

Fatwa no. 5245

Q: Many people from neighboring countries ask me about the issue of `Ismah (the bond of marriage, i.e. the right to initiate divorce). Is it permissible for a woman to have this right? Please enlighten us.

A: The basic rule is that divorce is in the husband's hands and anyone he delegates. This is in case the husband is fit, but if he is not, his guardian will act in his behalf. Moreover, if the husband authorizes his wife to initiate the divorce, she will have the right to do so as long as he has not annulled the Wakalah (appointment of a legally accountable person to act on behalf of another for a specific permissible matter). However, when a husband grants his wife the right to initiate divorce at any time by adding a condition in the marriage contract, this condition is Batil (null and void) since it opposes the main purpose behind the marriage contract. The Prophet (peace be upon him) said,

"Any condition that is not in the book of Allah is null, even if they are one hundred conditions."

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

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