

FATWA

Divorce and reconciliation.

Q. What are the different ways divorce can occur and what is the method of reconciliation for each?

A. Divorce is something which is disliked in the teachings of Islam although it has been allowed. As such a person can turn to it when living together with one's spouse has become very difficult.

In such situations when a person has given considerable thought to dissolving the marriage, he is encouraged to give one revocable divorce. This can be done by mentioning to one's wife that he has divorced her. As soon as the husband utters this statement, the wife becomes divorced immediately and would begin to count her time in order to complete three monthly courses (3 months), which she must pass in the marital home.

During this time both parties are not allowed to maintain any type of husband/wife relationship. If they indulge in any of the activities which are only done when one is married then this would be considered as if the husband has revoked the divorce and they would be re-united as husband and wife.

During the waiting period, both parties have the choice to reconcile with each other. If the husband wishes for this then he can say to his wife that he has taken her back as his wife or can do any of the actions which he could have done as her husband.

If they have not reconciled and the entire waiting period has come to an end, then the revocable divorce becomes irrevocable and they would not be able to reconcile or come together as husband and wife except through a new marriage. This same type of divorce will occur if the husband had specified the word (Baa'in) or irrevocable at the time of uttering divorce to his wife, by saying to his wife that he has given her an irrevocable divorce. In these cases there is no requirement of the wife marrying another person and then returning to the former husband. Both can simply re-marry. The same would be the laws if a second divorce was given in this manner.

The above mentioned type of divorce is known as 'expressed divorce' and would occur whenever it has been mentioned to one's wife whether directly or indirectly i.e. if one has mentioned to another person that he has divorced his wife OR if he has written on a piece of paper/letter informing his wife that he has divorced her OR telling someone to tell his wife that he has divorced her. In all these cases divorce will occur.

Divorce can also occur through un-expressed words. This occurs when the husband utters a statement to his wife which indicates that he wants to end the marriage or he no longer considers her to be his wife. Examples of such statements are: If the husband says to the wife 'Get away from me', 'Go back to your father's home', 'I am no longer your husband', 'We are finished with each other', 'I do not want to see you again'.

These and many more which are uttered by the husband would bring about an irrevocable divorce when the husband's intention through such statements was to be separated or divorced from his wife. If the husband has no such intention and out of anger he mentioned these statements, divorce would not occur.

In this case, when a divorce occurs, they would not be able to live as husband and wife except through re-marriage as mentioned before.

When a husband gives three divorces to his wife, whether they are given on one occasion or on three separate occasions, then the marriage is immediately broken and there will be no room for reconciliation. A woman must go through the normal waiting period (Iddah) of three menses.

If both parties wish to remarry they can only do so when the wife gets married to another person and then that person divorces her. After this has occurred, she may then marry the former husband.

And Allah knows best.

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