

A man who marries a thrice divorced woman to make her lawful for her previous husband: “The Book of Marriage, *Bulūgh al-Marām*” (no. 998-999) – Shaikh al-Fawzān

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[BOOKS](#), [BULUGH AL-MARAM](#), [FIOH](#), [MARRIAGE](#)

Title: *Kitābun-Nikāh* (The Book of Marriage) from Shaikh Sālih al-Fawzān’s explanation of *Buloogh al-Marām min Adillatil-Ahkām* of Al-Hāfidh Ahmad Ibn `Alee Ibn Hajr al-Asqalānee (Born 773H, Died 852H). Shaikh Al-Fawzān’s tremendous explanation is entitled *Tas-heel al-Ilmām bi-fiqhil-Ahādeeth min Bulooghil-Marām* and is printed in seven volumes. The following is a translation of this important and very enlightening chapter, adapted in places for brevity and simplicity. The following is from volume 4, no. 998-999 (English, 852)

Al-Hāfidh Ibn Hajr (rahimahullāh) said:

٨٤٨ - وَعَنِ ابْنِ مَسْعُودٍ رَضِيَ اللَّهُ عَنْهُ قَالَ: لَعَنَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ الْمُجِلَّ^(٦) وَالْمُحَلَّلَ لَهُ. رَوَاهُ أَحْمَدُ وَالنَّسَائِيُّ وَالتِّرْمِذِيُّ وَصَحَّحَهُ^(٧)، وَفِي الْبَابِ عَنْ عَلِيٍّ، أَخْرَجَهُ الْأَزْبَعَةُ إِلَّا النَّسَائِيَّ^(٨).

998: Ibn Mas’ood (radiyallāhu ‘anhu) said:

“Allah’s Messenger invoked the curse upon the man who made a woman lawful for her first husband and

the one for whom she was made lawful.”

Reported by Ahmad (4283), At-Tirmidhee (1120), An-Nasā’ee (6/149); At-Tirmidhee declared it to be Saheeh. 999: Something similar was narrated from ‘Alee (radiyallāhu ‘anhu). Reported by the four except An-Nasā’ee. [Abu Dawood (2076) Ibn Mājah (1935) At-Tirmidhee (1119)]

- (٦) في نسخة (ج): «المحلَّل» وهي موافقة لرواية النسائي .
(٧) صحيح . أحمد (٤٥٠/١) والنسائي (١٤٩/٦) والترمذي (٤٢٨/٣) قال شيخنا في الإرواء (٣٠٨/٦): «وقال الحافظ في التلخيص (١٧٠/٣): «وصححه ابن القطان وابن دقيق العيد على شرط البخاري» قلت: وهو كما قالوا .
(٨) صحيح لغيره . أبو داود (٢٢٧/٢) والترمذي (٤٢٧/٣) وابن ماجه (٦٢٢/١) وإسناده ضعيف لكن يشهد له ما قبله وشواهد أخرى ذكرها شيخنا في الإرواء (١٧١/٦).

**Shaikh Saalih al-Fawzaan (hafidhahullaah) said:
Explanation:**

Allah, the Most Perfect and free from all imperfections, prohibited the thrice divorced woman from re-marrying the man who divorced her, until she marries another man with a marriage that she desires and is committed to. Then if this man divorces her, and she passes through the *iddah* (waiting) period until it is complete, then the first husband is allowed to marry her. This situation is mentioned in the saying of Allah after He said: ((الطَّلَاقُ مَرَّتَانِ)) **“The divorce is twice...”** [Al-Baqarah: 229] meaning on two occasions ((فَإِنْ طَلَّقَهَا فَلَا)) **“So if he divorces her [again]...”** meaning a third time, **“then she is not**

lawful unto him thereafter until she has married another husband.” [Al-Baqarah: 230] So if he divorces her for the third time then she is not permissible for him until she has married another man, and that marriage finishes in divorce: ((فَإِنْ طَلَّقَهَا فَلَا جُنَاحَ عَلَيْهِمَا أَنْ)) “**If he divorces her...**” meaning the second husband, “**then there is no harm in them returning to one another so long as they feel they can maintain and hold to limits set by Allah.**” [Al-Baqarah: 230]

If a man marries her without desire to be remain and a commitment, and he merely desires deception so as to make her permissible to the first husband, then such a marriage is forbidden and invalid – and the Prophet (ﷺ) invoked the curse of Allah upon such a person.

This is the marriage of *tahleel* (making the woman halāl for her previous husband). Such a marriage is invalid because the intent behind it is not a sharee’ah legislated marriage. Through it one merely wishes deceit so as to make allowable that which Allah has made harām. So since it is forbidden for the one who has divorced his wife three times (i.e. on three occasions) to re-marry her unless she marries another man (and is then divorced by him), he instead perpetrates this deception. So another man marries her with an apparently sound marriage contract, but his intent is to make her permissible once more to her first husband. **This marriage is invalid.** She is not made permissible to the first husband through such a marriage – and whoever engage

in such practices is deserving of punishment as a deterrent to others.