

99347 - If a co-wife stays in the hospital or goes to visit her family, does she forfeit her right to a share of her husband's time?

the question

I have a question about treating co-wives fairly.

1 – If one of them falls sick and stays in the hospital for five days, and during this time I stay with the other wife, do I have to make up the same number of days?

2 – If one of them goes to visit her family for a few days, does she have the right to ask for me to stay with her for the same number of days?.

Detailed answer

Firstly:

If the wife falls sick and stays in the hospital for a few days, she does not have the right to a share of your time during these days, because the cancellation of her rights comes from her, and obliging her husband to give her a share of his time will harm him as he would have to stay with her in the hospital to give her her share of his time.

This is known from the discussion of the fuqaha' concerning the share of the husband's time for a co-wife who is detained. And they said: A sick co-wife has the right to her share of her husband's time, unless he travels with his wives but she stayed behind because of her sickness, in which case she has no right to a share of his time. Nihaayat al-Muhtaaj (6/380).

If giving her a share of his time is waived, making it up is also waived, so the husband does not have to make up those days during which she was absent.

Secondly:

If the wife goes to visit her family for a few days, or she travels someplace, if that is for her need, then the husband does not have to make up that time for her. If it was because of his need, then he should make it up for her.

It says in al-Mawsoo'ah al-Fiqhiyyah (33/202): The share of one of them (the wives) may be missed because she is travelling. In that case it depends, according to the Shaafa'is and Hanbalis. They said: If she travelled without his permission for her need or his need, or for some other reason, she has no right to get a share of his time, because dividing of time is for the purpose of keeping company, and that is not possible in this case, because of her action, therefore her right is waived.

If she travels with his permission and on an errand for him, then he should make up the time for her, allocating to her the same amount of time as he spent with her co-wife, because she travelled with his permission and on an errand for him. Her case is similar to that of a co-wife who is with him but he kept away from her when he sent her away.

If she travelled with his permission for her own errand or need, he does not have to make it up for her (according to the Hanbalis and the new view of the Shaafa'is) because she caused him to miss intimacy with her and she was not with him, his consent for her to travel absolves her of any sin.

If she travels on her own with his permission for both their need, her right is not waived, as al-Zarkashi and others said, with regard to maintenance and also the division of his time, unlike the view of Ibn al-Aymad. End quote.

See: al-Sharh al-Mumti' (12/433)

And Allaah knows best.