11515 - Prohibition on quid-pro-quo marriage and its evil consequences

the question

Two men agreed that each of them would give his sister in marriage to the other. What is the ruling on this marriage?.

Detailed answer

Praise be to Allah.

This marriage is known in Arabic as nikaah al-shighaar (quid-pro-quo marriage). It is haraam and was forbidden by the Prophet (peace and blessings of Allah be upon him).

Nikaah al-shighaar refers to when a man gives his daughter, sister or other female relative whose guardian he is in marriage on the basis that the other man will give him a female relative in marriage, or will let his son or nephew marry his daughter, sister or niece, and so on. The marriage contract done on this basis is invalid, whether a mahr is stated or not, because the Messenger (peace and blessings of Allah be upon him) forbade that and warned against it. And Allah says (interpretation of the meaning):

“And whatsoever the Messenger (Muhammad) gives you, take it; and whatsoever he forbids you, abstain (from it)” [al-Hashr 59:7]

In al-Saheehayn it is narrated from Ibn ‘Umar (may Allah be pleased with him) that the Messenger of Allah (peace and blessings of Allah be upon him) forbade shighaar.

In Saheeh Muslim (1416) it is narrated that Abu Hurayrah (may Allah be pleased with him) said: The Messenger of Allah (peace and blessings of Allah be upon him) forbade shighaar. Ibn Numayr added: Shighaar means when a man says to another: “Give me your daughter in marriage and I will give you my daughter in marriage, or give me your sister in marriage and I will give you my

sister in marriage.”

And he (peace and blessings of Allah be upon him) said: “There is no shighaar in Islam.” Narrated by Muslim, 1415.

These saheeh ahaadeeth indicate that nikaah al-shighaar is haraam and invalid, and that it goes against the laws of Allah. The Prophet (peace and blessings of Allah be upon him) did not differentiate between that in which a mahr is mentioned and that in which no mahr is mentioned.

With regard to what was narrated in the hadeeth of Ibn ‘Umar, explaining shighaar as being when one man gives his daughter in marriage to another on the basis that he (the latter) will give him (the former) his daughter in marriage with no dowry (mahr) between them – the scholars have stated that these are the words of Naafi’, the narrator who transmitted it from Ibn ‘Umar, and are not the words of the Prophet (peace and blessings of Allah be upon him). The Prophet (peace and blessings of Allah be upon him) explained it as narrated in the hadeeth of Abu Hurayrah quoted above, as being when a man gives his daughter or sister in marriage on the basis that the other man will give him his daughter or sister in marriage. He did not say, “with no dowry between them.” This indicates that whether there a dowry is mentioned or not has no effect on that. Rather the factor that determines that this marriage contract is invalid is the idea of exchange or reciprocity. That leads to a great deal of corruption, because it may lead to women being forced to marry people they have no desire to marry, and giving precedence to the interests of guardians over the interests of women. This is an evil thing and injustice towards women. It also deprives women of the dowries that their peers receive, as happens among those who engage in this wrongful contract, except those whom Allah wills. It also leads to a great deal of arguments and disputes after marriage; this is an example of the immediate punishment (in this world) for those who go against sharee’ah.

Ahmad (16414) and Abu Dawood (2075) narrated with a saheeh isnaad from ‘Abd al-Rahmaan ibn Hormuz that al-‘Abbaas ibn ‘Abd-Allah ibn ‘Abbaas gave his daughter in marriage to ‘Abd al-Rahmaan ibn al-Hakam, and ‘Abd al-Rahmaan gave his daughter to him in marriage, and each of them gave a dowry. Mu’aawiyah ibn Abi Sufyaan, who was the caliph, wrote to Marwaan ordering

him to separate them, and he said in his letter: “This is the shighaar which the Messenger of Allah (peace and blessings of Allah be upon him) forbade.”

This incident which took place at the time of the caliph Mu’aawiyah clearly shows us what was meant by the shighaar that the Messenger (peace and blessings of Allah be upon him) forbade in the hadeeths quoted above, and demonstrates that mentioning a dowry does not make the marriage valid or alter the fact that it is shighaar, because al-‘Abbaas ibn ‘Abd-Allah and ‘Abd al-Rahmaan ibn al-Hakam both mentioned a dowry, but Mu’aawiyah (may Allah be pleased with him) did not pay any attention to that, and he ordered that they be separated and said: “This is the shighaar which the Messenger of Allah (peace and blessings of Allah be upon him) forbade.” Mu’aawiyah (may Allah be pleased with him) had a better knowledge of the Arabic language and the meanings of the hadeeths of the Messenger (peace and blessings of Allah be upon him) than Naafi’, the freed slave of Ibn ‘Umar (may Allah be pleased with them all).

With regard to the solution for one who has become involved in a shighaar marriage and who loves his wife and his wife loves him, the answer is for them to do a new marriage contract with a wali (guardian) and a new mahr, and with two witnesses of good character. In this manner they will have done what is required of them and the wife will become permissible (for the husband). They must also repent to Allah for what happened before, and if they have children, they are to be attributed to the father because they thought that the marriage was valid. But if the husband does not love the wife or vice versa, then he has to divorce her with one talaaq, which will be a revocable divorce, and she will have the right to marry someone else once her ‘iddah is over. If the husband wants to take her back, then he may do so with a new marriage contract, if she wants to go back, in which case there are two divorces left, and there is nothing wrong with him marrying her anew during the ‘iddah period.