124678 - Getting married in the embassy with two non-Muslim witnesses

the question

I got married in a non-Muslim country in the embassy of the country that my wife is from, so that she would have a wali (guardian), but the witnesses were not Muslim. Is my marriage permissible despite that?.

Detailed answer

Praise be to Allah.

In order for a marriage to be valid, it is essential to have two Muslim witnesses of good character, because the Prophet (peace and blessings of Allaah be upon him) said: “There is no marriage except with a wali and two witnesses of good character.” Narrated by al-Bayhaqi from the hadeeth of ‘Imraan and ‘Aa’ishah; classed as saheeh by al-Albaani in Saheeh al-Jaami’, no. 7557

Ibn Qudaamah (may Allaah have mercy on him) said: Marriage cannot be done except with two Muslim witnesses, whether the couple are both Muslims, or only the husband is Muslim. This was stated by Ahmad, and it is the view of al-Shaafa’i, because the Prophet (peace and blessings of Allaah be upon him) said: “There is no marriage except with a wali and two witnesses of good character.” End quote from al-Mughni (7/7).

The majority of scholars are of the view that having witnesses is essential to the validity of the marriage, except the Maalikis who say that it is permissible to delay the witnessing of the marriage until before consummation, and it is not necessary for it to be at the time the marriage contact is done. Based on this, if two Muslim witnesses testify to your marriage now, before consummation, it is valid. See Haashiyat al-Dasooqi (2/216).

Some of the scholars are of the view that having the marriage witnessed is not an essential condition, rather it is sufficient to announce the marriage; if the marriage is proclaimed and announced, it is valid. This is the view of al-Zuhri and Imam Maalik.

This view was favoured by Shaykh al-Islam Ibn Taymiyah and was regarded as more correct by Shaykh Ibn ‘Uthaymeen (may Allaah have mercy on him). See: al-Sharh al-Mumti’, 12/94.

Shaykh al-Islam (may Allaah have mercy on him) said: Undoubtedly a marriage that is announced is valid even if it is not witnessed by two witnesses. But if it is concealed and witnessed that is subject to further discussion.

If it is both witnessed and announced, there is no dispute as to its validity.

If it is neither witnessed nor announced, then it is invalid according to most scholars; even if some held a different view, they are very few. End quote from al-Ikhtiyaaraat al-Fiqhiyyah, p. 177.

Based on this, if the marriage was announced and became known, then it is valid, but it is better to repeat the marriage contract in the presence of the wali and two witnesses of good character who are Muslims, based on the view of the majority.

And Allaah knows best.