10091 - How can he treat his two wives fairly?

the question

Is it permissable for a man to be unfair to his wife if he has two wives or one of his wives by not splitting up up the time properly . he sometimes leaves the second wife house two or three hours late causing the first wife to be upset because of his lateness .

Detailed answer

Praise be to Allah.

Firstly:

Islam requires the man who has more than one wife to treat his wives equally and fairly.

What is meant by that is fairness with regard to spending the night, accommodation, spending and clothing.

What is meant by fairness in spending the night is that he should divide his time equally among his wives, so if he spends one or two nights with the first, he must spend the same amount of time with each of his wives.

Al-Shaafa’i said:

The Sunnah of the Messenger of Allaah and the view of most of the Muslim scholars indicate that the man must divide his time, night and day, among his wives, and must divide it equally, and that he is not allowed to be unfair in that.

Al-Umm, 5/110

What is meant by fairness in accommodation is that each of them should have her own accommodation where he comes to her, and their accommodation should not vary with the

intention of favouring one over the other.

Ibn Qudaamah said:

The man does not have the right to make his two wives live together in one house without their consent, whether they are young or old, because that causes them harm due to the enmity and jealousy that exists between them, so making them live together provokes arguments and fighting, and each of them can hear sounds when he is intimate with the other, or she can see that. But if they agree to that then it is permissible, because they have that right but they are also allowed to forego it.

Al-Mughni, 7/229.

Al-Kaasaani said:

If the husband wants her (his wife) to live with her co-wife or her in-laws, such as his mother, sister or daughter from another wife, or with his relatives, and she refuses, then he must accommodate her in a separate house, because they may annoy her or harm her if she lives with them. Her refusal is an indication of that annoyance and harm. Also he needs to be able to have intercourse with her and be intimate with her at any time that suits him, and that is not possible if a third person is present.

Badaa'i al-Sanaa'i', 4/23.

What is meant by fairness in spending and clothing is that he should spend on them as much as he can afford.

Shaykh al-Islam Ibn Taymiyah (may Allaah have mercy on him) said:

With regard to fairness in spending and clothing, this is also Sunnah, following the example of the Prophet (peace and blessings of Allaah be upon him), He used to spend equally on his wives, and also used to divide his time equally among them.

Majmoo' al-Fataawa, 32/269.

Ibn al-Qayyim (may Allaah have mercy on him) said:

He (peace and blessings of Allaah be upon him) used to treat them equally as regards staying the night, spending time with them and spending on them.

Zaad al-Ma’aad, 1/151

With regard to other things, it does not matter if he does not treat them equally, such as giving a gift to one of them, or being more inclined towards one of them in his heart, or giving her more clothing than he is obliged to, or having intercourse with one of them more than another, without intending to harm the other. But if he treats them all equally that is better.

Ibn Qudaamah said:

He does not have to treat his wives equally in spending and clothing if he does what he is required for each of them.

Ahmad said – concerning a man who had two wives – he has the right to give one more than the other with regard to spending, desire and clothing, if the other has enough, and he may buy a finer garment for her, so long as the other has enough.

This is because it is too difficult to treat them equally with regard to all these matters, and if it were made obligatory he would not be able to do it, except with great difficulty. This is why it is not obligatory, such as treating them equally with regard to intercourse.

Al-Mughni, 7/232.

Al-Haafiz ibn Hajar said:

If he gives each of them her rights with regard to clothing, spending and spending time with them, then it does not matter if his heart is inclined more towards one or if he gives one a gift…

Fath al-Baari, 9/391.

Al-Nawawi said:

Our companions said: If he treats them equally (in the matters where that is required), he does not have to treat them equally with regard to intercourse, rather he should stay overnight with all of them but he does not have to have intercourse with each of them. He may have intercourse with some of them when it is their turn for him to stay with them and not others. But it is mustahabb for him not to neglect intimacy with some of them and to treat them all equally in this matter.

Sharh Muslim, 10/46.

Ibn Qudaamah said:

We do not know of any dispute among the scholars regarding the fact that it is not obligatory to treat one's wives equally as regards intercourse, which is the view of Maalik and al-Shaafa'i, because intercourse has to do with desire and inclination, and there is no way to treat them equally in this regard. A man's heart may incline more to one of them than the other. Allaah says (interpretation of the meaning):

"You will never be able to do perfect justice between wives even if it is your ardent desire"

[al-Nisa' 4:129]

'Ubaydah al-Salmaani said concerning love and intercourse:

If you are able to treat them equally with regard to intercourse, that is better, because it is more fair and just… But it is not obligatory to treat them equally with regard to intimacy that is less than intercourse, kissing, touching, etc, because if it is not essential to treat them equally with regard to intercourse, then that applies even more to the things that lead to it.

Al-Mughni, 7/234, 235.

Secondly:

With regard to the husband going out when it is one wife's turn, if that is because of some need

and he does not intend to hurt her and he is not going out to the other wife, there is nothing wrong with that in sha Allaah. The basis of equal sharing of time is staying the night: he has to spend most of the night with the wife whose turn it is. Allaah has not created any hardship in religion, and it does not prevent the husband from going out or going shopping or attending classes during the time of one of his wives, if he does not intend to hurt her by going out, and he does not spend most of the night outside the house of the wife whose turn it is.

Dr Ahmad Rayaan said:

Some of the scholars have spoken in strict terms about fairness in dividing his time, and they say that everyone who goes against that is not treating his wives equally. Some of them even say that if he comes to the first wife after sunset and to the second after ‘Isha’, he is not treating them equally.

What that means is that the husband must finish with all his business during the day, before the sun goes down, so that he can control the time when he goes to his wives each day, so that he goes at a specific hour each day. That may have been possible in the past when life was simpler and there were less necessities and people could live with less. But it is not possible now. How many men now can regulate their movements in such a way as to make sure they enter the house before the sun goes down each day, so that their division of time and their spending the night with each wife is completely equal?

Rather it is more appropriate to suggest that he must spend most of the night in the house, without specifying the time when he should come in or go out, because his living circumstances or other people’s rights or the pursuit of knowledge and other circumstances may require him to go home late or leave home early. So what matters is that he should stay with the wife whose turn it is for most of the night, because the point of staying with his wife is to keep her company and be intimate with her, which can be achieved by the husband spending most of the night with her. We have seen from the ahaadeeth quoted above the way in which this division of time was achieved in the family of the Prophet (peace and blessings of Allaah be upon him. The fact that he visited his other wives by night or by day, or met with them in the house of the wife whose turn it was did

not contradict this fair division of time, even though it is well known that these visits and meetings might detract somewhat from the rights of the wife whose night it was, because it took some of her own time, and she had the exclusive right to this time where the others did not.

Hence I think that what matters with regard to the issue of dividing the husband’s time among his wives is that he should spend most of the night with her whilst stipulating that his coming late should not be done with the intention of harming the wife whose night it is, rather it is the result of the husband’s everyday work.

And Allaah knows best.