142317 - Are gifts for weddings and other occasions like a debt that must be given to the giver on a subsequent special occasion?

the question

One of the customs that are widespread in the region in which I live is that on certain occasions – giving birth and weddings and so on – women give a small amount of money – such as five dinars – when their comes to congratulate a relative or neighbour, and the woman who receives the money is expected, on a subsequent happy occasion, to visit her (the giver) and either give her the same amount of money as she received – which means that they do not want to raise the level of friendship with her – or they give more – which is what usually happens. And it sometimes happens that the woman who gave the money criticises the other woman if she does not visit her and give back the money, and she may say that she has consumed her wealth unlawfully – there is no power and no strength except with Allah. What is the ruling on this interaction? Is the extra amount that I spoke of considered to be riba? For my part, I do not give this extra amount unless the woman is in need or is of high character. Please advise us, may Allah have mercy on you.

Detailed answer

Praise be to Allah.

Firstly:

There is nothing wrong with the custom followed by people in many countries, whereby they give gifts of money on such happy occasions, to one who is getting married or who has just had a baby, and so on, on the basis that the recipient will return the favour, giving the same amount or more, on another similar occasion. In fact this is a good thing, because it is helping with money and supporting others on such occasions when there is usually a need for money because of the expenses involved.

This money, which in many countries is known as nuqoot, is a kind of loan that must be repaid on similar occasions, as customarily happens. In fact if the one who gave it needs it and asks for it, it is obligatory to give it back to him when he asks for it. Hence the one who gave it will always remember it and will keep a record of it in his private papers, in a separate section in his notebook that has to do with this type of loan.

More than one of the fuqaha' have stated that the nuqoot is a loan that must be repaid to the one who gave it, according to custom.

The Shaafa'i faqeeh Ibn Hajar al-Haytami was asked about the ruling on nuqoot, and replied:

With regard to nuqoot, al-Azraqi and an-Najm al-Baalisi issued fatwas stating that it is a loan, so it must be returned to the one who gave it. Al-Balqeeni disagreed with them. The prevalent custom dictates that no one gives anything of this nature except with the aim that something similar should be given back to him, if he has a similar happy occasion. And the fact that this custom is clear and well established supports the first view. And Allah knows best. End quote.

Al-Fataawa al-Fiqhiyyah al-Kubra, 3/265

Al-Mardaawi (a Hanbali scholar) said:

Note: al-Kamaal ad-Dameeri said in his commentary on al-Minhaaj concerning the nuqoot which is customary at weddings: an-Najm al-Baalisi said: It is like a debt and the one who gave it may ask for it, and custom has nothing to do with that, because it is not consistent.

End quote. al-Insaaf, 8/315

The point of quoting this text is that it rules that the nuqoot is a debt and it must be returned to the giver, even if custom is not consistent in this regard. But if custom is consistent and dictates that it should be returned or may be asked for, then undoubtedly the argument is stronger that it should be repaid and regarded as a debt. This is the basis on which al-Haytami reached his conclusion, as referred to above.

Shaykh ‘Ulaysh al-Maaliki (may Allah have mercy on him) was asked about a man who held a wedding, and another man gave him a sum of money equivalent to the value of a sack of wheat, then two years later the giver asked for repayment. Should it be ruled that the recipient has to give back the value of this sack of wheat to the giver?

He said in his response:

Yes, it should be ruled that the recipient should pay back the equivalent of what was given to the giver, if it was stipulated or it is customary to do so. What matters is the value on the day he gives it back, not the day he asked for it, as it says in al-Kharashi and elsewhere.

Ibn al-‘Attaar said: Whatever is given of a ram or similar gifts at the time of the wedding party, it should be given back to the giver if he asks to be rewarded later on, as is customary. It is an implicit deal that everyone should do that on the basis that he will be given something similar when he has a wedding …

It may be understood from the phrase “when he has a wedding” that the giver is required to be patient until he has a wedding or similar event. And it says something similar in al-Burzuli. However, the apparent meaning of the words of at-Tataa’i is that he does not have to be patient, if that is the custom. He was followed in this view by al-Ujhoori and al-Kharashi. The recipient does not have to give a gift of more or less the same value unless he receives it in his hand, in which case he is obliged to give the value of the gift, based on its value on the day he received it. And the giver has the right to take back part of the value straight away and he does not have to wait until he has a wedding. End quote.

In the following question it says:

What do you say about someone who gives nuqoot to another person on the occasion of a wedding, then he asks for it back (without waiting for a subsequent wedding)? Does he have to respond to his request straightaway, and not wait until the giver has a wedding? Please answer.

They replied:

He should respond straightaway, because of the texts mentioned in the previous question. And Allah knows best.

End quote from Fath al-‘Ali al-Maalik, 2/268

Secondly:

With regard to the custom of giving something extra when returning the nuqoot, which (in turn) becomes a debt so that the (original) giver becomes a debtor upon receipt of this new nuqoot, what appears to be the case is that there is nothing wrong with this, in sha Allah, because this additional amount is customary; the original giver will not keep it in return for the loan that he gave (i.e., the nuqoot). Rather it is a kind of reward and help and treating one another fairly. Just as the first giver gave you a loan at your time of need, it is only fair that you should give him a loan at his time of need, and not only repay his loan. This is, in some ways, like a group of employees in which each one lends to another on the basis that the other will lend to him when it is his turn to have a loan.

Shaykh al-Islam Ibn Taymiyah (may Allah have mercy on him) said, concerning the verse in which Allah says (interpretation of the meaning): “And have in his mind no favour from anyone for which a reward is expected in return, Except only the desire to seek the Countenance of his Lord, the Most High; He surely will be pleased (when he will enter Paradise)” [al-Layl :19-20]: What is meant is: his giving is not limited to those who did him favours before, because this is a kind of fair treatment that is required of all people when they deal with one another. It is like when you exchange items when buying and selling and renting. This is required of all people towards all other people; if there is no one whom he should reward for having done him a favour (as mentioned in the verse quoted above), then his giving is not subject to this equation and his giving is purely for the sake of his Lord Most High.

Minhaaj as-Sunnah an-Nabawiyyah, 7/372. See also: al-Furoo‘ by Ibn Muflih, 4/638; al-Ikhtiyaaraat by Shaykh al-Islam, 183

Note:

If the custom in a particular country is that what is given on such occasions is purely a gift, and the giver does not expect something similar in return and does not expect any material reward for it, then it is not a debt and the recipient does not have to keep a record of it and return it, although it is mustahabb to reward the giver for that.

The same applies when the giver and recipient are closely related, and the one who gives does not expect something similar in return, such as if he is his father, brother or close friend, and he wants to give him a gift or help him with his wealth.

And Allah knows best.