83360 - Woman going out to visit her parents and relatives without her husband’s permission

the question

What is the Islamic ruling on a wife who leaves the marital home to live in a rented house with one of her children, for fear that her husband may beat her because he is severely mentally ill? Please note that the house is rented with the husband’s knowledge, and this situation has been going on for one year and five months.
What is the ruling on a wife going out for social occasions and to uphold ties with her family and relatives? She usually goes out to these events with one of her daughters or sons?.

Detailed answer

Praise be to Allah.

If the woman has left her home and gone to live in another house with her husband’s permission, then there is nothing wrong with that, if she moves to a place where she and her children can be safe. The same applies if her leaving is necessary because of the fear that her husband may beat her as the result of his severe mental illness.

The basic principle is that a woman should not leave her husband’s home without his permission, and if she leaves without his permission, then she is being disobedient and wilfully defiant (nushooz). She loses the right to maintenance and is sinning thereby. But an exception is made in cases of necessity and the fuqaha’ have given several examples of that, such as if she goes out to buy flour, bread or other necessities, or she is afraid that the house may collapse, and so on. Asna al-Mataalib ma’a Haashiyatihi (3/239).

It says in Mataalib Ooli al-Nuha (5/271): It is haraam for her (i.e., the wife) to go out without his

(i.e., the husband's) permission, or without there being an essential reason such as bringing some food because there is no one who can bring it. End quote.

Hence we know the ruling on her going out for social occasions and to uphold ties with her family and relatives; she should not do that except with his permission, whether she lives with him or in a separate house.

The fuqaha' differed with regard to a wife visiting her parents in particular – does the husband have the right to prevent her from doing that, and does she have to obey him?

The Hanafis and Maalikis are of the view that he does not have the right to prevent her from doing that.

The Shaafa'is and Hanbalis are of the view that he does have the right to prevent her, and that she must obey him, so she should not go out to visit them except with his permission, but he does not have the right to prevent her from speaking to them or to prevent them from visiting her, unless he fears that their visit may cause some harm, in which case he may forbid it so as to ward off harm.

Ibn Nujaym (Hanafi) said: If her father is elderly, for example, and needs her to serve him, and the husband prevents her from visiting him, then she may disobey him, whether her father is a Muslim or a kaafir. This is what it says in Fath al-Qadeer. It may be understood from what we have said that she may go out to visit her parents and mahrams. According to the correct view, she may go out to visit her parents every week with or without his permission, and to visit her mahrams once every year with or without his permission. End quote from al-Bahr al-Raa'iq (4/212).

It says in al-Taaj wa'l-Ikleel 'ala Matn al-Khaleel (Maaliki) (5/549): In al-'Utbiyyah it says that the man has no right to prevent his wife from going out to the house of her father or brother, and a ruling to that effect should be issued against him, which is different from the view of Ibn Habeeb. Ibn Rushd said: This difference of opinion applies to a young woman who is trustworthy. As for the old woman there is no difference of opinion; she may visit her father and brother. As for a young woman who is not trustworthy, she is not allowed to go out. End quote.

“Old woman” here refers to one who is old and for whom men have no desire. Al-Mawsoo’ahal-Fiqhiyyah (29/294).

Ibn Hajar al-Makki (Shaafa’i) said: If a woman needs to go out to visit her father or to go to the baths, she may go out with her husband’s permission, not wearing any adornment, wearing a wrapper and old clothes, lowering her gaze as she walks, not looking to her right or left, otherwise she is sinning.” End quote from al-Zawaajir ‘an ‘Iqtiraaf al-Kabaa’ir (2/78).

It says in Asna al-Mataalib (Shaafa’i) (3/239): The husband has the right to prevent his wife from visiting her sick parents and attending their funerals and the funeral of her child, but it is better not to do that. End quote.

Imam Ahmad (may Allah have mercy on him) said concerning a woman who had a husband and a sick mother: Obeying her husband is more obligatory for her than obeying her mother, unless he gives her permission. End quote from Sharh Muntaha al-Iraadaat (3/47).

It says in al-Insaaf (8/362): She does not have to obey her parents if they tell her to leave her husband or visit them and so on, rather obeying her husband comes first.

The Standing Committee for Issuing Fatwas was asked: What is the ruling on a woman going out of her husband’s house without his permission, and staying in her father’s house without her husband’s permission, and preferring to obey her parents rather than obeying her husband?

They replied: It is not permissible for a woman to go out of her husband’s house without his permission, whether to go to her parents or anyone else, because that is one of her duties, unless there is a shar’i justification that makes it necessary for her to go out.

End quote from Fatawa al-Lajnah al-Daa’imah (19/165).

Another indication that it is essential to have the husband’s permission to visit her parents is the story of the slander (al-ifk) which is narrated in al-Saheehayn, in which ‘Aa’ishah (may Allah be pleased with her) said to the Prophet (peace and blessings of Allah be upon him): “Will you allow me to go to my parents?”

Al-Bukhaari (4141), Muslim (2770)

Al-‘Iraaqi said in Tarh al-Tathreeb (8/58): Her words, “Will you allow me to go to my parents?” indicate that the wife should not go to her parents’ house except with the permission of her husband, unlike her going out relieve herself, for which she does not need his permission, as is indicated in this hadeeth. End quote.

Nevertheless, it is better for the husband to allow his wife to visit her parents and mahrams, and not to prevent her from doing so, unless there is some certain harm that may result from visiting one of them, because preventing her involves cutting off ties of kinship and not allowing her may make her go against him. And visiting her family and relatives will make her feel good and make her and her children happy, and all of that will bring benefits to the husband and the family.

With regard to what is mentioned in the question about her going out with one of her daughters or sons, it should be noted here that in cases where it is required for a mahram to be present, it is not sufficient for there to be a small son or daughter present, rather there has to be a mahram present to achieve what is required by sharee’ah.

Shaykh Ibn ‘Uthaymeen (may Allah have mercy on him) said:

The scholars have mentioned that one of the conditions of a mahram is that he should be an adult of sound mind. When a man reaches the age of fifteen or pubic hair has appeared, or semen is emitted when one has an erotic dream etc, then he has reached the age of puberty and he may be a mahram, if he is of sound mind…

Fatawa ‘Ulama’ al-Balad al-Haraam, p. 1121.

We ask Allah to set our affairs and the affairs of all the Muslims straight.

And Allah knows best.