

5288 - Ruling on a woman whose husband has disappeared

the question

does being abandoned for nine months by your husband neither seeing or knowing his whereabouts justify a Khuli divorce, and if so does she have to wait the Iddah before remarrying?.

Detailed answer

If what is meant in the question is that this woman has had no news of her husband, i.e., he has vanished, then this is an issue which the fuqahaa' (may Allaah have mercy on him) called "a woman whose husband has disappeared", meaning that there is no longer any news of him. The fuqahaa' (may Allaah have mercy on him) have many views on how long a woman should wait until her husband may be presumed dead. According to the most correct scholarly view, the determination of this period should be left to the discretion of the judge, and it may vary according to the times and circumstances. The judge should use his best judgement (ijtihad) to determine a time limit after which it may be assumed that the husband is dead, and when that time has passed he should issue a ruling to that effect. Then the woman should observe the 'iddah of one whose husband has died, i.e., four months and ten days, after which she is free to remarry.

If she knows where he is and that he has abandoned her for this length of time, then the ruling is that of a woman whose husband has taken an oath not to have sexual relations with his wife [see al-Baqarah 2:226]. So the woman or her wali (guardian) should write to him, or the matter may be referred to the judge, so that the husband may be forced to return to her. If he refuses then the judge can decree that she is divorced or the marriage is annulled. And Allaah knows best.