111841 - Marrying with the intention of getting divorced is haraam

the question

What is the ruling on marrying with the intention of getting divorced?
A man may be travelling and he gets married, but his intention is to divorce her when he wants to go back to his own country.

Detailed answer

Praise be to Allah.

Some scholars said that a marriage done with the intention of getting divorced is an invalid marriage, because it is temporary, so it is akin to mut'ah marriage.

Among those who are of this opinion are the scholars of the Standing Committee for Issuing Fatwas. We have quoted their fatwa in the answer to question no. 91962.

Others are of the view that it is a valid marriage, but it is haraam due to the deceit and betrayal involved, because if the woman and her guardian knew that the husband was only getting married with the intention of divorce after a few days or a month and so on, they would not have agreed to that.

Among those who are of this opinion is Shaykh Muhammad ibn 'Uthaymeen (may Allaah have mercy on him). He was asked:

There is a man who wants to go abroad because he is being sponsored by the government, and he wants to maintain his chastity by marrying a woman there for a specific period, then after that he will divorce this wife, without telling her that he is going to divorce her. What is the ruling on his doing this?

He replied:

One of two scenarios must apply to this marriage that is done with the intention of divorce. Either he stipulates in the marriage contract that he is marrying her for a month or a year or until his studies end, which is a mut'ah marriage and is haraam, or he is intending that without stipulating it. The well known Hanbali view is that it is haraam and the marriage contract is invalid, because they say that that which is intended is like that which is stipulated, because the Prophet (peace and blessings of Allaah be upon him) said: "Actions are but by intentions and each person will have but that which he intended." And because if a man marries a woman who was divorced thrice by her husband for the purpose of making her permissible for him, then he divorces her, then the marriage is invalid, even if that is done without any stipulation, because that which is intended is like that which is stipulated. If the intention is tahleel (making it permissible for the woman to go back to her first husband) then the contract is invalid. Similarly the intention of mut'ah renders the marriage contract invalid. This is the view of the Hanbalis. The other scholarly view concerning this issue is that it is valid to marry the woman with the intention of divorcing her when he leaves the country, like those who go abroad to study and so on. They said: Because this is not stipulated, and the difference between this and mut'ah is that when the time stipulated comes, separation is automatic, unlike this, because he may like this wife and want her to stay with him. This is one of the two views of Shaykh al-Islam Ibn Taymiyah.

In my view, it is valid and is not mut'ah, because the definition of mut'ah does not apply to it. But it is haraam because it is deceiving the wife and her family, and the Prophet (peace and blessings of Allaah be upon him) forbade deceiving and cheating. If the wife knew that this man only wanted to marry her for this period, she would not have married him and her family would not have agreed. Just as he would not want to give his daughter in marriage to a person who intends to divorce her when he no longer has any need of her, how can he agree to treat others in a way that he would not like for himself? This is contrary to faith, because the Prophet (peace and blessings of Allaah be upon him) said: "No one of you is a believer until he likes for his brother what he likes for himself." And because I have heard that some people use this opinion as a means to do something which no scholar would approve: they go to other countries just to get married, so they go and get married, and they stay there for as long as Allaah wills with this wife whom they intended to marry for a short time only, then come back. This is also a grave wrong and closing the door to it would

have been better because of the deceit and betrayal involved in it, and because it opens the door to such things, as most people are ignorant and most people's whims and desires encourage them to transgress the sacred limits of Allaah. End quote.

Fataawa al-Mar'ah al-Muslimah (2/757, 758).

It says in the resolutions of the Fiqh Council:

Marrying with the intention of divorce means: a marriage in which the conditions of marriage are fulfilled, but the husband intends in his heart to divorce the woman after a certain length of time, such as ten days, or an unknown length of time, such as when the husband has completed his studies or when he achieves the purpose for which he came.

Although some scholars permitted this type of marriage, the Council thinks that it is not permissible, because it includes deceit and cheating, because if the woman or her guardian knew about that, they would not have agreed to this marriage contract.

And because it leads to serious negative consequences and real harm which damages the reputation of the Muslims.

And Allaah is the Source of strength. May Allaah send blessings and peace upon our Prophet Muhammad and his family and companions. End quote.

https://www.spa.gov.sa/353254

Whatever the case, marrying with the intention of getting divorced is haraam, and it may be either invalid in and of itself like mut'ah, or haraam because of the deceit and betrayal involved.

And Allaah knows best.