

## The Judgment When one of the Spouses Curses God and His Messenger and its impact on Marital Life

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### Abstract:

Insulting religion, Islam, the Qur'an and the Messenger is an apostasy from Islam. It is disbelief after faith. If the husband committed this crime, the husband should divorce his wife. It is not a divorce but rather it separates them without divorce because she is a Muslim and he is an infidel. She is forbidden to him until he repents, and if he repents while she is in the waiting period, she returns to him without needing anything. If he repents and turns to God, she returns to him. But if she went out of the waiting period and he was in his condition and he did not repent, then she would marry whomever she wants because this crime would be tantamount to divorce. God has forbidden a Muslim woman to an unbeliever. Apostasy results in the non-survival of the marriage, so one of them is forbidden to the other, and they are forcibly separated, and any of the Muslims may raise a lawsuit in the name of the general legal right.

If apostasy is proven in front of the judge, he must offer to the apostate repentance first, and work to remove the suspicion that led to the apostasy. If he / she does not return to Islam, a difference between the two spouses and the division is due to the wife's apostasy. If the apostasy was before the real marriage, then it is not a dowry for her, but if it was after the real marriage, then she has the full dowry. The apostate does not inherit nor bequeath in Islam, and it is not permissible for a man after the annulment of his marriage to his wife to have intercourse with her except with a new contract and dowry and with her consent. If it is proven that one of the spouses has apostatized, it is necessary to separate them, and one of them becomes forbidden for the other.

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Accordingly, the marriage contract is annulled and the wife becomes a foreigner on behalf of her husband. In the sense that her life with him becomes forbidden, and if he wants to make love with her, he brings her to the forbiddance. If she gives birth to a baby, he will be forbidden, and perhaps this hidden reason behind what we touch of quarrels, strife and hatred between the children of the one womb. Perhaps this is the cause of

### Introduction

The marriage contract and sermon are dissolved immediately due to insulting the divine self, the Holy Qur'an, or a prophet from the messengers of Allah whether there is real marriage or only a marriage on a paper:

Insulting the divine self, religion, Lord, the Noble Qur'an, or one of the Prophets is an apostasy from Islam, according to scholarly consensus.

1- An extrapolation of the meaning of insult to God and His Messenger and the impact of this insult on the marital relationship.

2- Deducing the jurisprudential judgment by mentioning the opinions of the jurists regarding the judgment of insult.

**The importance of the study is summarized as follows:**

1. The importance of this topic, which included a form of separation between spouses, which is not far from being matters affecting the creed of the Muslim. It is evident and these matters lead to family and societal disintegration that causes the collapse of society, because the person is negligent in his religious matters. This insult leads to the separation which is not optional but an obligatory one.

2. Showing the objectives and merits of Islamic law through the Prophet's biography.

3. Explaining the jurisprudential objectives in explaining the sayings of the jurists on the issue of one of the spouses' insult to God and His Messenger, and the consequent effect on them.

4. Scholars, researchers, and students of knowledge will study the Prophet's biography deeply to extract legal judgments from it and download them in reality.

**Previous studies**

After reading and going back to libraries and periodicals section of scientific theses, modern books and magazines, asking specialists, and after making the best efforts, the researcher

disobedience and the reason for eliciting blessings and stability in our social life as a whole and marital life in particular.

Accordingly, it is obligatory for one who insults the divine self, religion, the Noble Qur'an, or one of the prophets, whether the person contracted or engaged, and whether the contract is formal or informal, and whether the marriage is a real one or on a paper, the following:

A- Sincere repentance and a sincere divine treaty that motivate the apostate not return to this saying.

B - To utter the Shahada with the intention of returning to Islam.

C- If there is no real marriage between the two contracting parties, the contract must be renewed by agreement, unlike the wife with whom the real marriage took place, then as soon as he repents and returns to Islam, she returns to her husband as long as the repentance was made before the end of the waiting period. This is the easiest judgment in the matter, and it is the Shafi'i doctrine. If the waiting period ends before repentance, it is necessary to contract by agreement.

**The problem of the study is determined in the following questions:**

1- What is the judgment on one of the spouses who insults God and His Messenger?

2- What is the judgment of apostasy on the marital relationship?

**The objectives of the study are summarized as follows:**

**First:** The ruling on insulting God and His Messenger and its impact on the marital relationship and the collection of sayings on the issue within the jurisprudential trends

**Second:** Incorporating the opinion of contemporary jurists on the issue of the judgment of insulting God and His Messenger, by extrapolating the sayings of the jurists.

### **The plan of the Study**

The first requirement: Defining the insult, its words, and its provisions.

The second requirement: Ruling of insulting God, the Almighty.

The third requirement: Ruling of insulting the Messenger (may God bless him).

The fourth requirement: the impact of the apostasy on the marital relationship.

**The first requirement:** Defining the insult, its words and provisions

First: Insult in a language

1- "Insulting" comes from the verb insult. The origin of the word "insult" comes from cut. (i)

2- It is from Sibsab: if he insults someone strongly. (ii)

3- "Insulting someone". (i)

4- "Insulting, it was said to the person who fights a Muslim or accuses him by disbelieving. (ii)

5- Insulting him (cursing him). (iii)

Linguists prefer Ibn Manzur's definition of being inclusive.

### **Second: Insulting as a terminology**

1- "Insulting someone, in the Holy Book, (6) God Almighty cursed disbelievers not because they cursed him explicitly, but they mention him

did not find a research or book that dealt with this topic in particular. No one devoted a separate book to this topic, but many and many books dealt with the issue of separation according to the judgments of Sharia in general. There is almost no book of jurisprudence that does not talk about divorce, but in a simple part, in which the required clarification regarding the types of separation by the judgment of Al Sharia is not combined. The title of the research which is the separation between spouses for apostasy and insulting does not focus on insulting in particular but on apostasy in general.

### **Methodology**

1- An extrapolation and review of previous studies on this topic, in a scientific framework, regarding the subject of insult and its effect on the marital relationship, such as apostasy and others.

2- Review the jurisprudential opinions according to the scientific context, depending on previous scientific efforts close to the topic.

3- The methodological and scientific distinction between insult in general and the effect of this insult on the marital relationship, by defining the methodological points regarding the topic.

4 - Attempt to write down the judgment of insulting God and His Messenger and its effect on the marital relationship.

In this jurisprudential presentation, the researcher will take into account two important aspects:

attacking a Muslim in bad words who is protected from cursing is forbidden, while the attacking a disbeliever has another judgment and the sayings of Al fuqaha differ in it: The doctrine of Hanafia and Al Shafia is the same of the doctrine of Al Hanbila. This is manifested through the saying of Ibn Al Arab from Al Malikia when he said that "the insulting is forbidden ". What was narrated from the Prophet peace be upon him that he saw a person who drinks a wine repeatedly and some who attended that event asked Allah to curse him. the Prophet, peace be upon him said "I did not know that he loves God and His Messenger ". In the words of the Hanafia, Malikia and Shafia and Hanbalia that it is permissible to curse a specific disbeliever. If the Prophet peace be upon wants to curse someone or pray to somebody he does that after bowing in the prayers. He says in Al Fajr prayer: O Allah, curse So and so and so and so ". AlGourtabi and Ibn Hajar said: The one who was punished by a judge cannot be cursed but the another who was not be punished can be cursed weather he is named or appointed or not. Because the Prophet peace be upon him does not curse only the person who deserve

badly and in an inappropriate way, and they continue in that by arguing, and they mention more and more about what is not found in Allah. (7)

2- Insult is the one who overuses the insult. (i)

3- It is an ugly speech, even if it is not in the insulted person. Insulting is also intended to belittle and inflict deficiency, (And the Messenger of God, may God bless him, forbade that by saying: (Insulting a Muslim, committing a crime and killing him is disbelief) (ii)

4- Insulting means making the others see and hear what they hate. (i)

5- Al-Ezz Ibn Abd Al-Salam said: Cursing is more pronounced in ugliness than absolute insulting (ii)

What the study prefers is the definition of the author of the book "Ainat Al Talbeen" of Al-Damiati Al-Shafi'i for its inclusion of our topic and for being comprehensive.

### **Third: Insult words**

Among the words of insult: an infidel, a thief, an adulterer, a hypocrite, an evildoer, a malicious one, a shameful one, a blasphemous etc.

Some of these words turn their teller and writer to disbeliever if they are said to Allah, prophets or angels and the religion of Islam. It is regarded as apostasy. Some of them require punishment as "adultery and a slander".

### **Fourth: The provisions of insult:**

Who is permissible to curse and who is not permissible

1- There is no disagreement among Al-fuqaha 'that

because he may repent in the future. Malik Dawood Ibn Al-Husayn said that he heard Al A'araj says that most people curse the infidels in Ramadan, and Al Gourtoubi affirms that our scientists said that they can be cursed if they Al dhimma or not.

Shafia have stated that it is not permissible to curse the animal and inanimate objects. Imran Ibn Husayn, may Allah be pleased with them said: While the Messenger of Allah peace be upon him in some of his travels, a woman from the Anssar on a camel and she became boring and she cursed it. The Messenger of Allah peace be upon him heard that and said: "Take what is on it and leave it alone because it is cursed. Amran said: it is walking alone among people and no one wants to disturb it".

### **The second requirement: The Judgment of insulting Almighty God.**

First: The judgment of those who cursed God, the Most High:

The curses of Almighty God fall either from a Muslim or from an unbeliever. If he falls from a Muslim, then he is an unbeliever, and he is permissible to be killed.

### **A - Those who hint to curse God, the Most High:**

Those who hint to curse Allah like those who curse Him. Al Imam Hanbel said, "those who hint to curse Allah are permissible to be killed if they are Muslims or disbelievers".

that but if repented no one can curse him.

- 2- Infidels and Muslims who are disobedient( they are not appointed)may be cursed. The Messenger of Allah peace be upon him cursed those are interested in their benefits only and those who eat usury. He (PBOH) cursed the photographer and said: "May God curses who change the lights of the earth". These three tribes of the Arabs are cursed. He (PBOH) cursed the Jews and the Christians, because what is meant is nation as a whole not the individual. Among them is someone who dies an unbeliever. The curse is due for the following reasons: to warn the people and make them avoid him /her because cursing a whole nation is a kind of injustice.

- 3-Al Hanafia, Al Shafia and Al Hanbalia said that the appointed infidel who is alive cannot be cursed because he may repent in the future. They said that the death of infidel is a condition to be cursed.

AL Shafia affirm that it is permissible to curse the appointed infidel. Ibn Al-Arabi said it is permissible to kill and fight the infidels as well as insulting the disbelievers as a whole or one of them who died on his wrong belief but no one can insult or curse the infidel who is still alive

religion. It is a matter that has many consequences. The most important of which is the fate of marriage. The sacred relationship that God Almighty describes it as the rough covenant surrounded it with care and holiness. Allah provides it with everything that helps it to survive to continue.

There are many such incidents that occurred but no one of the spouses cared about their consequences due to the lack of awareness of the Sharia rulings related to them. In the following, an explanation of the ruling on the marriage contract when one of the spouses apostatizes from the Islamic religion.

AL fuqaha 'have agreed that if one of the spouses apostatized, they should be separated. The husband must not approach her and make intercourse. Al-Hanafia said: if one of the Muslim spouses apostatizes they must be separated because apostasy contradicts marriage, and that is an urgent annulment, not divorce, and does not depend on a judge,

If the apostasy before the real marriage and the apostatized was the husband, the wife deserves of dowry. If the apostatized was the wife, she does not deserve anything. If the apostasy happened after the real marriage, the wife deserves the dowry regardless who is the apostatized.

Malikia said : If one of spouses apostatized, this is an indication to the divorce, if he repents, his wife cannot be his wife again without a new contract.

### **B-The cursing of Aldhimmi to God the Most High:**

The judgment of Aldhimmi's cursing to Allah does not differ from that of the prophet because he is permissible to be killed.

#### **The third requirement: Ruling on insulting the Messenger (peace and blessings be upon him)**

The majority of scholars (Al-Malikia, Al-Shafia and Al- Hanbalia) state that breaching a treaty is manifested by cursing God or the Koran or the Prophet peace be upon him, or one of the prophets, peace be upon them.

Al- Hanafia affirm that cursing the prophet does not mean breaching the contract. They based their speech on this event.

According to Erwa, Aisha, may Allah be pleased with her : a group of Jews entered where the Messenger of Allah, peace be upon him, sat and said: Al Saam on you(the word "Saam" means " Death" in Standard Arabic , I understood what they said and I said:Death and curse on you". The Messenger of Allah peace be upon him: " Aisha, Allah loves kindness in all the situations, so I said: O Messenger of God, did you not hear what they said? He replied you should do". If the curse breached the contract, the prophet would kill them because they became enemies.

#### **The fourth requirement: the impact of the apostasy on the marital relationship**

##### **Marriage with apostasy:**

One of the phenomena spread over the ages is the change of one's

one of spouses or both of them repent during a waiting period, there is no dowry but if this happens after the finishing of a waiting period, he must pay a dowry.

**If the apostasy before the real marriage:**

Al Hanaf said if the husband apostatized before the real marriage, he must pay half of dowry but if the wife committed this crime, she does not deserve anything. According to Ibn Qudamah al-Hanbali, Al Imam Al-Shafi supported the judgment.

**If the wife apostatizes after the real marriage:**

If the apostasy happened after the real marriage, the wife must make the waiting period and she does not deserve the dowry. Al-Shafi said: "if she was the one who apostatized from faith, then she does not deserve a dowry or anything because she is the one who forbids her vagina for him.

The fuqaha differed in the type of division that occurs when one of the spouses' apostates, whether it is a separation or divorce, as follows:

**First opinion:**

This is the opinion of Abu Hanifa and Abu Yousif, Al Malikia, Al Shafia and Hanbila. They considered the division that occurred in the apostasy of one of the spouses and not the other as a separation rather than divorce. Marital status in the case of apostasy is not valid because the responsibility of taking the decision of the divorce is excluded.

Al- Shafia said: If one of the two Muslim spouses has apostatized, they should not be separated till the waiting period finishes. He can repents and returns to Islam. If he repents before the end of a waiting period, he can make intercourse with her because she is his wife again.

Hanbalia said if one of a couple apostatizes before the real marriage, the marriage breaches immediately and the wife take a half of dowry. If the wife apostatizes, she does not deserve the dowry.

Al-Sarkhasi said: "And if a Muslim apostatizes, his wife, whether a Muslim or a Christian, should be separated from him. Al Shafi supported this opinion if this case happened before the real marriage. He said that the situation is different after the real marriage. The marriage breaches for a period of time and after that he can returns to his wife.

IbnAbiLayla says: the separation does not take place before or after the real marriage till the apostatized repents. If he does, he can make intercourse with his wife. She is his real wife and if her husband died or killed, she has the right to inherit him.

As for the core of the disagreement between the opinion of Al Hanafia and Al Shafia is manifested in Ibn Qudamah explanation who said: "If one of the spouses apostatizes, or they apostatize together, they should be separated. If he makes intercourse with her during a waiting period, he must pay the dowry because he makes intercourse with a forbidden women. If

is the strongest link in the Muslim community and family.

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### Second opinion:

This is the opinion of Muhammad Ibn Al-Hassan who is from Al Hanafia School and the second opinion among Al Malikia. This team states that the division due to apostasy is a separation of divorce. Muhammad Ibn Al-Hassan justified that the division was caused by rejection or apostasy but Al Malikia differed among themselves regarding the consideration of divorce as an irrevocable or irrevocable divorce.

### Conclusion

This study presents the most important results:

- 1- One of the effects of the apostasy to the marriage before the real marriage and after it is the separation and the amount of dowry.
- 2- The forbiddance of apostasy increases with the height of the reason that caused it. If the apostate renews his Islam, he may renew the marriage.
- 3- Islam is very keen to develop solutions for the Muslim family to limit the separation and to keep the family together.
- 4- The commitment of both men and women to the standards set by Islamic law when the spouses choose each other helps stabilize marital life.
- 5- Enhancing the religious motivation among the people, especially the spouses, to eliminate any behavior that affects the religious bond, this

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