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Leaving women in suspense

Shaykh Aboo `Abd-al-Mu`iz `Alee Farkous al-Qoobee

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

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

Question: What is the ruling regarding husbands who abandon their wives and children and let them without expenses or someone to be in charge of them, and this may last several years? And what is the ruling regarding husbands who let their wives in suspense (not divorced not married) and this could last sometimes till the death of one of the spouses.

Shaykh Aboo `Abd-al-Mu`iz `Alee Farkous 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 till the Day of Resurrection.

The scholars agree that it is obligatory for the husbands to provide for their spouses if they are mature except those who are disobedient, in accordance with Allaah's (*Mighty and Majestic is He*) saying:

﴿وَعَلَى الْمَوْلُودِ لَهُ رِزْقُهُنَّ وَكِسْوَتُهُنَّ بِالْمَعْرُوفِ﴾

The meaning of the verse:

﴿**but the father of the child shall bear the cost of the mother's food and clothing on a reasonable basis.**﴾
[Al-Baqarah (The Cow): 233]

And Allaah's (*He, The Most High*) saying:

﴿أَسْكِنُوهُنَّ مِنْ حَيْثُ سَكَنْتُمْ مِنْ وُجْدِكُمْ وَلاَ تُضَارُّوهُنَّ لِتُضَيِّقُوا عَلَيْهِنَّ وَإِنْ كُنَّ أُولاَتِ حَمْلٍ فَأَنْفِقُوا عَلَيْهِنَّ حَتَّى يَضَعْنَ حَمْلَهُنَّ﴾

Translation of the meaning of the verse:

﴿**Lodge them (the divorced women) where you dwell, according to your means, and do not treat them in such a harmful way that they be obliged to leave. And if they are pregnant, then spend on them till they deliver** ﴾
[At-Talaaq (The Divorce): 6]

There are several hadeeths on this subject. Among them, the saying of the Prophet (*May the peace and blessings of Allaah be upon him*) during the Farewell Hajj, "**Fear Allaah concerning women! Verily you have taken them under the protection of Allaah, and sexual**

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intercourse with them has been made lawful for you by words of Allaah. You also have right over them, i.e. they should not allow anyone whom you do not like to enter your house. But if they do that, you can chastise them but not severely. Their rights upon you are that you should fairly provide them with food and clothing"[1]. And in the hadeeth of `A'isha (*May Allaah be pleased with her*) in the story of Hind Bint `Utba who was told by the Prophet (*May the peace and blessings of Allaah be upon him*), "**Take what is reasonable and sufficient for you and your children**"[2].

This being said, among the conditions of deserving expenses the validity of the marriage contract, the possibility to enjoy her and that she should not refuse to accompany her husband in case he moves wherever he wants and to enjoy intercourse with her; so if one of the precedent conditions is not respected, then the expense will not be obligatory.

Consequently, it is incumbent upon the husband to either retain his wife on reasonable terms or release her with kindness, in accordance with Allaah's (*Mighty and Majestic is He*) saying:

﴿فَإِمْسَاكٌ بِمَعْرُوفٍ أَوْ تَسْرِيحٌ بِإِحْسَانٍ﴾

The meaning of the verse:

﴿**…either you retain her on reasonable terms or release her with kindness**﴾
[Al-Baqarah (The Cow): 229]

Moreover, neglecting to supply her needs goes against retaining her on reasonable terms. In addition, the woman is harmed if no one provides for her. Allaah (*He, The Most High*) says:

﴿وَلاَ تُمْسِكُوهُنَّ ضِرَارًا لِتَعْتَدُوا﴾

The meaning of the verse:

﴿**But do not take them back to hurt them**﴾
[Al-Baqarah (The Cow): 231]

The Prophet (*May the peace and blessings of Allaah be upon him*) said: "**There should be neither harming nor reciprocating harm**"[3]. For this reason, it is permissible for the woman to ask the Muslim judge to remove the harm from her and put an end to the oppression as the husband does not provide for her because of his unjustified absence and which causes her harm.

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[1] Reported by Muslim, chapter of "Hajj" (hadeeth 3009), by Aboo Daawood, chapter of "Rites" (hadeeth 1907), by Ibn Maajah, chapter of "Rites" on the authority of Jaabir (*May Allaah be pleased with him*).

[2] Reported by Al-Bukhaaree, chapter of "Expenses" (hadeeth 5364), by Muslim, chapter of "Judgments" (hadeeth 4574), by Aboo Daawood, chapter of "Rent" (3534), by An-Nasaa'ee, chapter of "Judgments" (hadeeth 4537), by Ibn Maajah, chapter of "Commerces" (hadeeth 2381) and by Ahmad (hadeeth 248454) on the authority of `A'isha (*May Allaah be pleased with her*).

[3] Reported by Ibn Maajah, chapter of "Judgments" (hadeeth 2430), by Ahmad (hadeeth 23462) on the authority of `Ubaada Ibn As-Saamit (*May Allaah be pleased with them both*). This hadeeth is judged authentic by Al-Albaanee in Irwaa' Al-Ghaleel (hadeeth 896).

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Furthermore, the woman has the right to ask the Muslim judge to separate her from her husband if she hears no longer from him even if he leaves her what to expend. This is the view of Maalik and Ahmad (*May Allaah have mercy on them*). The woman asks separation because of her husband's remoteness not because of his absence. And even though the scholars diverged as regards the issue of the maximal period a woman can stay without her husband without undergoing harm, feeling lonely or fearing to commit forbidden things, though the estimation of Maalik (*May Allaah have mercy on him*) is one lunar year, the minimal period in which a woman can ask for separation is after six months, and this is the maximal period a woman can endure the absence of her husband. This is the opinion adopted by `Umar Ibn Al-Khattaab and Hafsa (*May Allaah be pleased with them*) and Ahmad (*May Allaah have mercy on him*).

Having said this, leaving wives in suspense without giving them their rights goes against the Book and the Sunnah which enjoin to live with them honourably. Allaah (*Mighty and Majestic is He*) said:

﴿وَعَاشِرُوهُنَّ بِالْمَعْرُوفِ﴾

The meaning of the verse:

﴿...and live with them honourably﴾
[An-Nisaa' (The Women): 19]

And the Prophet's (*May the peace and blessings of Allaah be upon him*) saying, "**The best one among you is the kindest towards his wife [or wives]**"[4].

Moreover, living with them honourably requires to give the woman her rights which consist in expenses, enjoyment and other rights. Besides, neglecting these things leads to oppression and wronging which are prohibited. Thus, it will be incumbent upon the Muslim judge to remove the harm and the oppression at the wronged person's request.

The perfect knowledge belongs to Allaah (*Mighty and Majestic is He*). 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.

Algiers, Al-Muharram 26th, 1426H. Corresponding to: March 7th, 2005.

[4] **Reported by At-Tirmidhee, chapter of "Merits" (hadeeth 4269), by Ad-Daarimee (hadeeth 2315), by Al-Baihaqee (hadeeth 16117) on the authority of `A'isha (*May Allaah be pleased with her*). It is also reported by ibn Maajah, chapter of "Marriage" (hadeeth 2053) on the authority of Ibn `Abbaas (*May Allaah be pleased with them both*). This hadeeth is judged authentic by Al-Albaanee in Saheeh Al-Jaami` (hadeeth 3314), in As-Silsilah As-Saheehah (hadeeth 285) and in Aadaab Az-Zifaaf (p., 197).**

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