



274547 - She is questioning the difference in the way of dealing with misconduct of the wife and misconduct of the husband

the question

My sister always asks me why, if the wife fears misconduct on the part of her husband, she should forfeit her rights, but if the husband sees misconduct on the part of his wife, he should deprive her of her rights, and she tells me that this is seeking clarification, and she is not objecting.

Detailed answer

Praise be to Allah.

Firstly:

This simplistic way of presenting the matter is not correct, because this wording gives the impression that the marital home, according to Islamic teaching, is a place that oppresses women and allows men to be tyrants.

Rather what is correct is that the marital home is a place of peace, mercy and love.

Allah, may He be Exalted, says:

{And of His signs is that He created for you from yourselves mates, that you may find tranquillity in them; and He placed between you affection and mercy. Indeed in that are signs for a people who give thought}[Ar-Rum 30:21].

In order for the home to be like this, Islam urges the husband to strive his utmost to live with his wife in kindness.

Allah, may He be Exalted, says:



{O you who have believed, it is not lawful for you to inherit women by compulsion. And do not make difficulties for them in order to take [back] part of what you gave them, unless they commit a clear immorality. And live with them in kindness. For if you dislike them - perhaps you dislike a thing and Allah makes therein much good}[An-Nisa' 4:19].

Shaykh `Abd ar-Rahman as-Sa`di (may Allah have mercy on him) said:

{And live with them in kindness}. This includes interactions in word and deed. The husband is obliged to live with his wife in kindness, which includes keeping her company in a good manner, not annoying or harming her, and showing kindness and treating her with respect. That also includes maintenance, clothing and so on. The husband is obliged to treat his wife in the manner that is expected of a man of his calibre towards a woman of her calibre, in that particular time and place; this differs from one situation to another.

{For if you dislike them - perhaps you dislike a thing and Allah makes therein much good} that is, you - O husbands - should keep your wives even if you dislike them, for there is a great deal of good in that, such as obedience to the command of Allah and accepting His advice, which leads to happiness in this world and the hereafter.

So the husband should force himself - even if he does not love her - to strive to develop a good attitude so that he can treat her kindly; perhaps his dislike of her will disappear, to be replaced by love, as usually happens; or perhaps Allah will bless him with a righteous child from her, who will benefit his (or her) parents in this world and the hereafter. All of that applies if it is possible to keep her without transgressing the limits.

End quote from *Tafsir as-Sa`di*, p. 172.

It was narrated that `A'ishah said: The Messenger of Allah (blessings and peace of Allah be upon him) said: "The best of you is the one who is best to his wife, and I am the best of you to my wives." Narrated by at-Tirmidhi, 3895; he said: This is an authentic (hasan sahih) hadith.

It was narrated that Abu Hurayrah said: The Messenger of Allah (blessings and peace of Allah be



upon him) said: “The most perfect of the believers in faith are those who are best in manners and attitudes, and the best of you are those who are best to their wives.” Narrated by at-Tirmidhi, 1162; he said: This is an authentic (hasan sahih) hadith.

On the other hand, Islam urges the woman to obey her husband and fulfil his rights.

Thus Islam urges both spouses to pay attention to the responsibilities that each of them bears, and warns against neglecting those responsibilities.

It was narrated from `Abdullah ibn `Umar (may Allah be pleased with him) that the Messenger of Allah (blessings and peace of Allah be upon him) said: “Each of you is in a position of responsibility and each of you is answerable for those under his care. The ruler of the people is in a position of responsibility and is answerable for those under his care. A man is in a position of responsibility over his household and is answerable for those under his care. A woman is in a position of responsibility over her husband’s house and children and is answerable for those under her care. The slave is in a position of responsibility over his master’s wealth and is answerable for it. Each of you is in a position of responsibility and each of you is answerable for those under his care.” Narrated by al-Bukhari, 2554; Muslim, 1829.

Secondly:

But if this marital peace and tranquillity is absent because of shortcomings on the part of one of the spouses in fulfilling those duties, or because of one of them overstepping the mark and demanding more than what he or she is entitled to according to Islamic teachings, then Islam offers solutions in order to avoid divorce, but if that is to no avail, then there is nothing wrong with resorting to divorce in an amicable fashion, and Allah will take care of both of them out of His bounty.

If it is the woman who is falling short or transgressing the limits that Islam has set for her, when the husband is doing what is required of him, then Islam prescribes the remedy for this misconduct, which is to be done in the following manner:



Allah, may He be Exalted, says:

{ Men are in charge of women by [right of] what Allah has given one over the other and what they spend [for maintenance] from their wealth. So righteous women are devoutly obedient, guarding in [the husband's] absence what Allah would have them guard. But those [wives] from whom you fear defiant disobedience - [first] advise them; [then if they persist], forsake them in bed; and [finally], hit them [lightly]. But if they obey you [once more], seek no means against them. Indeed, Allah is Most High, Great.

And if you fear dissension between the two, send an arbitrator from his people and an arbitrator from her people. If they both desire reconciliation, Allah will cause it between them. Indeed, Allah is All-Knowing, All-Aware.}[An-Nisa' 4:34-35].

Thus the remedy for defiant disobedience involves several steps:

The first step:

Is simply admonishing and advising her, so the husband should remind her of Allah, may He be Exalted, and what He has enjoined upon her of obeying her husband, provided that it does not involve any sin.

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

The phrase {[first] advise them} means reminding them of the Book of Allah and what Allah has enjoined upon them of being a good companion and living with the husband in kindness, and accepting that the husband has a degree [in responsibility and authority] over the wife.

End quote from *Tafsir al-Qurtubi*, 6/283.

The second step:

If admonishment and advice are to no avail, then the husband has the right to forsake his wife in bed. So he still lives with her in the same house and sleeps in the same bed, but he does not approach her for intimacy; rather he turns his back. This proximity without intimacy will make it



easy for them to discuss matters and talk, if they both want reconciliation.

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

Regarding the words {forsake them in bed}, `Ali ibn Abi Talhah said, narrating from Ibn `Abbas: This means that he should not have intercourse with her, but he may lie down with her on the same bed and turn his back to her. This was stated by more than one of the scholars. Others – including as-Suddi, ad-Dahhaak, `Ikrimah and Ibn `Abbas – added that he should also not speak to her or chat with her.

End quote from *Tafsir Ibn Kathir*, 2/294.

The third step:

If admonishment and forsaking her in bed are to no avail, then it is permissible for him to hit her lightly, without causing pain; rather it is by way of discipline, not by way of taking out his anger and rage on her. How many women who behave arrogantly and overstep the mark could be stopped and cured of arrogance with a light smack that causes no pain; rather it conveys the message intended by the smack.

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

The words {hit them [lightly]} mean: if wives are not deterred by admonishing or forsaking them in bed, then you may smack them, without causing pain, as it is soundly narrated in *Sahih Muslim* from Jabir, from the Prophet (blessings and peace of Allah be upon him) that he said during the Farewell Pilgrimage: “Fear Allah with regard to women, for you have taken them as a trust from Allah, and your rights over them are that they should not allow anyone whom you dislike to sit on your furniture. If they do that, then smack them, but not hard. Their rights over you are that you should provide for them and clothe them in a reasonable manner.”

Ibn `Abbas and others said: [This refers to] a smack that is not painful. Al-Hasan al-Basri said: That is, one that does not hurt or leave a mark. The jurists said: It is an action that does not break a limb and leaves no mark at all.



End quote from *Tafsir Ibn Kathir*, 2/295.

Some of the scholars likened this smack to striking with a siwak and the like.

At-Tabari narrated in his *Tafsir* (6/712), with his isnad from Ibn Jurayj, that 'Ata' said:

I said to Ibn `Abbas: What is meant by hitting lightly?

He said: With a siwak and the like.

As for the hitting with a blow that causes pain, that is not allowed.

It was narrated from `Abdullah ibn Zam`ah that the Prophet (blessings and peace of Allah be upon him) said: "No one of you should flog his wife as he would flog a slave, then have intercourse with her at the end of the day." Narrated by al-Bukhari, 5204; Muslim, 2855.

That is because striking severely and causing pain is not the way to bring about reconciliation; rather it increases resentment and hatred.

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

The one who is struck usually resents the one who strikes him; this is why it is condemned. If there is no other option, then discipline should be done with a light smack, in such a way that does not lead to resentment and hatred. So (the husband) should not go to extremes in hitting, or in disciplining.

End quote from *Fat-h al-Bari*, 9/309.

The fourth step:

If all the means mentioned above are to no avail, then it is good to appoint an arbitrator from the man's family and an arbitrator from the woman's family in order to bring about reconciliation between them, if that is possible.

Ibn al-'Arabi said: One of the best commentaries on this verse that I have heard is what Sa`id ibn



Jubayr said: He may admonish her if that will lead to the desired outcome; otherwise he may forsake her in bed, if that will lead to the desired outcome, otherwise he may smack her, if that will lead to the desired outcome, otherwise an arbitrator may be appointed from his family and an arbitrator from her family, to find out who is the cause of the trouble, then they may decide on khul`.

End quote from *Ahkam al-Qur'an*, 1/420.

But if the man withholds maintenance from his disobedient wife, he does not have to do that, but he is allowed to do that if he wants to.

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

If the disobedient wife refuses to come to his bed, or she goes out of his house without his permission, or she refuses to move with him to accommodation that is appropriate for a woman of her calibre, or she refuses to travel with him, then she has no right to maintenance or accommodation, according to most of the scholars, including ash-Sha`bi, Hammad, Malik, al-Awza`i, ash-Shafa`i, as-hab ar-ra'y and Abu Thawr. Al-Hakam said: She is entitled to maintenance. Ibn al-Mundhir said: I do not know of anyone who differed with these scholars except al-Hakam.

End quote from *Al-Mughni*, 11/409-411.

If the man chooses to continue spending on his disobedient wife, with the intention of showing kindness until Allah judges between them, then this is a sign of generosity and sublime character, which are encouraged in Islamic teachings.

All of this applies if the cause of trouble is on the part of the wife, not the husband.

But if the cause of trouble is on the part of the husband, such as if he is mistreating her or falling short in giving her her rights, then in this case the man must stop mistreating her and give her her rights, if he wants the marriage to continue.

For more information, please see the answer to question no. [245408](#).



If the husband is mistreating his wife and oppressing her, then the following verse – which suggests that the wife may forfeit some of her rights – does not apply in this case:

{And if a woman fears from her husband contempt or indifference, there is no sin upon them if they make terms of settlement between them - and settlement is best. And present in [human] souls is stinginess. But if you do good and fear Allah - then indeed Allah is well aware of all that you do}[An-Nisa' 4:128].

What is meant by contempt on the part of the man in this verse is when he loses interest in his wife for some reason, but does not mistreat her, such as if the wife develops a chronic illness and he does not have the patience to wait for her to recover, or she reaches an age where he cannot enjoy intimacy with her or live with her, or he begins to resent her, or other things that may happen between spouses which, in most cases, lead to divorce.

Or it may be the other way round, meaning that it is the husband who is sick or is overwhelmed with issues that prevent him from fulfilling his duties towards his wife. In this case, the husband may decide that divorce is the most appropriate solution. In this case it is prescribed for the woman, if she wants to preserve the marriage and protect it from being destroyed – in other words, if she wants to avoid divorce – to forfeit some of her rights in return for him not divorcing her.

It was narrated from `A'ishah, regarding the verse {And if a woman fears from her husband contempt or indifference} [an-Nisa 4:128], that she said: This was revealed concerning a woman who is married to a man, and has been with him for a long time, then he wants to divorce her, and she says: Do not divorce me; keep me and you have no obligation towards me. Then this verse was revealed. Narrated by al-Bukhari, 4601; Muslim, 3021.

Ibn `Abd al-Barr (may Allah have mercy on him) said:

The best that has been said regarding the interpretation of the verse {And if a woman fears from her husband contempt or indifference ...} [an-Nisa 4:128] is what was narrated by Abu Bakr ibn Abi Shaybah, who said: Abul-Ahwas told me, from Sammak ibn Harb, from Khalid ibn `Ar`arah,



from `Ali ibn Abi Talib, that a man asked him about this verse, and he said: It refers to a woman who is married to a man, but he can no longer stand to look at her, because she has become ugly or poor or old, or is bad mannered, but she does not want to separate from him. If she forfeits some of her mahr, it is permissible for him to keep it, and if she forfeits some of her days with him (if she has co-wives), there is nothing wrong with that.

End quote from *Al-Istidhkar*, 16/381.

Allah, may He be Exalted, has allowed this kind of reconciliation to His slaves, so as to keep families together.

But this solution is not obligatory on either party. The husband has the option of not doing that, if he thinks that living with her in kindness is no longer possible.

The wife can also choose not to accept this reconciliation and refuse to forfeit any of her rights in return for continuing the marriage, or she may also no longer find joy in continuing to live with him and want to separate from him. In all these cases, she has the right not to accept the option of reconciling and forfeiting any of her rights, and she may insist on having all her rights in full, separating from him and ending the marriage.

This is what Islam teaches, and whoever reflects on it and does not take one ruling out of context – rather he examines the rulings on marriage and divorce, and the etiquette of both, as a whole, noting the connections between the rulings – will increase in his understanding of the verse in which Allah, may He be Exalted, says:

{Indeed, Allah orders justice and good conduct and giving to relatives, and forbids immorality and bad conduct and oppression. He admonishes you that perhaps you will be reminded}[An-Nahl 16:90].

And Allah knows best.