

ISSN: 2582-6433



INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed 6th Edition

VOLUME 2 ISSUE 7

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis



IJLRA

EDITORIAL TEAM

EDITORS

Megha Middha



Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar

Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can

bring a change to the society

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board



Dr. Namita Jain



Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC - NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March

14th, 2019

Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8Articles in various reputed Law Journals. Conducted 1Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research

methodology and teaching and learning.

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

Types of Divorces in Muslim Personal Law

Authored By- Arif Hussain And Aritra Ghosh

Student

Institute Of Law, Nirma University

Abstract

The aim of this paper is to be acquainted with the various ways Divorces takes place under muslim personal law. Though Divorce is permitted by Law, but it is considered among the worst. Divorce in muslim Law is generally done by pronouncing Talaq. Divorce must be avoided as far as possible , but in some cases this practice becomes necessary since it becomes impossible for the parties to continue the marital tie , with mutual affection and love therefore it is good for both of them to get separated then staying together with hatred and disaffection.

Keywords: Divorce, talaq-ul-ahsan, talaq-us-sunnat, Muslim Law.

Introduction

The term marriage in Muslim law has special significance and the term that is used to describe it or the relationship that describes it is in the form of a contract between two people for procreation and also the legalisation . It is moreover an contractual obligations which is in the form of civil contract which cannot be kept under the ambit of sacrament many of the rights and duties, it produces go immediately and don't seem to be subject to any conditions precedent like the payment of dowry by a husband to his wife.

The people from outside have not completely comprehend it, or felt the essence of the sanctity associated to the institution of marriage within the Islamic system. Moreover, marriage which is also considered to be an inspiration in the society of Islamic law. It comes in the form of a legal agreement, but which can also extend to a spiritual covenant. Marriage when it is established, gives rise and peace to humans advancement and make sure the survival of the civilisation. The very first goal of marriage is to protect society from immorality and

unchascity. So it can be rightly said that as per Muslim law marriage, maybe a contract to control intercourse, procreation and social life within the purview of society by creating and giving rise to the rights and responsibilities of both the parties.

Types of divorces and their validity:

Islamic law recognises a number of ways in which a spouse may legally separate from another. Marriage is regarded as a contract between a husband and a wife, hence only a legitimate marriage contract can be terminated by divorce or repudiation; if the contract was invalid, the couple or a judge must annul the marriage.¹ There are several ways to end a marriage, including through mutual consent, judicial order, law, and repudiation of the marriage contract.² Each of these methods is examined in sequence below.

1. Repudiation

a. By the husband

Repudiation, properly known as talaq, is the most well-known type of divorce in Islam. A couple must give two judges, one representing each spouse, the opportunity to try to reconcile before they can get a divorce by repudiation; if this is unsuccessful, repudiation may take place. In accordance with some restrictions, Islam grants husbands the ability to reject their wives. The renegade husband must be of legal age and sound mind. The husband must also not be experiencing any intense emotions, such as anger or shock.³ It's interesting to note that the husband does not need to be free from compulsion or intoxication to repudiate, and talaq declarations made under duress, as vows, or in jest are legally enforceable. If these requirements are met, a husband may divorce his wife as long as he follows the legal procedures.⁴

The formal requirements are minimal. Written or spoken words of repudiation must be explicit and unmistakable. The phrase "proclaim a divorce" (talaq) is required. The spouse must

¹ Sampak P. Garg, *Law and Religion: The Divorce Systems of India*, 6 *Tulsa J. COMP. & INT'L L.* 1 (1998).

² Kimberly Y. Schooley, *Comment, Cultural Sovereignty, Islam, and Human Rights: Toward a Communitarian Revision*, 25 *CUMB. L. REV.* 651,672-75 (1995).

³ It has been noted that customary law is the source of the right of repudiation; the *Qur'an's* function is to tell husbands not to abuse the power.

⁴ This policy allowing talaq to be valid despite coercion or intoxication is unique to Hanafites and is contrary to the Hanbali, Maliki, and Shafii rules.

demonstrate that his comments indicate an intention to divorce if they are not explicit. According to a ruling, the divorce can nevertheless be finalised without the wife's participation or notification.⁵ In reality, even in the absence of evidence of a divorce from the day before or earlier, a divorce between a man and his wife will result if he tells her that she was divorced yesterday or before. Finally, the pronouncement can be unconditional, resulting in a divorce right away, or conditional, resulting in a divorce subject to the occurrence of a specific event or behaviour.⁶

The Qur'an specifies three permissible repudiations, known as talaq-us-sunnat, that may be made in response to the completion of the aforementioned requirements. The first two kinds, both known as talaq-ul-ahsan, both consist of a single divorce decree.⁷ The first talaq-ul-ahsan is established by the following verse in the Qur'an: "O you who believe, you have no right to demand observance of the 'waiting period' of them when you marry believing women then divorce them before having (sexual) contact with them. According to this verse of the Qur'an, if a husband annuls a marriage before it is consummated, the annulment takes effect right away. This is the only repudiation that takes place before the marriage is consummated."⁸

After the marriage is consummated, the second kind of talaq-ul-ahsan takes place. The first kind is preferred because of the procedures for the two. According to the second form of talaq-ul-ahsan, a husband must declare talaq while his wife is not menstruating and refrain from having sexual intercourse with her for a predetermined period of time afterward, or the id- dat. The husband can withdraw the repudiation before the iddat is complete, even without the approval of his wife, by speaking the words of revocation or by resuming marital contact.⁹ The repudiation is effective if the husband does not rescind it within that period, and the only way to reconcile the pair is through remarriage. A husband can repudiate and revoke two times without incident, according to the Quran.¹⁰

⁵ *Mohd. Shamsuddin v. Noor Jahan*, 1955 A.I.R. (Hyd.) 144.

⁶ M.A. MANNAN, MULLA: *PRINCIPLES OF MAHOMEDAN LAW* 327 (Pak. ed., 1984).

⁷ SHIV SAHAI SINGH, *UNIFICATION OF DIVORCE LAWS IN INDIA* 257-58 (1993) (discussing post-independence goals of the Indian government); *Deshpande*.

⁸ *Coulson, Islamic Law*, in *AN INTRODUCTION TO LEGAL SYSTEMS* 54, 54 (J. Duncan M. Derrett ed., 1968).

⁹ *Muslim Personal Law (Shariat) Application Act*, No. 26, § 2 (1937) (India) (amended 1943).

¹⁰ *IBID* 9

Talaq-ul-hasan, the second variety of talaq-us-sunnat, results after a third rejection. The repudiation is immediately complete with the third talaq. The repudiation is final, therefore the spouse can no longer revoke. The former couple is no longer permitted to have marital relations because the iddat is seen as having ended. The woman must wed another man, and that second husband must divorce her when their union is consummated in order for the couple to be reunited. The first husband has the option to remarry the wife after that divorce. Islamic law promotes retractable repudiations, such as the first and second talaq pronouncements.

This is most likely because such repudiations let the marriage to be resumed.¹¹

Although the Qur'an allows for reversible talaq, it does not take repudiation lightly. The husband is instructed to "keep [women] honourably (by rescinding the divorce) or let them leave with honour," according to the Qur'an. Because of this, the Quran considers repeated rejections to be mockeries of God's will and despises them.¹²

The Islamic community is against both of the irrevocable repudiation techniques, commonly known as talaq-ul-biddat, because the processes do not adhere to the Qur'anic prohibitions as previously stated. The first is referred to as "triple talaq" and occurs when the spouse says "I divorce thee" or "I divorce thee" three times consecutively to declare talaq three times. If either type of talaq-ul-biddat takes place, the repudiation is complete at the time of declaration and a remarriage is necessary if the couple wants to be reunited. This is known as the second disapproved kind of repudiation.¹³

¹¹ *IBID 1 also SHIV SAHAI SINGH, UNIFICATION OF DIVORCE LAWS IN INDIA 257-58 (1993) (discussing post-independence goals of the Indian government); Deshpande.*

¹² *AL-QUR'AN, at 2:231.*

The two branches of Islamic thought are the Shi'a and Sunni. See JAMES S.E. OPOLOT, WORLD LEGAL TRADITIONS AND INSTITUTIONS 144 (rev. ed. 1981). Most Muslims follow the Sunni branch of Islam. See JOHN L. ESPOSITO, WOMEN IN MUSLIM FAMILY LAW 135 n.2 (1982). The Sunni branch, itself, is divided into four schools of thought. See id. at 2. These schools are the: Hanafi, Maliki, Shafli, and Hanbali. The majority of Muslims in India are Hanafite. See Paras Diwan, Family Law, in THE INDIAN LEGAL SYSTEM 633, 635 (Joseph Minattur ed., 1978); ASAF A.A. FYZEE, OUTLINES OF MUHAMMADAN LAW 77 (4th ed. 1974); OPOLOT, supra, at 145 (Muslims in Pakistan are also Hanafites); ARCHANA PARASHAR, WOMEN AND FAMILY LAW REFORM IN INDIA 151 (1992). The part of this paper that discusses Islam in India will address Hanafite law.

¹³ *IBID Also ANGELES J. ALMENAS-LIPOWSKY, THE POSITION OF WOMEN IN LIGHT OF LEGAL REFORM 57 (1975). DAVID PEARL, A TEXTBOOK ON MUSLIM LAW 90-91 (1979).*

b. By the wife

Although men have an advantage over them, women also have the same recognised rights as men, according to the Qur'an. Wives also have some rights, although they are more limited than the ability of husbands to repudiate. A wife's ability to repudiate is constrained since she can only use her right to talaq if her husband expressly transfers that authority to her. This type of repudiation is known as "delegated divorce" for this reason. The husband may assign the authority for whatever period of time and under any restrictions or requirements he sees fit. The wife must demonstrate that all circumstances necessary for her to use her authority have been met as well as the fact that she really did so in order for her talaq to be considered legal.¹⁴

2. Divorce by Mutual Agreement

There will be no fault on either party if the woman redeems herself, the Quran states, "[if you fear you cannot maintain the bounds imposed by God]." This approach is known as mubaraat. When both parties consent to a divorce, it is final and the woman is entitled to the original marriage property.¹⁵

3. Divorce by the Court

A court may award a divorce in one of two ways. The first is called Han and meaning "joint oath swearing." The second is referred to as faskh and is a formal annulment of the marital agreement.¹⁶

a. Lian

The Qur'an regulates the lian manner of divorce. The Quran states:

Those who accuse their wives and do not have any witnesses except themselves, should swear four times in the name of God, the testimony

¹⁴ AL-QUR'AN, supra note 12, at 2:228.
Buffatan Bibi v. Abdul Salim 1950 A.I.R.
(Cal.) 304.

¹⁵ *IBID*

¹⁶ *IBID*

of each such person being that he is speaking the truth, [a]nd (swear) a fifth time that if he tells a lie the curse of God be on him.

The woman's punishment can be averted if she swears four times by God as testimony that her husband is a liar [h]er fifth oath being that the curse of God be on her if her husband should be speaking the truth.¹⁷

A wife can initiate a lawsuit when her husband is accused of adultery to force him to either recant or take the Qur'anic oath. When the lawsuit is filed during this time, the couple is not permitted to engage in marital intimacy.¹⁸ The wife is not entitled to a divorce if the husband backs down from his accusation, and the pair can restore their usual relationship. If the husband does not back down, the wife may file for divorce and be required to take her own oath of innocence before an adultery hearing is convened.

Han does not apply when the wife accuses the husband of adultery; rather, Han only applies when the husband accuses his wife of adultery.¹⁹

b. Faskh

Despite not advocating for divorce, the Qur'an says, "[i]f you fear a rupture between [the couple], appoint one arbitrator from the people of the man and one from the people of the woman." God will make peace with them if they want to be together. This clause is understood to signify that Muslims are allowed to divorce in accordance with the law.²⁰

In 1939, the Dissolution of Muslim Marriages Act was passed by British India ("DMMA").²¹

¹⁷ AL-QUR'AN, *supra* note 12, at 24:6-9.

¹⁸ Such husbands, who have falsely accused their wives of adultery, do not go free of punishment. See AL-QURAN, *supra* note 12, at 24:11-26. The Quran reminds such husbands that God, though forgiving, is omniscient and can punish them for blaspheming faithful women. IBID.

¹⁹ When a wife suspects her husband is adulterous, her only recourse is to the Dissolution of Muslim Marriages Act, § 2(ix), which accepts grounds that Muslim law recognizes Dissolution of Muslim Marriages Act, No. 8, § 2(ix) (1939) (India); Traditional Hanafite law recognizes adultery as a ground for divorce. See IBID. Thus, Islamic women in India have recourse for adulterous husbands.

²⁰ AL-QUR'AN, *supra* note 12, at 4:35.

²¹ Dissolution of Muslim Marriages Act, No. 8 (1939) (India);

The DMMA offers grounds for marriage dissolution that wasn't recognised before the law's passage. Under the DMMA, only a wife may apply for divorce; a husband may not use the DMMA to divorce his wife.²² This is most likely a result of spouses having extensive talaq rights and not needing the privileges provided by the DMMA. The DMMA's two most significant effects are that it (1) elevates the status of Muslim women in the framework of family law and (2) does not make distinctions between the various Islamic schools.

One of the grounds on which a woman may be entitled to a divorce judgement is included in the DMMA; further grounds are not required for a divorce to be granted.²³ Although the grounds are given in no particular sequence, they can be broken down into four different groups: harm or disagreement, husband defects, failure to pay maintenance, and the husband's absence or imprisonment.²⁴

(1). Injury or discord

A Muslim wife may get a divorce under this first category if she can prove that her husband injured her.²⁵ Both mental and physical injuries are listed in the DMMA. The spouse hitting his wife or treating her cruelly is one of the physical abuses mentioned. Other types of harm are when a spouse compels his wife to act immorally or live immorally. Discord within the couple, however, is sufficient grounds for divorce in this group; injury is not necessary.²⁶

Divorce must be initiated for reasons other than simple conflicts between husband and wife.²⁷ The husband must not intervene in his wife's religious activities, seize control of her possessions without her permission, or treat her in a way that is against the Quran.²⁸

(2). Defect on the part of the husband

If a Muslim spouse falls within the second category, a Muslim woman may request a divorce.²⁹ By flaw, it is understood that the spouse has leprosy, venereal disease, has been insane for two

²² Because the DMMA adopts non-traditional grounds for divorce for Muslims, it is considered a departure from Shari'a

²³ Dissolution of Muslim Marriages Act, No. 8, § 2 (1939) (India).

²⁴ IBID.

²⁵ See Dissolution of Muslim Marriages Act, No. 8, § 2 (1939) (India).

²⁶ IBID

²⁷ IBID

²⁸ IBID

²⁹ IBID

years, or has lost his ability to conceive since the marriage.³⁰ However, the spouse might request a one-year stay of the decision before the court awards a divorce based on impotence. This would allow him time to show the court that his impotence has vanished. If the husband can demonstrate this, no divorce will be granted.³¹ Some academics contend that these arguments are supported by the fact that Islam views marriage as a legal transaction. It's probable that the reasoning behind this is that if the wife comes into marriage expecting that her husband will be "healthy" and able to have children, then the lack of either one of these qualities should be sufficient grounds for divorce.

(3). Failure to provide for maintenance

"Let the man of means spend according to his means, and he whose means are limited, should spend of what God has given him."³² Men are the backbone of women because they spend their income to support them and because God grants certain people greater resources than others.³³ The husband has a responsibility to support his wife with whatever resources he has, according to the Quran. In a way, the DMMA codifies this law by saying that nonpayment of support constitutes grounds for divorce. If a Muslim husband neglects his wife for two years, his wife may file for divorce.³⁴

(4). Absence or imprisonment of the husband

A wife may get a divorce if her husband disappears or is detained. A divorce must be granted by the court if the husband has been missing for four years. The woman is required to inform the potential heirs of her husband, and these heirs are entitled to a hearing.³⁵ If approved, the divorce will not become final for six months; if the husband or his representative appears during that time and affirms that the husband will fulfil his obligations under the marriage agreement, the court must vacate the divorce judgement.³⁶ Additionally, if and when her husband receives a seven-year or longer prison sentence, the woman may seek for divorce.³⁷

³⁰ Before enactment of the Dissolution of Muslim Marriages Act, the Hanafi school allowed for a wife to obtain a judicial separation only if her husband was impotent. The other schools provided additional grounds, which the Dissolution of Muslim Marriages Act now gives to Hanafites.

³¹ *IBID*

³² *AL-QUR'AN*, supra note 12, at 65:7.

³³ *IBID*

³⁴ *Dissolution of Muslim Marriages Act, No. 8, § 2(ii) (1939) (India)*.

³⁵ *IBID*

³⁶ *IBID*

³⁷ *IBID*

4. Divorce by Law

A marriage that was previously lawful may lose its validity in one of two circumstances, necessitating neither a divorce nor a court ruling. Change of one spouse's religion and formation of an illicit relationship are two examples.³⁸

a. Change of religion

Effects of one spouse changing their religion are governed by the DMMA.³⁹ After a legal marriage has been consummated, there are four possible outcomes in terms of the spouses' respective religions. First, the marriage is automatically dissolved if the husband rejects or apostatizes from Islam. The marriage was once more dissolved if the wife apostatized, it was true. There was no other means for a wife to divorce her husband in India, therefore that regulation was in place.⁴⁰ The DMMEA no longer counts as adequate grounds for divorce for wives in India because it permits wives to separate from their husbands for a variety of reasons.⁴¹ Third, if only one spouse of a couple who were married in a different faith later converted to Islam, the marriage will be dissolved if the other spouse does not do the same. However, in the third scenario, if the non-Islamic spouse is kitabi in the case of a man or kitabiyya in the case of a woman, the marriage is not terminated.⁴²

b. Creation of a prohibited degree The Qur'an states:

Your mothers, daughters, sisters, foster mothers, foster sisters, mothers of your wives, and daughters of the wives you have slept with who are under your supervision are all prohibited from marrying you; however, if you have not slept with them, it is not prohibited from doing

³⁸ *IBID*

³⁹ *Dissolution of Muslim Marriages Act, No. 8, § 4 (1939) (India).*

⁴⁰ *IBID*

⁴¹ *IBID*

⁴² *AL-QUR'AN, supra note 15, at 2:221. This is clear from the Qur'an, which states: Do not marry idolatrous women unless they join the faith. A maid servant who is a believer is better than an idolatress even though you may like her. And do not marry your daughters to idolaters until they accept the faith. A servant who is a believer is better than an idolater even though you may like him. Id. Another verse of the Qur'an states, in relevant part: "Do not retain your (marriage) ties with unbelieving women."*

so, and the wives of your own borne sons are also not prohibited from doing so. Marrying two sisters is also prohibited from doing so.⁴³

Conclusion

The Muslim law act of 2019 is well under the scanner for various situations which is still not addressed properly and needs serious attention.

No, just to elaborate on the diverse laws that are followed by Muslim to an extent. The laws makes sense, but there are still three area which still demands attention and reinforcement and changes for unavoidable, just to carry out forward things that are mentioned in the laws are somewhat vague.

Next point that makes me in the slightest light that can be seen through the widest year is the concept of giving maintenance. Should I was Muslim women for a period of just 90 to 120 days when we compare this situation or concept with the prevalent practice of other religion that exists today. This concept, Sims, arbitrary. Moreover, it is also not doing justice to the diverse Muslim women in the long run. There soon as inferior in the society when we compare them to other religion which demands serious attention and changes just to bring back everyone at the same page.

⁴³ *AL-QUR'AN, supra note 12, at 4:23.*