

## Establishing the marriage contract

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

In the name of Allaah, the Most Merciful, the Bestower of Mercy

### Concerning the non-effect of the relationship with a strange woman on establishing the marriage contract with her

**Question:** I met a girl with the intention of marriage, and I kept in touch with her via telephone and Internet without the knowledge of her guardian (father). Then I asked her in marriage and accordingly we established the religious marriage contract in the presence of her guardian and two fair witnesses. Is this marriage valid? And is the way followed in the contract correct?

**Shaykh Aboo `Abd-al-Mu`iz `Alee Ferkous al-Qoobee** (May Allaah the Most High preserve him): All praise is due to Allaah, the Lord of the Worlds. Peace and blessing be upon whom Allaah sent as a mercy to the Worlds, upon his Family, his Companions and his Brothers until the Day of Resurrection:

Allaah عزَّ وجلَّ forbade all means that lead to the forbidden and made Hareem (borders) for the forbidden thing, and the Hareem of the forbidden thing is its preliminaries such as being with a woman in privacy (Khulwa), the speech that exceeds what is needed as well as the expressions that stimulate the sexual desire; this is forbidden by the Sharee'ah because it leads to the extreme limit (the final objective) which is: committing adultery. However, when it comes to the degree of sin, these preliminaries are not the same as the objectives, and do not deserve the well-known worldly punishment.

Nevertheless, they are wrong deeds that can be expiated through repentance, righteous good deeds and multiplication of the mentioning [of Allaah], according to what is stated in the authentic hadeeths among which, his saying صلى الله عليه وسلم: **“The five ritual prayers, and Jumu'ah (Friday prayer) until Jumu'ah, and Ramadhaan until Ramadhaan, expiate what is between them if Al-Kabaa'ir (great sins) are avoided”**<sup>1</sup>.

As for delegacy in the contract or in money<sup>2</sup>, it is unanimously permissible; so the delegate, the guardian or the representative carries out the duties of Al-Aseel (the main responsible).

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<sup>1</sup> Reported by Muslim (233) from the hadeeth of Aboo Hurayrah رضي الله عنه.

<sup>2</sup> It means here: financial transactions and acts of worship based on money such as Zakaat, charity and expiations. Translator's note.

## Establishing the marriage contract

Therefore, if the Consent conforms perfectly to the Demand, i.e. what they agreed upon in the presence of two fair witnesses, then the marriage contract is valid. However, it must be followed by the civil contract in order to preserve the established contract and the rights of the two (spouses) inasmuch as the Algerian judicial system considers the religious contract as an engagement.

The perfect knowledge belongs to Allaah عَزَّ وَجَلَّ; and our last prayer is all the praises and thanks are to Allaah, the Lord of the Worlds, and prayers of Allaah are to Muhammad and his Family, Companions and Brothers until the Day of Resurrection.

Algiers on: Ramadhaan the 19th, 1427 H, Corresponding to October the 12th, 2006 G.