

# Iddat

## Introduction

- Iddah or Iddat is an Arabic term which means period of waiting and is observed by Muslim women. It is a period of chastity which a Muslim woman is bound to observe after the dissolution of her marriage due to the death of her husband or by divorce before she can lawfully marry again. The reason behind observing iddat period is to ascertain whether the woman is pregnant or not and to acknowledge the certainty of paternity.
- This is period of prohibition applied married women. The prohibition is for remarriage. Reason for this prohibition is to ascertain whether the women are pregnant for avoiding future confusion of paternity.
- It is observed when marriage of women is dissolved which can be via Death of husband or by Divorce.

## Period of Iddat

### **1. Death:**

- If the woman is pregnant, the period of iddat is until delivery or **4 months and 10 days whichever is longer.**

### **2. Divorce:**

- (i) If a woman is subject the menstruation, the period of iddat upon divorce is **three courses.**
- (ii) If the woman is not subject to menstruation, it is **three lunar months.**
- (iii)** If the woman is pregnant at the times of divorce, the iddat lasts **until delivery** whether it is less or more than three months. (The muslim women (protection of Rights on Divorce) Act, 1986, **Also adds termination of pregnancy as end of iddat period**)

## Commencement of Iddat Period

If the marriage is **dissolved by death**, the period commences from the date of death; in case of divorce, it commences from the date of divorce.

- If the information of husband's death or divorce does not reach the wife until after the expiration of the period of iddat, then she is not bound to observe iddat.
- If the marriage is **dissolved by death**, observance of iddat by the wife is compulsory whether there has been consummation or not. However, in case of **divorce**, Iddat is compulsory only when the marriage is consummated.
- A marriage with a woman undergoing iddat is **irregular.**

### **Right and Duties during Iddat**

- (i) The husband is bound to maintain the wife during the period of iddat.
- (ii) The wife cannot marry another person until completion of her iddat, and if the husband has four wives including the divorced one, he cannot marry a fifth wife until the completion of the divorced wife's Iddat.
- (iii) The wife is entitled to deferred dower, and if the prompt dower has not been paid, it becomes immediately payable.
- (iv) In the event of death of either party before the expiration of the iddat period, the other is entitled to inherit from him or her in the capacity of wife or husband, as the case may be,  
If the divorce has not become irrevocable before the death of the deceased.
- (v) If the divorce is pronounced in **death-illness**, and the husband dies before the completion of wife's iddat. The wife is entitled to inherit from him, even if the divorce has become irrevocable prior to his death, unless the divorce has been affected without her consent.

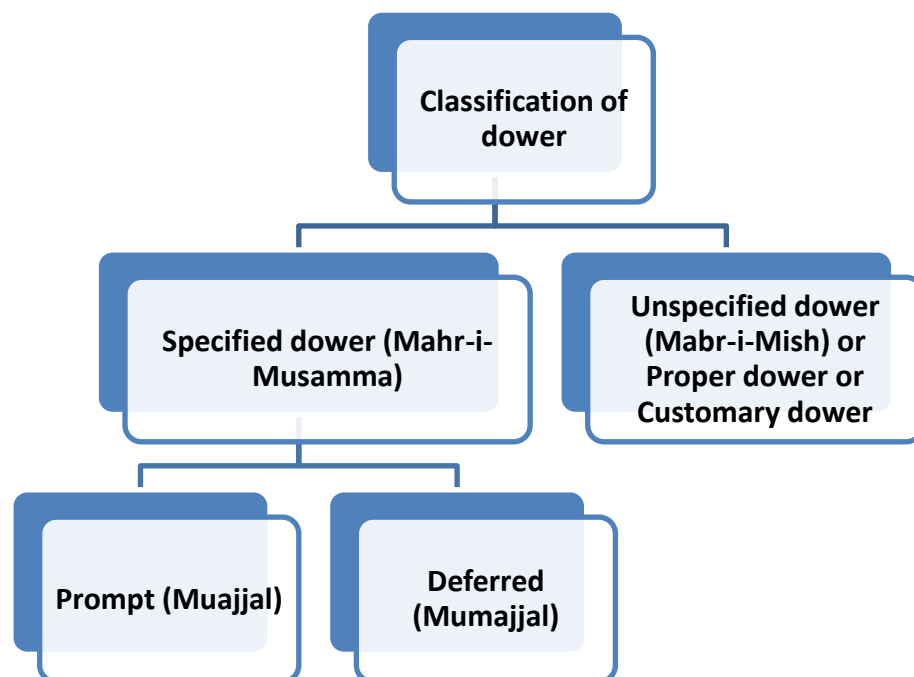
### **Rules of Iddat**

Certain things are forbidden to muslim women during the period of iddat. In Muslim Personal Law, the term 'Haraam' is used for strictly prohibited things such as –

- It is Haraam upon a woman to indulge into the activities of beautifying herself through makeups or any other ways during iddat.
- She is forbidden to wear silken clothes or other gaudy dresses. No particular colour is specified to wear during this period like black or white or any such, just a simple and plain clothing would suffice.
- She is not allowed to leave house till the completion of iddat period unless there is some emergency like requirement of basic needs or medical illness to such extent that it is not possible to arrange for a house-call by a physician.
- She is obliged to mourn for her husband by praying to Allah (God) and supplicating Allah-Subhanahu for her husband and for herself.
- There is no restriction of seeing the moon or the mirror as some people in the name of islam try to enforce these restraints.

## Dower (Mahr) – Muslim Law

- Dower is a sum of money or other property promised by the husband to be paid or delivered to the wife in consideration of marriage and even where no dower is expressly fixed, the law confers the right of dower upon the wife as necessary effect of marriage. (**Justice Mahmood in Abdul Kadir v. Salima**)
- It is neither a consideration nor a gift to the wife. It is a token of respect towards wife or an acknowledgment of dignity of wife.
- It also provides a subsistence to wife after dissolution of marriage so that she may not become helpless



### Specified Dower

- The amount is decided usually **at the time of marriage**, in case of minor husband, his father has the power to make the contract of dower on behalf of him. It is of two types.
1. **Prompt Dower-** Prompt dower is payable immediately after the marriage if demanded by the wife. She may demand the same at any time before or after consummation.

- So long as the prompt dower remains unpaid, the wife may refuse to live with the husband as a wife. Non-payment of prompt dower is also a complete defence in a suit for restitution of conjugal rights filed before consummation. If however, the suit is filed after consummation, the court, while decreeing restitution would make it conditional on the payment of prompt dower.

## 2. Deferred Dower-

- Mahr which is payable on the **dissolution of marriage** by death or divorce or on the happenings of a specified event is known as deferred dower. (If marriage is dissolved by death of husband, dower is given from property of husband)
- Where it is **not fixed** at the time of marriage whether the dower is to be prompt or deferred, then, according to the **Shia law**, the rule is to regard the whole as prompt. According to the **Sunni law**, part is regarded as prompt and part as deferred.
- On the dissolution of the marriage, the wife is entitled to the immediate payment of the whole unpaid dower if the marriage was consummated; if the marriage was not consummated; then she is entitled to only half the specified dower.
- If dower is not paid to the wife and she dies then her heirs could file a suit for the payment of the dower within 3 Years.

## Unspecified Dower (Proper Dower)

- When the amount of **the dower has not been settled** or even when there is an express stipulation at the time of the marriage that the wife will not claim any dower, the wife is still entitled to proper or customary dower. The amount is fixed at the discretion of the court. Is however, guided by the following considerations.
  1. The social position of the bride's father's family;
  2. Her own personal qualification. 'age, beauty, fortune, understanding and virtue' must be taken into consideration;
  3. The amount fixed upon her female paternal relations, e.g. sisters or paternal aunts, who are considered to be her equals;
  4. The social position of the husband
  5. Customs and traditions prevalent.

## Amount of Dower

- If it is fixed, it cannot be less than the minimum laid down by the law, which is **10** dirhams in case of Hanafi law and **3** dirhams in case of Maliki law.
- Under The Shia law, no minimum amount is prescribed. Under the Shia law, the proper dower can never exceed 500 dirhams ( the dower fixed for prophet's daughter Fatima)

- Dower Amount can be increased but cannot be decreased by the husband after marriage.

### **Remission of Dower**

- The wife may remit the dower wholly or partially, for remitting the dower the following conditions should be fulfilled
  - a. There should be free consent of wife ( no distress, force or pressure)
  - b. The wife should have attained puberty. ( She may or may not be Over 18 years old)