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RESEARCH ARTICLE

THE PURPOSES AND CONTROLS OF MARRYING A MUSLIM TO A NON-MUSLIM

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Abstract

This paper deals with the study of an ancient and contemporary issue, which is marriage to female writers, and whether marrying them achieves the purposes of Islamic law of marriage, or does it contradict these purposes.. It is permissible for a Muslim to marry women of the People of the Book, namely Jews and Christians, as stipulated in the Holy Qur'an, and scholars have differed as to what is meant by immunity, is it limited only to silks or includes silks and others, With the ruling that it is permissible to marry the book, he hates marrying her, because he does not believe that he is inclined to her and tempts him from religion, or takes over the people of her religion, and if she is warlike, then the hatred is more severe, because she does not believe in sedition as well, and because there is a lot of blackness of the people of war, and because he does not believe that his child should be captivated by her and he will be enslaved. The research paper searches for the controls and conditions that must be met to allow the marriage of a Muslim to a biblical woman, and the paper aims to answer some questions, including: -The researcher tried to use the descriptive inductive approach in describing the problem under study, then the scientific method in terms of collecting and criticizing the scientific material, and then reaching the results that are extracted from the introductions, and the researcher sought to document the texts from their approved sources, write verses in the Ottoman drawing, and graduate hadiths from the approved Sunnah books.

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Introduction:-

This paper deals with the study of an ancient and contemporary issue, which is marriage to female writers, and whether marrying them achieves the purposes of Islamic law of marriage, or that it contradicts these purposes.

Search problem.

The problem of research revolves around an ancient and contemporary issue, which is marriage to female writers, and whether marriage to them achieves the purposes of Islamic law of marriage, or does it contradict these purposes.

The importance of research: From here appears the importance of this research, through which we try the controls and conditions that must be met in the marriage of a Muslim to a non-Muslim, and the impact of these controls in

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achieving the purposes of Islamic law of building the family and achieving stability within the family home, which achieves happiness for all.

Research Questions:

The research problem results in several questions that we try to answer through this study, the most important of which are:

- Has Islamic law established purposes and rulings that a Muslim must observe when marrying female writers?
- What are these purposes and how can we verify their existence?
- What are the caveats that a Muslim must avoid in order for biblical marriage to fulfill its legitimate purpose?

Research Objectives: The research aims to achieve a set of objectives, including:

- Search for the ruling on marriage from the writings in terms of origin.
- Searching for the purposes of Islamic law in permitting marriage from writings.
- For the caveats and controls observed by Islamic law in marriage from writings.

Research methodology.

The researcher tried to use the descriptive inductive approach in describing the problem under study, then the scientific method in terms of collecting and criticizing the scientific material and then reaching the results that are extracted from the introductions, and the researcher has sought to document the texts from their approved sources.

The first section: The ruling on marrying a woman of the People of the Book

It is permissible for a Muslim man to marry free women from the People of the Book, namely Jews and Christians, based on the words of God Almighty:

(الْيَوْمَ أُحِلَّ لَكُمْ الطَّيِّبَاتُ وَطَعَامُ الَّذِينَ أُوتُوا الْكِتَابَ حَلَلٌ لَكُمْ وَطَعَامُكُمْ حَلَلٌ لَهُمْ وَالْمُحْصَنَاتُ مِنَ الْمُؤْمِنَاتِ وَالْمُحْصَنَاتُ مِنَ الَّذِينَ أُوتُوا الْكِتَابَ مِنْ قَبْلِكُمْ إِذَا آتَيْتُمُوهُنَّ أَجُورَهُنَّ مُحْصِنِينَ غَيْرَ مُسَافِحِينَ وَلَا مُتَّخِذِي أَخْدَانٍ وَمَنْ يَكْفُرْ بِالْإِيمَانِ فَقَدْ حَبِطَ عَمَلُهُ وَهُوَ فِي الْآخِرَةِ مِنَ الْخَاسِرِينَ) [al-Ma'idah: 5]

Jurists have agreed that it is permissible to marry a woman of the People of the Book if one fears hardship and his desires overwhelm him, because avoiding adultery is obligatory and can only be achieved through marriage. [Al-Kasani 2: 271, Al-Sharbini: 3\189, Ibn Qudamah: 9\549, Al-Haythami: 7\322]

They also agreed unanimously on the priority of Muslim women in marriage. [Ibrahim: 2\955]. The Messenger of God, may God bless him and grant him peace, said: "Marry a religious woman, and may your hands be covered with dust." [Al-Bukhaari: 5090, Muslim: 1466]

Ibn Kathir's interpretation states: And his saying: (وَالْمُحْصَنَاتُ مِنَ الْمُؤْمِنَاتِ). Meaning: And it is lawful for you to marry free, chaste believing women. He mentioned this as an introduction to what follows, which is His saying: (الْمُحْصَنَاتُ مِنَ الَّذِينَ أُوتُوا الْكِتَابَ مِنْ قَبْلِكُمْ) It was said: By chaste women he meant free women, not slave women. This was narrated by Ibn Jarir from Mujahid. Mujahid said: chaste women, so it is possible that he meant what he narrated from him, and it is possible that he meant by chaste free women, as Mujahid said in the other narration from him. This is the opinion of the majority here, and it is more likely; lest she be a dhimmi and yet not chaste, so that her condition would not be completely corrupted, and her husband would get what is said in the proverb: "Ridiculousness and bad measure." [Ibn Kathir: 3/42]

It appears from the verse that what is meant by chaste women are those who are chaste from adultery, as He said in the other verse. [A Ibn al-Arabi: 2/87]

(مُحْصَنَاتٍ غَيْرَ مُسَافِحَاتٍ وَلَا مُتَّخِذَاتِ أَخْدَانٍ)

Then the commentators and scholars differed regarding his saying: (وَالْمُحْصَنَاتُ مِنَ الَّذِينَ أُوتُوا الْكِتَابَ مِنْ قَبْلِكُمْ), Does it include every chaste People of the Book, whether free or a slave? Ibn Jarir narrated this on the authority of a group of the Salaf, who interpreted "married woman" as "chaste." It was also said that what is meant by "People of the Book" here are the Isra'iliyyat, which is the Shafi'i school of thought. It was also said that what is meant by this is the dhimmis, not the warlike ones, because of the saying of Allah [A Ibn al-Arabi: 2/87]

: (قَاتِلُوا الَّذِينَ لَا يُؤْمِنُونَ بِاللَّهِ وَلَا بِالْيَوْمِ الْآخِرِ وَلَا يُحَرِّمُونَ مَا حَرَّمَ اللَّهُ رَسُولُهُمْ لِيُذِينَ دِينَ الْحَقِّ مِنَ الَّذِينَ أُوتُوا الْكِتَابَ حَتَّى يُعْطُوا الْجِزْيَةَ عَنْ يَدٍ هُمْ صَاغِرُونَ) [An-Nisa: 25]

Ibn Qudamah (may Allah have mercy on him) said: "There is no disagreement among the scholars, praise be to Allah, about the permissibility of marrying free women from the People of the Book." Among those from whom this was narrated were 'Umar, 'Uthman, Talhah, Hudhayfah, Salman, Jabir, and others. Ibn al-Mundhir said: "It is not authentically reported that any of the early scholars prohibited this." Al-Khalal narrated, with his chain of narration, that Hudhayfah, Talhah, al-Jarud ibn al-Mu'alla, and Udayna al-'Abdi married women from the People of the Book. This is the view of all the scholars." [Ibn Qudamah: 7\129]... This should also be the case with the other verse, because they came before it, and the verse at the beginning of Al-Ma'idah came after it. Others said: This is not abrogation, because the word polytheists in its generality does not include the People of the Book, as evidenced by

the Almighty's statement: (لم يكن الذين كفروا من أهل الكتاب والمشركين منافكين) The rest of the verses of the Quran separate between them, which indicates that the word "polytheists" in its general sense does not include the People of the Book. This is the meaning of the statement of Sa'id ibn Jubayr and Qatadah. This is because what they used as evidence is general and applies to every disbelieving woman, while our verse is specific to the permissibility of the People of the Book, and what is specific must be given precedence. If this is proven, then it is better not to marry a woman of the Book, because 'Umar said to those who married women of the People of the Book: "Divorce them." So they divorced them, except for Hudhayfah [Ibn Qudamah: 7\129]

And because the Companions, may God be pleased with them, married from the People of the Covenant, so Uthman, may God be pleased with him, married Naila bint al-Farafisa al-Kalbiyya, who was a Christian, and she converted to Islam at his time [al-Bayhaqi: 3\47], and Hudhayfah, may God be pleased with him, married a Jewish woman from the people of Mada'in [Ibn Abi Shaybah: 2\474] (and it is permissible to marry a woman of the People of the Book in the hope that she will convert to Islam, because she believed in the books of the prophets and messengers in general.

Although it is permissible to marry a woman of the People of the Book, it is disliked to marry her, because it is not guaranteed that he will not be drawn to her and she will tempt him away from the religion, or that he will take sides with the people of her religion. If she is a woman of war, then the dislike is even greater, because there is no guarantee against temptation either, and because the number of people of war will increase, and because there is no guarantee that his child from her will be taken captive and enslaved. Al-Shafi'i said: "Whichever it is, it is permissible to marry free women of the People of the Book, and it is more preferable to me if a Muslim does not marry them." [Al-Bayhaqi: 3\47]

Hudhayfah married a Jewish woman, so Umar wrote to him asking him to release her. He wrote back: If she is forbidden, I will release her. He wrote back: "I do not claim that she is forbidden, but I fear that you will deal with prostitutes among them." [Ibn Abi Shaybah: 2\474] Umar ibn al-Khattab (may Allah be pleased with him) said to those who married women from the People of the Book: Divorce them. So they divorced them, except for Hudhayfah (may Allah be pleased with him). Umar said to him: Divorce her. He said: Do you testify that she is forbidden? He said: She is a live coal. Divorce her. He said: Do you testify that she is forbidden? He said: It is a live coal. He said: I know that it is a live coal, but it is lawful for me. Then, after that, he divorced her. It was said to him: Why didn't you divorce her when Umar ordered you to? He said: I hated for people to see that I had done something that was not appropriate for me. [Ibn Qudamah: 7\130]

Malik also disliked this because she is nourished by wine and pork, and she feeds his son with them, and he kisses her and sleeps with her and he has no right to prevent her from that nourishment, even if he is harmed by its smell, nor from going to church, and she may die while pregnant and be buried in the cemetery of the infidels, which is a pit of the pits of Hell [Al-Kasani: 2\270, Al-Dasuqi: 2\267]

In conclusion, marriage to women of the People of the Book is permissible in principle. However, this ruling may change when a fatwa is issued due to changes in time, place, and people. This is the difference between a ruling and a fatwa: a ruling is fixed and does not change, but a fatwa may change based on changes in time, place, and circumstances.

The second section: Controls and warnings for permitting marriage to women of the People of the Book:

We see that the permissibility of marriage to women of the Book here is conditional upon two conditions:

The first condition: chastity, which is understood from the Almighty's saying:

﴿الْيَوْمَ أُحِلَّ لَكُمُ الطَّيِّبَاتُ وَطَعَامُ الَّذِينَ أُوتُوا الْكِتَابَ حَلَالٌ لَكُمْ وَطَعَامُكُمْ حَلَالٌ لَهُمْ وَالْمُحْصَنَاتُ مِنَ الْمُؤْمِنَاتِ وَالْمُحْصَنَاتُ مِنَ الَّذِينَ أُوتُوا الْكِتَابَ مِن قَبْلِكُمْ إِذَا آتَيْتُمُوهُنَّ أَجُورَهُنَّ مُحْصِنِينَ غَيْرَ مُسَافِحِينَ وَلَا مُتَّخِذِي أَخْدَانٍ وَمَنْ يَكْفُرْ بِالْإِيمَانِ فَقَدْ حَبِطَ عَمَلُهُ وَهُوَ فِي الْآخِرَةِ مِنَ الْخَاسِرِينَ﴾ [Al-Ma'idah: 5]

Al-Tabari said: "The most correct of the sayings in this regard, in our view, is the saying of the one who said: 'Free women of the People of the Book... then marrying them is permissible for the believers, whether they have committed an immoral act or not, whether they are dhimmis or combatants.'" [Al-Tabari: 6\29]

The second condition: that this does not result in harm to the Muslim, his children, or the community in which he lives.

Many of the marriages that take place between Muslims and non-Muslims now do not take these two conditions into account. Achieving the first condition, which is chastity, is very difficult, especially in societies that believe that a woman is free to do whatever she wants with her body, and do not find the slightest embarrassment in adultery between a man and a woman. This is a freedom that is approved by society and protected by the law. That is why our master Omar ibn al-Khattab feared the spread of marriage to women of the People of the Book when he forbade it. [Ibn Kathir: 1\257]. A man who marries a woman of this type is required to abandon his religion, his manhood, and his jealousy in order for life to continue between them, unless the purpose of marriage is to satisfy a passing desire, after which each of them goes their separate ways.

The second condition is not to harm oneself, one's children, or one's society. Harm to oneself was alluded to by the ancient jurists, who stipulated that one is safe from temptation. The value system differs between Muslims and non-Muslims. If Muslims suffer, in the vast majority, from weakness in the political, economic, and social spheres, then it is easy for a Muslim who has not fortified himself with knowledge and piety to be tempted when he sees the manifestations of civilization and its fleeting trappings. This leads him to abandon his values, morals, and religious teachings and live as an imitator, as other people live, not recognizing what is right and not denouncing what is wrong.

This may cause harm to his children, as the wife may tempt them away from their true religion, which is Islam, in order to convert them to her own religion, especially if the husband is preoccupied with his children, the mother spends more time with them, or the society in which they live is dominated by manifestations of disbelief, polytheism, licentiousness, etc.

Harm may befall society if Muslims turn away from marrying Muslim women and turn to others, especially those who seek good image and appearance, and do not search for essence. The inspired and rightly-guided Caliph Omar ibn al-Khattab realized this and forbade marriage to women of the People of the Book, as a matter of policy, not of Sharia. He gave the reason for this prohibition as being a temptation for Muslim women whom Muslims are reluctant to marry, and the woman will not find anyone to protect her, so she may fall into sin. He also mentioned another reason, which is the leniency in the matter of chastity, which is stipulated in the Holy Quran. [Al-Qaradawi: 153]

The harm could be greater and more dangerous if it were to befall the Muslim nation through marriage to a woman from the People of the Book who is a combatant, whose people are fighting the Muslims and are hostile to them, such as the Jews who occupy the land of Palestine and others. The woman might work as a spy for her people and inform them of the weaknesses of the Muslims, and in this case it is more appropriate to prohibit it. Some of the ancient jurists were aware of this issue, as they differentiated between a woman from the People of the Book who is a combatant and a woman who is not a combatant, so they permitted marriage to a second woman but not to a first. [Al-Qaradawi: 99]

Jurists agree that what is permissible is restricted by the condition of safety. Therefore, if marriage to a woman of the People of the Book causes harm to the extent that it negates a legitimate purpose of marriage, the matter is again prohibited.

The Muslim ruler must consider the interests of his people, after consulting and reviewing the people of influence, and prohibit this matter politically, after explaining to the people the reasons for this prohibition.

The ruler has the right to restrict or prohibit what is permissible if it leads to harm to the individual or society. What 'Umar ibn al-Khattab (may Allah be pleased with him) did is more appropriate for us to do now, after the religious restraint of many Muslims has weakened and Western civilizations have taken hold, with their debauchery and arrogance, overshadowing all moral and religious values.

Conclusion and Research Results:

First: Despite the recent writings on the objectives, they still require in-depth research to ensure that jurisprudential rulings do not lack the wisdom of legislation, leading people to be repelled by them or accept them unconvinced. God is more merciful to us than we are to ourselves, as He has mentioned most of the rulings in conjunction with their wisdom and objectives.

Second: Contemporary scholars have written numerous books on the objectives, but they have focused more on theory than application. They have spent considerable time defining the objectives and their categories, and asking whether the categories mentioned by the ancient jurists are exhaustive, or whether they can be added to or deleted from. All of this is good, but it is only on the condition that it does not come at the expense of practical application. We have yet to find a book that addresses practical jurisprudential rulings in conjunction with their objective wisdom. While there have been many serious attempts, they have not covered all branches of jurisprudence.

Third: We dream of a day when the entirety of Islamic jurisprudence is rewritten, addressing linguistic and technical definitions and objectives side by side. This way, objectives are not taught in isolation from legal rulings, nor are legal rulings taught separately from the jurisprudence of objectives, leaving people unaware of their value and worth.

Fourth: It would be wonderful if universities and academic institutes that teach Islamic law would be wise to teach the subject of objectives in parallel with legal rulings. For example, if a first-year student studies acts of worship as legal rulings, they would study the objectives of acts of worship alongside them. In the second year, they would study the rulings of transactions and the objectives of transactions, and so on.

Fifth: We call upon those who have the authority to resolve and conclude contracts in the Islamic world to subject men and women seeking marriage to courses in fiqh and objectives, to educate them on the rulings on engagement,

marriage, and divorce, and the objectives of Islamic law related to them. Marriage contracts will not be documented until the man and woman pass a written and oral examination. Illiterates may be exempted from the written examination, but not from the oral examination, until we verify their knowledge of the rulings on engagement, marriage, and divorce in general, in accordance with the laws of the country in which they reside. This should be general, without delving into the details and ramifications of fiqh rulings and the differences of opinion among jurists. Sixth: Marriage to women of the People of the Book is permissible in principle, and it can fulfill some of the objectives of Islamic law regarding marriage. It may also include inviting non-Muslims to Islam, especially the woman herself. However, this is all conditional upon observing the controls and precautions discussed in the third section of this study.

Seventh: The Muslim guardian, after consulting with the people of influence and specialists in all religious, political, economic, social, and cultural aspects, may permit this type of marriage, taking into account the necessary controls, or prohibit it politically, explaining the reasons for the prohibition.

Eighth: If this prohibition occurs, it shall be necessary due to the higher public interest versus the lower or private interest.

Ninth: This prohibition or permission shall be temporary and linked to time, place, and persons, and may be changed if the reasons for it change.

Tenth: Preachers, jurists, preachers, and media professionals should initiate serious discussions about these important issues so that Muslims may have insight into their religion.

Praise be to God first and last, outwardly and inwardly. Praise be to God forever and ever.

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