152778 - She became Muslim but her husband did not; is it allowed for her not to stop living with him because of his poor health and her financial situation?

the question

I have been a Muslimah for the past 6 years, alhamdulillah. I came to Islam after almost 20 years of marriage. My son who is 11 years old is also a Muslim. I am bringing him up under the teachings of Islam. However, his father is not a Muslim and I know that according to Shariah Law my marriege was broken from the moment that I took my shahadah. HIs father does not practice any religion and he does not want to learn about Islam. We still live in the same house but we stopped sharing the same bed for a long time.We dont have intimacy at all. My son's father is also a disable due a car accident years back. We share the same house but I deal with him more as a caregiver. I think many times about living this house so I could have more freedom to practice my religion,including wearing the hijab when I go out with him, but I don't have the courage to leave him because of his condition and I also can't support myself. My parents are poor and I don't have much education and I also worry about my son. Please send me an advice concerning this situation and tell me if is a major sin for me not to go out with a hijab with my husband when he forced me not to do it. I wear the full hijab all the time when I am alone, but once I stepped out of the house with him, he tells me to removed it.

Detailed answer

Praise be to Allah.

We praise Allah for having blessed you with Islam, and we ask Him to make us and you steadfast in adhering to His true religion.

If a woman becomes Muslim and her husband refuses to become Muslim, she is not permissible for him because Allah says (interpretation of the meaning):

“then if you ascertain that they are true believers send them not back to the disbelievers. They are not lawful (wives) for the disbelievers nor are the disbelievers lawful (husbands) for them”

[al-Mumtahanah 60:10].

Al-Shawkaani (may Allah have mercy on him) said:

The words of Allah, “They are not lawful (wives) for the disbelievers nor are the disbelievers lawful (husbands) for them” explain the reason why it is forbidden to send them back. This indicates that a believing woman is not permissible for a kaafir and that if the woman becomes Muslim she must leave her husband. End quote.

Fath al-Qadeer, 5/301

So it is not permissible for a Muslim woman to remain married to a kaafir under any circumstances whatsoever. Rather they should be separated as soon as she becomes Muslim, then she should wait until her ‘iddah ends. If he becomes Muslim during the ‘iddah, that they remain married, but if the ‘iddah ends and he has not become Muslim, she becomes irrevocably divorced from him and she may marry someone else if she wishes, or she may wait until he becomes Muslim.

Ibn al-Qayyim (may Allah have mercy on him) said: What is indicated by the ruling of the Prophet (blessings and peace of Allah be upon him) is that the marriage is suspended. If he becomes Muslim before the end of her ‘iddah, then she is still his wife, but if her ‘iddah ends, then she may marry whomever she wants, or if she likes she may wait for him, then if he becomes Muslim, she is still his wife without any need for a new marriage contract. End quote.

Zaad al-Ma‘aad, 5/137

As you say that you became Muslim six years ago, you became irrevocably divorced from him a long time ago. So you have to leave him immediately and it is not permissible for you to stay with him under any circumstances. And you have to seek forgiveness and repent to Allah, may He be exalted.

It is not permissible for you to serve him and take care of him when Islam has separated you, especially since he -- in addition to being a disbeliever -- hates religion and despises hijab and tells you to take it off. How can you feel that you and your religious commitment are safe when you are with him?

The Standing Committee for Issuing Fatwas was asked about a Christian woman who was elderly, as was her husband. She became Muslim but he did not, and there was no sexual relationship between them. Is it permissible for her to stay with him or should the marriage be annulled?

They replied:

If a Christian woman becomes Muslim and she is the wife of a Christian man, the marriage contract is annulled. Based on that, it is not permissible for her to stay with him even if they are old and have no sexual relationship. End quote.

Fataawa al-Lajnah al-Daa'imah, 19/16-17

The fact that you are poor and have no work does not make it permissible to you to stay in the same house as a non-Muslim man. Think positively of Allah, may He be exalted, for He is the One Who says (interpretation of the meaning):

"Allaah will grant after hardship, ease"

[al-Talaaq 65:7].

Al-Sa'di (may Allah have mercy on him) said:

This is glad tidings to those who are in difficulty, that Allah will grant them relief from their hardship and take away their difficulties. End quote.

Tafseer al-Sa'di, p. 871

And Allah says (interpretation of the meaning):

“And whosoever fears Allaah and keeps his duty to Him, He will make a way for him to get out (from every difficulty).

3. And He will provide him from (sources) he never could imagine. And whosoever puts his trust in Allaah, then He will suffice him. Verily, Allaah will accomplish his purpose. Indeed Allaah has set a measure for all things”

[al-Talaaq 65:2-3].

Imam Ibn al-Qayyim (may Allah have mercy on him) debated with a Christian scholar until the truth became clear to him, but he refrained from entering Islam on the grounds that the Christians venerated him and he said: I do not know any trade and I have not memorized any Qur’aan or grammar or fiqh. If I become Muslim I will go around the marketplaces begging from people. Who could agree to that? Ibn al-Qayyim said: That will not happen! How can you think of Allah that if you give precedence to pleasing Him over your whims and desires He would humiliate you and make you in need of others? Even if we assume that that will befall you, what you have attained of truth and salvation from the Fire and from the wrath and anger of Allah will be the most complete compensation for what you have lost. End quote.

Hidaayat al-Hayaara, p. 119

Your son should treat his father kindly and serve him and help him as much as he can. That is his father’s right over him, even if he (the father) continues to follow his present religion. Strive to call him to Islam, for that will be better for both of you, so that the family will not be divided. Tell him that Islam forbids you to stay with him, and that there is no solution to this problem except his becoming Muslim.

We ask Allah to guide and help you all.

And Allah knows best.