48992 - A new Muslimah has married a Muslim man without her family's knowledge

the question

I am a Chinese girl married to a Lebanese Muslim man. The main reason for this is that I have become Muslim… we got married in the Islamic manner, but this marriage was done without the knowledge of our families, because of some difficult circumstances.
Do you think that this is haraam? I mean, is it against the Qur'aan?.

Detailed answer

Praise be to Allah.

The evidence from the Qur'aan and Sunnah indicates that a woman should not get married without a wali (guardian) to look after her and protect her interests, lest she be deceived by the devils among men. Allaah says (interpretation of the meaning):

"Wed them with the permission of their own folk (guardians, Awliyaa' or masters)"

[al-Nisa' 4:25]

It was narrated from Abu Moosa al-Ash'ari that the Prophet (peace and blessings of Allaah be upon him) said: "There is no (valid) marriage without a wali (guardian)." Narrated by the five and classed as saheeh by Ibn al-Madeeni.

Al-Tirmidhi said: This is the correct view concerning this issue, based on the hadeeth of the Prophet (peace and blessings of Allaah be upon him), "There is no marriage without a wali (guardian)," according to the scholars among the companions of the Messenger of Allaah (peace and blessings of Allaah be upon him), such as 'Umar ibn al-Khattaab, 'Ali ibn Abi Taalib, 'Abd-Allaah ibn 'Abbaas, Abu Hurayrah and others.

If one of your close male relatives is a Muslim, such as your father, brother, uncle or cousin, then he is your wali with regard to marriage, and your marriage is not valid without his permission and consent. He should do the marriage contract for you himself or appoint someone to do it on his behalf.

If all your close male relatives are non-Muslims, then a kaafir cannot be the wali (guardian) of a Muslim.

Ibn Qudaamah said: With regard to a kaafir, he cannot be the wali of a Muslim in any situation, according to scholarly consensus.

Ibn al-Mundhir said: Those from whom we acquired knowledge are unanimously agreed on that.

Imam Ahmad said: We have heard that ‘Ali allowed a marriage done by a brother, but he rejected a marriage done by a father who was a Christian. Al-Mughni, 7/356.

And a Muslim cannot be a guardian for the marriage of his kaafir children’s marriage. Shaykh al-Islam Ibn Taymiyah was asked about a man who had become Muslim; could he still be a wali for his children who were people of the Book?

He replied: He cannot be their guardian with regard to marriage, or with regard to inheritance. A Muslim cannot do the marriage contract for a kaafir woman, whether she is his daughter or anyone else. And a kaafir cannot inherit from a Muslim or a Muslim from a kaafir. This is the view of the four imams and their companions among the earlier and later generations. Allaah has severed the ties of guardianship between believers and disbelievers in His Book, and has decreed that they should have nothing to do with one another, and that the ties of wilaayah (guardianship) exist among the believers. (32/35) But a Muslim woman should tell her family about that and seek their approval, so that this will help to open their hearts to Islam.

The question here is: what should a Muslim woman who does not have a Muslim wali do?

The answer is:

A Muslim who is in a position of authority or status should do the marriage contract for her, such as the head of an Islamic centre, the imam of a mosque, or a scholar. If she cannot find anyone like this, then she should appoint a Muslim man of good character to do the marriage contract for her.

Shaykh al-Islam said: In the case of a woman who does not have a wali among her relatives, if there is in her locality a representative of the ruler or the chief of the village, or a leader who is obeyed, then he can do the marriage contract for her with her permission. (32/35).

Ibn Qudaamah said:

If a woman does not have a wali or a ruler, then there is a report narrated from Ahmad which indicates that a man of good character may do the marriage contract for her with her permission. (7/352).

Al-Juwayni said: If she does not have a wali present, and there is no (Muslim) ruler, then we know definitively that closing the door of marriage is impossible in sharee'ah, and whoever has any doubt about that does not have a proper understanding of sharee'ah. To suggest that the door of marriage may be closed is as bad as suggesting that people may be prevented from earning a living. Al-Ghayaathi 388. Then he stated that the ones who should do that (do marriage contracts for women who have no wali) are the scholars.

Conclusion:

If the marriage contract was done in this manner, and the imam of an Islamic Centre in your country or a Muslim man of good character did the marriage, then your marriage is valid. But if you did the marriage yourself (with no wali) then you have to go with your husband to the nearest Islamic centre and repeat the nikaah (marriage contract), and let the head of the centre, for example, be your wali in marriage.

With regard to your husband, he does not have to tell his family, because there is no stipulation that the husband should have a wali.

And Allaah knows best.