

DIVORCE AND MAINTENANCE UNDER ISLAMIC MARRIAGES IN NIGERIA: THE NEED TO SAFEGUARD THE RIGHTS OF WOMEN AND CHILDREN*

Abstract

Divorce is severing the legal bond between a husband and wife and this can occur regardless of the kind of marriage the parties undertake. Under Islamic marriage a man may divorce his wife of fifty years or more by merely pronouncing the Talaq. A wife does not enjoy a concomitant right although under some circumstances she may validly divorce her husband by other more stringent means. What makes the plight of a divorced woman bad is the fact that she is not entitled to maintenance upon divorce of her husband unless she is pregnant for him or just put to bed. The children of an Islamic marriage are in a better place than their mothers as they are entitled to be taken care of until the boy hits puberty and the girl marries. The law does not provide any succour to the Islamic wife when there is a divorce therefore this work aims at elevating the wife of an Islamic marriage to the same pedestal as those of a woman married under the Act. The doctrinal methodology was adopted in the research.

Keywords: Divorce, Maintenance, Islamic Marriages, Rights of Women and Children, Nigeria

1. Introduction

Dissolution of marriage and maintenance are two rights that should necessarily accrue to married people. Although people get married believing their marriages would endure the test of time but this does not happen in some cases as some marriages end in divorce. Where parties are unable to live in matrimonial harmony to the extent that either party or both party feels the need to sever the legal bond holding them together as husband and wife they would usually seek a divorce. It is only fair that when there is a divorce, parties are placed in the same financial position they were during the pendency of the marriage and this is the reason why maintenance is very important. An order for maintenance should necessarily follow an order granting dissolution of marriage in deserving cases. Children should not be left out as they should also be entitled to maintenance upon the divorce of their parents.

2. Dissolution of marriage under Islamic Law¹

Islamic law recognizes dissolution of marriage. Under Islamic law the process of divorce is one that is unfairly prejudicial to women and children and it is important to safeguard their rights to that extent. There are no specifically laid down grounds for divorce under Islamic law as it is under the matrimonial Causes Act²; although it is said that among the things which have been permitted divorce is the worst and it is evil³. The basis of divorce under Islamic law is not fault finding, but that the parties are unable to continue to live together. Therefore a husband may validly divorce his wife even where she has done no wrong to him. A husband or a wife is competent to initiate divorce proceedings but the procedure will to a large extent determine who can access it.

Talaq Mode of Dissolution of Marriage

This is one of the ways of effecting a divorce. This procedure is only open to the husband. 'Talaq is Arabic and it simply means to untie or to free. All the husband is required to do, and does not need to give reasons or justify his action, is just to pronounce, 'I divorce you'. Usually a husband has the prerogative to divorce his wife three times. Therefore he may pronounce, 'I divorce you' once and subsequently settle with his wife and take her in again. This he can do three times. Alternatively he can pronounce, 'I divorce you' three times at once and that determines the marriage in that case he cannot remarry the said wife unless she marries someone else and gets divorced from that other person.⁴ It should be noted however that is not mandatory that the words used must be 'I divorce you' Islamic

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¹Lawal Mohammed Banie Hamza pate, *Journal of law, policy and globalisation*, vol.42, 2015, <www.iiste.org><pg>article>download> accessed 20/3/17

² Section 15

³ Quran chapter 24

⁴Lawal Mohammed, *op.cit.*

scholar Ibn Abdul-Wahhab⁵ also asserts that other phrases like, 'you are divorced,' 'you are clear' 'you are irrevocable' 'you are cut off', 'you are concluded', 'you are a free woman', 'you are forbidden', would also suffice. A wife does not have a corresponding right to divorce her husband in the same vein and this is a clear demonstration of inequality in marriage. It is worse that Islamic law does not consider the wife to be entitled to explanation before her husband can pronounce the *Talaq*. For a husband to validly exercise his right to '*Talaq*' he must have capacity. That is to say he must be of sound mind and must have attained puberty. A '*Talaq*' pronounced by a minor or a man of unsound mind is invalid and ineffective. A third party, even the guardian of a husband who is a minor cannot pronounce the '*Talaq*' on behalf of his son. The guardian of an insane person can pronounce the '*Talaq*' on his behalf, also the Qadi or a Judge can validly dissolve the marriage in the interest of such a husband. The consent of the husband to pronounce the '*Talaq*' must be freely given and not obtained by force or duress or by other illegal means. The exception to this is the Hanaafi law where even though the '*Talaq*' was pronounced due to duress, undue influence, coercion voluntary intoxication, compulsion e.t.c the '*Talaq*' shall still be valid and validly dissolves the marriage. This is not a general position of Islamic law, it is more an exception and it is not a good position and does not cohere with sound legal principles and reasoning. It should be noted however that involuntary intoxication makes the pronouncement of a '*Talaq*' void and of no effect whatsoever. A '*Talaq*' apart from being oral may be in writing and it need not be in the presence of witnesses although under the Shia Islamic law, a '*Talaq*' must be pronounced orally and does not have to be in any particular form as long as it expresses the husband's intention to divorce his wife. It must also be done in the presence of witnesses. Apart from the '*Talaq*' another mode of dissolution of marriage is the 'ILA'.⁶ Here the husband takes an oath not to have sexual intercourse with his wife for four months. After the expiration of the fourth month the marriage is irrevocably dissolved. Under the Shia school after the expiration of four months the wife may apply to court for judicial divorce.

Zihah Mode of Dissolution of Marriage

There is also the ZIHAR⁷ mode of dissolution of marriage in this case the husband simply likens his wife to his mother or sister and stops cohabiting with her for a period of four months. After the expiration of four months the wife may apply to court for dissolution of marriage or for restitution of conjugal rights. However, in the event that the husband has a change of heart and wants to resume cohabitation with his wife he must fast for two months or provide food for sixty people or free a slave. According to Shi'a law these must be done in the presence of witnesses.

Wife's Right to Apply for Dissolution of Marriage

It should be noted that under Islamic law the husband and wife can divorce by mutual consent. A wife may petition the *Qadi* for dissolution of her marriage on the grounds that her husband has not had sexual intercourse with her for at least three months or that he does not provide necessities such as food and shelter for her this is known as *Kittul'l*. She must however establish that she is not pregnant at the time she seeks a divorce. Another instance where a wife has the power of divorce over her husband is the *Talaa-it-Tafweed*⁸. In this case the husband delegates his power to pronounce a divorce to the wife. She is to exercise this power contingent on the happening of certain events. For example she may exercise this power where the husband marries another wife or fails to provide for her, but these are usually well stated and agreed upon by the parties. It should be noted however that where the contingent occurs and the wife does not exercise her powers of divorce the marriage remains valid. Another circumstance that may warrant a wife exercising a right of divorce from her husband is known as *Li'an*⁹. This is where the husband levels false allegations of adultery against his wife and such allegations are of a serious nature. It should be noted that where it is just an insult by the husband against his wife where they are quarrelling, it cannot be used by the wife to terminate the marriage. From the foregoing, it is clear that the wife of an Islamic marriage has less power of divorce over her husband

⁵ ibid

⁶ ibid

⁷ ibid

⁸ ibid

⁹ ibid

3. Maintenance of a divorced wife and her children under Islamic Law

The Muslim or sharia Law provides for maintenance. Its provisions are highly deleterious to the rights of women upon divorce. Children are in a better position than their mothers but even at that they still do not get the best safeguards to their rights. Muslim Law does not out rightly say exactly what the definition of Maintenance is as regards matrimonial causes, but it would seem that the definition of maintenance as provided for under Hindu Law is same as the Islamic perception of maintenance for a divorced wife and her children¹⁰, it defines maintenance thus; ‘in all cases, provisions for food, clothing, residence, education and medical attendance and treatment; in the cases of an unmarried daughter, also the reasonable expenses of, and incident to her marriage’¹¹. Under Muslim Law, women are considered weak as compared to men. It is believed that they are generally unable to maintain themselves, therefore the responsibility of maintaining the wife and children falls on the husband. It does not matter that there is evidence to show that the wife can maintain herself¹². Maintenance is known as ‘*Nafqah*’ which means what a man spends on his family. *Nafqah* basically includes food, clothing, and lodging. Maintenance under Islamic or Sharia law can be for the benefit of the wife, children, parents and grandparents. In some cases other relatives like dependent brothers and sisters may benefit. One major difference in maintenance to wife and maintenance to children or other persons entitled is the fact that maintenance to wife does not depend on whether she can maintain herself or not, but where it is deemed that a child by any means has enough resources to maintain himself, such a child shall not be entitled to maintenance under Muslim Law.¹³ It should be noted however, that this provision to maintain is not applicable to a divorced wife¹⁴. The point of interest here however, is maintenance to wife and children after a divorce.

Divorced Wife’s Right to Maintenance under Muslim law, the Code of Criminal Procedure, 1973, section 125; and The Muslim Women (Protection of Rights on Divorce) Act 1986.¹⁵

Under Muslim Law the rights of the wife to get maintenance during the marriage is absolute but after the dissolution of marriage, her rights are abridged. There are basically three laws that may be applicable to a divorced wife with respect to maintenance under Islamic law; the personal Islamic law of the parties, the Code of Criminal Procedure (CRPC)¹⁶ and the Muslim Women (Protection of Rights on Divorce) Act, 1986¹⁷; with The Muslim Women (Protection of Rights on Divorce) Act being the extant statutory provision on the subject. The Quran governs the application of the personal law of the parties where they are bound by Islamic law and submit to it. It provides for maintenance of a divorced wife in the following terms, ‘for the divorced women let there be a provision in kindness; this is an obligation for those who are mindful of God’¹⁸. The divorced wife’s right to maintenance is limited to the ‘*Iddat*’ period.

The ‘*Iddah*’ or ‘*Iddat*’ Period

‘*Iddat*’ which synonym is ‘*iddah*’ is a period of chastity which a Muslim woman is bound to observe after the dissolution of her marriage by the death of her husband or by divorce, before she can lawfully marry again. This is a period of abstinence imposed on the woman on the termination of her marriage in the interest of certainty of paternity when there is a divorce or death.¹⁹ The abstinence is imposed on her to ascertain whether she is pregnant by the husband, so as to avoid confusion of the parentage. It is only after the *Iddat* period she can validly enter into a new marriage. The primary object of *Iddat* is to

¹⁰Anusha vijayvargiya, ‘Maintenance of women and children under Muslim Law’(21 July,2018), retrieved from <<https://www.legalbites.in/maintenance-wife-children-muslim-law/>> accessed 8/10/2018

¹¹Baillie’s Digest of Mohammedan Law, 2nd Edition, page 442

¹² ibid

¹³ ibid

¹⁴Ishad Sayed, Maintenance of Divorced Woman under Muslim Personal Law’ retrieved from <<http://www.shareyouressays.com/knowledge/maintenance-of-divorced-woman-under-muslim-personal-law/117500>>

¹⁵Anusha vijayvargiya, ‘Maintenance of women and children under Muslim Law’(ND), retrieved from <<https://www.legalbites.in/maintenance-wife-children-muslim-law/>> accessed 8/10/2018

¹⁶ This is an Indian enactment made in 1973 but which came into force in 1974 it is applicable to all of India except Jammu and Kashmir as provided in s.1(2)Crpc

¹⁷ This is also an Indian enactment which has jurisdiction and is applicable to all of India except Jammu and Kashmir

¹⁸ Ayah al-Baqarah(The Cow)2:241

¹⁹ Aanshi bhatnagar, ‘what do you mean by iddat period’(ND) retrieved from <<http://www.shareyouressays.com/knowledge/what-do-you-mean-by-iddat-period/117454>>, accessed 09/10/2017

impose a restraint on the marriage of the wife for a certain time. The *Iddat* may be imposed on the woman by the death of her husband or by divorce; both with different incidences.

Iddat of Death: *Iddat* of death lasts:

(a) In the case of a woman who is pregnant at that time, for four months and ten days, or until delivery, whichever period is longer; and (b) In the other cases, for four months and ten days. The *Iddat* of death commences from the date of the husband's death. If the information of the husband's death does not reach the wife until after the expiration of the period of *Iddat*, she is not bound to observe *Iddat*. If the marriage is dissolved by death, the wife is bound to observe the period of *Iddat*, whether the marriage was consummated or not. It should be noted that the '*Iddat* for death is four months and ten days within which period the wife is entitled to maintenance from the heirs of her deceased husband.'²⁰

Iddat of Divorce: *Iddat* of divorce lasts for three menstrual periods. If the divorced wife is not subject to menstruation for any reason other than gestation, the period of *Iddat* lasts for three lunar months. If she is pregnant at the time, the *Iddat* lasts until delivery, irrespective of whether the period is shorter or longer than three months. Where a husband pronounces a *Talaq* in the absence of wife, she is required to observe the *Iddat* from the date on which she gets the notice of her divorce. Accordingly, where divorce is pronounced in her absence, the wife is entitled to be maintained from the date on which she came to know of her divorce²¹. Thus, where a husband served a notice of divorce on his wife, the wife was entitled to maintenance from the date on which she received the notice, although the notice mentioned an earlier date as the date of pronouncement of *Talaq*. In *Mohammed Ali v. Fareedunnissa Begam*²², the marriage was contracted in 1950, and a son was born to the couple; thereafter, the husband neglected the wife and refused to maintain her. The trial court passed a decree in her favour. The wife was informed by written notices from the husband that she had been divorced by him on the night of their wedding. The first notice was served on 12.5.1960. The husband's plea was that as the wife had been divorced on the very first night, he was under no obligation to maintain her. It was held by the court that when a *Talaq* is pronounced through notice, the wife is required to observe '*Iddat* of divorce' from the date on which the notice is served on her. The wife was therefore, entitled to maintenance during the period of *Iddat* which began from the date of the first notice i.e. 12.5.1960. The court further observed that the wife was not entitled to maintenance from the earlier date of divorce i.e. 1950. Under Muslim law a divorced wife cannot claim her past maintenance unless the claim is for the arrears of maintenance under any specific agreement. Muslim law does not prescribe any maximum or minimum amount to be given during *Iddat* of the divorced wife. The court is competent to fix any amount keeping in view the socio-economic status of the husband and wife²³. In the case of an irregular (*fasid*) marriage, if the marriage is consummated, the duration of *Iddat*, on divorce, is three months. Under the Muslim Woman (Protection of Rights on Divorce) Act, 1986, the '*Iddat*' period, with reference to a divorced woman, is defined to be: (a) Three menstrual courses after the divorce, if she is subject to menstruation; (b) Three lunar months after her divorce, if she is not subject to menstruation; and (c) If she is enceinte (pregnant) at the time of the divorce, the period between the divorce and the delivery of the child, or the termination of the pregnancy, whichever is earlier?

Wife's Rights during *Iddat*:

1. The wife is entitled to lodging in the husband's house during *Iddat*. 2. She is also entitled to maintenance during the *Iddat* of divorce. *Khilwat-us-Sahihah*. (Valid retirement). In Hanafi School of law, a divorced Muslim wife is entitled to maintenance during *Iddat* period whereas in Shafai law, a divorced Muslim wife is not even entitled to maintenance. If after the expiry of *Iddat* period, she has no means to maintain herself her husband has no liability for her and she is left with nothing. The Code

²⁰ Ishad Sayed, 'Different Periods of *Iddat*, which a woman is legally required to undergo under Muslim Law' (ND) retrieved from < <http://www.shareyouressays.com/knowledge/different-periods-of-iddat-which-a-woman-is-legally-required-to-undergo-under-muslim-law/117535>> accessed 9/10/2018

²¹ Aanshi bhatnagar, 'what do you mean by *iddat* period' (ND) retrieved from <<http://www.shareyouressays.com/knowledge/what-do-you-mean-by-iddat-period/117454>.> Op.cit

²² AIR 1970 AP 298

²³ Ishad Sayed, 'Maintenance of Divorced Woman under Muslim Personal Law' retrieved from <<http://www.shareyouressays.com/knowledge/maintenance-of-divorced-woman-under-muslim-personal-law/117500>.> Op.cit

of Criminal Procedure, 1973 (CRPC) section 125, provides for maintenance for a divorced wife of all religion. It states that after divorce if the wife is not able to maintain herself, she is entitled to maintenance from her husband until she gets married. The act applies this provision to Muslim women also who are not entitled to maintenance after the period of *Iddat*. This act creates liability against husband to provide maintenance to wife even after the period of *Iddat*. The provisions of this act are in conflict with the provisions of Muslim Law and a debate was going on as which law should be applied. The issue was adjudicated upon by the Supreme Court in the landmark judgment of *Shah Bano Begum v Mohammad Ahmed Khan*²⁴, Shah Bano Begum, a 62 years old lady filed a petition under section 125 of CRPC before Judicial Magistrate of Madhya Pradesh. The petition stated that her husband has pronounced *Talaq* on her and she has not even remarried and thus she was entitled to maintenance. For which her husband has stated that he had no liability to provide maintenance to her as under Muslim Law, a divorced wife has no right of maintenance after *Iddat* period. The magistrate, in this case, passed an order stating that the husband is entitled to provide her maintenance of Rs.25 per month as per Section 125 of CRPC. Shah Banu filed a revision petition against this order in the High court of Indore for enhancement of the amount of maintenance. For which Indore High court has enhanced the amount of maintenance to 179.20 Rs per month. Against this order, Mohd. Ahmed Khan appealed to the Supreme Court, the Supreme Court rejected the appeal and stated that Muslim wife is entitled to maintenance even after the period of *Iddat* if she is not able to maintain herself. The Supreme Court reasoned that with this judgment the distinction between the Muslim personal law and Civil Procedure code would come to an end, but that did not happen as it deepened the controversy on the issue of *Iddat* as a result of which the legislatures had to make a new law to govern Muslim divorce and this gave birth to the enactment of the Muslim Women (Protection of Rights on Divorce) Act 1986. This Act has enacted some provisions in support of Muslim Personal Law and has restricted the application of Section 125 of CRPC regarding the maintenance of Muslim wife. The Act has stated that the husband is entitled to provide maintenance only during the period of *Iddat* and not beyond that. If the wife is not able to maintain herself after *Iddat* period then, in that case, she can seek maintenance from the Waqf Board²⁵ or relatives of her or her husband. This act has not mentioned anything clearly and has created various confusions in the judicial system and was considered as vague. The confusion of this Act has been solved by the Supreme Court of India in the case of *Daniel Latifi v Union of India*²⁶, where the court laid the issues to rest and provided that by virtue of s.3 of the act, a Muslim husband is entitled to provide fair and reasonable maintenance to his wife and has to make proper arrangement for her maintenance after the divorce but that a Muslim husband's liability under this act is limited to *Iddat* period. He has to make arrangement within the period of *Iddat* for his wife's maintenance. Further, the court held that a divorced Muslim woman is entitled to maintenance under section 4 of this act from her relatives who are entitled to her property after her death and if her relatives are not able to maintain her then, in that case, a *Waqf* board has been created by this act who will take care of the maintenance of such women. The magistrate can direct the *Waqf* board to pay maintenance to them. Therefore it is obvious that the rights of women are still not secured under this Act as the husband is still not bound to pay maintenance beyond the *Iddat* period, the only advantage she has is that she may be maintained by her relatives or the *Waqf* board as of right only where she cannot take care of herself. It is an outright derogation of the right of the wife who probably laboured to keep a home with her husband to be foisted upon her own relatives or the *Waqf* board when there is a divorce. Another issue that is worthy of note is whether an adulterous wife is entitled to maintenance during the *Iddat* period. It is clear from judicial authority available that an adulterous woman is also entitled to maintenance during the *Iddat* period²⁷. In *M. Alaviv v T.V. Safia*²⁸, the question before the court was whether a divorced woman living in adultery was entitled to maintenance under Section 3 of the Act. The court held that she is entitled to

²⁴AIR 1985 SC 945

²⁵Literal the word waqf means 'detention'. Waqf means detention of a property so that its produce or income may always be available for religious or charitable purposes. The board was established under the Waqf board Wakf Act 1954. The Wakf Act 1954 defines Wakf as, "Wakf means the permanent dedication by a person professing the Islam, of any movable or immovable property for any purpose recognized by Muslim Law as religious, pious, or charitable."Madhubala Solanki, 'Concept Of Waqf Under Muslim Law' (October 8, 2017) retrieved from <<https://www.lawctopus.com/academike/concept-waqf-muslim-law/>>

²⁶AIR, 2001, SC, 958

²⁷Sanjyot c. 'Whether a Divorced woman living in Adultery under Islamic Law was entitled to Maintenance?'(ND)retrieved from< <http://www.shareyouressays.com/knowledge/whether-a-divorced-woman-living-in-adultery-was-entitled-to-maintenance-under-muslim-law/117614>>, accessed 8/10/2018

²⁸ AIR 1993 Ker 21

maintenance, the court said that the Act nowhere provides that a divorced woman who is living in adultery will not be entitled to provision and maintenance, and one should not read something in the Act which is not there. The court added that ‘it is not proper to refuse maintenance to a divorced woman on the ground that it is an unjust burden to maintain a woman leading an adulterous life. Moreover, a divorced woman being not a married woman cannot commit adultery’.

Maintenance of the Children

Children are the responsibility of their parents and they should be taken care of. They are entitled to proper and adequate maintenance from their parents especially their fathers. Under Muslim Law, a man is considered as superior and is responsible for the maintenance of his family. Maintenance of the child is his primary responsibility. This is a good security for the rights of a child upon divorce under customary law.

Father’s obligation to maintain his child

A father is under an obligation to maintain his legitimate child until he reaches puberty. Under Muslim Law, the father has to maintain his son only until he attains majority and has to maintain his daughter until she gets married. Under certain circumstances however, like where the child suffers from insanity or has other health challenges which incapacitates him a father is bound to maintain that child where he is a son. He is also bound to maintain his widowed or divorced daughter in appropriate cases. A father is not bound to maintain his son or unmarried daughter if they refuse to live with him without any reasonable cause. Under Muslim Law, father is under no obligation to maintain his illegitimate child but an agreement between the parties to maintain his illegitimate child is not invalid. Under section 125 of CRPC, if the father has sufficient means, he is under obligation to maintain his child whether legitimate or illegitimate. In *Pavitri v. Katheesumma*²⁹, it was stated that it is not at the discretion of the court to allow maintenance to an illegitimate child. The court can allow only if asked for it.

Mother’s Obligation to maintain her child

Mother’s obligation to maintain her child arises when the child is illegitimate and husband has refused to maintain the child. However, under Hanafi Law, if the father is poor and the mother is rich then, in that case, it is the obligation of the mother to maintain the child. However, she can recover the money when her husband gets into the condition to repay it. Under Shafai Law, even if the father is poor and mother is rich, the mother is still not obliged to maintain her child. In that case, it is the obligation of grandfather to maintain the child³⁰. The provisions for maintenance of children are not a matter of concern as they are provided adequate Maintenance under the law but the position of the wife is poor as compared to other laws. Though the legislature has enacted an Act, it has not created much difference in the condition of the wives. The proper efforts and contribution of both the legislature and the judiciary are required to improve the position of a divorced wife under Muslim Law. Muslim law does not prescribe any maximum or minimum amount to be given during *Iddat* of the divorced wife. The court is competent to fix any amount keeping in view the socio-economic status of the husband and wife³¹. From the foregoing it is obvious that generally speaking in places that the Muslim Women (Protection of Rights on Divorce) Act 1986 is applicable, it is not the personal Islamic law of the parties that is applicable, but this Act³².

4. Conclusion and Recommendations

The issues of the rights of a divorced wife to maintenance under Islamic Law are one that needs urgent intervention. A divorced woman and her children do not get as much as they should get when there is a divorce. In Nigeria, it is the personal Islamic laws of the parties that will apply since the Indian Code of Criminal procedure and the Muslim Women (Protection of rights on Divorce) Act does not have jurisdiction. The Code of Criminal Procedure was a watershed in the actualization of the rights of a

²⁹AIR 1959 KER 319

³⁰Anusha vijayvargiya, ‘Maintenance of women and children under Muslim Law’ (ND), retrieved from <<https://www.legalbites.in/maintenance-wife-children-muslim-law/> accessed 8/10/2018. Op.cit

³¹ Ishad Sayed, Maintenance of Divorced Woman under Muslim Personal Law’ retrieved from <<http://www.shareyouressays.com/knowledge/maintenance-of-divorced-woman-under-muslim-personal-law/117500>>. Op.cit

³² Ibid.

divorced wife under Islamic law with the Supreme Court decision in *Begum's case* which protected the rights of women and children to the extent that a wife's rights of maintenance from her husband subsists till she remarries. This represents a much better position for a divorced woman than the application of the party's personal law and the Muslim Women (Protection of Rights on Divorce) Act. In Nigeria, a divorced wife is only entitled to maintenance for three months after her divorce and where she is with child after she puts to bed. This is a very unfortunate position for a woman who has devoted her life to a marriage. Divorce is very easy under Islamic law, therefore a man might drive his wife to abject poverty with the mere pronouncement of the words of the *Talaq*, divorce her and the woman is left without succour³³ The same rules that apply under statute should apply under Islamic marriage to place a divorced wife in the same pedestal as her counterpart under the statute, alternatively, the provisions of the Code of Criminal Procedure with regards to Maintenance of the divorced wife should be adopted. The position of children under Islamic law, though good yet not enviable, once a child hits puberty or attains majority he loses his or her right to maintenance. The age of majority in Nigeria is eighteen years, an age at which a child would probably be in a tertiary institution. If he is no more entitled to his father's maintenance it would work hardship on such a child; therefore, the age at which a child is entitled to maintenance under Islamic law should be reviewed upwards to a minimum age of twenty one years as under statute.

³³Monika Sharma, 'Maintenance of divorced wife in Muslim Law and implication of s.125 of the CrPC' (February 9th 2017) retrieved from <<https://www.legalbites.in/maintenance-divorced-woman-muslim-law-implication-section-125-cr-p-c/>>accessed 10/10/2018