Puberty in Muslim marriage?

Under the **Doctrine of Puberty (Khyar-ul-Bulugh)**, a minor girl married by her guardian (other than her father or grandfather) has the right to repudiate the marriage upon reaching puberty. This option must be exercised before she reaches adulthood, and she must do so before consummation.

14. What is Halala marriage?

Halala is a practice where a woman, after being divorced by her husband via **triple talaq**, marries another man, consummates the marriage, and then gets divorced to remarry her first husband. The purpose is to prevent misuse of instant divorce, but it has been widely criticized and is illegal in some countries.

15. What is Mehr in Muslim law?

Mehr (Dower) is a mandatory gift or sum of money that a husband must provide to his wife as a part of the marriage contract. It symbolizes financial security and is the exclusive right of the wife. Mehr can be determined mutually before or at the time of marriage.

16. What are the classifications of Mehr?

Mehr is classified into two types:

- **Prompt Mehr (Mu'ajjal)**: It is payable immediately after the marriage is contracted, at the demand of the wife.
- **Deferred Mehr (Muwajjal)**: It is payable at a later date, either during the marriage or upon divorce or the husband's death.

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