7193 - Can a Girl Marry without Parental Consent in Islam?

the question

I have a question regarding marriage. If a father disagrees with a marriage along racial lines or because that person is upon the Manhaj of the salaf and there is no islamic judge in your locality e.g. Carribbean, What should that person do according to the Quran and Sunnah?

Summary of answer

In Islam, a woman cannot marry without the consent of her Wali (guardian), as supported by Quranic verses and Hadith. If a Wali unreasonably refuses, the guardianship transfers to the next eligible guardian or an Islamic judge. In cases where no Wali or judge is present, a trusted religious authority may facilitate the marriage. Islam emphasizes marrying based on religious commitment rather than cultural or tribal preferences.

Detailed answer

Praise be to Allah.

The Islamic Ruling on Marriage without a Wali

It is not permissible for a man to marry a woman without the permission of her guardian , regardless of whether she is a virgin or previously-married. This is the view of the majority of scholars, including Ash-Shafi`i, Malik and Ahmad. They take as evidence the words of the Prophet (peace and blessings of Allah be upon him):

There should be no marriage contract except with a Wali (guardian). (Narrated by At-Tirmidhi, 1101; Abu Dawud, 2085 and Ibn Majah, 1881. It is an authentic Hadith,as stated in Irwa' Al-Ghalil,6/235, by Al-Albani, may Allah have mercy on him).

And the Hadith:

Any woman who gets married without the permission of her Wali, her marriage is invalid, her marriage is invalid, her marriage is invalid. If her husband has consummated the marriage, then the Mahr belongs to her in return for that. If she does not have a Wali then the (Muslim) ruler is the Wali of anyone who does not have a Wali. (Narrated and classed as sound by At-Tirmidhi, 1102; Abu Dawud, 2083 and Ibn Majah, 1879)

When Does Guardianship Transfer in Marriage?

If a woman' Wali prevents her from marrying the person she wants with no Shar`i reason for doing so, the guardianship passes to someone who is fit to be a Wali, so it may pass from her father to her grandfather, for example.

If all her guardians prevent her for no Shar`i reason, then the (Muslim) ruler will be her Wali, because of the Hadith. If she does not have a Wali, then the (Muslim) ruler is the Wali of anyone who does not have a Wali. The ruler here means the judge who rules according to Shari`ah.

The Quranic Evidence Against Unjust Prevention

The Wali does not have the right to prevent a woman from marrying on the basis of his own whims and with no Shar`i reason.

It was reported that Al-Hasan said: Ma`qil ibn Yassar told me that [this ayah] was revealed concerning him. He said: I married a sister of mine to a man, and he divorced her. When her `Iddah was over, he came and asked to marry her. I said to him, I married her to you and I treated you well and honoured you, then you divorced her. And now you come asking to marry her! No, by Allah, she will never go back to you! He was a man who had nothing wrong with him, and the woman wanted to go back to him. Then Allah revealed this verse (interpretation of the meaning): do not prevent them [Al-Baqarah 2:232]. So I said, Now I will do it, O Messenger of Allah. So he married her to him. (Narrated by Al-Bukhari, 4837)

According to another report, he said:

It was concerning me that this verse was revealed (interpretation of the meaning): And when you have divorced women and they have fulfilled the term of their prescribed period, do not prevent them from marrying their (former) husbands [Al-Baqarah 2:232].

What If There Is No Guardian or Islamic Judge?

If there is no Wali and no Shar`i judge, then her case should be referred to the ruler or whoever is acting in his stead. If there is no such person, then her case should be referred to the Shari`ah courts.

If there is no Shari`ah court, then her case should be referred to a man who holds a position of leadership among his people and is committed to Islam. If there is no such man, then her case should be referred to any trustworthy and religiously-committed man who is fit to be a Wali.

Ibn Qudamah (may Allah have mercy on him) said: If a woman does not have a Wali and there is no ruler, then according to Ahmad, any religiously-committed man may arrange her marriage with her permission. (End quote from Al-Mughni, 7/352)

Shaykh `Umar Al-Ashqar (may Allah have mercy on him) says:

If there is no Muslim ruler and the woman is in a place where the Muslims do not have a ruler and she has no Wali at all, such as the Muslims in America etc., then if there are Islamic organizations in that country which take care of the Muslims affairs, they should step in and take care of arranging her marriage. The same applies if the Muslims have a leader whom they obey or someone who takes care of their affairs. (End quote from Al-Wadih fi Sharh Qanoon Al-Ahwal Ash-Shakhsiyyah Al-Urduni, p. 70)

All of this [transferring guardianship to someone other than the girl’s father] must be with the consent of the girl and should not result in greater corruption than preventing you from marrying her. It should also be on the condition that the reason for [the fathers] refusal is invalid according

to the Shari`ah, as you have explained.

The Importance of Religious Compatibility in Marriage

It is not permissible for the Wali to refuse marriage because the prospective husband does not follow his Manhaj of Da`wah, or because he is not of his tribe or from his country. The Prophet (peace and blessings of Allah be upon him) commanded us to marry religious people and not to refuse them, otherwise corruption and tribulation would be the result.

Abu Hurayrah (may Allah be pleased with him) said: the Messenger of Allah (peace and blessings of Allah be upon him) said: If someone whose religious commitment and attitude pleases you proposes marriage, then marry [your female relative under your charge] to him. If you do not do that, there will be tribulation in the land and much corruption. (Narrated by At-Tirmidhi, 1084 and Ibn Majah, 1967. Classed as authentic by Al-Albani, may Allah have mercy on him, in As-Silsilah As-Sahihah, 1022)

By the same token, it is not permissible for a woman to justify a marriage to whomever she wishes on the grounds that this person is following the same Manhaj of Da`wah. It is sufficient for her that the person who is proposing marriage is religiously committed and has a good attitude.

And all parties concerned should remember that their Lord, may He be Blessed and Exalted, is always watching them.

Check these answers for additional details: (2127, 389, 254835, 813, 95405, 82724)

And Allah knows best.