69742 - He has AIDS – can he marry someone who has the same disease?

the question

I have a question similiar to the Question Reference #11137, (Ruling on marrying one's daughter to an AIDS patient). I myself am in a similiar situation wherein I want to marry a sister and she has been diagnosed with the HIV virus. However her levels of the virus are so low that they are undetectible. She has been married before and has a 4 year old son, both of whom have not contracted the virus. In reference to marrying someone with the HIV virus I understand that some scholars say that it is not permissible, and some say other wise. In your answer to the above question you say it's okay given the parties are aware of it. My question is:

1. Can she marry if the relations she has are protected?

2. Can she marry if both people agree not to have intercourse?

3. Can a man marry her to have her rights of marriage be fulfilled for the pleasure of Allah?.

Detailed answer

Praise be to Allah.

In the answer to question no. 11137 we stated the ruling on marriage of one who has AIDS, and we said: He should not marry until he has explained his situation and said, "I have such and such a disease." If they agree to that then all well and good, otherwise the marriage should not go ahead, because if he conceals his situation from them, then he has deceived them and cheated them, and this woman may transmit the disease to her husband, or the husband may transmit it to his wife, and it may be transmitted to their children after that. But if she agrees to marry you and accepts the will and decree of Allah, there is nothing wrong with that.

There is nothing wrong with the brother who asked this question marrying a woman who is healthy

or sick, so long as you explain your medical situation. If they agree, and you want to have intercourse, then you can use condoms.

Dr ‘Abd-Allah al-Haqeel – whom I consulted and who is the head of the Stomach Diseases section in the Medical College of the King Sa’ood University – said:

Marriage of an AIDS patient is a serious problem, because the main cause of the transmission of this disease is sexual contact. Using a condom gives a high degree of protection but the other party – man or woman, must be fully aware of the expected consequences.

Al-Watan newspaper, issue no. 522, 2nd year – Tuesday 21 Dhu’l-Hijjah AH/ 5 March 202 CE.

Married life is not only about intercourse; you could marry this woman if you both agree not to have intercourse, for a man’s need for a woman, and vice versa, is not just the matter of sexual needs. There are the matters of caring for one another, protection, spending, love and helping one another to obey Allah. The love of one party for the other, so that the latter may inherit, may the reason for marriage, such as marriage to a minor who is not able for intercourse. Such a marriage is valid according to sharee’ah, even if no intercourse takes place. Based on this, there is no reason why you should not get married and agree not to have intercourse.

The majority of scholars stated that it is permissible for a Muslim to get married during his final illness, if he is mature and of sound mind; what need for intercourse is there in this case for which he should get married?

Shaykh al-Islam Ibn Taymiyah (may Allah have mercy on him) was asked about a sick person who got married whilst he was sick – is this marriage contract valid?

He replied:

The marriage of a sick person is valid, and the wife inherits from him, according to the majority of Muslim scholars among the Sahaabah and Taabi’een, and she is only entitled to a mahr like that of her peers; she is not entitled to more than that, according to scholarly consensus. End quote.

Al-Fatawa al-Kubra, 3/99

He also said (5/466):

The marriage of a sick person during his final illness is valid, and the wife inherits from him, according to the majority of scholars among the Sahaabah and Taabi'een, but she is not entitled to anything other than the mahr of her peers, and no more than that, according to consensus. End quote.

And Allah knows best.