

Fatwa no. 563

Q: My wife divorced herself from me. It happened that she asked one of our acquaintances to buy her something. He took a one day leave and came to me to go with him purchase the item. My wife knew I had no money, since I stopped working to free myself for my studies, while she had a regular income from her work. So I informed her that the man agreed to come after she would leave for work and asked her to leave him the money but she refused for no reason. I repeated my request and explained that the man had left his work to help us and I did not want to feel embarrassed. She did not respond to me and left for work without leaving any money. So I went to her workplace to make sure that she had heard what I said to her. She said that she heard and understood what I asked her, and she divorced herself from me. At that time, she knew that divorce is effective and begged my pardon. What is the ruling on this act?

I want to return to her as she is my relative. Would it be sufficient if I say to her, "I take you back", without anyone being present? Is it necessary to have witnesses? Please enlighten us.

A: If the reality is as you mentioned, that your wife has divorced herself, then if you have not expressly given her this right or delegate her to carry out this act, the divorce has not taken place and there is no need to take her back.

The right to initiate divorce belongs to the husband and not to the wife.

However, if you have given her this right or delegated her to divorce herself, her divorcing herself from you is effective. In this case, you may take her back in the presence of two witnesses so long as her `Iddah (woman's prescribed waiting period after divorce or widowhood) has not expired, provided that it is not the third divorce.

On the other hand, if this is the third divorce, she is not lawful to you until she marries another husband who dies or divorces her. You may then remarry her, with a new marriage contract, for a new Mahr (mandatory gift to a bride from her groom) and subject to her consent after the end of her `Iddah.

It is noteworthy that the `Iddah of a pregnant woman is until she gives birth, and that of a woman who is not pregnant is for three monthly courses. As for young girls who do not yet menstruate and women who are in menopause, `Iddah lasts for three months.

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

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