

DIVORCE IN SIERRA LEONE

There are four types of marriage in Sierra Leone: (a) marriage under the Christian Marriage Ordinance;^{1/} (b) marriage under the Civil Marriage Ordinance;^{2/} (c) marriage under the Mohammedan Marriage Ordinance;^{3/} and, (d) marriage under customary law.^{4/}

Marriages concluded under the Christian and Civil Marriage Ordinances may be dissolved only by a judicial decree which may be granted on the petition of either party in accordance with the provisions of the Matrimonial Causes Ordinance^{5/} regarding divorce and other matrimonial relations.

The dissolution of a Mohammedan marriage in Sierra Leone is done according to Islamic law through repudiation (talāq). A Muslim husband of sound mind may divorce his wife whenever he so desires and without showing any cause by pronouncing a special formula for divorce. This is a non-judicial divorce for which a court decree is non-existent.^{6/}

1/ II The Laws of Sierra Leone ch. 95 (1960).

2/ Id. ch. 97.

3/ Id. ch. 96.

4/ T. O. Elias, Ghana and Sierra Leone 298 (1962).

5/ II The Laws of Sierra Leone ch. 102 (1960); and, Donegan, "Marriage and Divorce Law in Sierra Leone: A Microcosm of African Legal Problems." 5 Cornell International Law Journal 69 (1972).

6/ J. N. D. Anderson, Islamic Law in Africa 295 (1970).

If a Muslim wife desires to dissolve her marriage, she must have solid grounds for the divorce, such as failure of maintenance, cruelty, etc. She must go to the headman of their particular community, who after receiving advice from the learned Muslims, will dissolve the marriage.^{7/}

As far as customary law in Sierra Leone is concerned, a husband may divorce his wife before witnesses by declaring that he does not wish to keep her anymore and wants to send her back to her family. When the husband acts in this manner, he has no right to claim the return of the marriage price paid by him at the time of the marriage.

The wife also has the right to divorce her husband by declaring before witnesses that she does not want to live with him or by expressing her desire to end the marriage by deserting him. Desertion by the wife is the most common grounds for divorce. In this case, the wife's family is obliged to repay the marriage price.^{8/} A court decree is non-existent for this type of divorce.^{9/}

^{7/} Id. at 295-296.

^{8/} Donegan, supra note 5; and, J. Fenton, Outline of Native Law in Sierra Leone 22 (1951).

^{9/} Id.

There is no provision nor any obligation to register
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customary divorces. As for the statement attached to your inquiry,
we could not establish its value in relation to marriage and divorce
in Sierra Leone, nor was its existence mentioned in all the sources
checked and cited in this report.

10/ Donegan, Id. at 70; and, Fenton, Id.

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