102311 - How Long Can Husband and Wife Live Separately in Islam?

the question

I have sent my question to you about being away from my wife for more than six months. You answered that if the wife accepts, then it is o.k. What is the solution if the wife is dissatisfied with this absence? She has no choice in the matter as our financial circumstances are difficult, I have no choice either as if I return to my country, working there will not be enough for even food, let alone everything else. I have no choice but to work far from her. I may stay away for 7 years or even more. I do not see her but for one month a year. What is the Islamic ruling on this if my wife is dissatisfied? What is the ruling if the husband is able to return to his wife but he stays away for love of gathering money?

Summary of answer

1- If the husband is away from his wife for more than six months, and his wife agrees to that and he has left her in a safe place, there is no problem.
2- If she did not agree to that, then she may refer her case to the Shari'ah judges to determine whether her husband has a sound excuse or he has to return or the marriage may be annulled.

Detailed answer

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Wife's agreement to her husband being away for more than six months

If the wife does not agree to her husband being away for more than six months , the case should be referred to the qadi (judge) so that he can correspond with her husband and order him to return. If he does not return, then the judge may rule as he sees fit, either divorce or annulment of the marriage. This applies whether the husband is travelling and absent for a reason such as

needing money and not being able to find work in his own country, or if there is no excuse, rather it is for love of money, as mentioned in the question.

But the difference between there being an excuse and there being no excuse is that if the husband has an excuse, he is not obliged to return, and he is not sinning if he does not return.

But if he has no excuse, then he must return and he is sinning if he does not return.

In either case, the wife has the right to ask for a divorce, so as to ward off harm from herself.

It is not permissible for the husband to keep his wife if she is being harmed . Allah says (interpretation of the meaning):

"But do not take them back to hurt them." [al-Baqarah 2:231]

"either take them back in a good manner or part with them in a good manner." [al-Talaq 65:2]

How long can husband and wife live separately?

It says in *Kashshaf al-Qina`* (5/193):

"If the husband travels and leaves her because of an excuse or need, then her right to a share of his time and intimacy is waived, even if his journey is lengthy, because there is an excuse. … If the traveller does not have an excuse that prevents him from returning and he is absent for more than six months, if she asks him to return then he must do that, because of the report narrated by Abu Hafs with his isnad from Yazid ibn Aslam who said:

Whilst 'Umar was patrolling Madinah, he passed by a woman who was saying:

"This night is getting very long and very dark because I do not have my partner to play with.

By Allah, were it not for the fear of Allah and for modesty, then this bed would shake under me."

He asked about her and was told that she was So and So whose husband was absent (in jihad) for the sake of Allah. He sent a woman to stay with her, and he sent for her husband to come

back. Then he entered upon Hafsah and said: O my daughter, how long can a woman bear to be away from her husband? She said: Subhan Allah, would one such as you ask one such as me about that? He said: Were it not that I want to make a decision concerning the Muslims I would not have asked you. She said: Five months or six months. So he set a time limit for the people on their campaigns of six months: they would march for a month, then stay there for four months, then take another month for the journey back.

He has to come back if he does not have an excuse, such as travelling to seek knowledge or he is on an obligatory campaign or obligatory Hajj, or he is seeking necessary provision, in which case he is not obliged to return, because the one who has an excuse is excused as a result of that. The judge may write to him telling him to return, but if he refuses to return with no excuse after the judge has written to him, then the judge may annul his marriage, because he has failed to do a duty that is required of him and his wife has been harmed by that."

In *al-Mawsu'ah al-Fiqhiyyah* (29/63) it says:

"If the husband is absent from his wife for any length of time with no excuse, she has the right to ask for a separation from him, but if it is for an excuse then she does not have the right to do that. [This is the Hanbali view].

The Malikis are of the view that if the man is absent from his wife for a while, she has the right to ask for a separation from him, whether this journey is for a valid reason or not, because her right to intimacy is binding."

Ash-Shaykh Ibn Jibrin (may Allah preserve him) was asked: I am a young man living abroad and I am married, praise be to Allah, but the country in which I am working only allows a few employees to bring their wives. What is the Islamic ruling on that, as the job is only for a year or fourteen months to be precise?

He replied:

"Some of the Sahabah set a limit for a husband's absence at four months, and others set it at half a year, but that applies when a wife has asked her husband to come back. If he has been away

for half a year and she asks him to come back and he is able to, then he must come back. If he refuses, then she has the right to refer the matter to the qadi (judge) and have the marriage annulled. But if she allows her husband to stay, even if it is for a long time, and more than one or two years, then there is nothing wrong with that because it is her right that she has waived, so she cannot demand an annulment so long as she has agreed to his being away and so long as her provision, clothing and other needs are assured. And Allah is the Source of strength." (Fatawa Islamiyyah, 3/212)

Ash-Shaykh Ibn 'Uthaymin (may Allah have mercy on him) was asked about a man who was married and had children with his wife. He says: I travelled from my homeland to improve my situation and I was absent for nearly three years. Please note that I never stopped sending money and was in constant touch with my wife. Does she have any rights in Shari'ah and what are they? Is there any sin on me for that?

He (may Allah have mercy on him) replied:

"I say that the wife's right over her husband is that he may enjoy intimacy with her and she with him, as is usually the case. If he stays away from her to seek a living with her consent, and she is in a safe place where there is no fear that anything will happen to her, then there is nothing wrong with that, because the right is hers but if she agrees to waive it and she is completely safe and secure, then there is nothing wrong with his being away for three years or more or less. But if she asks him to come back, then the matter should be referred to the judges to rule as they see fit in accordance with the laws of Allah, may He be glorified and exalted." (Fatawa Nur 'ala al-Darb)

To sum up: If the husband is away from his wife for more than six months, if his wife agrees to that and he has left her in a safe place, there is no problem. If she did not agree to that then she may refer her case to the Shari'ah judges to determine whether her husband has a sound excuse or he has to return or the marriage may be annulled.

The husband should understand the effect that his absence will have on his wife and children, and he should put their interests and care before acquiring wealth, if he can find sufficient

income in his own country, for nothing can compensate for the calamity of losing one's religious commitment; no wealth or luxury can make up for that. How many families have seen their young men and girls become corrupted because of their father’s absence? We ask Allah to keep us safe and sound.

Hence we advise you to fear Allah and take care of your wife and children. And do what you can to find some money that will enable you to return and settle in your country, or bring them to join you, for the wife has rights and the children have rights, and tomorrow you will be answerable before Allah for this flock.

We ask Allah to help and guide us and you.

And Allah knows best.