216915 - He divorced his wife once, then when he went to document it officially in the court, he signed a paper that said he had divorced her three times

the question

My question is that My brother has divorced his wife 14 months ago. He went to the get the divorce paper made himself. On which he said he signed there while he read on it 3 talaq being given in one time. He wasnt completely sure what that exactly meant. As in Pakistan they use it pretty much as a standard format. He did not get the two witness sign the divorce papers and posted one to his wifes address and the other copy that he had to submit at the council, that he did not submit till today. And both the copes were not signed by the witnesses but everyone got aware of his act obviously. He had problems with his wifes family. Later on his wife and her family contacted him numerous times for reconciliation but he refused. And at the same time he kept saying he is confused. Now after all this time that has passed and the way he has given this divorce will it be considered as 1 divorce or 3. Can he get back to his wife? And if Islamic talaq is how Quran says then how can any other method be valid for a muslim regardless if it changed with time. Quran is for all times And he says he followed this method just because this is the method in practice in the country judicial system. He wasn't well aware about the details. And on one side Allah is giving people repeated chances to unite on the other side all of a sudden by one unplanned mistake that u dont know much about you simple losse that right. How can anyones opinions be above the word of Quran.

Detailed answer

Praise be to Allah.

Divorce (talaaq) is the right of the husband that Allah, may He be glorified, has given to him to be issued to his wife if there is a need to do so. The Prophet (blessings and peace of Allah be upon him) affirmed that when he said: “(The right of divorce) belongs to the one who takes hold of the

calf [i.e., her husband who has the right to intimacy].” Narrated by Ibn Maajah, 2072; classed as hasan by al-Albaani in Saheeh Ibn Maajah.

Al-Maawardi said in his commentary on the hadeeth: Divorce (talaaq) is given to the husband, to the exclusion of all others.

End quote from al-Haawi al-Kabeer, 10/356.

In al-Bayaan fi Madhhab al-Imam ash-Shaafa‘i (10/318) it says: The husband is the one who “takes hold of the calf (i.e., has the right to intimacy).” End quote.

‘Umar (may Allah be pleased with him) said: Divorce (talaaq) is only in the hand of the one for whom intercourse is permissible.

End quote from al-Mughni by Ibn Qudaamah, 7/355

Shaykh Ibn ‘Uthaymeen (may Allah have mercy on him) said in ash-Sharh al-Mumti‘ ‘ala Zaad al-Mustaqni‘ (12/490): Allah, may He be exalted, has connected marriage and divorce to the husband himself, as He says (interpretation of the meaning): “O you who believe! When you marry believing women, and then divorce them…” [al-Ahzaab 33:49]. Allah has connected divorce to marriage, so divorce is in his (the husband’s) hands. End quote.

Based on that, it is not permissible for the court or anyone else to supersede the husband with regard to divorcing his wife.

In the case mentioned in the question, if the husband had divorced his wife one time only, then that alone is what counts as such, and what is written on the official papers that he signed is of no significance, so long as he did not intend thereby to issue a threefold divorce.

We only say that because by signing he is considered to have written the divorce, and writing the divorce is more akin to metaphor, as stated in fatwa no. 72291. Metaphor does not count as a divorce unless he intends it as such; if he did not intend by signing this paper to issue a threefold divorce, then there are no consequences to that, and he is not bound by anything except the (one)

divorce that he issued to his wife. This divorce is revocable so long as it was not issued in return for some compensation or money, and was not a third divorce.

Based on the above, the husband has the right to take his wife back, even if that is without her knowledge or consent, if her ‘iddah has not yet ended.

But if her ‘iddah has ended, then he may marry her again, with a new marriage contract and mahr, but the previous divorce still counts as such.

However we should point out that the more correct scholarly view – which is what fatwas on this website are based on – is that if the husband issues a threefold divorce to his wife, it is to be counted as one, and divorce can only be regarded as having been issued three times if he divorced her on three separate occasions, then took her back each time.

This has been discussed previously in fatwa no. 96194

And Allah knows best.