224093 - A Muslim apostatised and became Christian in order to get asylum in a foreign country, but he believes that he is still a Muslim

the question

My brother has claimed asylum in a foreign country in order to do that he had to convert to Christianity, now his wife and her family has stopped talking to him and are insisting that his Nikah is no longer valid as he has changed his religion, but my brother insists that he has only done it to claim refugee status so he can better support his family financially, my brother says that he is still a Muslim and practices Islam. He has a 5 year old daughter and he wants his wife and daughter to be with him and live a normal life. He is very confused and do not know how to convince his wife & her parents believe that he is still a Muslim and his Nikah is still valid. Please help me in the light of Quran and Hadith so I may be able to help my brother and his wife InshaAllah.

Detailed answer

Praise be to Allah.

Allah, may He be exalted, says (interpretation of the meaning):

“Whoever disbelieved in Allah after his belief, except him who is forced thereto and whose heart is at ease with Faith, but such as open their hearts to disbelief, on them is wrath from Allah, and theirs will be a great torment”

[an-Nahl 16:106].

Shaykh al-Islam Ibn Taymiyah (may Allah have mercy on him) said:

This verse is one of those which indicate that the view of Jahm and those who followed him is incorrect, because he regarded everyone who speaks words of kufr as being subject to the warning that is applicable to the disbelievers (eternity in Hell), except him who is forced thereto

and whose heart is at ease with faith.

If it is said: But Allah, may He be exalted, says “but such as open their hearts to disbelief”, the response is that this is in harmony with the beginning of the verse, because the one who disbelieves without being forced to has opened his heart to disbelief. Otherwise the beginning of the verse would contradict the end, and if what is meant by the one who disbelieves is the one who opens his heart to it, which means without being forced, then an exception would not be made in the case of the one who is forced only; rather there would have to an exception for the one who is forced and the one who is not forced, if he did not open his heart to it. And if he speaks the words of disbelief willingly, then he has opened his heart to it, and that is disbelief.

This is also indicated by the verse in which Allah, may He be exalted, says (interpretation of the meaning):

“The hypocrites fear lest a Soorah (chapter of the Qur’an) should be revealed about them, showing them what is in their hearts. Say: ‘(Go ahead and) mock! But certainly Allah will bring to light all that you fear.’

If you ask them (about this), they declare: ‘We were only talking idly and joking.’ Say: ‘Was it at Allah, and His Ayat (proofs, evidences, verses, lessons, signs, revelations, etc.) and His Messenger (blessings and peace of Allah be upon him) that you were mocking?’

Make no excuse; you have disbelieved after you had believed. If We pardon some of you, We will punish others amongst you because they were Mujrimoon (disbelievers, polytheists, sinners, criminals, etc.)”

[at-Tawbah 9:64-66].

Here Allah states that they had disbelieved after having believed, even though they said: We spoke words of disbelief without believing in that; rather we were just talking idly and joking. And He highlighted the fact that making fun of the revelations of Allah constitutes disbelief, and this can only come from one who has opened his heart to such words, for if there had been any faith in

his heart, it would have prevented him from speaking such words.

End quote from Majmoo‘ al-Fataawa (7/220).See also as-Saarim al-Maslool (524)

Everyone who clearly speaks words of disbelief deliberately and by his own choice becomes a disbeliever, even if that is for the sake of achieving some worldly aim. Most of the disbelief that occurs among people is of this type. The only one for whom an exception is made is the one who is forced or compelled, subject to the conditions connected to such compulsion.

Al-Qurtubi (may Allah have mercy on him) said:

The scholars are unanimously agreed that if a person is forced or compelled to disbelieve, to the extent that he fears for his life, then there is no sin on him if he disbelieves when his heart is at ease with faith…

End quote from al-Jaami‘ li Ahkaam al-Qur’an (12/435)

But what is the definition of force or compulsion?

The scholars had various views on the definition of force or compulsion, but in general they all boil down to a genuine threat of killing or loss of limb, or threats of rape to both men and women, and the like.

It says in al-Mawsoo‘ah al-Fiqhiyyah al-Kuwaitiyyah (6/101-102) with regard to the conditions of force or compulsion:

That what he is threatened with should be killing or loss of limb, or even by taking away his strength or faculties whilst leaving him alive, such as taking away his sight or his ability to use his hands or walk, even if his limbs are left intact, or other things that cause distress, which includes threatening both men and women with rape.

As for threats of starvation, that varies, but it is not regarded as force or compulsion until the hunger reaches a level whereby the one who is being compelled fears that he may die as a result… End quote.

With regard to blatantly uttering words of disbelief for the sake of improving one’s financial condition, that definitely does not come under the heading of compulsion.

Shaykh al-Islam Ibn Taymiyah (may Allah have mercy on him) said:

I studied the madhhab and I found that compulsion varies according to what the person is being forced to do or say. Compulsion to utters the word of disbelief is not like compulsion to give a gift and the like. Ahmad stated in more than one place that compulsion cannot be regarded as an excuse for uttering the word of disbelief unless torture, such as beating or typing up, is used. Mere (harsh) words cannot be regarded as an excuse for uttering the word of disbelief.

End quote from al-Mustadrak ‘ala Majmoo‘ al-Fataawa (5/8). See also: Majmoo‘ al-Fataawa (1/372-373)

Moreover, one of the conditions of compulsion (that may excuse a person for uttering the word of disbelief) is that the one who is compelled should not be able to flee from the one who is compelling him, and whose torture he fears. But if he is able to flee, but does not do so, and he remains in that place until he is forced to leave his religion, then he is not regarded as having been compelled to do so. So how about one who goes himself to the place where he will be tempted to leave his religion?

Allah, may He be exalted, says (interpretation of the meaning):

“Verily! As for those whom the angels take (in death) while they are wronging themselves (as they stayed among the disbelievers even though emigration was obligatory for them), they (angels) say (to them): ‘In what (condition) were you?’ They reply: ‘We were weak and oppressed on earth.’ They (angels) say: ‘Was not the earth of Allah spacious enough for you to emigrate therein?’ Such men will find their abode in Hell - What an evil destination!

Except the weak ones among men, women and children who cannot devise a plan, nor are they able to direct their way.

For these there is hope that Allah will forgive them, and Allah is Ever Oft Pardoning, Oft-Forgiving”

[an-Nisa’ 4:95-97].

Shaykh as-Sa‘di (may Allah have mercy on him) said in his Tafseer (195):

This is a stern warning to those who did not migrate when they was able to, until they died. The angels who seize their souls rebuke them with these harsh words and say: “‘What was the matter with you?’” In other words: what was your situation? How did you make yourself distinct from the polytheists? In fact you increased their numbers and perhaps you supported them against the believers, and you missed out on a lot of righteous deeds, jihad with Allah’s Messenger and being with the Muslims, helping them against their enemies.

“They reply: ‘We were weak and oppressed in the land’” that is, weak, downtrodden and oppressed; we had no means of migrating. But they are not speaking the truth when they say that, because Allah rebuked them and warned them, and Allah does not burden any soul with more than it can bear.

Then an exception is made for those who were genuinely weak and oppressed; hence the angels say to them: “‘Was Allah’s earth not spacious enough for you to migrate to some other place?” This is a question that is asked to establish a fact. In other words it is well established in the minds of everyone that the land of Allah is spacious and whenever a person is in a place where he is not able to practice his religion openly, then he has other places on earth and a way out to a land where he will be able to worship Allah. End quote.

So this person must repent to Allah, may He be exalted, from this grave sin, and he must give up what he is doing. You have to advise him that the blessings of Allah, may He be exalted, cannot be attained by disobeying Him and disbelieving in Him; rather they can only be attained by fearing Him.

Allah, may He be exalted, says (interpretation of the meaning):

“And whosoever fears Allah and keeps his duty to Him, He will make a way for him to get out (from every difficulty).

3. And He will provide him from (sources) he never could imagine. And whosoever puts his trust in Allah, then He will suffice him. Verily, Allah will accomplish his purpose. Indeed Allah has set a measure for all things”

[al-Talaaq 65:2-3]

Shaykh as-Sa‘di (may Allah have mercy on him) said:

Everyone who fears Allah, may He be exalted, and constantly seeks the pleasure of Allah in all his affairs, Allah will reward him in this world and the hereafter. Part of that reward is that He will grant him a way out from every hardship and difficulty. Just as whoever fears Allah, Allah will grant him a way out, whoever does not fear Allah will fall into hardship and difficulty that he cannot save himself from or avoid its consequences.

Tayseer al-Kareem ar-Rahmaan fi Tafseer Kalaam al-Mannaan (p. 1026)

The way to have a happy life is not by having lots of money; rather it is by fearing Allah and putting one’s trust in Him properly, and understanding that no person dies until he has used up all the provision that was decreed for him.

It was narrated that Jaabir ibn ‘Abdullah said: The Messenger of Allah (blessings and peace of Allah be upon him) said: “O people, fear Allah and be moderate in seeking a living, for no soul will die until it has received all its provision, even if it is slow in coming. So fear Allah and be moderate in seeking provision; take that which is permissible and leave that which is forbidden.”

Narrated by Ibn Maajah (2144); classed as saheeh by al-Albaani in Saheeh Sunan Ibn Maajah (2/207).

Secondly:

With regard to the wife of an apostate with whom her husband consummated the marriage before he apostatised, one of two scenarios must apply:

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The first scenario is that the husband repents before her ‘iddah comes to an end. In that case they may go back to one another, after he repents to Allah, may He be exalted, without a new marriage contract, as was regarded as the more correct view by a number of scholars.

Shaykh ‘Abd al-‘Azeez ibn Baaz (may Allah have mercy on him) said:

Reviling the religion constitutes apostasy from Islam; similarly, reviling the Qur’an and reviling the Messenger also constitute apostasy from Islam, and disbelief after having believed – we seek refuge with Allah from that. But it does not count as divorce for the wife; rather they should be separated without divorce and it is not a divorce; in fact she becomes prohibited to him, because she is a Muslim and he is a disbeliever. She becomes prohibited to him until he repents; if he repents before her ‘iddah ends, then she may go back to him with no need for anything. In other words, if he repents and turns back to Allah, she may go back to him.

End quote from Fataawa Noor ‘ala ad-Darb by Shaykh Ibn Baaz (p. 140).

Shaykh Ibn ‘Uthaymeen (may Allah have mercy on him) said:

If a man apostatises – Allah forbid – his marriage is annulled, unless he repents and comes back to Islam before the end of the ‘iddah, in which case his marriage remains valid.

End quote from Fataawa Noor ‘ala ad-Darb by Shaykh Ibn ‘Uthaymeen (19/2).

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The second scenario is if he repents after the ‘iddah has ended. The majority are of the view that he cannot take her back; rather he may do that with a new marriage contract.

Shaykh al-Islam Ibn Taymiyah (may Allah have mercy on him) said:

If he apostatised and did not come back to Islam until his wife’s ‘iddah ended, then she is completely divorced from him according to the four imams.

End quote from Majmoo‘ al-Fataawa (32/190)

Shaykh ‘Abd al-‘Azeez ibn Baaz (may Allah have mercy on him) said:

If he repents after the ‘iddah is over and he wants to (re)marry her, there is nothing wrong with that, but it should be with a new marriage contract, so as to be on the safe side and avoid a matter concerning which the scholars differed. Otherwise some of the scholars think that she is permissible for him without a new marriage contract, if she chooses him and did not marry anyone else after the ‘iddah ended; rather she remained as she was. But if he does a new marriage contract, that is better so as to avoid going against the view of the majority of scholars, because the majority of scholars say that when her ‘iddah ends, she becomes completely divorced from him, and becomes a stranger to him, and she is not permissible for him except with a new marriage contract. Therefore the best and more prudent option is that he should do a new marriage contract. This applies if her ‘iddah ended before he repented. But he is repented before her ‘iddah ended, then she remains his wife, because the Prophet (blessings and peace of Allah be upon him) approved of the previous marriages of those who became Muslim after their wives had done so, if they became Muslim before their wives’ ‘iddahs ended.

End quote from Fataawa Noor ‘ala ad-Darb (p. 140)

To sum up: Anyone who utters the word of disbelief deliberately and willingly becomes a disbeliever thereby. The only exception from that is one who is compelled or forced; he does not become a disbeliever. The one who speaks the word of disbelief in order to increase his wealth is not compelled.

If the apostate repents from his apostasy when his wife with whom he consummated the marriage was still observing ‘iddah, then he may take her back. But if he repents after the end of her ‘iddah, then to be on the safe side, he may take her back with a new marriage contract.

And Allah knows best.