



289239 - He killed a pigeon in Makkah unintentionally

the question

I was in Makkah with my family to do `umrah. After completing `umrah and exiting ihram, during a trip in the car I was driving, I was startled by the sight of a pigeon on the ground in the middle of the highway near Mina. I expected it to fly away when I got nearer, but unfortunately when I reached al-`Aziziyyah and stopped to do some shopping, I found the pigeon dead, hanging from the bottom of the front of the car. Do I have to do anything?

Detailed answer

Praise be to Allah.

Firstly:

Pigeons come under the heading of game animals, and killing game animals in the Haram zone is prohibited, because Allah, may He be Exalted, says:

{O you who have believed, do not kill game while you are in the state of ihram. And whoever of you kills it intentionally - the penalty is an equivalent from sacrificial animals to what he killed, as judged by two just men among you as an offering [to Allah] delivered to the Ka`bah, or an expiation: the feeding of needy people, or the equivalent of that in fasting, that he may taste the consequence of his matter [i.e., deed]. Allah has pardoned what is past; but whoever returns [to violation], then Allah will take retribution from him. And Allah is Exalted in Might and Owner of Retribution.} [Al-Ma'idah 5:95].

Ibn al-`Arabi (may Allah have mercy on him) said:

Killing is any action that causes death, and it is of different types, including slaughter, strangling, striking with a rock, and so on. Allah, may He be Exalted, has forbidden to the pilgrim in ihram any



action with regard to hunting that causes death.

End quote from *Ahkam al-Quran*, 2/664.

The words translated as “while you are in the state of ihram” refer to those who have entered the state of ihram for Hajj and `umrah, and also refer to those who enter any place that is within the boundary of the Haram zone.

Ibn al-`Arabi (may Allah have mercy on him) said:

The prohibition is general and applies to time (the time of Hajj), place (the Haram zone) and state (the state of ihram), except that the prohibition connected to time (the time of Hajj) is no longer applicable, according to scholarly consensus. But the two other prohibitions, connected to the place and to being in the state of ihram, remain in effect.

End quote from *Ahkam al-Quran*, 2/666.

The verse states that the penalty for killing becomes obligatory in the case of deliberately killing game: {And whoever of you kills it intentionally - the penalty is an equivalent from sacrificial animals to what he killed}.

The scholars regarded killing of game done by mistake or because of forgetfulness as being the same as killing it deliberately.

Abd ar-Razzaq narrated in *Al-Musannaf* (4/391): Ma`mar told us that az-Zuhri said: The one who kills it deliberately is subject to the penalty (and it is obligatory), but in the case of killing by mistake, (the penalty) is Sunnah.

When he meant by Sunnah here is that it is based on reports narrated about some of the Sahabah.

Ibn al-`Arabi (may Allah have mercy on him) said:

As for the one who said that it is obligatory in the case of forgetfulness on the basis of the Sunnah, if he is referring to the reports which were narrated from Ibn `Abbas and Ibn `Umar, then that is a



good example to follow.

End quote from *Ahkam al-Quran*, 2/669.

That is the case with the general meaning of hadiths narrated from the Prophet, as they did not specifically mention whether the penalty is applicable only to killing deliberately or also includes killing by mistake.

Shaykh al-Islam Ibn Taymiyah (may Allah have mercy on him) said:

The majority of those who say that the penalty is obligatory for the one who kills game by mistake based that on the general meaning of the hadiths and reports...

End quote from *Minhaj as-Sunnah*, 4/71.

Shaykh Muhammad al-Amin ash-Shinqiti (may Allah have mercy on him) said in his commentary:

Those who hold this view cited as evidence the fact that the Prophet (blessings and peace of Allah be upon him) was asked about hyenas, and he said: "They are game animals," and stipulated as the penalty, if a pilgrim in ihram kills a hyena, that he must offer a ram. He did not discuss the issue of whether that was done deliberately or by mistake, which indicates that the penalty is required in all cases.

End quote from *Adwa' al-Bayan*, 2/170.

This view is the view of the majority of scholars, which is that the one who did not do it deliberately is not regarded as having incurred sin, but paying the penalty is obligatory in his case.

`Abd ar-Razzaq as-San`ani said, after quoting the view of az-Zuhri:

This is the view of the scholars, and it is the view that we follow.

End quote from *Al-Musannaf*, 4/392.

Ibn `Abd al-Barr (may Allah have mercy on him) said:



The majority of scholars, most of the jurists, and the muftis in the regions, including Malik, al-Layth, ath-Thawri, al-Awza'i, and Abu Hanifah, ash-Shafa'i and their companions said that killing game animals, whether deliberately or by mistake, is the same.

This was also the view of Ahmad, Is-haq and Abu Ja'far at-Tabari...

As for the reason why the majority hold that view, when it is not possible for them to have misinterpreted the Quran, it is the fact that the Sahabah (may Allah be pleased with them) – including `Umar, `Uthman, `Ali, and Ibn Mas'ud – ruled that a ram is to be offered for killing a hyena, a sheep is to be offered for killing a gazelle, and a camel is to be offered for killing an ostrich, and they did not differentiate between one who does that deliberately or one who does that by mistake...

However, by way of analogy with the issue of destroying the wealth of Muslims and non-Muslims living under Muslim rule, the penalty or liability is the same whether that was done deliberately or by mistake, and the same applies to hunting, because it is disallowed and is prohibited for the pilgrim in ihram, just as it is forbidden for Muslims to destroy one another's property. The same applies to killing or injuring, because it is prohibited whether it is done deliberately or by mistake, and Allah has ordained expiation to be offered if it is done by mistake. And the same applies to hunting, because Allah, may He be Exalted, has called it the expiation of feeding the needy.

The scholars are unanimously agreed that the Prophet's words, "My ummah has been pardoned for mistakes and forgetfulness" does not apply to damaging or destroying property; rather what is meant is that no sin is incurred.

All of this indicates that it is the same whether it is done deliberately or by mistake; rather the reason why the text – that is, the verse – refers to deliberate killing is because that is what is usually the case. And Allah knows best.

End quote from *Al-Istidhkar*, 13/282-285.

Secondly:



The penalty for killing a pigeon is a sheep.

It was narrated that `Umar (may Allah be pleased with him) issued a verdict to that effect. That was narrated by ash-Shafa`i in *Al-Umm* (3/502-503), and al-Mundhiri classed its isnad as sound (hasan), as was stated by Ibn al-Mulaqqin in *Al-Badr al-Munir*, 16/203; and al-Hafiz Ibn Hajar in *At-Talkhis*, 4/16694. But the isnad of the report narrated by ash-Shafa`i includes Talhah ibn Abi Hafsah, who was deemed to be of unknown character, although Ibn Hibban listed him as being trustworthy.

Al-Hafiz Ibn Hajar said in *Ta`jil al-Manfa`ah*, 1/690-691:

Talhah ibn Abi Khasfah – or ibn Abi Hafsah – from Nafi` ibn `Abd al-Harith, and from `Abdullah ibn Kathir, is unknown (majhul).

I say: Ibn Hibban mentioned him among the trustworthy narrators of the first level... End quote.

Similar to what was narrated from `Umar is the ruling of Ibn `Abbaas (may Allah be pleased with them both).

`Abd ar-Razzaq narrated in *Al-Musannaf* (4/415) from ath-Thawri, from `Ata', that Ibn `Abbas said: For a pigeon (the penalty) is a sheep.

Narrated by al-Bayhaqi in *As-Sunan*, 10/369, via `Abd al-Malik from `Ata' from Ibn `Abbas. Al-Albani classed its isnad as authentic (sahih) in *Irwa' al-Ghalil*, 4/247.

Similar reports were narrated from Ibn `Umar (may Allah be pleased with him) and some of the Tabi`in.

Ibn `Abd al-Barr (may Allah have mercy on him) said:

`Umar ibn al-Khattab and `Abdullah ibn `Abbas ruled that for killing a pigeon in Makkah, the penalty is a sheep, and none of the Sahabah disagreed with them.

End quote from *Al-Istidhkar*, 13/290.



The rulings of the Sahabah must be followed.

An-Nawawi (may Allah have mercy on him) said:

Our companions said: Our view is that whatever the Sahabah (may Allah be pleased with them) ruled about what animal is equivalent to a game animal that is killed, that is its equivalent, and no one should come up with a different ruling on the basis of his own reasoning after them. This was stated by `Ata', Ahmad, Is-haq and Dawud...

Our evidence is the fact that Allah, may He be Exalted, says: {as judged by two just men among you}, and they have given their judgement, so there is no need to rework the ruling.

End quote from *Al-Majmu`*, 7/439.

Thirdly:

The expiation for killing game animals is mentioned with the conjunction "or," which indicates that there are options, as Allah, may He be Exalted, says:

{O you who have believed, do not kill game while you are in the state of ihram. And whoever of you kills it intentionally - the penalty is an equivalent from sacrificial animals to what he killed, as judged by two just men among you as an offering [to Allah] delivered to the Ka`bah, or an expiation: the feeding of needy people, or the equivalent of that in fasting, that he may taste the consequence of his matter [i.e., deed]. Allah has pardoned what is past; but whoever returns [to violation], then Allah will take retribution from him. And Allah is Exalted in Might and Owner of Retribution.}[Al-Ma'idah 5:95].

The majority of scholars say that the one who has to offer this penalty has options.

Shaykh Muhammad al-Amin ash-Shinqiti (may Allah have mercy on him) said in his commentary:

If you know what the penalty is in terms of an equivalent sacrificial animal to the game animal that you killed, then you should understand that the one who killed the game animal has the choice between that option, or feeding the needy people, or fasting, as the verse clearly states, because



the word “or” indicates that there are options or alternatives. Allah, may He be Exalted, says: {or an expiation: the feeding of needy people, or the equivalent of that in fasting}. This is the view of the majority of scholars.

End quote from *Adwa' al-Bayan*, 2/176-177.

What is required is to sacrifice an animal that is equivalent to the game animal killed, and in this case the equivalent animal is a sheep, as stated above. Or you may offer expiation by feeding needy people. What that means is finding out the value of the equivalent animal, which is a sheep, in monetary terms, then buying food with that money and giving it in charity to the poor and needy of the Haram. This is the view of the Shafa`is and one view among the Hanbalis.

An-Nawawi (may Allah have mercy on him) said:

If the pilgrim in ihram kills a game animal, or one who is not in ihram kills a game animal in the Haram zone, if he is able to offer an equivalent sacrificial animal, then he must pay the penalty in that way, according to scholarly consensus. But in our view he has the choice between slaughtering an equivalent sacrificial animal, or feeding needy people with the value of that animal...

End quote from *Al-Majmu`*, 7/438.

Shaykh al-Islam Ibn Taymiyah (may Allah have mercy on him) said:

If he offers expiation by feeding poor and needy people, then what he killed must either have an equivalent or have no equivalent.

If what he killed has an equivalent, then he must find out what the equivalent is, then work out the monetary value of that equivalent, and buy food with that money to feed the poor and needy. This is the better-known of the two reports narrated from Abu 'Abdillah...

End quote from *Sharh al-'Umdah*, 3/321.

The view of Ibn `Abbas (may Allah be pleased with him), which was narrated by Sa`id ibn Mansur,



from Jarir, from Mansur, from al-Hakam, from Miqsam, from Ibn `Abbas, regarding the words {the penalty is an equivalent from sacrificial animals to what he killed}, is that he said: If the pilgrim in ihram kills a game animal, then he is required to give a penalty of an equivalent sacrificial animal. If he is able to find such an animal, he must slaughter it and give its meat in charity. If he cannot find an equivalent animal, then he must work out its value in monetary terms, then work out how much food he could purchase with that money, then fast one day for each half sa`. What is meant by food is fasting, but if he can find and purchase food, then that is the penalty he must give. Narrated by Sa`id ibn Mansur in his *Sunan, Kitab at-Tafsir*, 4/1622; and by at-Tabari in his *Tafsir*, 8/698.

Shaykh Ibn `Uthaymin (may Allah have mercy on him) said:

The words {or an expiation: the feeding of needy people}: the expiation is what Allah, may He be Glorified and Exalted, has explained, but it may be said that the equivalent animal (the animal to be slaughtered) is subject to the same ruling as the animal that was killed, so this expiation should be equal in value to the equivalent animal or the game animal itself. But the Quran does not make clear the value of which is meant, hence the scholars differed as to which animal is the one whose value is to be worked out, the game animal or the equivalent?

Our view is that the one whose value is to be worked out is the equivalent animal, because this is what is required as expiation in the first place. So if it is what is required in the first place, then what must be given is its value. So the value of the equivalent animal should be worked out in monetary terms, then food should be bought with that money, and each needy person should be given one mudd. This is the more correct view, and it is more in harmony with general Islamic principles, that what is to be worked out is the value of the equivalent animal, whether it is less or more than the value of the game animal.

End quote from *Ash-Sharh al-Mumti`*, 7/172.

Or {the equivalent of that in fasting} – that is, or one may fast one day instead of feeding each poor person; that is, one day for each mudd, or it may be that it is one day for each half sa`, as Ibn



`Abbas said in a fatwa; we have referred to his report above.

Conclusion:

The fact that you did not deliberately kill the pigeon in the Haram means that you did not incur any sin, but it does not waive the penalty. This is the view of the majority of scholars, especially since what you describe about the situation indicates that there was some kind of negligence on your part. You should have tried to avoid hitting the pigeon, and you should not have assumed that it would fly away.

So if someone kills one of the pigeons of Makkah, it may be said to him:

You have the choice: you can slaughter a sheep and give its meat in charity to the poor of the Haram. Or you can work out the value of the sheep in monetary terms, and use that money to buy food, and you do not have to give money in charity, because Allah says: {or an expiation: the feeding of needy people}; so if we assume that the value of the sheep is two hundred riyals, and we assume that each sa` of food costs one riyal, then two hundred sa`s is equal to eight hundred mudds. So we say: if you wish you can give food, or if you wish, instead of giving food, you can fast for eight hundred days, because for each mudd you should fast one day. So you have the choice between giving a sheep or feeding poor and needy people, because fasting will be too difficult. But – praise be to Allah – the matter is flexible, because you have the choice between these options.

End quote from *Ash-Sharh al-Mumti`*, 7/173.

And Allah knows best.