10343 - She stipulated that he should not make her leave her house or her country

the question

The wife stipulated in the marriage contract that her husband should let her stay in her country and not make her move with her husband to another country. What is the ruling?

Detailed answer

Praise be to Allah.

If the wife or her guardian stipulates that the husband should not make her leave her house or her country, that is a valid condition and he must act in accordance with it, because ‘Uqbah ibn ‘Aamir narrated in a marfoo’ report: “The conditions which are most deserving of being fulfilled are those by means of which intimacy becomes permissible for you.” (Narrated by the two Shaykhs, i.e. al-Bukhaari and Muslim). Al-Artham narrated that a man married a woman on the condition that she stay in her house, then he wanted to make her move. The dispute was referred to ‘Umar (may Allaah be pleased with him) and he said, “She has the right to the condition she stipulated.”

But if the wife agrees to move with him then she may do so, and if she frees him from this condition it no longer applies. If there is any dispute concerning this matter it should be referred to the local sharee’ah court in order to settle the matter.