

LAW CAPSULE

For Law Competitive Exams
MUSLIM LAW (TALAQ)



Raj Singh Niranjani*

ESSENTIALS OF TALAQ

Following are the essentials of a Talaq in a Muslim marriage:—

1. Any Muslim of Sound mind
2. On attaining puberty
3. Whenever he desires
4. Without assigning any cause
5. Orally or in writing (talaqnama)
6. No particular form of spoken word is required
7. Words should be express and understood
8. No proof of intention required
9. Presence of wife not necessary but it should be addressed to her
10. As pronouncement comes to the knowledge of wife it results in Talaq
11. Wife has to undergo Iddat
12. Sunnies do not prescribe any formalities
13. Shia (hanafi) require two competent witnesses
14. Under Shia state of mind is irrelevant
15. Sunnies do not recognize Talaq under compulsion and under intoxication

In Muslim Law how he does it and when he does it, is not material.

A Muslim male may marry a Christian woman only under Christian marriage provisions.

MODES OF TALAQ

- Express Talaq – clear unequivocal
 - Talaq-ul-Sunnat
 - Ahsan
 - Single pronouncement
 - During tuhr (period of purity)
 - Iddat (Period of abstinence) (90 days)
 - Post iddat it becomes irrevocable

- Advantage –
 - it can be revoked before completion of iddat
 - Most proper and approved form of talaq
- Exceptions
 - Passed the age of mensuration
 - Away for long time
 - Marriage has not been consummated
- Hasan
 - Three pronouncements
 - During successive tuhr (Period of purity)
 - Moment of third pronouncement – irrevocable Talaq
 - Irrespective of iddat
- Talaq-ul-Biddat
 - Triple Talaq
 - Three pronouncements in single tuhr (Period of purity)
 - Irrevocable Talaq
 - Bad in theology
 - Single irrevocable declaration
 - Single pronouncement during tuhr (Period of purity)
 - Irrevocable
- Implied and Contingent Talaq
 - Implied Talaq
 - When pronouncement is not clear
 - Contingent Talaq
 - Based on happening of future event
- Delegated Talaq (Talaq-i-tafweez)
 - Repudiation by the wife under an authority from the husband is talaq-i-tafweez.