36761 - Ruling on divorce via e-mail

the question

First divorce communicated through email to te wife ,father,and uncle whether valid or a signed document necessary? whether the other two remaining divorces can be obtained immediately?.

Detailed answer

Praise be to Allah.

Firstly:

It is well known in sharee'ah that divorce takes place when the words are uttered, written or indicated by a gesture that takes the place of speaking. See question No. 20660. This is something that is between the husband and his Lord if no one hears him say that. With the regard to divorce via e-mail there is no problem regarding the fact that it is valid: if the husband writes that he is divorcing his wife then the divorce takes place by virtue of that writing. But the issue here is whether this divorce can be proven and authenticated (in court).

It seems that the husband's divorce of his wife via e-mail is effective if it is proven definitively that the one who sent the e-mail containing the words of divorce is the husband or someone whom the husband appointed to issue the divorce, and he acknowledges that and does not deny it.

But if that cannot be proven and the husband does not acknowledge it, then this e-mail message is not valid and divorce does not take place in this case, because it is well known to those who work in this field that it is possible to hack into e-mail accounts and send messages. So we cannot be absolutely certain that the one who sent it is the husband.

So proof and confirmation must be sought from the husband, and the the divorce should not be regarded as having taken place until after it has been confirmed by the husband. If he confirms it

then the ‘iddah begins from the time when he uttered or wrote the words of divorce.

Secondly:

The two remaining divorces (talaaq) cannot take place immediately, for divorce takes place one at a time. Allah says (interpretation of the meaning):

“The divorce is twice” [al-Baqarah 2:229]

This refers to the revocable divorce (i.e., first or second talaaq). Allah did not say “two divorces” – which indicates that it can only happen one at a time, followed by the ‘iddah in each case. If the first divorce is valid as is counted as such, then we have to wait out the ‘iddah. If he takes you back during the ‘iddah, then this divorce counts as one of the three divorces, and he has to bring witnesses to attest to that. If he does not take you back during the ‘iddah, then you are divorced as soon as the ‘iddah is over, and it is not permissible for him to take you back without a new marriage contract and a new mahr, and he is regarded as a stranger to you like any other man who may propose marriage, and the marriage can only be done with your approval and the agreement of your guardian.

The applies in the case of a second divorce; if he takes you back during (the ‘iddah) then you are his wife. In the event of a third divorce, you become haraam for him until you have married another husband in a legitimate shar’i marriage which is not done solely with the intention of enabling you to remarry your first husband, and which is consummated in the proper manner. If it so happens that you get divorced from your second husband then it becomes permissible for you to remarry your first husband after the ‘iddah ends.

And Allah knows best.