209314 - She wants to become Muslim but she is in nifaas; how should she work out her ‘iddah?

the question

A non-muslim woman -who is already married to a non-muslim man-, wants to convert to Islam. She is in the state of Nifaas. If she converts to Islam while she is in the state of Nifaas and her husband refuses to do so, will there be any Iddah for her? If yes, than what will it be?

Detailed answer

Praise be to Allah.

Firstly:

What this lady must do is hasten to enter Islam, the true religion and the religion of sound human nature, which Allah, may He be glorified, has chosen for His slaves; whoever follows any other religion, it will never be accepted from him and in the hereafter he will be one of the losers. Praise be to Allah Who has opened her heart to Islam, for this is the greatest of all blessings. We ask Allah, may He be exalted, to make her steadfast and protect her from confusion.

Secondly:

With regard to her relationship with her non-Muslim husband, as soon as she becomes Muslim, she should refuse to be intimate with him; in fact she should live separately from him and observe ‘iddah.

The majority of scholars are of the view that she should observe ‘iddah, like a woman who has been divorced (talaaq). If she is pregnant, she should observe ‘iddah until she gives birth; if she is not pregnant, then her ‘iddah is three menstrual cycles for those who menstruate, and three months for those who have passed menopause.

Al-Qarraafi (may Allah have mercy on him) said:

There is a difference of scholarly opinion concerning the ‘iddah. Maalik and Ibn al-Qaasim said that if she becomes Muslim and he (her husband) does not, then (her ‘iddah) is three menstrual cycles.

Adh-Dhakheerah, 4/330

Some of the scholars are of the view that she should observe ‘iddah for one menstrual cycle, because her separation is that of annulment of the marriage, not separation by divorce (talaaq).

But the view of the majority is more on the safe side.

See: Ahkaam Ahl adh-Dhimmah by Ibn al-Qayyim, 1/317 ff; al-Mawsoo‘ah al-Fiqhiyyah, 29/335; Islam Ahad az-Zawjayn, 159 ff.

See also the answer to question no. 12667

What appears to be the case is that this woman is one of those who menstruate, because she has only recently been in the state of nifaas. So her ‘iddah is three complete menstrual cycles, starting from the time when she enters Islam. It should be noted that the time of her nifaas is not counted as part of the ‘iddah at all. Rather nifaas has nothing to do with the ‘iddah; she should wait until her nifaas ends, then she gets her period and becomes pure, then she gets (another) period and becomes pure, then she gets (a third) period and becomes pure. Then she will have had three menstrual cycles and her ‘iddah will be over, whether the time between periods is long or short.

Al-Hajjaawi (may Allah have mercy on him) said in Zaad al-Mustaqni‘:

This is like menses in terms of what is permissible, prohibited, obligatory and waived, apart from observing ‘iddah.

Shaykh Ibn ‘Uthaymeen (may Allah have mercy on him) said:

i.e., the nifaas is not included in the ‘iddah.

Therefore menstruation is counted as part of the ‘iddah, whereas nifaas is not counted as part of the ‘iddah.

For example, if a man divorces his wife, then she should observe ‘iddah for the duration of three menstrual cycles, each of which is counted as part of the ‘iddah.

Nifaas is not counted as part of it, because if he divorced her before she gave birth, the ‘iddah comes to an end when she gives birth. But if he divorced after that, she must wait for three menstrual cycles, and the nifaas is not included as part of the ‘iddah at all.

End quote from ash-Sharh al-Mumti‘, 1/516

However, the menstrual period during which the separation occurred is not counted as part of the ‘iddah either.

See: ash-Sharh al-Mumti‘, 9/279

Thirdly:

She has to observe ‘iddah. If her husband becomes Muslim during this period, then they remain married, with no need for a new marriage contract.

If her husband does not become Muslim during this period, and the ‘iddah comes to an end, there is a difference of opinion among the fuqaha’ concerning that:

Some of them said that their marriage becomes annulled when the ‘iddah ends, and the woman is then completely divorced from her husband.

However, the correct view is that if they agree to go back to one another on the basis of the original marriage contract, and the woman has not married someone else, then that is permissible and there is no need for a new marriage contract.

Ibn al-Qayyim (may Allah have mercy on him) said:

What is indicated by the rulings of the Prophet (blessings and peace of Allah be upon him) is that the marriage is suspended; if he becomes Muslim before the end of her ‘iddah, then she is still his wife. But if her ‘iddah comes to an end, she may then marry anyone she wishes, or if she wants,

she can wait and if he does become Muslim, then she is still his wife, with no need for a new marriage contract.

End quote from Zaad al-Ma‘aad, 5/137

This is the view favoured by Shaykh al-Islam Ibn Taymiyah, and is the view regarded as most correct by Shaykh Ibn ‘Uthaymeen (may Allah have mercy on them both). They quoted as evidence the report narrated by Abu Dawood from Ibn ‘Abbaas (may Allah be pleased with him), according to which the Messenger of Allah (blessings and peace of Allah be upon him) sent his daughter Zaynab back to her husband Abu’l-‘Abbaas on the basis of her original marriage contract.

Narrated by at-Tirmidhi, 1143; Abu Dawood, 2240; Ibn Maajah, 2019. Classed as saheeh by al-Albaani in Saheeh Ibn Maajah.

He became Muslim two years after the verses of Soorat al-Mumtahanah were revealed, in which it states that Muslim women are forbidden in marriage to mushrik men. What appears to be the case is that her ‘iddah ended during that period, but the Prophet (blessings and peace of Allah be upon him) still returned her to him on the basis of the original marriage contract.

See also the answer to question no. 21690

And Allah knows best.