

Getting married with the intention of divorce

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

In the Name of Allaah the most Kind the most Merciful

Getting married with the intention of divorce is Haraam because it is cheating the wife and her family

The Esteemed Shaykh Muhammad bin Saalih al-Uthaymeen (رَحِمَهُ اللهُ)¹ was asked:

A person wanted to travel outside this country because he had been delegated to do so, and he wanted to protect himself by getting married from that country for a specific time, then after that he will divorce this wife, he would have married her without informing her that he will divorce her, so what is the verdict regarding his action?

So the Shaykh (رَحِمَهُ اللهُ) answered:

'This marriage with the intention of divorce is of two situations: either he makes it a condition in the contract, that he marries her for a month or a year, or until he completes his studies, then this is a marriage of Muta' (temporary marriage) and this is Haraam.

Or either, he intends that without making it a condition, so what is well-known from the Madhhab of the Hanabila, that this is Haraam, and that the marriage contract is invalid because they say that the one who makes this intention is similar to the one who makes a condition (i.e. specific period of time), due to the saying of the Prophet (صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ)²:

'Indeed actions are but by intentions and indeed every person will have what they intended.'³

If a man marries a woman from someone who has pronounced a divorce from her three times, and he marries her to make her Halaal for her previous husband so he can re-marry her, and then he divorces for this reason then this type of Nikah (Marriage contract) is invalid, even if this Nikah was without the condition of divorcing her, since the one who makes the intention of doing this is like the one who makes it a condition.

¹ (رَحِمَهُ اللهُ) (rahimahullaah) May Allaah the Most High have mercy on him

² (صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ) (sallallaahu 'alayhi wa sallam) May the peace and blessings of Allaah the Most High be upon him

³ Narrated by Bukhaaree and Muslim.

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Therefore, if getting married with the intention of making the wife permissible for her previous husband invalidates the marriage contract then the intention of Muta' also invalidates the marriage contract, this is the opinion of the Hanabila.

The second opinion of the people of knowledge regarding this issue is: that it is correct for a man to marry a woman and he has the intention to divorce her, if he leaves that country, like those foreigners who go abroad for education, etc.

Their reasoning is that the man has not made a condition (of a specific period of time), and the difference between this and Muta' is, that in Muta' if the time period finishes then a separation takes place between the husband and wife, whether the husband likes it or not, this is contradictory to the other way, since it is possible for him to want and have interest in the wife and she continues to remain with him, and this is one of the two sayings of Shaykh ul-Islam Ibn Taymeeyah.

What I say is, that this is correct, it is not Muta' since the definition of Muta' (temporary marriage) cannot be applied to this, but marriage with the intention of divorce is Haraam from the angle that it is cheating the wife and her family. Indeed the Prophet has made cheating and deception Haraam, and if the wife came to know that this man did not want to marry her except for this period of time, she would not have married him, and her family would also not marry her to him since the man would not allow his daughter to marry a person who has the intention of divorcing her when he has finished with his need from her, so how can this man allow for himself to deal with others with that which he does not allow for them to deal with him.

This contradicts 'Eemaan, due to the saying of the Prophet (صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ):

'None of you truly believe until you love for your brother what you love for yourself.'⁴

Since I have heard that some people have taken this verdict as a means which leads to a matter that no-one holds permissible which is that some people travel to countries only to get married (temporarily). They go to these countries so they can get married and then they stay with this wife, whom they marry with the intention of a temporary period, then they return however long Allaah wills.

This is also seriously forbidden in this issue, so it is better to close this door, due to what is there from cheating, deception and dishonesty and because this opens the door and the people are ignorant, and most people are not prevented due to following their desires, transgressing against what Allaah has made Haraam.⁵

⁴ Narrated by Bukhaaree and Muslim.

⁵ 'Fatawa for the Muslim Women' V.2 p.757 & Fatawa ash-Shaykh Muhammad Saalih al-Uthaymeen V.2 p.789