

Question 1699) - What is the status of Ila in the Shari'ah?

A: There are various scenarios which are as follows:

If the man says to his wife, "By Allaah, I shall not approach you for four months," then he is muli [commits Ila]. If he has sex with her within four months then he has broken his vow. He is liable to pay Kaffarah for breaking his vow and the Ila is terminated. The meaning of the termination is that if he approaches her after that, he is not liable a second time. This approaching her is called Foy which means terminating the oath. If he does not approach her until four months pass she becomes Bain with one divorce and the oath is terminated.*

If he says, "By Allaah I shall not approach You/By Allaah I shall never approach you,?" and then approaches her within four months he has violated his vow and must pay Kaffarah. If he does not approach her in until the four months are complete she is divorced one Bain. However, in this case the oath remains. Hence if he remarries her the Ila is reinstated. If he then has sex with her in the four months he must pay Kaffarah or else another divorce falls. If he then marries her a third time the Ila is again reinstated. If they have sex within four months he must pay the Kaffarah or else a third divorce falls at the end of the four months. If he then marries her again after she marries another man the Ila is not reinstated but the oath remains. Thus he will pay Kaffarah if they have sex.*

* Based on al-Baqarah:227, ?For those who make Ila with their wives is a waiting of four months. If they then make Fay then Allah is most Forgiving most merciful. And if they resolve upon divorce then Allah is All-Hearing All-knowing.?

* The Ila ends with the third divorce but the oath remains.

~ al-Quduri~