161234 - Can I ask for a divorce because of my resentment towards my husband?

the question

I am suffering a lot of problems with my husband, which is because we are not getting along, especially since he is too busy at work, which requires him to spend a lot of time outside the home. I feel resentment towards him when he tries to get close to me, and sometimes I hate him, especially when he wants to have sex repeatedly and without any consideration for my feeling exhausted because of housework or because of severe sickness, even if I have a fever or am menstruating. Is this sufficient grounds for me to get a divorce, especially as I cannot carry on in this marriage to him?

Detailed answer

Praise be to Allah.

Firstly:

It may be important here to remind the questioner that for every problem there is a remedy and a solution, and divorce may in fact be a solution to complex problems in marriage, and it is for that reason that Allah has prescribed it. However, there is no doubt that every smart person should regard it as being like painful cauterisation which a sick person may have no choice but to undergo. As the Arabic proverb says: The remedy of last resort is cauterisation.

But before thinking of this “cauterisation” it is essential to exhaust all other possible means of reaching a deal that both spouses can agree to, whereby the problems will be reduced and harmony will increase. Only then will one’s conscience be at peace and one will be certain of the right decision that one may have to take in order to find a solution.

It is most likely that the sister who asked this question has heard or read a great deal of advice concerning this matter, but that should not prevent us from offering her advice that may provide

her with another angle from which to examine the issue. Our advice is that she should weigh up the pros and cons, and evaluate the possible bad consequences that may convince a person of the right decision, rationally and emotionally, with regard to breaking the ties of marriage.

One calm and quiet discussion – in many cases – may be sufficient to bring about reconciliation between two gravely dissenting parties. It is also guaranteed to pave the way towards complete harmony and understanding. But unfortunately most people do not realise that and they do not try to achieve it; rather they soon feel despair and give up hope, because of the failure of one or two or more attempts. However the wise person is the one who regards establishing a successful and happy marriage as a challenge that he should try hard to meet, and he should not be too hasty in announcing its failure, especially as human relations are always subject to turmoil and ups and downs. In this way one may acquire experience and attain the qualities of deliberation and calmness that will help to ensure that any subsequent relationship may be successful.

Shar'i reasons cannot occur in isolation; rather each spouse should check himself or herself and watch out for shortcomings with regard to his or her duties towards Allah. Perhaps a sin that was committed may result in consequences that affect the individual with regard to his or her family and household. Sin is the root of all problems, and repentance and praying for forgiveness are at the root of all remedies. Allah, may He be glorified and exalted, has commanded us to fear Him in dozens of places in his Holy Book, and he has made success and prosperity in this world and the Hereafter dependent upon achieving this important goal.

Allah, may He be glorified and exalted, says (interpretation of the meaning):

"O you who believe! Keep your duty to Allah and fear Him, and speak (always) the truth.

H e will direct you to do righteous good deeds and will forgive you your sins. And whosoever obeys Allah and His Messenger (blessings and peace of Allah be upon him) he has indeed achieved a great achievement (i.e. he will be saved from the Hell-fire and made to enter Paradise)"

[al-Ahzaab 33:70-71]

“O you who believe (in Moosa (Moses) (i.e. Jews) and ‘Eesa (Jesus) (i.e. Christians))! Fear Allah, and believe too in His Messenger (Muhammad SAW), He will give you a double portion of His Mercy, and He will give you a light by which you shall walk (straight), and He will forgive you. And Allah is Oft-Forgiving, Most Merciful”

[al-Hadeed 57:28]

“And if the people of the towns had believed and had the Taqwa (piety), certainly, We should have opened for them blessings from the heaven and the earth, but they belied (the Messengers). So We took them (with punishment) for what they used to earn (polytheism and crimes, etc.)”

[al-A ‘raaf 7:96].

Secondly:

If living with one’s spouse is becoming impossible and there is no more room for mutual understanding or treating one another on the basis of kindness and honouring mutual rights, then there is no blame on the wife if she seeks divorce.

Al-Haafiz Ibn Katheer (may Allah have mercy on him) said:

If problems have begun to appear between the couple and the woman can no longer give the man his rights and she resents him, or she cannot live with him any more, then she has the right to release herself from him by giving back what he gave her, and there is nothing wrong with her giving that to him or him accepting it from her. Hence Allah, may He be exalted, says (interpretation of the meaning): “And it is not lawful for you (men) to take back (from your wives) any of your Mahr (bridal money given by the husband to his wife at the time of marriage) which you have given them, except when both parties fear that they would be unable to keep the limits ordained by Allah (e.g. to deal with each other on a fair basis). Then if you fear that they would not be able to keep the limits ordained by Allah, then there is no sin on either of them if she gives back (the Mahr or a part of it) for her Al-Khul (divorce)” [al-Baqarah 2:229].

End quote from Tafseer al-Qur’an al-‘Azeem (1/613)

And it is proven in the Sunnah that the wife of Thaabit ibn Qays came to the Prophet (blessings and peace of Allah be upon him) and said: O Messenger of Allah, I do not find any fault with Thaabit regarding his religious commitment or his attitude, but I hate to go back to kufr after coming to Islam. The Messenger of Allah (blessings and peace of Allah be upon him) said: “Will you give his garden back to him?” She said: Yes. The Messenger of Allah (blessings and peace of Allah be upon him) said (to Thaabit): “Accept your garden, and divorce her (one talaaq).”

Narrated by al-Bukhaari (5273)

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

That is, I do not want to leave him because of any bad attitude on his part or shortcoming in his religious commitment. The report of Ayyoob mentioned above adds: But I cannot stand him. … In fact another reason was stated clearly, which is that he was physically ugly. In the hadith of ‘Amr ibn Shu‘ayb, from his father, from his grandfather – which was narrated by Ibn Maajah – it says: Habeebah bint Sahl was married to Thaabit ibn Qays, who was an ugly man. She said, O Messenger of Allaah, by Allaah, were it not for fear of Allaah, when he enters upon me I would spit in his face.

The words “but I hate to go back to kufr after coming to Islam” mean: If I stay with him, I would hate to do anything that could lead to kufr. … It is as if she was hinting that her intense dislike for him could lead her to make a show of kufr so that her marriage to him would be annulled. She knew that this was haraam, but she was afraid that her intense dislike would make her do that. Or it may be that what she meant by kufr here was ingratitude to her husband, when falling short with regard to her husband’s rights.

End quote from Fath al-Baari (9/399-400)

However, we should point out to the questioner here that with regard to her husband’s desire for intercourse during her menses it is not permissible for her to obey him in that regard; rather she has to refuse and tell him that this is haraam. If he does not pay attention to that and transgresses the limit set by Allah with regard to this matter, then this alone is sufficient grounds for separation.

In fact Shaykh al-Islam Ibn Taymiyah (may Allah have mercy on him) said: If the husband repeatedly has intercourse with his wife during her menses, and he does not pay heed, then they should be separated, as we said with regard to a husband who has anal intercourse with his wife and does not pay heed.

End quote from al-Ikhtiyaaraat al-Fiqhiyyah by al-Ba'li (27)

See also the answers to questions no. 99870 and 117185

And Allah knows best.