

# IQA'AT

## ONE PARTY CONTRACT



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## **INTRODUCTION TO IQA'AAT**

**IQA'AAT (1 PARTY CONTRACT)** These are 11 chapters of the 52 chapters of Fiqh. For example, freeing slaves, divorce, releasing a debtor from his liabilities. That which does not require the participation of two parties.

## **IQA'AAT (ONE PARTY CONTRACTS)**

11 books

1. **Kitabut Talaq** - The book of divorce. Divorce here means the cancelling of the marriage contract by the husband. One of the condition for divorce that there must be 2 just witnesses present when the contract of divorce is recited. The Prophet (pbuh) has said that divorce is the most detested permissible act before Allah.
2. **Kitabul Khula wal Mubaara'a** - The book of divorce (instigated wholly or partially by the wife).
3. **Kitabuz Zhahar** - The book of illegal divorce.
4. **Kitabul iylaa'** - The book of vows of abstention. Iylaa' is a general word meaning oath, but in fiqh it refers to the oath a man swears to annoy his wife in that he will not have sexual relations with her ever again or for a fixed period (4 months or more). If the wife protests to the Hakim e Shari'a, he will oblige the man to one of two things - break the oath incurring a kaffara (fine) or divorce his wife.

5. **Kitabul La'an** - The book of cursing. Here la'an is related to marital relations of a man and his wife. It applies to a situation where a husband accuses his wife of immorality (adultery or homosexuality) and cannot produce 4 just witnesses. The punishment of falsely accusing someone applies to him or 'la'an' can be done. This means that his wife becomes forbidden to him forever. La'an must take place in front of the Hakim e Shari'a where the 2 parties curse each other. First the man says 4 times - "Allah is my witness, I am truthful in my claim"; the 5th time he says : "Allah curse me if I lie in my claim". The woman then says "I call Allah as a witness that in his claim he is a liar"; the 5th time she says "The anger of Allah be upon me if in his claim he is truthful."
6. **Kitabul 'Itq** - The book of freeing
7. **Kitabut Tadbir, Mukatibaa, wal Istilaad** - The book of acquiring freedom through Will, by purchase, and through relationship. These books discuss the freeing of slaves. Because the goal of Islam has always been the freeing of slaves and not enslaving, the fuqaha have

entitled the book dealing with slavery the Book of Freeing and not the book of enslaving.

8. **Kitabul Iqraar** - The book of confessing. Iqraar is related to the laws of arbitration. One of the ways in which a case is proved against a person is his/her own confession. Confession is only accepted from sane adults.
9. **Kitabul Ja'aala** - The book of reward. Reward here is similar to that paid in the hiring of people. However, in hire, a specific person is hired to do a specified job for a specified sum. In Ja'aala however, no specific person is hired. Instead the hirer simply announces that whoever does a certain job for him/her will be paid a certain sum (reward) e.g. finding a missing child.
10. \***Kitabul Aymaan** - The book of vows. If a person swears to do a certain thing, the doing of that which he/she has sworn to becomes wajib. One condition is that the vow is in the Name of Allah. Therefore, a vow made in the name of the Ma'sumeen or the Qur'an is not binding according to Shari'a. Another condition is that which he/she vows to do

must be permissible in Shari'a; so a vow to do something that is haram or makruh is meaningless. The breaking of a legitimate vow necessitates a kaffara.

11. \***Kitabun Nadhr** - The book of taking an oath. Nadhr is an undertaking to do something that involves an oath. e.g. One makes an oath to pray all the daily nafila salawaat. Just as the vows of aymaan, nadhr cannot be done for that which is haram or makruh or that which is not beneficial. Nadhr is often made as a promise to do some good deed in return for a requested favour. In this case, the nadhr becomes wajib when Allah has granted the favour.

\*An aymaan or nadhr is normally made when one has little confidence in one's will power. By means of aymaan and/or nadhr one makes a thing wajib for oneself until one is able to form the desired habit.



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