95405 - Her wali repeatedly refused suitors; can she arrange her own marriage?

the question

I am 31 years old teacher. I have been a teacher since 1996. In the end of 1997 a colleague proposed to me, and I asked him to wait until my older sister gets married. She got married in 2000, and then this colleague came to propose to me at home. My father refused him, although my mother accepted. He justified his refusal by saying that I will continue my masters and I might get appointed at university. My father refused many men because none of them is good enough in his view and he thinks that my chance could be much better (an engineer was one of those who proposed to me). In 2002 I was appointed as a tutor at university, and many men proposed to me but my father refused because he thinks that marriage will distract me from my studies. One of them was a doctor; my father refused him because he thought that he is greedy of my salary.
My first colleague proposed to me again but my father again refused him because he is a teacher while I am a tutor at university.
Although I told my father that I completely accept him as a husband for me as he is of a similar educational background, he is also resuming him masters. He is also of a similar cultural and social background as me. He is religious, moral and has good financial circumstances.
Since 2003 until now, the end of 2006, no one proposed to me apart from the first colleague. He strongly wishes to marry me and I so do I. My father says that if I stay without marriage is better for him than if I marry a teacher because I have a big salary and I do not need marriage unless a really good chance comes. A good chance mean he must have a very good profession (specifically very few professions) and he must be rich. My father is serious about this. I am suffering a lot; my ambition is not to have a very respectful career. My ambition is to have a family.
My question:
Is it permissible for me to get myself married without my wali’s permission and approval? Is he an inadequate wali for me? Please answer me in detail, may Allah have mercy on you and reward you!.

Detailed answer

Praise be to Allah.

Firstly:

Marriage is not permissible and is not valid except with a wali, according to the majority of scholars, because of the words of the Prophet (peace and blessings of Allaah be upon him): “There is no marriage without a wali.” Narrated by Abu Dawood (2085), al-Tirmidhi (1101) and Ibn Majaah (1881) from the hadeeth of Abu Moosa al-Ash’ari; classed as saheeh by al-Albaani in Saheeh al-Tirmidhi.

And he (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’ 7557.

And he (peace and blessings of Allaah be upon him) said: “Any woman who gets married without the permission of her guardian, her marriage is invalid, her marriage is invalid, her marriage is invalid. But if the marriage is consummated then the mahr is hers because she has allowed him to be intimate with her. If they dispute, then the ruler is the guardian of the one who has no guardian.” Narrated by Ahmad (24417), Abu Dawood (2083) and al-Tirmidhi (1102); classed as saheeh by al-Albaani in Saheeh al-Jaami’ no. 2709.

The woman’s guardian is her father; then her paternal grandfathers, no matter how far the line of ascent reaches; then her son and his sons, no matter how far the line of descent reaches (this applies if she has a son); then her (full) brother through her father and mother; then her (half) brother through her father only; then their sons, no matter how far the line of descent reaches; then her paternal uncles; then their children, no matter how far the line of descent reaches; then the father’s paternal uncles; then the ruler. (al-Mughni 9/355).

But if the wali repeatedly refuses the proposal of a compatible suitor, he is to be regarded as preventing the marriage of the female relative under his care, and his guardianship is thus

rendered null and void, and that right is transferred to the next closest relative on the father's side.

Secondly:

The compatibility that counts here is compatibility in religious commitment. There is no difference between an Arab and a non-Arab, or between black and white, except in terms of taqwa (piety). Some of the fuqaha' listed other conditions of compatibility, such as lineage and so on. The fact that the suitor is a teacher and you are a (university) tutor does not mean that he is not compatible with you, so long as he is of good character and religiously committed, and he is comfortably off in material terms, as you mentioned.

Thirdly:

What we think is that you should try to advise your father again, and seek help in doing so from someone who will be acceptable to him such as a relative or friend. If he agrees to give you in marriage to this suitor, this is what you want; otherwise you should refer to the matter to the guardian (wali) who comes after him, according to the order mentioned above. If he refuses to arrange your marriage, or there is a conflict among the guardians, then refer the matter to the qaadi and appoint him to arrange your marriage.

Fourthly:

What this guardian and others like him do is very strange, when they turn their daughters into trade goods to be offered to the highest bidder, or to the one who is better off than others. Even stranger than that is when they claim that the daughter has no need to get married! What does this poor man understand about need? Doesn't he know that people need comfort, love and compassion, and that they have natural needs that Allaah has created in them, by His wisdom, may He be glorified? The woman's wali has to fear Allaah and understand that preventing his daughter or sister from getting married to a compatible suitor who is pleased with her is regarded as wrongdoing and transgression and implies that he is an evildoer (faasiq) whose good character is sullied and whose testimony is to be rejected.

Shaykh Ibn ‘Uthaymeen (may Allaah have mercy on him) said:

If the wali refused to let a woman marry a man whose religious commitment and character are good, then guardianship passes to the next closest male relative on the father’s side, then the next closest and so on. If they refuse to arrange her marriage, as usually happens, then guardianship passes to the qaadi, and the qaadi should arrange the woman’s marriage. If the matter is referred to him and he knows that her guardians have refused to arrange her marriage, then he should do that, because he is the wali in cases where there is no specific wali.

The fuqaha’ (may Allaah have mercy on them) stated that if the wali repeatedly refuses marriage proposals from suitable men, then he is a faasiq (evildoer) and is no longer regarded as being of good character or as being a wali, rather according to the best known view of the madhhab of Imam Ahmad, he also forfeits the right to lead prayers and it is not valid to offer any congregational prayer behind him. This is a serious matter.

Some people, as we have referred to above, refuse offers of marriage from compatible men, but the girl may feel too shy to come to the qaadi to ask for her marriage to be arranged. This is something that does happen. But she should weigh the pros and cons, and decide which has the more damaging consequences, staying without a husband and letting her wali control her life according to his mood or his whims and desires, and when she grows old and no longer wants to get married, then he will arrange her marriage, or going to the qaadi and asking him to arrange her marriage because that is her right according to sharee’ah.

Undoubtedly the second alternative is preferable, which is that she should go to the qaadi and ask him to arrange her marriage, because she has the right to that, and because her going to the qaadi and his arranging her marriage serves the interests of others too, because others will come just as she has, and her coming to the qaadi will serve as a deterrent to those who wrong those whom Allaah has put under their care and prevent them from marrying compatible men. In other words, this serves three purposes:

1. The woman’s own interests, so that she will not stay without a husband.

2. The interests of others, because it will open the door for women who are waiting for someone to set a precedent they can follow.

3. Preventing those oppressive walis who make decisions for their daughters or other women under their guardianship according to their own moods or what they themselves want.

This also serves the purpose of establishing the command of the Messenger (peace and blessings of Allaah be upon him), who said: “If there comes to you (to propose marriage to your daughter) one with whose religious commitment and character you are pleased, then marry (your daughter) to him, for if you do not do that, there will be fitnah (tribulation) on earth and widespread corruption.”

It also serves a specific interest, which is arranging marriages for those who are suitable in terms of religious commitment and character, thus protecting them from going astray and falling into haraam.

Quoted from Fataawa Islamiyyah, 3/148

We ask Allaah to help you to do that which in which is goodness and success.

And Allaah knows best.