

95580 - He lived in sin with his girlfriend and had a child from her and he wants to marry her

the question

I live in the west and during the last three years I got to know a kitaabi girl (from the people of the Book – Jewish or Christian), and the relationship between us deepened. That was with the approval of her family and mine. After that we had a daughter and we applied for a civil marriage, but the court refused to marry us because the girl has not yet reached the age where marriage is allowed in that country. I had no choice but to go to the imam of our mosque and the girl's guardian, and two witnesses of good character came, and we got married in this manner. Is the marriage legitimate according to sharee'ah? Do I have to do anything because of the previous years that I spent with this kitaabi girl without being married? Please advise me, may Allaah reward you with good.

Detailed answer

Firstly:

Undoubtedly

you did something very wrong for yourself and your religious commitment when you agreed to form a haraam relationship with a Christian woman. As for yourself, that is by committing the sin of zina for which Allaah warns of a severe punishment and decrees the hadd punishment in this world: one hundred lashes for one who is not married and stoning to death for one who is married. As for your religious commitment, that is by giving a bad example of Islam and its morals and rulings to those kuffaar, whether in the land where you live or the family of the woman with whom you are living. How can they respect Islam and the Muslims when they do not see any difference between you and others of the people of the Book?

What you –and
your family who knew of your sin – must do is repent sincerely from this
great sin. You should realize that you did not only fall into the sin of
zina which Islam warns against even approaching, but you persisted in that
and lived with the woman as man and wife. This makes your sin worse than the
sin of others who may fall into the sin of immorality without continuing or
persisting in it.

Allaah says
(interpretation of the meaning):

“And those who
invoke not any other ilaah (god) along with Allaah, nor kill such person as
Allaah has forbidden, except for just cause, nor commit illegal sexual
intercourse
__and whoever
does this shall receive the punishment.

69. The
torment will be doubled to him on the Day of Resurrection, and he will abide
therein in disgrace;

70. Except
those who repent and believe (in Islamic Monotheism), and do righteous
deeds; for those, Allaah will change their sins into good deeds, and Allaah
is Oft-Forgiving, Most Merciful”

[al-Furqaan
25:68-70]

For more
information on the greatness of Allaah’s grace in accepting the repentance
of His slaves and that He accepts the repentance of the penitent no matter

how serious and numerous their sins, please see the answers to questions no.

624,
13990,
47834,
23485 and
20983.

Secondly:

It should be noted that it is not permissible for you to marry this kitaabi woman unless you repent sincerely to Allaah, and until you are certain that she will not commit immoral actions with anyone and that she will not have boyfriends. This is one of the conditions of marriage to a kitaabi woman.

Allaah says
(interpretation of the meaning):

“The food
(slaughtered cattle, eatable animals) of the people of the Scripture (Jews and Christians) is lawful to you and yours is lawful to them. (Lawful to you in marriage) are chaste women from the believers and chaste women from those who were given the Scripture (Jews and Christians) before your time when you have given their due Mahr (bridal-money given by the husband to his wife at the time of marriage), desiring chastity (i.e. taking them in legal wedlock) not committing illegal sexual intercourse, nor taking them as girlfriends”

[al-Maa'idah 5:5]

What you should have done was to tell the one who did the marriage contract for you about your situation and hers, so that he could have enjoined you to repent and told you of the conditions of her being chaste and avoiding zina, and so

that you could wait for one menstrual cycle until it was established that she was not pregnant, or until she gave birth if she was pregnant.

Ibn Qudaamah

(may Allaah have mercy on him) said:

If a woman

commits zina, it is not permissible for the one who knows of that to marry her unless two conditions are met:

1-

That

her 'iddah has ended. If she is pregnant as the result of zina then her 'iddah ends when she gives birth, and it is not permissible to marry her before she gives birth.

2-

That

she repents from committing zina.

And he said:

If both conditions are met, it is permissible for the zaani (the man who committed zina) or anyone else to marry her according to the majority of scholars, including Abu Bakr, 'Umar and his son, Ibn 'Abbaas, Jaabir, Sa'eed ibn al-Musayyab, Jaabir ibn Zayd, 'Ata', al-Hasan, 'Ikrimah, al-Zuhri, al-Thawri, al-Shaafa'i, Ibn al-Mundhir and ashaab al-ra'y.

Al-Mughni

(7/108, 109)

Shaykh

Muhammad ibn Ibraaheem (may Allaah have mercy on him) said:

It is not

permissible to marry a woman who has committed zina until she repents. If a man wants to marry her then he must wait for one menstrual cycle to establish that she is not pregnant before doing the marriage contract with her. If it turns out that she is pregnant, it is not permissible for him to do the marriage contract with her until after she gives birth.

Al-Fataawa

al-Jaami'ah li'l-Mar'ah al-Muslimah

(2/584)

You do not

have the right to do the marriage contract in the courts that govern by man-made laws, or in their churches, rather what you did by asking the imam of the mosque to do the marriage contract was the right thing to do. There is nothing wrong with confirming it in the courts for official purposes.

The scholars

of the Standing Committee said:

If the

proposal and acceptance are completed, along with all the other conditions of marriage, and it is free from any impediments, then it is valid. If confirming it legally (in the civil court) could serve some shar'i interests of both parties, both now or in the future, then that must be done.

Fataawa

al-Lajnah al-Daa'imah

(18/87).

And they

said:

If the marriage contract is not recognized and no rights will be granted unless it is confirmed in a non-shar'i court, then this does not affect the validity of the marriage, but there is nothing wrong with confirming it in a non-shar'i court if the aim is to record it for official purposes.

Fataawa
al-Lajnah al-Daa'imah
(18/87).

Thirdly:

As for your daughter, she is the product of an illegitimate relationship and it is not permissible for her to be named after you, rather she should be named after her mother.

It was narrated from 'Amr ibn Shu'ayb from his father that his grandfather said: The Prophet (peace and blessings of Allaah be upon him) ruled that whoever was born to a slave woman whom his father did not own or to a free woman with whom he committed adultery, then he cannot be named after him and he does not inherit from him, even if the one whom he claims is his father acknowledges him. So he is the product of zina, whether his mother was a free woman or a slave.

Narrated by
Abu Dawood (2265) and Ibn Maajah (2746); classed as hasan by al-Albaani in Saheeh Abi Dawood.

The scholars
of the Standing Committee said, concerning a similar case:

The daughter

mentioned, who is the result of illicit relations with her mother, is not your daughter according to sharee'ah, and it is not permissible for her to be named after you, because she was born from haraam water, which is zina. So she should be named after her mother and not after the one who committed zina with her.

Fataawa

al-Lajnah al-Daa'imah

(18/321, 322)

If it is not

possible to name the child after the mother in the land where the mother lives, she may be given a name which does not belong to anyone in particular, so she may be given a name to use in official papers and documents.

See also the

answer to question no. [12283](#) - which is important - and also

[117](#),

[33591](#),

[2103](#) and

[33615](#).

We should also

remind you that it is haraam to settle in a kaafir land, and you should learn a lesson from what happened to you and try to leave that land and settle in a Muslim country where you will see Islam being practised openly and you will be able to raise your children to follow Islam, be chaste and have good attitudes.

See the
answers to questions no. [20227](#) and
[45645](#) for more information on the
negative consequences of marrying non-Muslim women.

And Allaah
knows best.