

Series of Questions Addressed to the Eminent Scholar Ata Bin Khalil Abu Al-Rashtah,
Ameer of Hizb ut Tahrir through his Facebook Page (Fiqhi)

Answer to Question:

Ruling on the Father Marrying his Daughter Off Against her Will

To: Nazik Al-Malaika

(Translated)

Question:

I have a question and I hope that my question will be answered quickly.

Is it permissible for a marriage to take place and the girl does not consent of the husband?

What is the way to solve the problem if the marriage was contracted but the marriage has not yet been consummated? Not that I was forced to sign, but rather they told me that the fiancé or the groom was at the door of the house and I agreed to him, but I felt that I was under pressure and forced to accept without being talked to.

Answer:

Wa Alaikum Assalam wa Rahmatullahi wa Barakatuh,

With regard to this issue, we mentioned in the book, *The Social System in Islam* book, the chapter on Marriage, the Hadith by the Messenger (saw) on this topic:

«جاءت فتاة إلى رسول الله صلى الله عليه وسلم فقالت: إن أبي زوجني ابن أخيه ليرفع بي خسيسته. قال فجعل الأمر إليها فقالت قد أجزت ما صنع أبي، ولكن أردت أن أعلم النساء أن ليس إلى الآباء من الأمر شيء» **A young girl came to the Messenger of Allah (saw) and said: “My father married me off to his nephew in order to raise his lowly status.” So the Prophet (saw) gave her the right to repudiate the marriage. She responded: “I accept what my father has done, but I wanted to inform the (other) women that fathers do not have any authority to give their daughters in marriage against their wishes.”, narrated Ibn Majah.”End,**

It says in “Mesbah al-Zujajah fi Zawaid ibn Majah” by his author Abu al-Abbas Shihabuddin al-Busairi al-Kannani al-Shafi’i (died: 840 AH):

«Abdullah bin Burayda (ra) narrates on the authority of his father that a young girl came to the Messenger of Allah (saw) and said: “My father married me off to his nephew in order to raise his lowly status. He said: **فَجَعَلَ الْأَمْرَ إِلَيْهَا فَقَالَتْ قَدْ أَجَزْتُ مَا صَنَعَ أَبِي** **“the Prophet (saw) gave her the right to repudiate the marriage. She responded: “I accept what my father has done, but I wanted to inform the (other) women that fathers do not have any authority to give their daughters in marriage against their wishes.”** And he said this narration is authentic and its men are trustworthy”

Accordingly, her father must obtain her consent, and the marriage official must make sure of that, so that the offer (Ijjab) and acceptance (Qubul) is done with consent and choice.

We have explicitly explained this in the *Social System* in the above-mentioned chapter on Marriage, where it says:

“When a woman is asked for marriage, she has the sole right to accept the marriage or to reject it. None of her guardians (Awliya) or anybody else has a right to marry her off without her permission or prevent her from marrying. It has been reported from Ibn 'Abbas that he said that the Messenger of Allah (saw) said: «النَّبِيُّ أَحَقُّ بِنَفْسِهَا مِنْ وَلِيِّهَا، وَالْبِكْرُ تُسْتَأْذَنُ فِي نَفْسِهَا وَإِذْنُهَا صُمَاتُهَا» **“The matron has greater right than her guardians and the virgin her permission is sought. Her permission is her silence”**. Abu Hurayrah (ra) also narrated that the Messenger of Allah (saw) said: لَا «تُنْكَحُ الْأَيُّمُ حَتَّى تُسْتَأْمَرَ، وَلَا الْبِكْرُ حَتَّى تُسْتَأْذَنَ. قَالُوا: يَا رَسُولَ اللَّهِ، وَكَيْفَ إِذْنُهَا؟ قَالَ: أَنْ تَسْكُتَ» **“A matron should not be given in marriage except after consulting her; and a virgin should not be given in marriage except after her permission is sought”**. The people asked, “O Messenger of Allah, How can we know her permission”? He (saw) said: **“Her silence [indicates her permission].”** [Agreed upon] Ibn 'Abbas narrates that «أَنْ جَارِيَةً بَكَرًا أَتَتْ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَذَكَرَتْ أَنَّ أَبَاهَا زَوَّجَهَا وَهِيَ كَارِهَةٌ، فَخَيَّرَهَا النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ «a young virgin came to the Messenger of Allah and mentioned that her father had given her in marriage against her wishes. So the Prophet gave her the choice of repudiating the marriage.” [Narrated by Abu Dawood] Khansa bint Khizam al-Ansariya (ra) narrated that «أَنْ أَبَاهَا زَوَّجَهَا وَهِيَ تَبَتْ فَكَرِهَتْ ذَلِكَ فَأَتَتْ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَهِيَ تَبَتْ فَكَرِهَتْ ذَلِكَ فَأَتَتْ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ «her father gave her in marriage when she was a matron and she disliked the marriage. So she went to Allah’s Messenger and he annulled her marriage.” [Narrated by Bukhari] These Ahadith clearly show that if a woman does not give permission for her marriage then that marriage is not concluded. If she rejects the marriage or she was forcibly married the contract becomes void, except if she returns and consents to it.”

You see the explicit text on this issue as we mentioned above, and repeat it: *“These Ahadith clearly show that if a woman does not give permission for her marriage then that marriage is not concluded. If she rejects the marriage or she was forcibly married the contract becomes void, except if she returns and consents to it.”*

I hope that this will suffice, and Allah Ta’ala Knows Best and He is All-Wise.

Your brother,

Ata Bin Khalil Abu Al-Rashtah

14th Jumada II 1441 AH

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The link to the answer from the Ameer’s Facebook page:

<https://web.facebook.com/AmeerhtAtabinkhalil/photos/a.122855544578192/1275393129324422/?type=3&theater>