

212394 - Is my father's guardianship waived if he sexually abused me when I was small?

the question

I sent u A message few weeks ago

I need further explanation for it, can you please answer me. And I would like to add to the question something that Abu dawood said:

I heard Abu abdullahi asked, "if a Zoroastrian woman accepts Islam, should she be kept away from her brother? He answered, if, there are grounds to fear he would try to have intimate relations with her"

He was also asked whether a Zoroastrian man can travel with his Muslim daughter or give her away in marriage. He replied, " he is not her guardian(walee)."[Ibid. 2:790] So does this mean that if my father has been sexually abused my when I was a child he can not be my mahram or give me away in marriage, and if he did then my marriage would be null and void?

Detailed answer

Undoubtedly the father's sexual abuse of his daughter is unnatural and abhoorent; how can he turn away from his duty, which is to protect and care for his daughter, and become an aggressor? For more information on this matter, and its causes and remedies, please see the answer to question no. [46886](#).

As to whether this abusive father's guardianship of his daughter remains valid or not, that is subject to further discussion:

- If he has repented from his action and regrets it, then his guardianship is undoubtedly valid.
- If he has not repented from it and does not regret it, whether he did that act repeatedly or not, then this goes back to the issue of good character, which is essential in guardianship

for marriage. This has been discussed previously in the answer to question no. [159491](#)

The correct view is that guardianship of an evildoer in the case of marriage is valid, especially if he is the father, but that is subject to the condition that he be a trustworthy guardian of his daughter.

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

The correct view with regard to this matter is that it is essential that the father be a trustworthy guardian of his daughter. This is the most important condition, because he is acting in the interests of another person, so in order for the guardianship to be valid, there should be certainty that the interests of the one who is under his guardianship will be served thereby. As for the issue of his character and religious commitment, that is his business. You will find that many fathers are evildoers, among the most evil of the slaves of Allah – a father may drink alcohol, commit zina, shave off his beard, smoke, cheat, backbite and spread malicious gossip among people – but when it comes to his daughter's interests, he can never be careless in that regard.

End quote from ash-Sharh al-Mumti', 12/79

To sum up: if the guardian is trustworthy, even if he is an evildoer, and the prospective husband is compatible, and the father is thinking of her interests, and not his, in arranging this marriage, then her marriage is valid.

But if he is not trustworthy with regard to her, then guardianship for the purpose of marriage is transferred to another guardian.

With regard to the marriage that your father has arranged for you, what appears to be the case is that it is valid, in sha Allah, and there is no need to investigate the matter further or open the door to waswaas concerning it.

With regard to the text that you quoted from Imam Ahmad about separating a Zoroastrian brother from his Muslim sister if there are grounds to fear that he would try to have

intimate relations with her, that is because the Zoroastrians regard incestuous marriages as permissible.

Ibn Qudaamah (may Allah have mercy on him) said: "Chapter on inheritance among the Zoroastrians and those who follow their ways of incestuous marriage."

End quote from al-Mughni, 6/374

With regard to the prohibition on guardianship of a Zoroastrian with regard to arranging the marriage of his Muslim daughter, that is due to the difference in religions, because being of the same religion is a condition of guardianship in the case of marriage. This does not apply only to the Zoroastrians and it has nothing to do with whether or not the father had previously abused his daughter.

It says in al-Mawsoo'ah al-Fiqhiyyah (2/309):

Differences in religion between Islam and disbelief is one of the impediments to guardianship in marriage, according to consensus among the four madhhabs. So no disbeliever can be a guardian with regard to arranging the marriage of a Muslim woman.

And Allah knows best.