

222367 - What Is Tahlil Marriage?

the question

What is Tahlil marriage?

Summary of answer

1. Tahlil marriage is prohibited and invalid, and it does not make it permissible for the woman to go back to her first husband.
2. It is not permissible for the man who issued the divorce, or for the woman, to use tricks to get around the laws of Allah and get back together by means of what is called a Tahlil marriage.

Detailed answer

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What is Tahlil marriage?

The husband is given the option of taking back his wife if he has divorced her (by Talaq) twice, and this is called [revocable divorce](#) . Allah, may He be exalted, says (interpretation of the meaning):

“The [divorce](#) is twice, after that, either you retain her on reasonable terms or release her with kindness.” [Al-Baqarah 2:229]

If he divorces her a third time, then she becomes prohibited for him and it is not permissible for him to marry her with a new marriage contract and mahr unless she marries someone other than him, in a valid and genuine marriage, then he (second husband) consummates the marriage with her, then divorces her or dies and leaves her a widow. Allah, may He be exalted, says (interpretation of the meaning):

“And if he has divorced her (the third time), then she is not lawful unto him thereafter until she has married another husband. Then, if the other husband divorces her, it is no sin on both of them that they reunite, provided they feel that they can keep the limits ordained by Allah. These are the limits of Allah, which He makes plain for the people who have knowledge.” [Al-Baqarah 2:230]

It was narrated from `Aishah (may Allah be pleased with her) that Rifa`ah Al-Qurathi (may Allah be pleased with him) married a woman then he divorced her, issuing a third divorce. Then she married another man, then she came to the Prophet (blessings and peace of Allah be upon him) and told him that he did not have intercourse with her, and the Messenger (blessings and peace of Allah be upon him) understood that she wanted to go back to Rifa`ah, so he (blessings and peace of Allah be upon him) said: “No, not until he (the second husband) tastes your sweetness and you taste his sweetness [A metaphor for consummation of the marriage].” (Narrated by Al-Bukhari, 5011 and Muslim, 1433)

Forms of Tahlil marriage

It is not permissible for the man who issued the divorce, or for the woman, to use tricks to get around the laws of Allah and get back together by means of what is called a Tahlil marriage.

This kind of marriage takes several forms, including the following:

- Where the husband who had issued the divorce, or the woman, or her guardian, hire a human “billy-goat”, and stipulate that he must marry the divorced woman, consummate the marriage with her, then divorce her, and they give him a sum of money in return for that!

- Where a man marries that divorced woman without making any agreement with anybody, but his aim is to make her permissible for the first husband, then he divorces her.

Tahlil marriages are prohibited and invalid , and those who do that deserve to be cursed.

`Abdullah ibn Mas`ud (may Allah be pleased with him) said: The Messenger of Allah (blessings and peace of Allah be upon him) cursed the Muhallil and the Muhallal lahu. [The Muhallil is the one who marries a woman and divorces her so that she can go back to her first husband, and the Muhallal lahu is the first husband.] (Narrated and classed as authentic by At-Tirmidhi, 1120; also narrated by An-Nasa'i, 3416)

Ibn Hajar (may Allah have mercy on him) said:

"It was classed as authentic by Ibn Qattan and Ibn Daqiq Al-`Eid according to the conditions of Al-Bukhari." (At-Talkhis Al-Habir, 3/72)

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

"With regard to the Prophet (blessings and peace of Allah be upon him) cursing them [the Muhallil and the Muhallal lahu], this is either telling that Allah, may He be Exalted, has cursed them, or it is a supplication for them to be cursed. This indicates that it is prohibited and is a major sin." (Zad Al-Ma`ad fi Hadiy Khayr Al-`Ibad, 5/672)

`Uqbah ibn `Amir (may Allah be pleased with him) said: The Messenger of Allah (blessings and peace of Allah be upon him) said: "Shall I not tell you of a borrowed billy-goat?" They said, Yes, O Messenger of Allah. He said, "He is Al-Muhallil. May Allah curse Al-Muhallil and Al-Muhallal lahu." (Narrated by Ibn Majah, 1936; classed as sound by Al-Albani in Saheeh Ibn Majah)

Is Tahlil marriage valid?

These Hadiths indicate that Tahlil marriage is prohibited, and that it is a major sin; they also indicate that it is not valid.

It says in Al-Mawsu`ah Al-Fiqhiyyah (10/256, 257):

“The majority of scholars – the Malikis, Shafi`is, Hanbalis and Abu Yusuf among the Hanafis – are of the view that Tahlil marriage is invalid, because of the two Hadiths quoted above, and because marriage for the purpose of Tahlil comes under the same heading as temporary marriage, and stipulating that a marriage is to be temporary renders it invalid. So long as the marriage is invalid, no Tahlil occurs thereby [i.e., it does not make it permissible for the woman to go back to her first husband after the second marriage ends] This is supported by the view of `Umar (may Allah be pleased with him) who said: “By Allah, no Muhallil or Muhallal lahu will be brought to me but I will stone them.”

Shaykh `Abd Al-`Aziz ibn Baz (may Allah have mercy on him) said:

“This is one of the most abhorrent kinds of falsehood, and one of the gravest kinds of corruption. He is in effect a Zani (fornicator or adulterer), because he did not marry her so that she could be a wife to him, and keep him chaste and stay with him, and so that he might hope to have children from her. No, rather he came as a borrowed billy-goat, to make her permissible for the one who came before him, by having intercourse with her once, then leaving her and finishing with her. This is the Muhallil; his marriage is invalid and is not legitimate, and she does not become permissible for the first husband so long as ([the second husband](#)) married her with this intention and for this purpose. It is an invalid marriage and she is not permissible for him or for the first husband, because this is not a marriage, and Allah says (interpretation of the meaning): “until she has married another husband” [Al-Baqarah 2:230] This is a borrowed billy-goat, not a legitimate husband, and he does not make her permissible for the first husband.” (Fatawa Ash-Shaykh Ibn Baz, 20/277, 278)

Does mentioning the condition of Tahlil in the marriage contract make it valid?

With regard to the prohibition on [Tahlil marriage and its invalidity](#), it makes no difference whether the condition of Tahlil is specifically mentioned in the marriage contract or if the

agreement is made beforehand and not mentioned at the time of the marriage contract, or the second husband had that intention without anybody stipulating it or coming to some agreement to that effect with him. In all these cases, it is a Tahlil marriage and is prohibited.

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

“There is no difference of opinion, according to the people of Madinah, the scholars of Hadith and the jurists, whether that is stipulated verbally or by implicit agreement and intention, because in their view the intention behind contracts carries weight, and actions are judged by intentions, and in their view a condition was agreed implicitly is like one that was spoken aloud, because words are not sought in and of themselves, but because of the meaning to which they point. So once the meaning and intention become clear, the actual words do not matter, because they are just the means (of expressing what is in the heart) and in this case that aim has been achieved, therefore the rulings are to be based on the aims.” (Zad Al-Ma`ad fi Hadiy Khayr Al-`Ibad, 5/110)

The scholars of the Standing Committee for Issuing Fatwas said:

“If a man marries a woman on condition that it be for the purpose of Tahlil, [or he intends that](#), or they both agree to that, then the marriage contract is invalid and the marriage is not legitimate.” (Fatawa Al-Lajnah Ad-Da’imah, 18/439)

Al-Bayhaqi (may Allah have mercy on him) narrated in As-Sunan Al-Kubra (7/208) from Nafi` (may Allah have mercy on him) that he said: A man came to `Umar (may Allah be pleased with him) and asked him about a [man who divorced his wife three times](#), then a brother of his married her without any prior agreement with him, so as to make her permissible for his brother – does she become permissible for the first husband? He said: No, unless it is a genuine marriage. We used to regard this as fornication at the time of the Messenger of Allah (blessings and peace of Allah be upon him).

Shaykh Muhammad ibn Salih Al-`Uthaymin (may Allah have mercy on him) said:

“If the second husband has the intention that when he has made her permissible for the first husband he will divorce her, then she does not become permissible for the first husband, and the marriage is invalid. The evidence for that is that this is the intention of Tahlil, so it is included in the curse. The Prophet (blessings and peace of Allah be upon him) said: “Actions are but by intentions, and each person will have but that which he intended.” (Ash-Sharh Al-Mumti` `Ala Zad Al-Mustaqni` , 12/176, 177)

Shaykh Al-Islam Ibn Taymiyah (may Allah have mercy on him) listed all the forms in one place, and regarded them all as forms of Tahlil marriage which is prohibited and invalid.

He (may Allah have mercy on him) said:

“Tahlil marriage is prohibited and invalid, and it does not make it permissible (for the woman to go back to her first husband). What it means is that [if a man divorces his wife three times](#) , then she becomes prohibited for him until she has married another husband, as Allah, may He be Exalted, states in His Book, and as is stated in the Sunnah of His Prophet (blessings and peace of Allah be upon him), and the Ummah unanimously agreed on that. If another man marries her with the intention of divorcing her so that she will become permissible for her first husband, this marriage is prohibited and invalid, whether he decides after that to keep her or to leave her, and whether that is stipulated in the marriage contract, or was stipulated before the marriage contract, or was not stipulated verbally... Or none of that happened; rather the man decided to marry her, then divorce her so that she would become permissible for the one who had divorced her three times, without the woman or her guardian being aware of any of that, whether the husband who had divorced her three times was aware of it or not, such as if the Muhallil thought that this was a good deed and a favour to the man who had divorced her and his wife, by helping her to go back to him because he thought that the divorce had caused harm to them and their children and their families, and so on.

In fact, it is not permissible for the one who divorced his wife three times to marry her again until she has been married by a man who wanted a genuine marriage, not a sham marriage, and he consummated the marriage with her in the sense that she tasted his

sweetness and he tasted her sweetness, then after that if they happened to be separated by death or divorce or annulment of the marriage, then it is permissible for the first one to marry her.... This is what is indicated by the Quran and Sunnah, and it is what was narrated from the companions of the Messenger of Allah (blessings and peace of Allah be upon him) and from all of those who followed them in truth, and the majority of the Muslim jurists. ... This is the view of Malik ibn Anas and all his companions, and of Al-Awza`i, Al-Layth ibn Sa`d, and Sufyan ath-Thawri; it is also the view of Imam Ahmad ibn Hanbal among the scholars of Hadith, including Ishaq ibn Rahawayh, Abu `Ubayd Al-Qasim ibn Salam, Sulayman ibn Dawud Al-Hashimi, Abu Khaythamah Zuhayr ibn Harb, Abu Bakr ibn Abi Shaybah, Abu Ishaq Al-Jawzajani and others. It is also the view of Ash-Shafi`i.” (Iqamat Ad-Dalil `Ala Ibtal At-Tahlil, p. 6-8). The author quoted many views from leading religious scholars stating that Tahlil marriage is prohibited.

And Allah knows best.