160909 - What should a person do who was adopted by someone and named after his adoptive father; is a marriage contract done with that name valid?

the question

One of my female friends wants to marry a young man whose parents died last year. This young man was their adopted son and his adoptive father gave him his name.

He tried to find his real parents but with no success, because now he is thirty-one years old. My question is: if his name or family name is that of his adoptive father, will the marriage contract in that name be valid?.

Detailed answer

Praise be to Allah.

Firstly:

It is proven that adoption is haraam according to the Qur'aan, Sunnah and scholarly consensus. So it is not permissible for anyone to attribute himself to anyone other than his father, and it is not permissible for the one who sponsors an orphan – for example – to attribute him to himself and his tribe. Rather he should be attributed to his father. If his father is not known, then he should attribute him to himself as a brother or wala', and this is the wala' of alliance not the wala' of manumission. This is something that is not part of the work of government departments (i.e., they not record and document wala').

Nowadays the individual needs to have identity papers to make life easy, in order to study and work and get married. In the case of an adopted person whose father is not known and so he cannot be named after him, the state has to give him a made-up name and not name him after

any particular individual or tribe.

The adopted person should try hard to look for his parents because of the shar'i rulings that are connected to that and the psychological impact it has.

For more information on the above, with evidence and comments of the scholars, please see the answers to questions no. 126003, 5201 and 10010

Secondly:

There is no connection between the soundness of the marriage of one who was adopted and his name being correct, because the conditions of marriage on which its validity depends are specifying the partners, the proposal from the guardian of the wife and acceptance from the husband, along with the consent of the wife and the presence of witnesses or announcing the marriage, and there being no impediments.

The fact that the person who wants to get married has been named after the man who adopted him is not contrary to any of the conditions of marriage. What is required is to specify in the marriage contract that he is this particular person, regardless of his father's name or the name of his family; even if he changes his name after marriage, the marriage is not affected by that because what matters with regard to the marriage contract is the person in question and not the format of his name.

Please see the answer to question no. 104588 for a discussion on the condition of specifying the two partners, where it explains that a false name does not have any impact on the validity of the marriage.

But here we should point out that the one who attributed someone to himself – whether by mistake or deliberately or out of ignorance – in official papers should set the matter straight with the state and change the adoptive name, because of the consequences of not doing that which may affect rulings having to do with inheritance, establishing who is a mahram, and so on. If that is not possible then the adoptive son should set the matter straight by going to the sharee'ah

court to obtain documents with a first and second name in such a way that he is not attributed to anyone in particular. The first name should be any permissible name he likes and the second name and others should be a name that is indicative of being a slave of Allah such as ‘Abd-Allah or ‘Abd al-Kareem.

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

He should be called by a name that is permissible in Islam such as ‘Abd-Allah ibn ‘Abd-Allah, or ‘Abd-Allah ibn ‘Abd al-Lateef, or ‘Abd-Allah ibn ‘Abd al-Kareem, because all people are slaves of Allah. This is so that he would not have any problem in school and so that that will not affect his confidence or cause him harm. What is meant is that he should be given a name that is indicative of being a slave of Allah such as ‘Abd-Allah ibn ‘Abd al-Kareem, or ‘Abd-Allah ibn ‘Abd al-Lateef, or ‘Abd-Allah ibn ‘Abd al-Malik, and so on. This is better, in sha Allah. Or he may be called by a name that is used for both men and women, and this could be safer too, because he is named after his mother. So they could call him by a name that is used for both men and women such as, ‘Abd-Allah ibn ‘Atiyyah, or ibn ‘Atiyyat-Allah, or ‘Abd-Allah ibn Hibbat-Allah, because Hibat-Allah and ‘Atiyyat-Allah are names that used for both women and men.

End quote from Fataawa Noor ‘ala al-Darb, tape no. 83.

If he not able to do that in the official papers, then the least that he should do is apply that in his daily life, by telling his relatives and the people around him about the reality of his lineage so that his lineage will not become mixed with the lineage of someone else, and so that the rulings of mahrams, inheritance and other rulings will not become confused for him and the people around him, lest he or his children mix with people for whom it is not permissible for them to mix, on the basis on being incorrectly attributed to his adoptive father, or lest he inherit from the one who adopted him, or his adoptive relatives inherit from him, and other rulings that are connected to this matter.

And Allah knows best.