

93237 - Is it permissible to propose to a divorced woman when she is still in her 'iddah?

the question

Is it permissible to propose to a divorced woman during her 'iddah?.

Detailed answer

Firstly:

Proposal of marriage may be either explicit or implicit. Explicit means words that cannot be interpreted as meaning anything other than marriage, such as saying, "When your 'iddah ends I will marry you" or asking her wali (guardian) explicitly to become engaged to her, and so on.

Implicit means words that may be understood as a proposal of marriage or otherwise, such as if a man says: "Such a woman as you would be desirable as a wife" or "I am looking for a wife" or "May Allah grant you what is good for you" and so on.

Secondly:

It is not permissible to give an explicit proposal of marriage to a woman who is observing 'iddah, whether the divorce was revocable (first or second talaaq) or final, or she is observing 'iddah following the death of her husband.

As for implicit proposals, that depends:

1 - If the woman is observing 'iddah following a revocable divorce, it is not permissible to give an implicit proposal or hint at proposing, because the woman who has been given a revocable divorce is still a wife. Allah says concerning the woman whose divorce is revocable (interpretation of the meaning):

“And their husbands have the better right to take them back in that period, if they wish for reconciliation”

[al-Baqarah 2:228].

The husband who has given his wife a revocable divorce is still called a husband. So how can a man have the right to propose marriage to a woman who is still married to her husband?

2 - If that happens during ‘iddah following the death of the husband, or final divorce or annulment of the marriage due to a fault in either spouse or any other reason, then it is permissible to hint at a proposal of marriage, but it is not permissible to offer an explicit proposal. The fact that hinting in this case is permissible is indicated by the verse in which Allah says (inter

“And there is no sin on you if you make a hint of betrothal or conceal it in yourself, Allah knows that you will remember them, but do not make a promise of contract with them in secret except that you speak an honourable saying according to the Islamic law. And do not consummate the marriage until the term prescribed is fulfilled. And know that Allah knows what is in your minds, so fear Him. And know that Allah is Oft-Forgiving, Most Forbearing”

[al-Baqarah 2:235]

Shaykh al-Sa’di said in his Tafseer (p. 106):

This is the ruling on one who is observing ‘iddah following the death of her husband, or one who has been given a final divorce by a husband who is still alive. It is haraam for anyone other than her husband to offer an explicit proposal, which is what is meant by the words “but do not make a promise of contract with them in secret.”

As for hinting at a proposal, Allah has stated that there is no sin in doing so. The difference between the two is that an explicit proposal cannot mean anything but marriage, so that is why it is haraam, because that may lead her to hasten the end of her ‘iddah or tell a lie about the end of her ‘iddah because she wants to get married. Moreover, there should be

no explicit talk of a new marriage out of respect for her first husband's rights during the 'iddah.

As for the implicit proposal, this is something that may mean marriage or something else. It is permissible for the one whose divorce is final, such as saying, "I want to get married" or "I would like you to consult me when your 'iddah ends" and so on. This is permissible because it is not like an explicit proposal and there may be strong motives for it. The same applies if a person intends to marry a woman who is still in 'iddah, when the 'iddah ends (i.e., there is nothing wrong with that). This is what is referred to in the verse: "or conceal it in yourself, Allah knows that you will remember them".

These are all details that precede the marriage contract, but the marriage contract itself is not permissible, "until the term prescribed is fulfilled" i.e., until the 'iddah is over. End quote.

See al-Mughni, 7/112 and al-Mawsoo'ah al-Fiqhiyyah (19/191).

And Allah knows best.