13740 - He has two wives and he is not dividing his time among them fairly

the question

Is it obligatory for a husband with two wives to designate specified days for each wife. Also, is it permissable that he share the days between the two. My husband presently has no designated days for us. He comes to my home when he has finish his rounds at my co-wives house. He then comes to my home to go to bed. This arrangement is not acceptable to me. Were on the brink of divorce.

Detailed answer

Praise be to Allah.

The one who has more than one wife has to treat all his wives fairly. One of the matters in which he must be fair is the division of his time, i.e., he must give each wife a day and a night, and he must stay with her on that night.

Al-Shaafa'i (may Allaah have mercy on him) said: "The Sunnah of the Messenger of Allaah (peace and blessings of Allaah be upon him) and the opinion of the majority of Muslim scholars indicate that a man has to divide his days and nights between his wives [giving each a full day and night], and that he has to be fair in doing so. (al-Umm, 5/158). And he said: I do not know of any (scholarly) disagreement with the view that a man must share his time among his wives and do so fairly. (al-Umm, 5/280).

Al-Baghawi (may Allaah have mercy on him) said: If a man has more than one wife, he has to treat them equally, if they are free [i.e., not slaves], whether they are Muslims or from among the People of the Book [i.e., Jewish or Christian]. If he does not treat them equally, then he has disobeyed Allaah and he has to make it up to the one whom he wronged. It was narrated from Abu Hurayrah that the Prophet (peace and blessings of Allaah be upon him) said: "Whoever has two wives and leans towards (i.e. favours) one of them (over the other), will come on the Day of

Resurrection with half of his body leaning.” However there is some dispute concerning its isnaad. (Narrated by Abu Dawood, 2/242; al-Tirmidhi, 3/447; al-Nasaa’i, 7/64; Ibn Maajah, 1/633; classed as saheeh by al-Haafiz in Buloogh al-Maraam, 3/310, and al-Albaani in Irwaa’ al-Ghaleel, 7/80).

What is meant by this “leaning” is favouring in terms of actions; a man will not be taken to task for the inclination of his heart if he treats (his wives) equally in practical terms. Allaah says (interpretation of the meaning):

“You will never be able to do perfect justice between wives even if it is your ardent desire, so do not incline too much to one of them…”

[al-Nisaa’ 4:129]

What this means is that you will never be able to treat them equally in your heart, so do not incline too much towards one of them, i.e., do not make your actions follow your whims and desires.

(Sharh al-Sunnah, 9/150-151)

Ibn Hazam (may Allaah have mercy on him) said: Treating co-wives equally is obligatory, most of all sharing one’s nights between them.

(al-Muhalla, 9/175)

Shaykh al-Islam Ibn Taymiyah (may Allaah have mercy on him) said: He has to treat his wives fairly according to the consensus of the Muslims. In the four Sunans it was narrated from Abu Hurayrah that the Prophet (peace and blessings of Allaah be upon him) said: “Whoever has two wives…” He has to be fair in his division of time between them. So if he stays with one of them for one night, or two or three, he should stay with the other for the same number of nights, and he should not give preference to one of them in his sharing of his time.

(Majmoo’ al-Fataawa, 32/269)

Al-‘Ayni said, commenting on the hadeeth, “Whoever has two wives…”: It was said that what was meant was that half of his body would be leaning in a real sense, or that he would have no

acceptable excuse for favouring one wife over the other. The apparent meaning is that this is in the real sense. This is indicated by the report of Abu Dawood, “with half of his body leaning.” The punishment fits the crime, because he did not treat them fairly or he deviated from what is right. Because of his being unfair and favouring one of them, his punishment is that he will come before the witnesses on the Day of Resurrection with one half of his body leaning.

(‘Umdat al-Qaari’, 20/199. See also al-Mabsoot, 5/217).

Al-Shawkaani also understood this to mean that it is obligatory (to treat co-wives fairly). See al-Sayl al-Jiwaar, 2/301; Nayl al-Awtaar, 6/216

Ibn Qudaamah al-Maqdisi (may Allaah have mercy on him) said: We know of no dispute among the scholars concerning the fact that it is obligatory to treat co-wives equally when sharing one’s time between them. Allaah says (interpretation of the meaning): “and live with them honourably” [al-Nisaa’ 4:19], but favouring one of them is not honourable.

Al-Mughni, 8/138

This husband has to fear Allaah and be fair in his division of his time. The wife has to tell him of the ruling of sharee’ah concerning what he is doing, and of the warning of mistreatment. She should remind him of Allaah and the Hereafter, so that he will check himself and be fair in his division of time. This is better than separating, in sha Allah. And Allaah knows best.