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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

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

The question: What is the ruling regarding the wife who committed adultery, is it obligatory for her husband to divorce her as soon as he knows what occurred? If he refuses, should she stay with him while she hates him and cannot live with him?

The answer: 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 till the Day of Resurrection.

It is known in the Sharee'ah that if the husband or the wife commits adultery, he or she should be stoned. Nevertheless, if the stoning is not carried out for lack of conditions the marriage contract will not be nullified because of the adultery committed by the husband or the wife. Indeed, such a sin does not require the nullification of the marriage contract, be it committed before or after consummating the marriage; this is the opinion of all the scholars.

Moreover, adultery is not like Al-Li`aan¹ which necessitates the separation of the wife from her husband if he accuses her of adultery, for Al-Li`aan involves the nullification of the marriage contract without adultery committed. And what indicates that adultery is not confirmed [in the case of Al-Li`aan]: is that the woman also takes the oath that she is innocent of this sin. Besides, adultery is not a sin like apostasy that necessitates the nullification of the marriage contract; it is rather a sin the perpetrator of which is not expelled from the circle of Islaam. So, adultery is similar to drinking alcohol and stealing...etc, since those who commit such sins will not have their marriage contracts nullified.

Nevertheless, it is recommended to the man to separate from his wife, if she commits adultery, by divorcing her, lest she stain his honour by attributing to him a son who is not his. But if he keeps her, he should not have intercourse with her until she has menstruated once, according to the Prophet (صلى الله عليه وسلم) saying: **"It is not lawful for a man who believes**

¹ Al-Li`aan: an oath which is taken by both the wife and the husband when he accuses her of committing adultery. See: the Qur'aan, Soorat an-Noor (the Light), verses: 6, 7, 8 and 9. Translator's footnote.

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in Allaah and the Last Day to water what another has sown with his water (meaning intercourse with woman who is pregnant)”².

Thus, if the wife cannot stand living with her husband because of hatred and aversion that she has for him, and the discord that aggravates their situation and makes their marital life beyond repair, and might fear to disobey Allaah towards her husband; for all these reasons, the wife can separate from her husband by giving him a donation; that is to say: she can free herself from him by giving back what she took from him in the name of marriage, in order that he puts an end to their relation. This, in Sharee’ah’s terminology, is called Al-Khul` (separation) or Al-Fidya.

The perfect knowledge belongs to Allaah عَزَّ وَجَلَّ. Our last prayer is all praise is due to Allaah, the Lord of the Worlds. Peace and blessing be upon our Prophet, his Family, his Companions and Brothers till the Day of Resurrection.

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² Reported by Aboo Daawood, chapter of “Marriage” (hadeeth 2157), Ahmad (hadeeth 17453) and Al-Baihaqee (hadeeth 16002) from the hadeeth of Ruwayfi` Ibn Thaabit al-Ansaaree (رضي الله عنه). Al-Albaanee judged it Hassan (good) in Saheeh Al-Jaami` (hadeeth 7654).