221850 - It is not permissible for a Muslim to refer for judgement to man-made laws or to take more than he is entitled to

the question

hello sir.. i am a muslim living in india.. and as the world have gone cruel and is destroying marriage constitution everywhere.. i have this question.

In inida you cannot divorce according to The Muslim law or quran and hadees.

However if your wife is not cruel to you.. she may allow you to divorce under muslim law in which you will pay her maintaince for one year (according to Quran and hadees)

Now if your wife is cruel to you and she dose not allow you to divorce or just leave you for no reason when you are good to her and the indian law (which is contradicting muslim rules of divorce) says you to pay your wife alimony and maintenance till she gets re-married.. so is it a sin on the part of the girl to take the money of the innocent husband as he pays his ex wife and cnnot marry again as the amount is 1/3rd of his total income. so there is no way he can get married untill she gets married.

what should be done under such cases.. i dont want to loose my money when i am not at fault for divorce. Accoring to quran ill pay her for 1 year but indian laws says something diffrent ..

so if i pay her money.. is it sin on her part and will i be rewarded in islam .. as i am marrying for islam

Detailed answer

Praise be to Allah.

Firstly:

The financial obligations of one who divorces his wife are as affirmed in Islamic law on this matter. This is discussed in fatwa no. 221900, where we explained that if it is a revocable divorce, then the husband is obliged to spend on his wife's maintenance for the duration of the 'iddah; he is not obliged to spend on her for an entire year.

Secondly:

What the Muslim is obliged to do is to refer for judgement to the Qur'an and Sunnah concerning all his affairs, and it is not permissible for him to refer for judgement to man-made laws except in cases of necessity.

In Fataawa al-Lajnah ad-Daa'imah (vol. 2, 1/371) it says:

What the Muslims must do is refer for judgement to Islamic sharee'ah, in obedience to the command of Allah, may He be glorified and exalted, in the verses in which He, may He be exalted, says (interpretation of the meaning):

"And so judge (you O Muhammad (blessings and peace of Allah be upon him)) between them by what Allah has revealed and follow not their vain desires"

[al-Maa'idah 5:49]

"And whosoever does not judge by what Allah has revealed, such are the Kafiroon (i.e. disbelievers - of a lesser degree as they do not act on Allah's Laws)"

[al-Maa'idah 5:44]

"And whosoever does not judge by that which Allah has revealed, such are the Zalimoon (polytheists and wrongdoers - of a lesser degree)"

[al-Maa'idah 5:45]

"And whosoever does not judge by what Allah has revealed (then) such (people) are the Fasiqoon (the rebellious i.e. disobedient (of a lesser degree) to Allah"

[al-Maa'idah 4:47]

"But no, by your Lord, they can have no Faith, until they make you (O Muhammad (blessings and peace of Allah be upon him)) judge in all disputes between them, and find in themselves no resistance against your decisions, and accept (them) with full submission"

[an-Nisa' 4:65].

It is forbidden for the Muslims to refer for judgement to customary rulings, tribal principles or man-made laws, because this comes under the heading of referring for judgement to taaghoot (false judges, etc), which Allah has forbidden us to refer to for judgement and Allah has instructed us to reject it as He, may He be exalted, says (interpretation of the meaning):

"Have you seen those (hyprocrites) who claim that they believe in that which has been sent down to you, and that which was sent down before you, and they wish to go for judgement (in their disputes) to the Taghoot (false judges, etc.) while they have been ordered to reject them. But Shaitan (Satan) wishes to lead them far astray"

[an-Nisa' 4:60].

End quote.

If a Muslim refers for judgement to the court (whether it rules in accordance with Islamic sharee'ah or otherwise), and the judge rules that he is entitled to more than his rightful share, it is not permissible for him to take anything but that which is his right only, and no more than that. The Prophet (blessings and peace of Allah be upon him), who is the most just of judges, said: "I am only human. You may refer a dispute to me, and perhaps one of you is more eloquent in making his argument than the other, so I judge according to what I hear. If I judge in a person's favour, giving him what is rightfully his brother's, let him not take it, for I have only allocated to him a piece of fire."

Narrated by al-Bukhaari and Muslim.

If your wife refuses to refer for judgement to Islamic sharee‘ah, then you have no choice but to refer for judgement to man-made laws.

In that case, anything that your wife takes from you unlawfully is wrongdoing on her part towards you, and if she does not repent and return what is rightfully yours in this world, then there will be no option but for it to be taken from her in the Hereafter, and the settling of scores in the Hereafter will be in terms of good deeds and bad deeds. The Messenger of Allah (blessings and peace of Allah be upon him) said: “Whoever has wronged his brother with regard to his honour or anything else, let him seek his pardon today, before a time when there will be no dinars or dirhams; then if he has any righteous deeds to his credit, they will be taken from him, commensurate with the extent of his wrongdoing, and if he has no good deeds to his credit, then some of the bad deeds of his counterpart will be taken and added to his burden.”

Narrated by al-Bukhaari (2449)

And Allah knows best.