224072 - Ruling on an oath that is not completed

the question

I started to swear an oath, and I started to say: ‘By Allah, if you say such and such to me, I shall answer you back’, or ‘I shall do such and such,’ but I did not complete the oath; rather I stopped before completing it. And even if I had completed the oath, I would not have broken it. But I am asking about the ruling on one who stops uttering an oath before completing it: does he have to offer expiation or not?

Because I read that one of the scholars said that whoever makes a vow (nadhr) but does not say what he would do has to offer expiation – according to what I understood from this scholar’s words.

Detailed answer

Praise be to Allah.

When it comes to things that need to be uttered, a person is not accountable unless he actually utters those words.

It was narrated from Abu Hurayrah (may Allah be pleased with him) that the Prophet (blessings and peace of Allah be upon him) said: “Allah will forgive my ummah for whatever crosses their minds so long as they do not act upon it or speak of it.” Narrated by al-Bukhari (5269) and Muslim (127).

Al-Kirmani (may Allah have mercy on him) said in his commentary on this hadith:

This means that thoughts that cross the mind have no consequences; rather what matters is words that one utters and physical actions that one does.

End quote from *Al-Kawakib ad-Darari Sharh Sahih al-Bukhari* (23/114).

Oaths come under the heading of words uttered (not actions), as they do not become binding merely because one decides to swear an oath rather the oath must be uttered in order to become binding.

The Permanent Committee for Academic Research and Ifta' was asked about a woman who did not utter an oath; rather she formed the intention to swear an oath that she would fast for two months.

They replied: If the situation is as described, that your daughter did not utter words indicative of an oath or vow – rather she formed the intention to swear an oath in her heart only – she does not have to do anything, because the oath does not become binding unless one utters the words of the oath, swearing by Allah or by one of His attributes, and the like. Hence no consequences result from this mere intention, and this is proven by the report that was soundly narrated from the Prophet (blessings and peace of Allah be upon him), as was narrated by Abu Hurayrah (may Allah be pleased with him), who said: The Prophet (blessings and peace of Allah be upon him) said: "Allah will forgive my ummah for whatever crosses their minds so long as they do not act upon it or speak of it." According to another report: "… what they think of to themselves …" The hadith was narrated by al-Bukhari and Muslim in their *Sahih*s, and it was also narrated by Imam Ahmad, at-Tirmidhi, Ibn Majah and others. Based on that, your daughter does not have to fast, because she did not do anything that amounted to a binding oath or vow.

And Allah is the source of strength. May Allah send blessings and peace upon our Prophet Muhammad and his family and companions.

Permanent Committee for Academic Research and Ifta'.

Bakr ibn `Abdillah Abu Zayd, Salih ibn Fawzan al-Fawzan, `Abd al-`Aziz ibn `Abdillah Al- ash-Shaykh, `Abd al-`Aziz ibn `Abdillah ibn Baz.

End quote from *Fatawa al-Lajnah ad-Da'imah*, 23/46-47.

If someone does not complete the phrase of the oath because he has changed his mind, his oath

does not become binding, because he did not utter the words that would make it binding.

If it is the case that by merely pausing when uttering the oath between what he is swearing by and what he is swearing about the oath does not become binding, as the scholars said, then it is more appropriate to say that it does not become binding if he falls silent and does not complete the sentence at all because he has changed his mind.

In *Al-Mawsu`ah al-Fiqhiyyah al-Kuwaitiyyah* (7/270), it says:

In order for an oath in which a person swears by Allah to become binding, there are two conditions that have to do with the way in which it is said.

i.There should be no pause between what he swears by and what he swears about, in which he falls silent and the like. … End quote.

In *At-Taj wal-Iklil* (4/410), it says: Malik said: If he forms the intention to make an exception before he has finished uttering the oath, or afterwards, but he did not stop speaking until he went on to include that exception in his oath, that is valid.

It says in the book of Ibn al-Mawwaz: This is like the one who intends to swear an oath of irrevocable divorce, so he says: My wife will be irrevocably divorced – then he has second thoughts, so he falls silent and does not complete his oath.

Ibn Yunus said: What is meant is that he is not bound by that, because what matters is how the oath ends… End quote.

It says in *Ad-Durr al-Mukhtar*, and its commentary *Radd al-Muhtar* (2/490-491), which is a Hanafi book:

An oath may also be sworn by saying I vow, or I swear, or I resolve, or I affirm, in the present tense, although the past tense is stronger, such as saying I have vowed, or I have sworn, or I have resolved – even if he does not say: By Allah – if he stipulated a condition for his oath.

It says in the commentary:

That is, if he mentions what he is swearing about. It says in *An-Nahr*: Take note that it is mentioned in *An-Nihayah*, and also in *Ad-Dirayah*, that merely saying ‘Uqsimu (I vow)’ or ‘Ahlifu (I swear)’ means that he must offer expiation even if he does not mention what he is swearing about, but he is not regarded as breaking his oath on the basis of what is mentioned in *Adh-Dhakhirah*, that his saying ‘Ahlifu (I swear)’ requires expiation, and the same applies to his saying ‘Uqsimu (I vow).’ That is clearly wrong, because an oath cannot be regarded as an oath unless you mention what you are swearing about.

Secondly:

There is a difference between this issue and the one who makes a vow (nadhr, nazr) without saying what his vow is about.

In the case of one who does not finish his oath, meaning that he falls silent and does not complete it, with the intention of recanting because he has changed his mind about what he had resolved to do and did not complete the sentence that would have made the vow binding upon him, the oath did not become binding upon him at all, because the phrase required to make it an oath was not uttered completely.

However, in the case of a vow (nadhr), he has uttered the format of the vow in full, then he paused because he thought that he had finished uttering his vow, such as if he says: I owe a vow if my son passes his exam. This is a complete wording which indicates that it is clearly a vow, but he did not specify or state what he has committed himself to do: is it fasting or giving charity or something else?

Ibn `Abidin (may Allah have mercy on him) differentiated between the two issues in the same context, when he said (5/491):

‘If he stipulated a condition for it’ refers to what he swore should happen so that it would become a binding oath, such as if he said ‘I owe a vow to Allah that I will surely do, or I will not do, such and such.’ Then if he does not fulfil what he swore to do or not to do, he must offer expiation for breaking an oath (kaffarat yamin). But if in the wording of the vow he did not mention what he was

making the vow for, such as saying, ‘I owe a vow to Allah,’ even though it is not like an oath, he must still offer expiation. So expiation becomes a must once he utters this phrase, as it says in *Al-Fat-h*. End quote.

In *Ash-Sharh al-Mumti`* (15/210), it says regarding different types of vows:

If a vow is made without stipulating conditions, such as saying ‘I owe a vow to Allah’ without mentioning anything specific, in this case expiation for breaking an oath (kaffarat yamin) must be offered. This is the first category, which is an unspecified vow, meaning that the person did not mention anything specific in his vow, by saying ‘I owe a vow to Allah’ only. We call that unspecified, because he did not specify anything in it.

This is like a man who says ‘I owe Allah a vow,’ whether he has anything specific in mind or he never intended it to be specific, because he may say ‘I owe Allah a vow,’ and he has something specific in mind, then he changes his mind but does not speak of it, or he may not have anything in mind at all, and he says ‘I owe Allah a vow’ only. In this case we say that he must offer expiation for breaking an oath, because according to the hadith of `Uqbah ibn `Amir (may Allah be pleased with him), the Prophet (blessings and peace of Allah be upon him) said: “The expiation for a vow, if he did not mention anything specific, is the expiation for breaking an oath (kaffarat yamin).” Narrated by Ibn Majah. It was also narrated by Muslim without the phrase “if he did not mention anything specific” as: “The expiation for a vow is the expiation for breaking an oath.” The expiation for breaking an oath is feeding or clothing ten poor persons, or freeing a slave. If the person is not able to do any of those options, then he must fast for three consecutive days. End quote.

See also the answer to question no. 2587.

And Allah knows best.