45663 - Mut’ah marriage and ‘urfi marriage

the question

I want to marry a Muslim girl, but in three years’ time, and I do not want to commit sin with her. I want to marry her in a ‘urfi marriage (a kind of marriage in which the nikaah is not registered officially or announced) or a mut’ah marriage until I can marry her in the shar’i manner later on. What should I do when I want to marry her in the shar’i manner after that? Because I fear Allah and I do not want to fall into sin. This is the best and most permissible method, but Allah knows best. What should I do?.

Detailed answer

Praise be to Allah.

The question is not clear. The brother’s words may be understood in more than one way with regard to his intention in the marriage contract about which he is asking. He says “ ‘urfi marriage” then he says “mut’ah”. It is known that there are two well-known forms of “ ‘urfi marriage”, and he could be asking about three kinds, so we will answer on the assumption that he is asking about all of them.

As for mut’ah marriage, which means marrying for a set time limit agreed upon by both parties, for a specified mahr (dowry), after which the marriage contract is annulled upon expiry of that time period – this is a haram marriage contract which is not valid at all. This has already been discussed in the answers to questions no. 2377 and 6595.

With regard to “ ‘urfi marriage” – there are two types of this:

1 – Where the woman is married in secret, without the agreement of her wali (guardian). If that is the case then it is a haram marriage contract which is not valid, because the agreement of the wali is one of the conditions of the marriage contract being valid.

In the answer to question no. 2127 you will find a summary of the conditions of marriage, and the conditions of the wali. In the answer to question no. 7989 there are more details about the importance of the wali in order for the marriage to be valid.

2 – Marriage with the agreement of the woman and her wali, but without announcing the marriage publicly, or registering it in the shar'i or civil courts, but there are witnesses. If this is the case, then it is a valid marriage from the point of view of having met the necessary conditions, but it goes against the Islamic command to publicize the marriage. Not having the marriage officially documented may lead to the wife losing out on her rights with regard to the dowry and inheritance, and if the marriage leads to children, how will this child be recorded in official documents? How will the woman defend her honour before people?

It should also be noted that some of the fuqaha' say that publicizing the marriage is one of the conditions of it being valid, which is not far from the truth. They gave as the reason for that the fact that publicizing the marriage demonstrates the difference between marriage and immoral relationships. This is supported by the words of the Prophet (peace and blessings of Allah be upon him): "The difference between what is halaal and what is haram is beating the daff and raising the voice at weddings." Narrated by al-Tirmidhi, 1088; al-Nasaa'i, 3369; Ibn Maajah, 1896. Classed as hasan by Shaykh al-Albaani in Irwa' al-Ghaleel, 1994

Shaykh al-Islam Ibn Taymiyah said:

There is no doubt that a marriage which is announced publicly is valid, even if it is not witnessed by two witnesses, but if it is concealed and kept secret, this is a matter concerning which there is some debate. If there are witnesses and it is also announced publicly, this is the marriage concerning which there is no dispute that it is valid. If there are no witnesses and it is not announced publicly, then it is invalid according to all scholars. But if there are any scholars who dispute this, they are very few.

Al-Fataawa al-Kubra, 3/191

Ibn al-Qayyim said:

The Lawgiver has stipulated four conditions for marriage in addition to the marriage contract, in order for there to be no suspicion of immoral conduct: it should be publicized, there should be a wali (woman's guardian), the woman should not do the marriage contract herself and it is mustahabb to beat the daff and raise voices (in song) and give a waleemah (wedding feast), because that does away with the means that may lead to immoral actions under the guise of being married.

I'laam al-Muwaqqi'een, 3/113

i.e., if marriage is done in secret, it is possible that if the woman gets pregnant and gives birth, the man may deny this child because there is no proof that this woman is his wife and this child is his child. But if there are witnesses and the marriage is publicized, there is no room for this evil action to take place.