

Fatwa no. 825

Q: Someone divorced his wife three separate times. After each time of divorce, he received a Fatwa (legal opinion issued by a qualified Muslim scholar) confirming the divorce was valid and effective. After the third time of divorce, the husband received a Fatwa stating that his wife is unlawful for him unless she marries another husband (and he divorces her). Yet, the man claims that he asked another scholar who told him that when a wife has many children, she cannot be unlawful for her husband regardless of the number of the said pronouncements of divorce. Accordingly, he went on having sexual relations with his wife who bore him two daughters as a result. What is the ruling on attributing the two daughters to him? What is the ruling on the man who is still having sexual relations with this woman who is declared unlawful for him?

A: If the reality is as you mentioned that each of the three divorce statements are said at three separate intervals and all the three are valid, and if it was proven that the husband revoked the divorce within his wife's `Iddah (woman's prescribed waiting period after divorce or widowhood) after the first and second pronouncements occurred, the woman becomes unlawful to this man. He can only remarry her after she has been married to another, genuine consummation has taken place, her second marriage has been dissolved and she has finished her `Iddah, or the second husband has died. Only then can ex-husband remarry her, with a new marriage contract, for a new Mahr (mandatory gift to a bride from her groom) and subject to her consent.

On the other hand, if the man did not revoke the divorce after the first pronouncement had taken place or revoked the divorce after the woman's `Iddah had expired, the second and third pronouncements are not valid. He may remarry her with a new marriage contract and they will still have two pronouncements of divorce.

Similarly, if he revoked the divorce after the first pronouncement of divorce within her `Iddah, and did not revoke the second divorce or revoked it after her `Iddah had expired, the third divorce will not be valid, whereas the other two pronouncements are effective. He may remarry her, with a new marriage contract, for a new Mahr and subject to her consent.

Only one pronouncement of divorce is left for him.

In all the three cases where the wife is given major irrevocable divorce (the third and final divorce, after which the man can only remarry the woman if she remarries and that marriage ends lawfully) or minor irrevocable divorce (a divorce, after which the man may remarry his irrevocably divorced ex-wife with a new mandatory bride gift and contract), having sexual relations with her without concluding a marriage contract is a doubtful matter if the husband is ignorant of the ruling. As for the two daughters the wife bore after receiving the irrevocable divorce, they may be attributed to the father.

May Allah grant us success. May peace and blessings be upon our Prophet Muhammad, his family, and Companions.

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