105531 - Online Nikah: Valid or Not?

the question

Is it valid to do the marriage contract over a WebCam? Because I heard that it is not permissible as one of the conditions of marriage is that it should be done in one place.

Summary of answer

It is permissible to do online nikah if there is no danger of tampering, the identity of the husband and wali is proven, and the two witnesses can hear the proposal and acceptance.

Detailed answer

Praise be to Allah.

Conditions of valid marriage in Islam

The proposal (ijab) and acceptance (qabul) form one of the pillars or essential parts of the marriage contract, without which it is not valid. The proposal is said by the wali (guardian) or his proxy and the acceptance is said by the husband or his proxy.

It is stipulated that the proposal and acceptance should come in one sitting. It says in Kashshaf al-Qina‘ (5/41):

“If there is a lapse of time between the proposal and acceptance, it is valid so long as both are done in the same gathering and there is no distraction that would count as an interruption according to local custom, even if the interval between the two is lengthy. But if they part before the acceptance is spoken after the proposal has been issued, then the proposal becomes invalid. The same applies if there is a distraction that interrupts the proceedings according to local custom, because that is turning away from it and it is as if the proposal had been rejected.”

Similarly, it is also stipulated that witnesses be present in order for the marriage contract to be valid.

Is online nikah valid in Islam?

Based on that, the scholars differed with regard to doing the marriage contract by using modern means such as the telephone and the Internet . Some of them say that that is not permissible, because of the absence of witnesses, even though the presence of two witnesses on the phone at the same time comes under the same ruling as if they were in the same place. This is the view of the Islamic Fiqh Council (Majma‘ al-Fiqh al-Islami).

Some of the scholars are of the view that this should be disallowed, as a precaution to protect the marriage, because it is possible to imitate a person’s voice and thus deceive others. This is what is stated in fatwas issued by the Standing Committee for Issuing Fatwas.

Some of the scholars regard it as permissible so long as there is no risk of tampering. This is what was stated in fatwas issued by Shaykh Ibn Baz (may Allah have mercy on him).

Thus it is known that the problem is not the issue of being in the same place, because contact between both parties at the same time via the phone or Internet comes under the same ruling as if they were in the same place.

It is also possible for this marriage contract to be witnessed, by hearing the voice of the speaker over the phone or Internet; in fact with technological advances nowadays it is possible to see the wali and hear his voice when he makes the proposal, and it is also possible to see the husband.

Hence the most correct view with regard to this matter is that it is permissible to do the marriage contract over the phone or Internet, if there is no danger of tampering, the identity of the husband and wali is proven, and the two witnesses can hear the proposal and acceptance.

This is what was stated in fatwas issued by Shaykh Ibn Baz (may Allah have mercy on him), as stated above. It is also what is implied by the fatwa of the Standing Committee, which disallowed

marriage in such cases as a precaution and for fear of deceit.

The one who wants to be on the safe side may do the marriage contract by appointing proxies; so the husband or guardian may appoint someone to do the marriage contract on his behalf in front of witnesses.

Scholarly comment on online nikah

There follow the comments of scholars that confirm what we have referred to:

- Statement of the Islamic Fiqh Council

Statement no. 52 (6/2) concerning the ruling on contracts via modern means of communication.

“After stating that it is permissible to do contracts via modern means of communication , the Council said:

The guidelines mentioned above do not apply to the marriage contract, because of the stipulation that witnesses be present in that case.”

- Fatwa of the Standing Committee for Issuing Fatwas

Question: if the pillars or essential parts and conditions of the marriage contract are fulfilled, except that the wali and the husband are in different countries, is it permissible to do the marriage contract by phone or not?

Answer:

“Because nowadays deceit and trickery are widespread, and some people are skilled at imitating others, and some are able to make their voice sound like a number of people, male and female, young and old, and even speak different dialects and languages, so that the listener thinks that several people are speaking when in fact it is only one person, and because Islamic Shari`‘ah is concerned with protecting people’s chastity and honour, and takes more precautions than other religions with regard to contracts and dealings, the Committee thinks that it is not appropriate,

with regard to marriage contracts, the proposal and acceptance, and appointing proxies, to handle such matters over the phone. This is in order to achieve the aims of shari'ah and protect people's chastity and honour, so that those who follow whims and desires and those that seek to deceive and cheat people will not be able to toy with matters of marriage. And Allah is the source of strength." (Fatawa al-Lajnah ad-Daimah, 18/90)

- Fatwa of Shaykh Ibn Baz (may Allah have mercy on him)

Question:

I want to get married to a girl and her father is in another country; at present I cannot travel to meet him and do the marriage contract, for financial or other reasons. I am currently in a foreign country. Is it permissible for me to call her father so that he can say to me, "I give you my daughter So and So in marriage," and I can say, "I accept." The girl agrees to the marriage and there are two Muslim witnesses who can listen to what I say and what he says, via the speakers on the phone. Is this regarded as a legitimate marriage contract?

Answer:

"The website put this question to Shaykh 'Abd al-'Aziz ibn 'Abdullah ibn Baz (may Allah have mercy on him) and he replied that if what is described is true (and there is no tampering involved), then it fulfills the conditions of shar'i marriage and the marriage contract is valid."

For more, please see these answers: 2201 , 148520 , 147987 , and 4807 .

And Allah knows best.