

Fatwa no. 80

Q: My wife and I disagreed with each other, so I divorced her, and deemed her unlawful to me and lawful to anyone who wants to marry her. This took place in 16/12/1391 A.H. I meant that she is no more my wife and thus she is unlawful to me. I returned to her in 25/2/1392 A.H., by the witness of Shakir Ahmad Khayyat and Zakariyyah Muhammad Nur Murshid while she was in her `Iddah (woman's prescribed waiting period after divorce or widowhood). Given that I had divorced her six years ago and returned to her on the same ay, is it lawful for me to return to her?

A: Having read the second divorce paper and heard the witnesses, the Committee wrote the following answer:

As the questioner mentions that he said to his wife "You are divorced and unlawful to me"; he meant by deeming her unlawful to him that he has divorced her, which took place in 16/12/1391 A.H., and he returned to her in 25/2/1392 A.H. by the witness of the people mentioned above.

If the first divorce that took place six years ago was two or three pronouncements of divorce, she will be unlawful to him until she marries another man, consummates her marriage to him, he divorces her without the intention of Tahlil (a marriage contracted for the sole purpose of legalizing remarriage between an irrevocably divorced couple) and her `Iddah comes to an end.

If the first occurrence of divorce was one pronouncement of divorce only, and her `Iddah had not come to an end, he might return to her without her consent or a new marriage contract. However, if her `Iddah had come to an end, he must have her consent, conclude a new marriage contract and pay a new Mahr (mandatory gift to a bride from her groom).

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

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