

Darul Ifta Caribbean

دار الإفتاء كاريبيان

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Question

In the scenario of a divorce, generally by law here in the states, the husband and wife share half of all the assets.

Is this permissible in the light of Shari'at?

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

In the name of Allah, the Most Gracious, the Most Merciful

Answer:

In the above incident, it will only be permissible for the husband and wife to equally share assets if the husband is pleased with the distribution. It will be considered as a Sadaqa or a gift, according to his intention.

If the wife uses the western legal system/courts to force the husband to share more than what she deserves Islamically, then she will be considered as a Gaasib (usurper) and the additional wealth would be haram for her to benefit from. The Shariah does not allow anyone to take possession of another's wealth without a valid Islamic reason.¹

¹ Qawaaid ul Fiqhiyya,pg 100.# 84

All that the wife deserves after divorce will be her usual expenses in terms of accommodation, food and clothing during her Iddat (waiting) period, anything additional will be considered as Ihsaan (kindness) from the husband.²

May Allah guide us to adhere to his commands.

Only Allah knows best

Written by Mufti Naieem Mohammad

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² Bahrur Raaiq, vol 4 pg 188 to 194