



Fatwa no. 19674

Q: I am a resident of Tihamah Qahtan in the south. I work as an Islamic spiritual advisor in the border security forces of the `Asir region - the city of Zhahran in the south and I am a graduate of the college of Shari`ah (Islamic law) at the Islamic University of Imam Muhammad ibn Sa`ud in the south. I have limited activity in the call and guidance to Allah where I work and in Tihamah Qahtan, my place of origin and birth. However, in Tihamah Qahtan I am faced with some traditions and habits of the pre-Islamic days that were inherited from our forefathers due to ignorance of Shari`ah rulings, as are other callers who deal with issues which contradict the Shari`ah of Allah and urge people to follow the instructions of Shari`ah. These habits and traditions which go against the Shari`ah have greatly decreased, but still there are matters we believe contradict the Shari`ah of Allah and which we have not been able to convince people to abandon.

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From these matters with which they still hold to is a custom which they inherited and I consider a bad habit because of the negative consequences it causes. When a murder occurs between two tribes or two families, the family or tribe of the victim does not accept conciliation or blood money, except if two girls from the family or the tribe of the murderer are given in marriage. Their reasoning is that money does not last; however, a bride is a permanent compensation. The woman is forced to marry into the family of the murdered within the terms of conciliation, whether she approves or not. Moreover, she is not given the right to choose her husband from the family of the murdered and must relinquish her right to cancel the marriage, regardless of whatever difficulties she may suffer. When the husband dies, one of his relatives receives his inheritance along with this woman (wife) who is considered part of the reconciliation, or blood money which is agreed upon. I am asking, is there any ruling in Shari`ah which permits this, despite the girl's dissatisfaction, inability to cancel the marriage nor choose her first husband or her second husband (the inheritor husband) in the event of the death of the first. However, the girl may be satisfied in some cases and the husband may pay a symbolic dowery in some cases, but not in all cases. It is always a must that this woman marries into the family of the killer. Would you kindly advise us and respond promptly as to whether such practice is not permitted in the Islamic law

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for there is actually a case similar to the previously mentioned custom and deciding this case requires a legal fatwa from your honor. I know of a hearing that took place in our town in which they demanded a bride in return for the murdered person. I have stopped

reconciliations until you issue a fatwa on this case because the bride is an orphan and being forced to marry and it is not her fault. So we postponed reconciliations until we have your reply and the fatwa which you will issue. When we have your fatwa stating whether it is permissible or not, the judge of the region will be informed of the content of the fatwa. There are positive consequences of this marriage which are: establishing ties of kinship, begetting children, and alleviating tensions between the family of the perpetrator and the family of the murderer. The negative aspects are those which we previously mentioned. May Allah grant you success and guide you to good. My hope is that you reply soon?

A: The manner of reconciliation used by the tribe of the murderer and the tribe of the murdered is invalid and has no basis in the Book of Allah and the Sunnah of His Messenger (peace be upon him); because it is against the Islamic Shari`ah. The Islamic Shari`ah stipulates in cases of premeditated murder that the family of the victim either exact Qisas (just retaliation) from the killer, overlook retaliation to accept blood money, or to grant full pardon. In cases of manslaughter, the family of the killed either accepts blood money or may forgive the killer. That is all, without any other conditions.

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This reconciliation is based upon a custom of the pre-Islamic days where the people of the murdered demand that two men of the victim's family marry two girls from the tribe of the killer without consideration to the consent of these girls. If the husband of either of the two wives dies, one of the husband's relatives inherits his possessions [including his wife]. Taking blood money and reconciliation was only done in this manner. This custom was practiced by Arabs before Islam. [Al-Bukhari](#) cited in his Sahih (book of authentic Hadiths) vol. 8, p. 57 on the authority of `Ikrimah (may Allah be pleased with him) on the authority of [Ibn `Abbas](#) (may Allah be pleased with both of them) - Al-Shaybani said: `Ata', Abu Al-Hasan Al-Sawa'y narrated it to me and I think that he narrated the Hadith only on the authority of [Ibn `Abbas](#) (may Allah be pleased with them) - Ibn `Abbas said: [\(O you who believe! You are forbidden to inherit women against their will... \)](#) He said: "When a man died, his relatives had the right to inherit his wife and one of them could marry her if he chose to, or they would give her in marriage if they wished, or they would not give her in marriage at all having more right than her own relatives to dispose of her in any manner. Hence, this Ayah was revealed addressing this issue. [Ibn Hajar](#) said in (Fathul-Bary) vol. 8, p. 95: [Al-Tabary](#) narrated through the narration of `Ali ibn Abu Talhah on the authority of [Ibn `Abbas](#)

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that he said: (When a man dies and leaves a wife, his nearest relative screens her from people. If she is beautiful, he marries her and if she is ugly, he locks her up until she dies and he inherits her). [Therefore](#), this marriage upon which reconciliation was based is null and void because of considering a woman as a interchangeable commodity, violating her honor by compelling her to marry and bequeathing her to her husband's relatives when the husband dies. This is against the Islamic Shari`ah wherein the status of women and their rights is guaranteed and secured in Islam. It is not permissible to contract marriage with her except with her consent as consent is one of the conditions of marriage and she is entitled to receive her dowry without giving it to her guardian or any member of her tribe. Similarly, Islam has prohibited Shighar marriage (exchange of daughters or sisters for marriage with no mandatory gift to a bride from her groom) where a Waliy (a legally accountable person acting for a woman seeking marriage) encourages this marriage because of his own interest and benefit without considering the interest of the woman and her consent. This above mentioned marriage was concluded based on considering the advantage of the tribe of the killed

person without considering the woman's benefit and her consent. In addition, problems and evils may occur because of this marriage and may result in harming the married woman leading to murder as a revenge,

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especially because it occurs without the consent of the wife. As for claiming that this marriage solidifies ties of kinship and alleviates tensions between the two tribes, this cannot be achieved by what has been mentioned in this case. Preventing evil is always given precedence over bringing about benefit. May Allah grant us success! May peace and blessings be upon our Prophet Muhammad, his family and Companions!

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