

## Women as Attorneys at Law

Wafaa bint Abdul Azeez As-Suwailim

### Abstract

The present paper tackles a novel subject. The author discusses the following important points:

1. The term "lawyer" is a novel one though the meaning of the term is used in old books of jurisprudence.

2. A lawyer is the one who acts on behalf of a disputant in proceedings and defence.

3. The power of attorney in cases is meant to assign someone to defend one's rights.

4. Lawyers and attorneys are generally the same but the term lawyer is more

comprehensive than attorney.

5. The mission of the lawyer includes several aspects including defending one's principal, preparation of contracts, etc.

6. All four schools of jurisprudence agree that it is permissible to appoint an attorney in disputes without the need for the acceptance of the opponent except Abu Hanifa.

7. Scholars provide general proofs as to the legitimate use of lawyers.

8. Jurists agree that it is permissible to act as a lawyer in disputes.

9. Lawyers are subject to

certain laws that are different from the one applied to an attorney in the past.

10. The attorney should meet certain conditions in order for him to exercise law.

11. Scholars have never stipulated for the attorney to be a male. A female may appoint a male attorney and the male may appoint a female attorney.

12. Women are not permitted to specifically act as lawyers in hearings before courts. They may not also be permitted to exercise this aspect of law in the preparation of claims or statements that require mixing with men.

## The Prophet's Way of I'tikaaf (Self-Seclusion)

Dr. Noorah Al-Hasaawee

### Abstract

This paper discusses the way the Prophet (peace and blessings be upon him) was practicing *i'tikaaf* (self-seclusion) as an act of worship.

The author discusses the following points:

1. The importance of self-seclusion for Muslims in our present time as an act of worship that helps one to sincerely direct his deeds to Allah and balances his activities in his daily life.

2. Women are equal to men with regard to self-seclusion and other acts of worship which confirms the notion of equality between the two sexes in terms of humanity, dignity

and requirements.

3. The person practicing self-seclusion should separate himself from other people by using a tent or otherwise.

4. Conditional self-seclusion is not a sound act of worship.

5. Researchers specialized in the Prophet's *Sunnah* should highlight it and make it closer to people.

6. Self-seclusion act of worship should be practiced by Muslims for it reminds them of Allah and the last day and strengthens self-assurance in the heart of the Muslim.

8. If the husband divorces his wife three times at one and the same time, the judgment is that it is a divorce for one time.

9. The Mufti and judges make it clear to the husband that pronouncing this form of divorce (three times at one and the same time) is prohibited.

10. If the husband divorces his wife before the consummation of marriage using successive words without interruption, judges may decide that the wife has been divorced irrevocably without observing the waiting period.

11. If the husband divorces his wife after consummation of the marriage using successive words, some judges document the divorce but ask the husband to refer to *iftaa* without deciding on the case and others inform him that his wife has irrevocably been divorced.

## Procedures of Finalizing Three Times Divorce Dr. Muhammad bin Ali Mawlood Yarkee

### Abstract

The present paper discusses the subject of divorce for three times. The author pinpoints the following topics:

1. The husband is given authority to divorce his wife. He can pronounce it or assign someone to pronounce it either inside or outside the court. However, the wife may divorce her husband if he gives her the authority to do so.

2. The procedures of finalizing divorce are completed in pertinent courts.

3. The judge may not divorce the wife of anyone; rather he is responsible for documenting such divorce. However, he may rule dissolution of marriage if he deems it proper.

4. The guidance and

reconciliation office plays a major role in mending the relation between the couple.

5. Judges may finalize procedures of divorce if the words used in pronouncing divorce are express, be it revocable or not.

6. Some judges may document divorce which the husband pronounced against his wife while she is in the period but others consider it null and void.

7. Some judges document divorce for three times as the first pronouncement of divorce and ask the husband to refer to Iftaa to find a solution for the problem. Others, however, do not do so.

8. If the husband divorces his wife three times at one and the same time, the judgment is

that it is a divorce for one time.

9. The Mufti and judges make it clear to the husband that pronouncing this form of divorce (three times at one and the same time) is prohibited.

10. If the husband divorces his wife before the consummation of marriage using successive words without interruption, judges may decide that the wife has been divorced irrevocably without observing the waiting period.

11. If the husband divorces his wife after consummation of the marriage using successive words, some judges document the divorce but ask the husband to refer to *iftaa* without deciding on the case and others inform him that his wife has irrevocably been divorced.

## Ruling on Sedation at the Time of Applying *Hadd*

### Dr. Hailaa bint Abdur-Rahmaan Al-Yaabis

### Abstract

The present paper discusses the subject of giving sedatives to a person sentenced to a *hadd* in order to relieve him from pain. The author discusses the following points:

1. Sedation at the time of applying the *hadd* is meant to relieve the person sentenced to a *hadd* from pain.

2. Sedation is permitted

in cases other than *hudood* when necessary. In other cases, only small doses are permitted if unusual hardship is encountered.

3. The ruling on sedation in cases of *hudood* depending on the type of punishment. Here are different types of *hudood*:

a. No sedation may be permitted in case of stoning as the method of stoning is meant to cause the culprit pain.

b. Sedation may be permitted in case of decapitation for the purpose is to kill rather than to cause pain.

c. No sedation may be permitted in case of whipping as the purpose of the punishment is to cause pain.

d. It is permitted to sedate the culprit in case of cutting off because cutting the limb is achieved with and without sedation.

# The Oath as a Method of Judgment or Substantiation

Dr. Shawkat Muhammad Olayaan

## **Abstract**

This present paper discusses a very important subject that touches on our legal activities in the present time. The author discusses the following points:

1. The oath is used to strengthening one's plea.  
2. The oath is used for past, present or future things.  
3. The oath confirms the judgment by mentioning a sacred name in a special way. It gives the person taking the oath the right to something subject to dispute.

4. The oath is a method of judgment or substantiation known since old times. It is generally based on the notion of directing the person taking the oath to his religion or the mention of Allah who enjoins truth and forbids lying.

5. The oath is only permissible by using the name of Allah even if the person taking the oath is a non-Muslim. It is invalid if the name of other than Allah is mentioned.

6. The oath is taken for a known event claimed by the claimant but denied by the defendant entailing a specific right which the defendant cannot substantiate.

7. The oath is not a clear cut proof to the validity of the claim; rather it is a precautionary method that involves adventuring to which

the claimant resorts when he lacks a proof.

8. The oath is subject to the five categories: mandatory, likeable, permissible, disliked and prohibited.

9. The oath can be classified as a rhetoric oath, lying oath and confirmative oath. It is used to confirm a statement or a promise.

10. The rule of substantiation is: The claimant bears the burden of evidence and the

defendant bears the burden of the oath. However, the oath may be directed to the claimant as in the case of accepting a witness and an oath in some cases.

11. The oath can be used by a free person of legal age if requested by the other disputant or the judge.

12. If the oath contradicts with the proof, the proof is given preference according to the preponderant opinion of scholars.

## **Acts Harming the Bequest**

Dr. Ahmad bin Saalih Aal Abdus-Salaam

### **Abstract**

This paper discusses an important subject that relates to the validity of the bequest. The following points are highlighted throughout the pages of the paper:

1. The bequest is legitimate as a likeable act rather than a mandatory one. Any muslim having a deposit in his custody should show the same in his bequest in order to release himself from accounting and fulfil the rights of others.

2. The bequest should not exceed third part of the property; if it exceeds the third, the exceeding part is invalid.

3. The bequest may not be made for an heir. If the heritor does so, it is invalid unless permitted by the other heirs.

4. The subject of the bequest should be something that can be owned. It is not allowed to bequest something that is unlawful or prohibited.

5. The bequest is permissible as long as the bequestor is alive; he may revoke it or change it. As soon as he dies, no change or revocation may be accepted.

6. The person assigned to implement the bequest should implement it as long as it is permissible.

7. Scholars should teach people about the rules of bequests and the acts that harm it.