

Can husband take back gifts given to wife after divorcing her?

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The Muhaddith of Yemen

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بِ هَلْ لِلرَّاحِمِ مِنْ لِحْيَمِ

In the name of Allaah, the Most Merciful, the Bestower of Mercy

Question: Some of the people; when he divorces his wife he takes back everything he has given her, the mahr, and everything else; so what is the legislative ruling for that?

Shaykh Muqbil ibn Haadee al-Waadi'ee (رَحِمَهُ اللهُ)¹: The important matter O brothers; if the person does not choose the righteous man, then the woman will be miserable and there will be problems from the very beginning. And perhaps she may kill herself. She does not love her husband while her family beats her in an effort to make her return to him.

And he cannot demand money. Thus, it is not permissible for him to take anything, except in the case where she is the one who dislikes him. If she hates him, while he loves her, then the Prophet (صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ)² ordered Thabit ibn Qays ibn Shamaas to divorce his wife (grant her a khula) and for her to return to him his garden.

As for when she is the one who loves him while he hates her, then after that if she comes to him he beats her, and beats her, so she will say she does not love him. (Then this is incorrect)

The important point O brothers, we are living in an era of problems. The courts are filled with marital issues, and the reason is the failure to comply with the Qur'aan and Sunnah. The contemptible greedy person comes with the stick in his hand (saying): 'we are going to marry you to so and so.' But what happens? If she refuses, he beats her. The Messenger (صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ)³ said:

لِالنَّيِّبِ أَجْبَقٌ فَسْهَلُ لِلْبَاكِيَةِ سِتْرُ أُذُنِ

"The previously married woman has more right to decide concerning herself, and the virgin's permission is sought."⁴

¹ (رَحِمَهُ اللهُ) (rahimahullaah) May Allaah the Most High have mercy on him

² (صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ) (sallallaahu 'alayhi wa sallam) May the peace and blessings of Allaah the Most High be upon him

³ (صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ) (sallallaahu 'alayhi wa 'alayhi wa sallam) May the peace and blessings of Allaah the Most High be upon him and his family

⁴ Saheeh al-Bukhaaree and Saheeh Muslim

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And he (صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ) said:

وإن سكتت فإذن

“And her permission is her silence.”⁵

Thus the reason for the increase in problems is our turning away from the Book of Allaah and turning away from the Sunnah of the Messenger of Allaah (صَلَّى اللهُ عَلَيْهِ وَسَلَّمَ).

If you gave her gold that filled this Masjid, and you were the one who disliked her, it is not permissible for you to take anything from it. But if she is the one who hates you, then it is no problem if you take back what you gave her. (Translator’s note: Meaning taking back the mahr in the case of the Khula)

⁵ Saheeh al-Bukhaaree and Saheeh Muslim