129345 - Is it essential that the mahram for travel be a husband? Can the wife refuse him as her mahram (for travel)?

the question

Is it permissible for me to refuse to go to perform the obligatory Hajj in the company of my husband? The reason for my question and why I do not want to go for Hajj with him is that for eight years – which is the length of our marriage – he has been hurting my feelings as a wife and he has hurt me a great deal, but I think that going to perform Hajj is regarded as an important individual obligation that I must fulfill.

Detailed answer

Praise be to Allah.

Firstly:

It is not permissible for a woman to travel for Hajj or for any other purpose except with a mahram, and she should not go out for Hajj or any other purpose except with her husband's permission. This has been explained previously in the answers to questions no. 96670 and 99539.

Secondly:

The husband is not obliged to do Hajj with his wife, just as he is not obliged to spend on the costs of her Hajj, unless she stipulated that in the marriage contract.

Shaykh Muhammad ibn Saalih al-'Uthaymeen (may Allah have mercy on him) was asked: Is it obligatory for the man to take his wife for Hajj so that he will be a mahram for her? Is he required to spend on his wife during the days of Hajj?

He replied:

The husband is not obliged to take his wife for Hajj, unless that was stipulated in the marriage

contract, in which case he must fulfil it. And he is not obliged to spend on his wife, unless it is an obligatory Hajj and he gave her permission to do it, in which case he must spend on her only as much as he would spend on her when she is not travelling. End quote.

Fataawa ash-Shaykh al-'Uthaymeen (21/208).

Thirdly:

It is not stipulated that the woman's mahram (for travel) should be her husband.

The definition of the mahram according to the scholars is one for whom it is permanently prohibited to marry her for a permissible reason, namely ties of blood, ties through breast-feeding, or ties through marriage.

For example: her father, grandfather, son, brother, paternal uncle, maternal uncle, brother's son, sister's son; or her father or brother through breast-feeding; or her husband's father or son [from another wife].

See: Mughni al-Muhtaaj (1/681); al-Mughni by Ibn Qudaamah (5/32).

He should be trustworthy and of sound mind, and the majority of scholars stipulated that he should be an adult.

It says in al-Mawsoo'ah al-Fiqhiyyah (17/36, 37):

The trustworthy mahram who is stipulated as a condition for a woman being able to do Hajj is any man who is trustworthy, of sound mind, an adult, for whom it is permanently forbidden to marry her, whether that mahram relationship is through ties of blood, ties through breast-feeding, or ties through marriage. End quote.

Fourthly:

Seeing as it is not essential that the mahram should be a husband, the woman is not obliged to travel with him for Hajj; she can choose someone else to go for Hajj with her.

Based on that, what the system mentioned about the nature of her husband's relationship with her is regarded as a valid excuse for her – in sha Allah – not to travel for Hajj with her husband, so long as she can find another mahram to travel with her.

The husband can reject anyone who he thinks is not suitable as a mahram for his wife, due to his being an evildoer, for example, or weak or sick.

It says in al-Mawsoo'ah al-Fiqhiyyah(17/37):

If she finds a mahram, the husband has no right to prevent her from going with him to do the obligatory Hajj. End quote.

If the husband insists on not allowing any of your mahrams to travel with you unless he is the mahram, then we advise you to accept that from him, because of the negative outcomes that would result from going against him, and because of the possibility that his doing Hajj may be a means of him being guided. Perhaps Allah will cause him to mend his ways and improve his attitude, for no one knows where the good that is decreed for him will come from or the means by which it will be brought about.

We ask Allah to guide him to the best of attitudes, and to reconcile between you.

And Allah knows best.