153902 - If a man is absent on the night of one of his wives with or without an excuse, he has to come back and make up that night

the question

My husband travelled before the end of his three nights in my house (as we both agreed). Does he have to come back as soon as he returns to complete the remaining two nights, or can he choose where he wants to stay for the next three?.

Detailed answer

Praise be to Allah.

If the husband divides his time between his wives, spending one night or two nights or three nights with each in turn, then it is the right of each of his wives that he should stay overnight with her on the nights that are allocated to her, because she is entitled to that. If circumstances dictate that he should be absent on the night of one of his wives completely or for a long time, such as if he is imprisoned or is travelling or is getting married, then the right of the wife whose turn it was is not waived; rather when he comes out of prison or returns from his travel or the time allocated to the new wife ends, he has to go back to the wife whose turn it was and stay overnight with her, or complete what is left of her night. This is what is required to be just and fair.

Al-Shafʻi (may Allah have mercy on him) said: If he allocated time to a wife then he went away then he returned, he should start dividing his time with the one whose turn comes next.

Similarly, if he is not travelling but he is distracted from staying overnight with her, he should resume dividing his time as if he had returned from being away, so he should start with the one whose turn it was.

And he said:

If he was with her for part of the night, then he went away then he came back, he should start by

making up to her what is left of the night, then he should go to the one whose turn comes next at the end of the night, so that he is being fair to them with regard to dividing his time.

Al-Umm (5/281).

Ibn Qudamah (may Allah have mercy on him) said:

If he leaves one of his wives during her time, if that is during the day or at the beginning or end of the night, when it is customary to leave the home and go out to pray, that is permissible, because the Muslims go out to pray ‘Isha and Fajr before dawn breaks, and with regard to the day, it is the time when people go out and about to earn a living.

But if he goes out at some other time and comes back quickly, he does not have to make it up for her, because there is no benefit in making that up. But if he stays out for a long time, he should make it up to her, whether his staying out was for an excuse such as work or being detained, or there was no excuse, because her rights were denied by his being away from her. And if he wants to make up for that by staying away from the other wife for as long as he stayed away from this one, that is permissible, because equal treatment is attained by doing that, and because it is permissible for him to stay away for a full night if he does the same to each of his wives; so by analogy it is also acceptable with regard to part of the night.

Al-Mughni, 8/145

Another issue with regard to the rights of the wife over the husband, which supports what is mentioned above, is that if the husband wants to travel and draws lots between his wives, and one wife’s name is drawn, then she still has the right to her night after he comes back from his journey, and the fact that he took her with him on his journey does not mean that her right to her night or nights is waived.

Ash-Shaykh al-Khateeb al-Sharbeeni al-Shaaf‘i (may Allah have mercy on him) said:

Al-Bulqayni said: If the name of the one whose turn it is is drawn, her turn is not included in the period of travel; rather, when he returns, he should still give her her right to a share of his time. In

the text of al-Umm there is that which confirms this.

Mughni al-Muhtaj, 3/258

Ash-Shaykh Mansoor al-Bahooti al-Hanbali (may Allah have mercy on him) said:

The husband should still allocate the rightful share of his time to the one he takes with him after choosing her by drawing lots, when he returns from his journey and he should not regard the time spent travelling as part of her share of his time, because of the hadeeth of ‘Aishah quoted above, as she did not mention making up the time, and because the one who travelled with him was the only one to undergo the hardships of travel.

Kashshaf al-Qina, 5/201

To sum up:

When your husband comes back from his trip, he has to make up the rest of your three nights, and thus he will attain the justice that Allah has required of him. He does not have to start dividing his time anew, because he still owes you some time that he has to make up for you.

And Allah knows best.