

90054 - She committed zina and wants to abort the foetus

the question

There is a woman who was married and she had three children. Her husband died three years ago and she got to know a young man and had a haraam relationship with him, which resulted in a foetus who is about one and a half months old. After we found out about that we did an ‘urfi marriage for her, to reduce her accountability before Allaah and before her children.

Because the foetus was conceived outside of marriage, is this zina or is she married?

Is aborting the foetus in this case haraam or halaal? The one who will go with her for the abortion is her sister who is confused – if she goes with her for the abortion will she be concealing her or will she be a partner in committing a crime, which is the crime of zina and abortion?.

Detailed answer

What this woman has done is zina which Allaah has forbidden to us, as He says (interpretation of the meaning):

“And come not near to unlawful sex. Verily, it is a Faahishah (i.e. anything that transgresses its limits: a great sin, and an evil way that leads one to hell unless Allaah Forgives him)”

[al-Isra’ 17:32]

What you have done by arranging an ‘urfi marriage does not change things in the slightest, because zina and the conception of the foetus took place before that.

Moreover the ‘urfi marriage that this woman has done means that she has given herself in marriage without the knowledge or presence of her wali (guardian), so it is not valid, because the Prophet (peace and blessings of Allaah be upon him) said: “There is no marriage except with

a wali.” Narrated by Abu Dawood (2085), al-Tirmidhi (1101) and Ibn Maajah (1881) from Abu Moosa al-Ash’ari; classed as saheeh by al-Albaani in Saheeh al-Tirmidhi.

And the Prophet (peace and blessings of Allaah be upon him) said: “Any woman who gets married without the permission of her wali, her marriage is invalid, her marriage is invalid, her marriage is invalid.” Narrated by Ahmad (24417), Abu Dawood (2083), al-Tirmidhi (1102); classed as saheeh by al-Albaani in Saheeh al-Jaami’ (2709).

Based on this, this marriage contract that was done does not count and she has not become a wife to this zaani by means of this contract, so it cannot be a means of reducing her accountability before Allaah, rather it is another sin to be added to the first sin.

As for abortion, it is a third crime. Even though some fuqaha’ allowed abortion in the early stages, that should not apply to the zaaniyah, because that would encourage immorality and spread evil. One of the basic principles of Islam is that it forbids immorality and all the ways that lead to it. See question no. [13331](#).

This woman has to repent to Allaah sincerely, regret what she has done and make her deeds righteous. If she is sincere in her repentance, Allaah will grant her a way out. Allaah says (interpretation of the meaning):

“And whosoever fears Allaah and keeps his duty to Him, He will make a way for him to get out (from every difficulty)”

[al-Talaaq 65:2]

And Allaah knows best.