40441 - Can a Wife Make Dhihar?

the question

My husband always makes fun of me and mocks me, and I have put up with a lot and have been patient. But one day he insulted me in all kinds of ways and made me cry and get angry. So I said to him, “You are to me like my brother, you are to me like my brother’s back.”
Is this considered to be Dhihar [a jahili (pre-Islamic ignorance) form of divorce in which the husband says to his wife, “You are to me like my mother’s back”]? What is the kafarah (expiation) that I have to offer?

Summary of answer

If a wife tells her husband ‘You are prohibited to me like my brother’ etc., this is not Dhihar, rather it is an expiable oath. Dhihar is done by a man to his wife, not vice versa.

Detailed answer

Praise be to Allah.

It is not permissible for a Muslim to make fun of his fellow Muslim. Allah says (interpretation of the meaning):

“O you who believe! Let not a group scoff at another group, it may be that the latter are better than the former. Nor let (some) women scoff at other women, it may be that the latter are better than the former. Nor defame one another, nor insult one another by nicknames. How bad is it to insult one’s brother after having faith [i.e. to call your Muslim brother (a faithful believer) as: `O sinner’, or `O wicked’]. And whosoever does not repent, then such are indeed Zalimoon (wrongdoers).” [Al-Hujurat 49:11]

The husband is obliged to treat his wife kindly. Allah says (interpretation of the meaning):

"... and live with them honourably." [An-Nisa' 4:19]

And the Prophet (peace and blessings of Allah be upon him) said: "The best of you are those who are best to their wives, and I am the best of you to my wives." [At-Tirmidhi]

Our advice to you is to continue to be patient and put up with your husband's mistreatment, and pray for him to be guided, and keep reminding him of his duties.

With regard to your telling him, "You are prohibited to me like my brother," etc., this is not Dhihar, rather it is an expiable oath. Dhihar is done by a man to his wife, not vice versa. Allah says (interpretation of the meaning):

"Those among you who make their wives unlawful to them by Dhihar (i.e., by saying to them `You are like my mother's back')..." [Al-Mujadalah 58:2]

Shaykh Muhammad As-Salih Al-`Uthaymin (may Allah have mercy on him) was asked:

My wife always says to me, "You are my husband, you are my brother, you are my father, you are everything to me in this world." Do these words make me prohibited (unlawful) to her or not?

He replied:

"These words do not make her prohibited for you, because what she means by saying "You are my father and brother," etc. is that you are like her father and brother in love and care. She does not intend to make you a Mahram like her father and brother.

Even if we were to assume that she does mean that, you are not prohibited for her, because Dhihar cannot be given by women to their husbands, rather it is something given by men to their wives. Hence if a woman tries to give her husband Dhihar by saying to him, "You are to me like my father's back" or "my brother's back" etc., this is not Dhihar, but it comes under the ruling of oaths, in the sense that it is not permissible for her to allow him to be intimate with her unless she offers expiation for breaking a vow. If she wishes, she can offer the expiation before she allows him to be intimate with her, or if she wishes she may do so afterwards.

The expiation for breaking a vow is to feed or clothe ten poor persons, or to free a slave. If the person cannot do any of these things, then he or she must fast for three days.” (Fatawa Al-Mar’ah Al-Muslimah)

For more details, please refer to the following answers: 83386 , 330605 , 72203 , 112012 , 186092 , and 183870 .

And Allah knows best.