

A woman embracing Islaam whilst her husband does not

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Question:

Sometimes women embrace Islaam while their husbands do not. It is well known that a Muslim woman is not lawful for a non-Muslim man. However, for a woman to separate from the husband she loves and on whom she may depend for material support and in the breakup of her family is a great trial for her. It might even be a cause for her to hesitate about embracing Islaam. It also often happens that the husband embraces Islaam after a year or so. The wife hopes to attract her husband to Islaam while remaining in the same house as him after she has embraced Islaam. Is there any room in this matter for new independent reasoning, taking into consideration changing circumstances, benefit and the rule “the lesser of two evils”? Or is this matter something decided with no room for independent reasoning and so a woman entering Islaam must separate from her husband and perhaps even from her children?

Response:

This question contains in fact two questions, one of which is more important than the other. The first and most important of them, is whether there can be new independent reasoning to solve this problem. The answer to this is that rulings in Islaamic law are of two kinds. The first are those where there is no room for independent reasoning but rather that these rulings are beneficial at every time and in every place. The benefit therein might be clear, apparent and immediate or, alternatively, it might not be. Allaah, the Exalted says:

[And Allaah knows while you know not]¹

It might appear to some people that to implement Islaamic law is difficult and sever in this matter and that it causes problems, while the truth of the matter is quite the opposite to what they imagine. Here, in this issue Islaamic law must be applied and there is no room for independent reasoning.

¹ سورة النور - Soorah an-Noor [24:19]

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The second kind of ruling in Islaamic law, are those that are general and dependent upon circumstance. The circumstances, meaning or wisdom might be relevant and applicable at one time but not at another. If the ruling is relevant then it is established and applied and if it is no longer relevant then it is annulled. The issue of a Muslim woman staying with a disbeliever is a matter in which there is no room for independent reasoning because Allaah, the Exalted says:

[O you who believe! When believing women come to you as emigrants, examine them. Allaah knows best as to their faith. If you are sure that they are true believers do not send them back to the disbelievers. They are not lawful (wives) for the disbelievers nor are the disbelievers lawful (husbands) for them]²

Also, a person is not concerned about losing his son, husband or father if it is necessary in order to establish his or her faith and religion. If we consider our righteous predecessors we find that a man might kill his own father or son because they opposed him and stood in his way, in the matter of Allaah's religion. Accordingly, if a woman embraces Islaam and her husband persists in disbelief, most scholars say that one should wait until the 'iddah has ended. If the husband embraces Islaam during the period of the 'iddah, the marriage contract remains valid and they do not separate. However, if the period of the 'iddah ends before the husband has embraced Islaam, then the marriage is recorded as having ended at the time the woman embraced Islaam. She is then no longer lawful for him until he embraces Islaam and remarries her with a new contract (of marriage).

Some scholars say that a woman who embraces Islaam is tied to her husband until the 'iddah comes to an end. During this time it is not possible for her to remarry and if he embraces Islaam she remains his wife. If, on the other hand, the period of the 'iddah has ended and he then embraces Islaam, she has choice between returning to him, should she so wish, or not. This opinion is the most correct because the Prophet (صلى الله عليه وسلم)³ sent his daughter, Zaynab, back to 'Aboo al-'Aas Ibn Rabee' after six years.

Therefore,

- If a woman embraces Islaam and her husband remains a disbeliever, they must separate.
- If he enters Islaam before her 'iddah has ended, then she is still his wife and she does not have a choice of returning to him or not.
- However, if the period of the 'iddah has ended and she wishes to marry someone else, she has the right to do so.
- If she remains unmarried and her husband embraces Islaam, even after a long period of time has elapsed, if she so wishes she can go back to him.

² سورة الممتحنة - Soorah al-Mumtahinah [60:10]

³ (صلى الله عليه وسلم) (sallallaahu 'alayhi wa sallam) May the peace and blessings of Allaah the Most High be upon him