

Social monitor
SMS: Short-cut to marital separation
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WELCOME to the era of SMS and digital divorces. A triple *talaq* - via SMS or e-mail. Shocking, impersonal and near instantaneous, that's digital divorce for you.

Recently, Afsana Mushtaq (name changed) in Delhi became the first Indian woman to be digitally divorced when her husband e-mailed her the triple *talaq*.

Triple *talaq* is a way of divorcing a wife by proclaiming the word '*talaq*' (divorce) thrice. It must be noted that all Muslims do not universally practice the triple *talaq*. Though this is a largely Sunni Muslim practice, even among Sunnis, only Hanafis and Shafis practice it.

According to Asghar Ali Engineer of the Centre for Study of Society and Secularism in Mumbai, Shias and all their sects do not accept the triple *talaq*. Malikis and Hanbalis as well as *Ahl-e-hadith* do not accept triple *talaq* in one sitting.

As technology develops, it poses new challenges to traditional practices. While cell phones have become lifesavers in emergency situations, they have also played a crucial role in man-woman relationships. If it has played the role of cupid, it is also posing a challenge to traditional matrimonial practices.

In the UAE and in Malaysia, cell phones have been used to end marriages by SMS-ing '*Talaq, Talaq, Talaq*'. But then, this is not the first time technology has been used in officially terminating a relationship. Earlier, it was telephonic, postal and telegram divorces; now there are *talaqs* via e-mail and SMS.

Technology has changed the way people are courting, getting married and yes, also the way they are separating. "If people are meeting and dating on the Internet, why not divorces?" says Anuradha Pratap, principal of Al-Ameen Management College in Bangalore.

"If *nikahs* (weddings) can take place using technology, why not *talaqs*?" asks Ayesha Banu, a Bangalore resident. "There were telephone weddings nearly two decades ago. It's only the technology that has changed, everything else has remained the same."

Even religious leaders of the community don't see any problem in declaring *talaq* using new technology. They believe that declaring divorce through the SMS has the same effect as a letter - the same goes for declarations made via telephone or e-mail, but the divorce would have to be confirmed by a *Sharia* court with both spouses present.

According to Bangalore-based advocate Nazeer Ahmed, technology should be treated as just that, 'a way of communication' and nothing beyond. But it is mandatory for the man who is communicating the message to give his proper contact address, without which the procedure is incomplete. Meanwhile, the woman gets a period of three months response time - '*iddat*' - during which she can claim maintenance.

Would SMS divorce be considered legal in India? Ahmed says it doesn't matter to which country you belong, and whether the man is using a telephone, e-mail or a mobile phone to communicate the message of divorce. The *Sharia* treats technology as a medium of communication, and once the message is communicated and authenticated, under the *Sharia*, it becomes legal. The method of authentication requires witnesses to be present during the divorce



method of authentication requires witnesses to be present during the divorce procedure. Witnesses may be a male relative or two female relatives.

M. A. Ataulla, an organisational psychologist, suggests caution in using new technology to terminate marriages: "As far as possible, chances should be given for other means of communication, since it is easy to misuse modern gadgets."

But Maulana M. D. Zafeer Alaam Nadvi in Bangalore is not worried about misuse because "only after proper investigation is made and only after the woman confirms that the message was indeed sent by her husband can the divorce take place".

In the UAE, the Emirates of Dubai and Kuwait are in favour of using technology to terminate a marriage. The world's first divorce on mobile took place when a man in Dubai divorced his 26-year-old wife. Of course, this method of terminating marriages holds good only under the *Sharia*, the Islamic law.

In the USA where divorce rates are high, the American response is varied. Some welcome the convenience; others find it too impersonal a means to bid good-bye to a person with whom you have shared some of life's most intimate moments.

Meanwhile, women in the East have a different story to tell. A woman in Malaysia contested the validity of declaring divorce through SMS. According to the Sharia, it is possible to obtain a divorce based on a written text, but the concern here is not so much the technology but the way it is used.

The wrong guys might use this to get quick e-divorces and it is the women who will have to bear the brunt.

A Malaysian newspaper reported Hamid Othman, adviser to Prime Minister Mahathir Mohamad, saying that although Islamic law might permit the use of SMS for divorce, the government would not accept it. "We have adequate laws to curb rash moves by Muslim men to divorce their wives without justification," says Othman. — **WFS**