BLOGS

Iddat under Muslim Personal Law

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Edit TABLE OF CONTENTS Introduction What is Iddat? Legal Effect of Iddat Significance of Iddat Commencement of Iddat Prohibition of marriage during Iddat Maintenance during Iddat Conclusion

Introduction

Divorce is a painful and often complicated process. It affects the emotional well-being of the parties involved and has legal implications. One such legal implication is the concept of “Iddat,” which is a period of waiting that follows the dissolution of a Muslim marriage. In this article, we will discuss the legal effects of divorce and Iddat, including their implications and significance.

What is Iddat?

Iddat is an Islamic concept that refers to the period of waiting that follows the dissolution of a Muslim marriage. It is a mandatory waiting period during which the woman cannot remarry. The purpose of Iddat is to ensure that the woman is not pregnant before entering into a new marriage.

In Islamic law, the duration of Iddat varies depending on the circumstances of the divorce. The Iddat period is three menstrual cycles if the husband is the one to file for divorce.The Iddat period is three menstrual cycles or three lunar months, whichever is longer, if the wife is the one who files for divorce.

Legal Effect of Iddat

Iddat has legal implications for the parties involved in a Muslim divorce. During the Iddat period, the woman is still legally considered the wife of her former husband. She cannot remarry, and any sexual relationship during this period is considered adultery under Islamic law.

The Iddat period also has implications for property division and inheritance. If the woman is pregnant at the time of the divorce, the child is considered to be the child of the former husband,

and the child has a right to inherit from his or her father. If the woman is not pregnant, the property division is finalised at the end of the Iddat period, and the parties are no longer considered husband and wife.

Significance of Iddat

Iddat is an important concept in Islamic law, and it serves several purposes. It provides time for the parties to reflect on their decision and, if possible, reconcile. It also ensures that the woman is not pregnant before entering into a new marriage, which is essential in Islamic law.

In addition, Iddat provides a period of mourning for the woman and allows her to grieve the end of her marriage. It also serves as a cooling-off period for the parties, which can help prevent hasty decisions that may later be regretted.

Commencement of Iddat

Iddah period starts right after the death of husband or after a divorce for muslim wife. Despite of her ignorance to observe iddah, it would not be held due or affected in anyway.

1. If she didn't receive the news on time of her husband's demise but got to know about it within the prescribed iddah period, then she is obliged to observe it for the remaining days of iddat period.
2. In case if she receives the news at later stage when iddah period has already passed, she is not bound to experience it. The time counts from the time of husband's demise or the time when divorce is given.

Prohibition of marriage during Iddat

One of the restrictions during iddat is that a woman is prohibited from remarrying or engaging in sexual intercourse until the completion of the iddat period.

The length of the iddat period varies depending on the circumstances. In the case of divorce, the iddat period is three lunar months (whichever is longer). In the case of the death of a husband, the iddat period is four lunar months and ten days.

The prohibition of marriage during the iddat period serves several purposes. Firstly, it ensures that any child born after the divorce or death of the husband is not attributed to the new husband.

Secondly, it allows the woman time to reflect on her situation and consider her options. Finally, it helps to prevent any hasty decisions that may be made in the immediate aftermath of a divorce or the death of a husband.

It is important to note that the prohibition on marriage during the iddat period is only applicable to women. Men are not subject to any similar restrictions. Once the completion of iddah period, the women can lawfully enter into a contract of second marriage. If a marriage is done during the period of iddat, is not recognised in the islamic law and is considered to be void.

Maintenance during Iddat

During the period of iddat, the wife is not entitled to claim maintenance out of her husband's estate as she is herself an heir to it. This is because the liability of maintaining the wife lies only on the husband and not on the other heirs.

In 1985, the Supreme Court of India ruled in the ***Shah Bano case*** that a divorced Muslim woman was entitled to maintenance from her ex-husband, even after the expiration of the iddat period (a three-month period of waiting after the divorce). This decision was based on the Muslim Personal Law, which permits maintenance only during the iddat period.

The ruling was met with strong opposition from conservative Muslims, who argued that it violated their religious beliefs and that the court had no authority to intervene in matters of personal law. The Indian government, under pressure from the Muslim community, passed the Muslim Women (Protection of Rights on Divorce) Act, which overruled the court's decision and restricted maintenance to the iddat period.

The Shah Bano case is significant because it highlighted the tension between individual rights and religious freedom in India. It also sparked a wider debate on the need for a uniform civil code that would apply to all citizens, regardless of religion.

Conclusion

Divorce is a painful process, and it has legal implications that must be understood. In addition, there is a required waiting period known as Iddat after divorce in Islamic law. This waiting period has legal implications for the parties involved and serves several purposes, including providing time for reflection, mourning, and ensuring that the woman is not pregnant before entering into a

new marriage.

Important Notes on Muslim Personal Law

1. Concept of Talaq under Muslim Law
2. Concept of Mehr under Muslim law
3. Marriage under Muslim Law