

The position of Islam on marriage to a Jewish or Christian woman (Ahlul Kitab)

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Abstract:

The present study treats the issue of marriage to a Kitabi (Jewish or Christian) woman and tackles this controversial matter, excluding also marriage to a non-Kitabi woman from the discussion. Moreover, it addresses the position of Islam on marriage to a Kitabi woman in light of the various opinions of Muslim scholars, referring to the opinion that expresses prohibition and that which permits absolutely, as well as the opinion that expresses permissibility while considering the action as Islamically abhorrent (makruh). The legal proofs mustered by each party are scientifically discussed in light of the texts and stipulations of the Qur'an and Sunnah, in addition to the precepts and rules of Islamic Law, while arguing in favor of the view which is deemed correct.

Introduction

All praise is due to Allah, whom we glorify and whose forgiveness we entreat, supplicating to him to assist us against the evils of our souls and our misdeeds, for one whom he guides is rightly guided, and one whom he misguides shall be deprived of correct guidance, and I bear witness that there is no deity but Allah and that Muhammad is His servant and Messenger, the prophet who conveyed the Message, advised the nation, and removed sorrow, and left the Umma on a straight path.

It is by virtue of Divine wisdom that He created male and female, and instilled in each an instinct attracting one to the other, and hence seeking a relationship. And due to the keenness of Islam to refine and solidify and regulate this relationship between the two genders, He made licit the connection between the two within a framework that safeguards morals and values, in terms of chastity and honor, while guaranteeing the rights arising from this association, insofar as inheritance and established parentage. Thus Allah prescribed for people marriage, and said:

﴿ then marry (other) women of your choice, two or three, or four but if you fear that you shall not be able to deal justly (with them), then only one or (the captives and the slaves) that your right hands possess.﴾ Quran (4:3)

In reality, the Muslim scholars defined marriage as: a contract between a man and woman whose purpose is to render licit mutual physical enjoyment, coupled with the formation of a righteous family and a sound society." Evident in this context are a number of desired benefits resulting from marriage such as the chastity of the married couple and the prevention of the pitfall of Islamically forbidden acts, and safeguarding society from the spread of depravity, the preservation of the human species, and the formation of familial relations through intermarriage and the raising of a generation of people who are free of psychological complexes, while fostering psychological tranquility. And here we ask, is the matrimonial relationship permissible for people of all creeds, as relates to Muslims, or are there restrictions and certain rules? It is a known fact that a Muslim may be exposed to a situation in which he might wish to marry a woman who is not of the same religion. What is the position of Islam on such a marriage? We will attempt, in the following pages, to address this matter.

Prior to delving into this matter, we must elucidate the nature of the dispute, and to refer to the points of confluence between the Ulema. What the latter have agreed upon is the prohibition of marriage to non- Jewish or non-Christian females. In the book entitled "Kifayat al-taleb ar-rabbani," it is stated that shirk (polytheism) includes the Magi, Sabeans, idol worshippers, and others who ascribe partners to God." In modern times, this includes atheists, communists, Buddhists, Hindus, Shinto, and those without a religion, and also the impermissibility of a female marrying an unbeliever,⁴ even if a Jew or a Christian, given the Qur'anic verses:

﴿And do not marry Al-Mushrikât (idolatresses, etc.) till they believe (worship Allâh Alone). And indeed a slave woman who believes is better than a (free) Mushrikah (idolatress, etc.),

even though she pleases you. And give not (your daughters) in marriage to Al-Mushrikûn⁵ till they believe (in Allâh Alone) and verily, a believing slave is better than a (free) Mushrik (idolater, etc.), ...⁶ Quran (2: 221)

And

﴿they are not lawful (wives) for the disbelievers nor are the disbelievers lawful (husbands) for them.﴾ Quran (60:10)

In reality, the Muslim is forbidden to marry a pagan because she does not adhere to a religion which forbids her to cheat, and commands her to good and forbids her to commit evil deeds, for she might betray her husband, and corrupt the creed of her children. The prohibition of a Muslim female marrying an unbeliever is due to the fact that the man is the repository of guardianship, and the unbeliever should not be the guardian of a Muslim, because the son is affiliated to his father, and follows the religion of his father."⁵

Ibn Jezi referred to the first condition to be met by the nuptials, namely Islam: "There are four variants: marriage of a Muslim male to a Muslim female, marriage of a male unbeliever to a female unbeliever, both of which are Islamically lawful, while the marriage of an unbeliever to a Muslim female is forbidden according to the absolute consensus of the Muslims, and the marriage of a Muslim male to a female unbeliever, for it is permissible to marry a Kitabi woman who may be a wife or concubine, and it is Islamically unlawful to marry a pagan woman without a religion."⁶ As for marriage to a Jewish and Christian female, this is a matter of dispute manifested in three opinions: -

First topic: -

First opinion: - Those who absolutely forbid it.

This is the view of Ibn Umar (God be pleased with him), and the Imamiyyah and Zaydiyyah, who absolutely forbid marriage to a Jewish or Christian woman, whether she resides in the Abode of Islam (Dar El-Islam) or is a belligerent (muharib) residing in the Abode of Unbelief (Dar El-Kufr), or a woman given safety by the state of Islam. According to this opinion, it is impermissible for a Muslim man to marry a Kitabi woman, either in Dar El-Islam or in Dar El-Kuft.⁷

The proofs they adduce: -

1- God Almighty made it obligatory to be distant from unbelievers, and not to be subject to them rather than the believers. God Almighty says:

﴿O you who believe! Take not My enemies and your enemies (i.e. disbelievers and polytheists, etc.) as friends, showing affection towards them, while they have disbelieved in what has come to you of the truth (i.e. Islâmic Monotheism, this Qur'ân, and Muhammad SAW)﴾ Quran (60:1)

Undoubtedly the matrimonial relationship is one of the leading causes of amity and love between people, and given that marriage is a cause of committing the forbidden act of being subject to the unbelievers, it was made impermissible to be married to an unbeliever absolutely, whether she is a Kitabiyyah or not.⁸ God Almighty says:

﴿And do not marry Al-Mushrikât (idolatresses, etc.) till they believe (worship Allâh Alone).﴾ Quran (2:221)

And the verse includes the pagan women without a revealed religion, and also the Jewish and Christian women, because the people of the Book are also unbelievers as is evidenced in:

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﴿And the Jews say: 'Uzair (Ezra) is the son of Allâh, and the Christians say: Messiah is the son of Allâh. That is a saying from their mouths. They imitate the saying of the disbelievers of old. Allâh's Curse be on them,﴾ Quran (9:30-31)

Here we find that the verse explicitly states that the Jews and Christians commit shirk, for Bukhari narrates the Hadith of Ibn Umar (God be pleased with him) in which he says: "I am not aware of a greater shirk than for a woman to say that her Lord is Jesus, who is in reality one of the slaves of Allah."⁹

2- Verse:

﴿(Lawful to you in marriage) are chaste women from the believers and chaste women from those who were given the Scripture (Jews and Christians) before your time,﴾ Quran (5:5)

which is the abrogation by the particular of the general. Ibn Hajar states: "It is as though Ibn Umar finds that the Surat al-Maida verse is abrogated, and Ibrahim Al-Harbi categorically agrees with this."¹⁰ And there is disagreement on the abrogation by the particular of the general, namely, the two opinions: the first is that of Shafi'i and the majority, and the second is that of the Iraqis from among the Hanafis and the Imam of the two sacred sanctuaries.¹¹

3- Allah says:

﴿Likewise hold not the disbelieving women as wives,﴾ Quran (60:10)

And the phrase is general encompassing all female unbelievers, and there is no disagreement that the Kitabi woman is an unbeliever.. Allah Almighty says:

﴿Those who disbelieve from among the people of the Scripture (Jews and Christians) and among Al-Mushrikûn, were not going to leave (their disbelief)﴾ Quran (98:1)

4- According to the brother of Bin Salama Al-Azdi, he said: "Huthayfa Ibn Al-Yaman (God be pleased with him) married a Jewish woman, whereupon Umar Ibn Al-Khattab (God be pleased with him) wrote to him saying: release her from the bond of marriage."¹²

Second topic: -

Second opinion: Those who consider it absolutely permissible: -

The majority of the Ulema considered as licit marriage to a Kitabi woman. Ibn Jezi said: "It is lawful to marry or take as a concubine a Kitabi woman."¹³ Kifayat Al-Taleb states: "It is lawful to have intercourse with the Kitabi women through marriage, those who are Jewish or Christian, whether she retains her religion or converts to another, and this is the position of most of the Ulema."¹⁴

Shirbini said: It is lawful to sleep with a woman of Ahlulkitab Who believes in her religion, while it is forbidden with irreligious one.¹⁵

And Ibn Hazm states: "It is permissible for a Muslim male to marry a Kitabi woman, namely, Jewish, Christian or Magi,"¹⁶ and the foremost proof they adduce is:

1- Verse:

﴿Made lawful to you this day are At Tayyibât [all kinds of Halâl (lawful) foods, which Allâh has made lawful (meat of slaughtered eatable animals, etc., milk products, fats, vegetables and fruits, etc.). The food (slaughtered cattle, eatable animals, etc.) of the people of the

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Scripture (Jews and Christians) is lawful to you and yours is lawful to them. (Lawful to you in marriage) are chaste women from the believers and chaste women from those who were given the Scripture (Jews and Christians) before your time, when you have given their due Mahr (bridal money given by the husband to his wife at the time of marriage), ﴿ Quran (5:5)

And the Muhsanat¹⁷ are the free or chaste women, and the meaning of the verse is: It is lawful for you O believers to marry the free and chaste women, and to marry the Jewish and Christian women, provided they are given their dowries, and Ihsan denotes not having committed adultery, while Al-Sifah is to openly commit adultery...

On the authority of Ibn Jarir according to Qutada he said: "It was mentioned to us that some Muslims said: how could we marry their women- meaning the women of the People of the Book- while they are not of our religion?"

Whereupon Allah revealed to His Prophet from Surat Al-Maida verse number 5:

﴿And whosoever disbelieves in the Oneness of Allâh and in all the other Articles of Faith [i.e. His (Allâh's), Angels, His Holy Books, His Messengers, the Day of Resurrection and Al Qadar (Divine Preordainments)], then fruitless is his work, and in the Hereafter he will be among the losers. ﴿ Quran (5:5)

Hence, God made licit marrying them and this is evidenced in the aforementioned verse. Ibn Kathir said: "It is apparent from the verse that what is intended by al-Muhsanat are those women who are chaste, as He said in vrese 25 of Surat Al-Nisa` muhsanat ghayr musafihat."

And it has been said that what was intended by Ahl Al-Kitab in this context are the daughters of Bani Israel, which is the view of the Shafi'i school of Islamic Law, and it was also said: what was meant are the Dhimmi women rather than the belligerent (muharib) women.¹⁸

Hashiyat Al-Adawi states: "...While the People of the Book were honored with the Book and were addressed in those terms by the Lord of lords, their women and food were made licit (for Muslims).."¹⁹ According to this position, the verse of Al-Maida particularizes the verse of Al-Baqara, given that Kitabi women are incorporated within its general context, as Ibn Abbas said about the words of Allah:

﴿And do not marry Al-Mushrikât (idolatresses, etc.) till they believe (worship Allâh Alone). ﴿ Quran (2:221)

The women of the People of the Book were excluded; otherwise there is no conflict between the two verses, because the People of the Book were distinguished from the polytheists in more than one Qur'anic text, such as:

﴿And say to those who were given the Scripture (Jews and Christians) and to those who are illiterates (Arab pagans): "Do you (also) submit yourselves (to Allâh in Islâm)?" ﴿ Quran (3:20)

Perhaps what is correct is that the term mushrikat (polytheistic women) does apply to the People of the Book, as is evidenced in:

﴿Neither those who disbelieve among the people of the Scripture (Jews and Christians) nor Al-Mushrikûn (the disbelievers in the Oneness of Allâh, idolaters, polytheists, pagans, etc.) like that there should be sent down unto you any good from your Lord. ﴿ Quran (2:105)

Moreover, Allah Almighty said in:

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﴿and you shall certainly hear much that will grieve you from those who received the Scripture before you (Jews and Christians) and from those who ascribe partners to Allāh,﴾
Quran (3:187)²⁰

- 2- Allah Almighty said in Surat Al-Nisa`a :

﴿All others are lawful, provided you seek (them in marriage) with Mahr (bridal money given by the husband to his wife at the time of marriage) from your property, desiring chastity, not committing illegal sexual intercourse,﴾ Quran (4:24)

and this verse occurs after mentioning the forbidden women, and the Kitabi (Jews and Christian) women were not included, where it is knowable by virtue of an explicit verse that it is lawful to marry a Kitabi woman.

- 3- It was reported by Abdel Rahman Bin Awf (God be pleased with him) that the Prophet (pbuh) said of the Magi: "Treat them as you would the People of the Book, but do not marry their women nor consume their slaughtered animals."²¹ Hence, if marrying the women of the People of the Book was not Islamically lawful the Prophet would not have said what he did.
- 4- What was related about the position of the Salaf (early generation of Muslims) concerning marrying Jews and Christians, who interpreted the words of Allah in:

﴿And do not marry Al-Mushrikât (idolatresses, etc.) till they believe (worship Allâh Alone).﴾
Quran (2:221)

as meaning that the Mushrikat are the Arab Mushrikat who do not have a holy book²². And Ibn Kathir said: "A group of the companions of the Prophet married Christian women, and this action was not rejected, based on the verse in Surat Al-Maida."²³

- 5- The wisdom behind the lawfulness of marriage to Jewish and Christian women is to produce harmony, reinforcing the perception of the Shariah as flexible and easy, for the man is the guardian of the woman and has authority over her, and so his good treatment of her evidences that this Religion calls to equitable treatment and tolerance towards the adherents of other religions, and what also underpins this harmony is that a Muslim believes in the prophethood of Moses and Jesus (pbuh). Moreover, the People of the Book are closer to the Muslims than the polytheists. The reader may consider how the Muslims felt grief at the Persian victory over the Byzantines and how they felt happiness when the Byzantines defeated the Persians.²⁴

Third topic: -

Third opinion: - Those who consider it permissible while being abhorrent (karaha):-

A group of Muslim Ulema have held the view that marrying a Kitabi woman is generally abhorrent, but they differed on details. Thus, some of them ascribed abhorrence to the woman married for a term and the belligerent one (Harbiya) all at once, and some have distinguished between them, hence considering the woman married for a term as abhorrent and forbade marrying the Harbiyya, and some permitted marrying a Kitabiyya in the absence of a Muslim woman, or was unable to pay her dowry, according to the following elaboration: -

- 1- Malek and some Hanbalis considered it Islamically abhorrent to marry a Kitabi (Jewish or Christian) woman in case she was a dhimmi, while intensifying the abhorrence in case she was a Harbiyya

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(belligerent). The Mudawwana of Malek states: "It is Islamically abhorrent to marry a dhimmi Jewish and Christian women, but I do not forbid it."²⁵ And Ibn Jazzi said: "Malek considered marrying a Harbi woman to be Islamically abhorrent because the offspring would remain in the Abode of War (Dar el-Harb)." Al-Adawi stated that the "position of the Maliki school of Islamic Law on this matter is that it is abhorrent, and he expounded the causes for Malek's position and said: ...perhaps he intended by permissibility that it is not forbidden but this does not negate the possibility of its being abhorrent, and the scholar Al-Jundi followed this position because it is the position of Malek, and al-karaha, that is abhorrence, is established in the Abode of War, and Malek considered it such because the husband cannot prevent the wife from eating pork, or going to church, and this would perhaps lead to raising the child according to her religion, and perhaps she would die pregnant, and would be buried in the cemetery of the Mushriqs, and the child she is bearing is considered a Muslim."²⁶ Al-Baji reasoned the position of considering it as abhorrent by saying: "And perhaps her milk is based on what the woman eats, some of which is unlawful, and the man has intercourse with her and she does not wash (as is Islamically prescribed), and so refraining from such marriage is better, while not be unlawful."²⁷

This saying was reported as uttered by Shafi'i in one of two of his sayings, given that in his book "Al-Um" he considered it Islamically abhorrent to marry a Harbi woman and said: "I consider it abhorrent to marry the belligerents (Ahl Al-Harb), and if he marries, while being a Muslim, a Kitabi belligerent woman I would not call for nullifying the marriage, but would consider it as abhorrent."²⁸

Ibn Abidin said: "Marrying a belligerent Kitabi woman is considered as Islamically abhorrent by consensus, given that residing with her in the Abode of War is of negative moral consequence, and would expose the child to acquire the morals of the unbelievers." But his reference to consensus is subject to debate, for perhaps he meant the people of a particular era or a particular place or a particular time.²⁹

Ibn Qudama Al-Maqdisi said: "The Muslim man who is given safety in Dar Al-Harb may marry, because his woman, if she was from among them, would have greater influence over her children who would follow her religion, and Al-Qadi said: "This is a prohibition involving abhorrence rather than forbiddance."³⁰

This group adduced the following proofs: -

- The overall Qur'anic verse which forbids allegiance to the unbelievers, and matrimonial connection is the strongest factor fostering love and allegiance. Allah say:

﴿Let not the believers take the disbelievers as Auliya (supporters, helpers, etc.) instead of the believers,﴾ Quran (3:28)

Hence, if cohabitation with the unbelievers with antipathy has corrupted religions, what then if they were taken as wives?? Would this not be a call to fire and a cause of destruction and woe?³¹

- Fear for the child to be influenced by the religion of his mother, and also fear that the child would be raised according to their morals, and their corrupt traditions, and their false beliefs, such as going to church and eating pork. Those pitfalls are accentuated in case the belligerent Kitabi woman is living in her country and among her people and tribe, which would give her a stronger standing.³²
- 2- Shafi'i and some Hanbalis had a second opinion, namely the abhorrence of marrying a Kitabi woman whose conversion to Islam is seriously doubted, while a Muslim woman is available, and whose dowry is accessible, such so that Muslim men do not become disinterested in Muslim women, breaking their hearts, on the one hand, and to safeguard themselves from the lure of the Kitabi woman, due to their deep liking for

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her, on the other hand. However, if a Muslim woman is unavailable, then the action of betrothal is not abhorrent.³³ This is corroborated by what was said by Jaber Bin Abdullah (God be pleased with him) concerning their marriage to Kitabi (Jewish and Christian) women: "We married them in the age of the conquests in Kufa, with Sa'ad Bin Abu Waqqas, when we hardly could find Muslim women, and when we returned we divorced them, and they do not inherit from a Muslim nor does a Muslim inherit from them, and their women are lawful for us, and our women are unlawful to them."³⁴

- 3- As for one who differentiates between a Dhimmi woman and a belligerent woman, the former is abhorrent and the latter is unlawful, according to Ibn Abbas, Ali (God be pleased with him), some of the Hanafis, and some Hanbalis. Ibn Abbas said: "It is impermissible to marry the People of the Book in case of belligerence, and he recited the Qur'anic verse:

﴿Fight against those who (1) believe not in Allâh, (2) nor in the Last Day,﴾ Quran (9:29)

Hence, he rendered fighting the unbelievers as preventative of marrying their women, and some of the contemporaries have issued a fatwa (legal opinion) prohibiting marrying a belligerent Kitabi woman after citing the well known dispute in this matter in general, namely: "In case she- that is the Kitabi woman- is not subject to our laws, it is impermissible to marry her out of concern for the offspring of Muslims that she dominate them." The Ulema of the Arab Maghreb, including Sheikh Ibn Badis, has ruled "that marriage to French women, Jews and Christians, is unlawful, because French laws consider their offspring to be French nationals carrying the citizenship of their mother, and they are not subject to the precepts and rules of Islam insofar as marriage, divorce, inheritance, and otherwise."³⁵

Fourth topic:

Discussion and considering as more plausible:

It would be possible to discuss the foregoing opinions as follows: -

First: As for the position of the first group who forbade marrying a Kitabi woman absolutely the reply is as follows: -

- 1- Their argument that marriage to a Kitabi woman could lead to affinity and allegiance (to the unbelievers), which are Islamically forbidden the response is that religious rules and principles are not based on pure possibility, otherwise people would be in great distress; at any rate, this possibility exists, and hence the position that it is abhorrent is more suitable than prohibition, particularly since there are explicit proofs legitimizing marriage to Kitabi women in the Qur'an and Sunnah which are overriding.
- 2- As for their argument that the Mushrikat (polytheist women) in:

﴿And do not marry Al-Mushrikât (idolatresses, etc.) till they believe (worship Allâh Alone).﴾
Quran (2:221)

the Qur'anic verse is inclusive of Kitabi women (Jewish and Christian) is not valid, because the Mushrika is not the Kitabiyya, as is evidenced in the verses we have previously cited in terms of adding al-Mushrikin to the People of the Book (Ahl al-kitab), given that joining coupling one word with another using a conjunction connotes distinctiveness, and assuming your position is correct- that is the inclusion of the term of shirk of Ahl Al-Kitab- the verse is restricted to Surat Al-Ma'ida,³⁶ and so the Kitabi woman was excluded from the Mushrikat, and as for what was related by Ibn Umar, it confines prohibition to the polytheists from among the People of the Book and not the monotheists.³⁷

- 3- As for their position that the Surat Al-Baqara verse abrogated the Maida verse, it is inadmissible because the verse of the Surat AL-Baqara was among the first to be revealed in Medina, and Surat Al-Maida was the last to be revealed, and the accepted principle is that the later abrogates the earlier.³⁸ Furthermore, effectuation is preferred to neglect, and combining sacerdotal texts is favored over abrogation and considering a position more plausible than another, given that holding the position of abrogation (naskh) is effectuating one proof and precluding another, contrary to combining evidences, and it was possible to

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combine evidences in this case, such considering that the verse of Surat Al-Maida particularizes the generality of the Baqara verse, whereby the oppositionality is removed.

4- As for their adducing a proof from the Qur'anic verse:

﴿ Likewise hold not the disbelieving women as wives, ﴾ Quran (60:10)

It is actually ill-founded, because the Surat Al-Mumtahinah verse was revealed concerning a different matter, namely a Muslim man parting with a belligerent (muharib) woman, or the Muslim woman parting with a belligerent man, whereby ties are severed between them, and there are particular Shari'ah rules in this regard, which this is not the place to discuss. Or it is said: the verse is general concerning the female unbelievers, which the Surat Al-Ma'ida particularized thereby precluding the Kitabi women from the general context, or that the verse is specific only to idol worshippers.³⁹

As for what was related that Umar Ibn Al-Khattab forbade it:

- a) His forbiddance of marriage to Kitabi women was for fear that Muslim men would marry unchaste women, and this is evidenced in the following: when he ordered Huthayfa to separate from his Jewish wife, Huthayfa wrote to him and said: Do you claim that she is forbidden to me and that I should divorce her? Whereupon he said: I do not claim that she is unlawful, but I am apprehensive that you would marry the prostitutes from among them. This tradition is based on a sound chain of transmission (isnad sahih ar.).⁴⁰ Hence, Umar's position is that it is abhorrent rather than prohibited.
- b) He considered this as abhorrent for fear that men would become disinterested in Muslim women, especially if this action was committed by a companion of the Prophet who is a role model such as Huthayfa, and what supports this is what was narrated from Umar (God be pleased with him) that he said: "A Muslim may marry a Christian woman, but a Christian man may not marry a Muslim woman." This is explicit proof that Umar's position is that it is Islamically lawful rather than prohibited. As for his accentuation of prohibition, it may be interpreted as discouragement rather than prohibition, and in special cases and particular circumstances. It is stated in Fath Al-Bari: "It was related according to Umar that he discouraged marrying them without considering such to be unlawful."⁴¹

Second: As for the position of the majority of Ulema (al-jumhur) that the permissibility is absolute- that is in the event that their proofs are strong- it is subject to debate, because the matter may be enshrouded by characteristics and externalities that affect the position of Islamic law in this regard. Hence, it is unsound to state that it is absolutely permissible without taking into consideration the dangers of such marriage. We have seen how Umar Ibn Al-Khattab (God be pleased with him), with his perceptiveness, and profound insight, abundant knowledge, and unequalled justice, forbade such marriage owing to its possible consequences.

Third: As for those of the third position: Their proofs may be responded to as follows:

- 1- Those that consider it abhorrent in an absolute sense, they have been excessively strict, opposing explicit stipulations that it is permissible, even though some of their statements are valid, because the dangers that they cited are Islamically valid. Actually, they should have confined the abhorrence of the marriage to specific cases without generalization.⁴²
- 2- As for those who differentiate between the Dhimmi and belligerent woman (al-dhimmiyyah w'al harbiyyah), they considered marriage to the former to be abhorrent and to the latter to be absolutely forbidden, which conflicts with stipulations that are permissive. As for their citing as proof the Qur'anic verse:

﴿ Fight against those who (1) believe not in Allâh, (2) nor in the Last Day, ﴾ Quran (9:29)

the verse is outside of the boundaries of the dispute, because fighting has no effect in terms of invalidating a marriage. And this was replied to as follows: fighting an unbeliever is more difficult than terminating a marriage.

- 3- As for those who consider it abhorrent to marry a Kitabi woman whose acceptance of Islam is impossible, or with the presence of a Muslim woman, it is a valid position, because there is no

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good in a Kitabi woman who does not have in her heart the seeds of guidance and an amenability to embrace Islam, but rather, it is feared for the Muslim husband to incline to her religion due to cohabitation with her, and it is also feared that the children would incline to the religion of their mother, which would represent a danger to the offspring. The abhorrence is accentuated in case the Kitabi woman is belligerent (harbiyyah)⁴³ who resides in the land of unbelief, and likewise in case of the presence of a Muslim woman, the opinion that it is abhorrent is harmonious with the spirit of Divine Law which enjoins selecting a virtuous woman who is well brought up. Allah Almighty said:

﴿Good statements are for good people (or good women for good men) and good people for good statements (or good men for good women),﴾ Quran (24:26)

Moreover, the Prophet (pbuh) said: Life is pleasurable and the finest blessing is a virtuous wife.⁴⁴ He also said: A woman is married for four reasons: her wealth, lineage, beauty and piety, so choose the God-fearing woman..."⁴⁵ Hence, the elaboration made by Imam Shafi'i is more plausible in this matter, even though he overlooked some cases in which marriage to a Kitabi woman is abhorrent, or even prohibited, especially in our present age, in which life has become of ever greater complexity, with developments that heretofore were not present. Hence, we find that some contemporaries have placed terms and limitations for the permissibility of marriage to a Kitabi woman- at the present time- deducing those restrictions and limitation from the evidences of Islamic law and the independent reasoning of the Ulema.

In this context, I wish to cite two contemporary cases; the first, is the position of Sheikh Qaradawi who represents the Azhar school (easterners), and the second is the position of Sheikh Hamani who represents the school of the westerners (al-Magharibah).

Qaradawi holds the position that it is Islamically permissible to marry a Kitabi woman with four conditions: -

- 1- That he ascertains that she is a genuine Kitabi woman, and is not an atheistic communist, who does not believe in God or prophethood or the afterlife.⁴⁶
- 2- That she is chaste and has maintained her virginity and honor. This condition may be rare in western societies against the backdrop of moral corruption and absolute licentiousness. It suffices for a woman to sincerely repent from those deeds, in a manner reflecting her repentance, and it would be possible to test a woman's chastity.
- 3- That this does not prejudice the interests of Muslim females or those of the husband himself, or his offspring. It may be pointed out that the West forbids polygamy, which may be detrimental to the man, in terms of his chastity, and that of the Muslim females, in addition to the possibility that a child would belong to the mother in case of separation.
- 4- That she is not of a nation that is belligerent to Muslims, and this restriction connotes forbidding marriage to a Jewess (Israeli) or one who supports Israel. Actually, Ibn Abbas forbade marriage to a Harbi (belligerent) woman.⁴⁷

As for the sheikh of the magharibah (Arab westerners), he set conditions for betrothing a Kitabi woman: that she should be chaste, a Dhimmi (Jewish or Christian protected people), and to ensure that the children are well raised. In this regard he stated: The Kitabi woman should be pure and chaste and beyond suspicion or doubt, Clearly, the woman who is alone with men and dances with them cannot be properly called Muhsana (chaste), and she should be one of the subjects of Muslim states, governed by their laws and regulations, and cannot be protected by a foreign state and be subject to its laws.⁴⁸

Hence, in case one of the conditions is not met it is impermissible for a Muslim to marry a Kitabi woman, in order to safeguard his faith and the future of his offspring.

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Conclusion:

Issuing a fixed position on the matter of marriage to a Kitabi woman and generalizing it to all cases conflicts with the stipulations of the Islamic Shari'ah and contravenes its spirit. Moreover, what was said in terms of prohibition, permissibility and lawfulness necessarily requires enlightened Fatwas, insightful opinion, and considering the matter from all angles, and a balancing between interests and detriments. Undoubtedly, the dangers mentioned by the old and modern Ulema contain validity, given that actual reality testifies clearly to the validity of their opinion that many Muslim men were captivated by non-Muslim women, especially the western women. Also, none can deny those facts, for some have remained in the West due to its lure, and others did not remain with their wife because they found them with other men, driving their jealousy, and the wife could not tolerate such restrictions, and in other cases the marriage was a cause of the wife embracing Islam, and in this instance the woman was a fine wife for a fine husband.

In a nutshell, none of the Ulema can prohibit marriage to a Kitabi woman absolutely due to the generality of religious evidences, and no person could deny the pitfalls of marriage to a Kitabi woman and the consequences of this, against the backdrop of a number of legislative precepts and rules which we addressed in this study, hoping that we encountered success in this endeavor. Any success that we met with is due to Allah's grace, and any deficiency is from me and Satan.

And our final prayer is all praise be to Allah, Lord of all creation.

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