

Fatwa no. 4986

Q: I have a question for which I hope to have a detailed answer from your Eminence. It is about two points related to one issue:

First: I married my half-brother's maternal half-sister. This brother is my elder half-brother. My father had been married to the mother of this girl and she bore him my elder half-brother.

My father then divorced her mother and she married another man and bore him this girl. My father had me from another wife who is the full-sister of the mother of that girl. So my father married the two sisters one after the other. The girl's mother is thus my maternal aunt. However, I am not convinced that this marriage is permissible. I consulted many judges about the permissibility of this marriage and they all said it is permissible. But I have my doubts about it even though I have four children from this girl.

Second: I married this girl early in my life. Indeed, I was not committed to religion at the time. I used to neglect Salah (Prayer) yet I did not commit unlawful deeds. During this period of my life I used to take oaths of divorce repeatedly every now and then without fulfilling my oaths of divorce. I do not think now that I was serious regarding divorce. But I am sure that I do not want to divorce my wife. I have never argued with her or take an oath of divorce in her face or behind her back intending divorce. Two years ago, Allah blessed me with righteousness and genuine repentance to Him. Thanks to Allah, I now observe all religious acts of worship yet I find the oaths of divorce I made during the days of ignorance stand in the way of my relationship with my wife, so I abandoned her more than a year ago until I receive a Fatwa (legal opinion issued by a qualified Muslim scholar) from your Eminence with regards to the oaths I had made and their impact upon our marriage. I hope to receive your Fatwa regarding these two points.

A: First: If the reality is as you have mentioned with regards to the relationship to your wife, your marriage conforms with the Shari`ah; because her being your aunt's daughter and a half-sister to your brother and a daughter to your father's ex-wife does not prevent you from marrying her according to the Shari`ah; because there is no religious text that prohibits it and the basic rule is permissibility.

Second: If the reality is as you have mentioned, you used to swear oaths of divorce repeatedly, not fulfill your oaths, break your oaths without intending to give divorce but to prevent your wife doing something, you have to offer Kaffarah (expiation) of a broken oath for every time you broke your oath. A Kaffarah of a broken oath is to feed or clothe ten needy people or free a Muslim slave. If you are unable to do so, you have to fast three days. It is sufficient for you to distribute five Sa` (1 Sa`=3 kg. Approx.) of wheat, rice, or maize, or the like of what your family eat to ten needy people, each one half a Sa` for every time you have broken your oath. If you do not remember how many times you have broken your oath, you may guess it and offer Kaffaraha according to the number of times you guessed.

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

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