

389889 - He said to his daughter: I'm going to divorce your mother

the question

My little daughter said to me: If my mother does not agree to travel during the upcoming holiday in two week's time, then you should divorce her. So I said to her jokingly: Okay, I will do it. What is the ruling on that?

Summary of answer

This is like saying: If my wife does not agree to travel, then I will divorce her. This does not count as a divorce, or as a conditional divorce depending on something that may happen in the future.

If a person merely states that he will divorce his wife in the future, or promises or threatens to do that, that does not count as a divorce, according to scholarly consensus, because the divorce must be issued verbally, and it is not sufficient merely to promise or threaten to divorce her in the future. Similarly, the intention alone is not sufficient; rather it is essential to utter the words by means of which divorce takes place, and not merely state that one is going to divorce her.

Detailed answer

Firstly:

This is like saying: If my wife does not agree to travel, then I will divorce her. This does not count as a divorce, or as a conditional divorce depending on something that may happen in the future.

If a person merely states that he will divorce his wife in the future, or promises or threatens to do that, that does not count as a divorce, according to scholarly consensus, because the divorce must be issued verbally, and it is not sufficient merely to promise or threaten to divorce her in the future. Similarly, the intention alone is not sufficient; rather it is essential to utter the words by means of which divorce takes place, and not merely state that one is going to divorce her.

Shaykh al-Islam Ibn Taymiyah (may Allah have mercy on him) said: A promise to divorce does not count as such, even if it is repeated frequently, and there is no obligation to fulfil this

promise, for doing so is not encouraged (mustahabb)."(*Majmu‘ah al-Fataawa* 33/111).

He (may Allah have mercy on him) was asked (33/113) about a man who intended to divorce his wife if she menstruated, but he did not utter the words of divorce.

He replied:

Praise be to Allah. If he intended to divorce her if she menstruated, this does not count as a divorce, according to scholarly consensus. Rather he should divorce her after that [in order for the divorce to count as such], and if he does not divorce her after that, then no divorce takes place. End quote.

The scholars of the Permanent Committee were asked about a man who said to his brother: Go to my wife’s father and tell him that we want to divorce her. Does this count as a divorce?

They replied: If you did not say anything other than saying to your brother, “We want to divorce her,” there is nothing in these words to initiate divorce; rather it is merely a promise to divorce.

And Allah is the source of strength. May Allah send blessings and peace upon our Prophet Muhammad and his family and companions.

Shaykh ‘Abdullah ibn Qa‘ud, Shaykh ‘Abdullah ibn Ghadyan, Shaykh ‘Abd ar-Razzak ‘Afifi, Shaykh ‘Abd al-‘Aziz ibn ‘Abdillah ibn Baz."(*Fataawa al-Lajnah ad-Da’imah* 20/27).

Shaykh Ibn Baz (may Allah have mercy on him) was asked about someone who said to his wife: “When your menses ends I will divorce you.” Does this count as a divorce?

He replied:

If that is what the husband said, that does not count as a divorce and his wife is still married to him, because his words “When your menses ends I will divorce you” do not count as a divorce; rather it is merely a threat to divorce."(*Majmu‘ Fataawa ash-Shaykh Ibn Baz* 22/37).

And Allah knows best.