

FATWA

Getting married in an abandon period.

Q. Can a man or women get married in an abandon period or a divorce?

A. If the 'abandon period' mentioned in the question refers to a situation where the spouses have abandoned each other after being married then the following are the Islamic guidelines:

1) In an Islamic marriage, the man has the authority to divorce, while the woman has the permission to request a divorce, a khul'a or can request a legal separation or annulment of the marriage. The authority to give a divorce is not with the wife. In situations where living together has become very difficult and the husband do not wish to give a divorce, then the wife may take her case to any authoritative body of Islamic scholars or any competent Muslim committee who may listen to her case and then annul the marriage.

As such, in a case where spouses are not together, it must first be found out as to why they are not together. If the man states that he no longer wants the marriage and he no longer wants his wife, then this is deemed to be a divorce after a period of four months have elapsed (being away from the wife). If the man had no such intention, then it would not be considered a divorce.

If the woman has walked out of the marriage and the man has not divorced her nor does he want to be separated, then the woman would still be considered to be in his marriage.

Whatever the case is, a man can marry in an abandon period and he can also divorce his wife if he has not done so before.

As far as the wife is concerned, she must first find out whether the husband has divorced her or not. This divorce can occur with expressed and unexpressed words.

When the wife finds out that she has been divorced, then she must go through the iddah (waiting) period of three months (counting from the time the divorce was given) after which she can be married.

If she has not been divorced, then she can ask her husband for a divorce. If, in this state of abandonment, the husband does not want to divorce her, then she can present her case to a committee of competent Muslim scholars asking for a legal separation from her husband.

The above answer is given based on our understanding of the question. If our response does not answer your question, then please explain it to us.

And Allah knows best.

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