

Islamic Divorce Ruled Not Valid in Maryland

Custom Allowing Men to End Marriage With Oral Declaration Lacks 'Due Process'

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[washingtonpost.com](http://www.washingtonpost.com)

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Thursday, May 8, 2008; B02

After his wife of more than two decades filed for divorce in Montgomery County Circuit Court, Irfan Aleem responded in writing in 2003, and not just in court.

Aleem went to the Pakistani Embassy in the District, where he executed a written document that asserted he was divorcing Farah Aleem. He performed "talaq," exercising a provision of Islamic religious and Pakistani secular law that allows husbands to divorce their wives by declaring "I divorce thee" three times. In Muslim countries, men have used talaq to leave their wives for centuries.

But they can't use it in Maryland, the state's highest court decided this week.

The state Court of Appeals issued a unanimous 21-page opinion Tuesday declaring that talaq is contrary to Maryland's constitutional provisions providing equal rights to men and women.

"Talaq lacks any significant 'due process' for the wife, its use, moreover, directly deprives the wife of the 'due process' she is entitled to when she initiates divorce litigation in this state. The lack and deprivation of due process is itself contrary to this state's public policy," the court wrote.

The decision affirms a 2007 ruling by the Court of Special Appeals, the state's intermediate appellate court, which also said that talaq does not apply in the Free State.

Under Islamic traditions, talaq can be invoked only by a husband, unless he grants his wife the same right.

According to the Court of Appeals' opinion, Irfan Aleem, who worked for years as an economist with the World Bank, is worth about \$2 million, half of which Farah Aleem is entitled to under Maryland law. When Irfan Aleem tried to divorce his wife under the concept of talaq, a sum of \$2,500 was mentioned as a "full and final" settlement, according to the appellate decision.

That amount was written into the marriage contract Farah Aleem signed the day she married him in their native Pakistan in 1980, according to the appellate decision. The

contract was in accordance with Pakistani custom. At the time, he was 29 and she was 18. The couple moved to the Washington area in 1985.

"I don't even know how to express how happy I am. I am ecstatic, relieved," Farah Aleem, 46, said yesterday.

Over the years, a lack of financial support from her ex-husband caused hardship for her and her son and daughter, who are in college, she said. "All I ever wanted was my fair share, not a penny more," said Aleem, who lives in the Washington area, works full time for an accounting firm and is pursuing an accounting degree at night.

At the direction of the judge who presided over the Aleems' divorce proceedings, the couple's Potomac home was sold, and half the proceeds -- about \$200,000 -- went to Farah Aleem, said Susan Friedman, her attorney.

Friedman said she thinks that Irfan Aleem, who retired in recent years, invoked talaq to avoid paying Farah half of his World Bank pension, which provides him with \$90,000 annually, the attorney said.

"It will be very pleasant when [Farah] gets her share of that," Friedman said. "She's delighted about that."

Friedman said she will serve papers on the World Bank showing that the original order from the Circuit Court -- that Farah Aleem is entitled to half her ex-husband's pension -- is now final and that the bank has to give her half.

Irfan Aleem, who is in his late 50s, lives in Pakistan, Friedman said.

His attorney, Priya R. Aryar, said, "We're very disappointed with the decision. We think this could have adverse ramifications for a whole bunch of people who reside in the D.C. area under diplomatic visas and assume that their family law rights and obligations are governed by the laws of their country of citizenship."

A legal scholar and an Islamic leader said the appellate court's decision was not surprising.

"For the most part, Muslims expected this kind of ruling," said Muneer Fareed, secretary general of the Islamic Society of North America in Plainfield, Ind. "The contrary would be a surprise to them. They do not expect the U.S. legal system to give full recognition of talaq."

Julie Macfarlane, a legal scholar who is researching a book about Islamic divorces in North America, said the decision was not surprising. "There's no legal enforceability [for talaq] in U.S. courts," said Macfarlane, a professor at the University of Windsor in Canada.