330605 - Does the zihaar of one who is angry count as such?

the question

What is the ruling on the zihaar of one who is angry? Does it count as such? [Zihaar: a jaahili form of divorce in which a man says to his wife: “You are to me as my mother’s back.”]. Or can the three levels of anger be applied in this case, as in the case of talaaq (divorce) issued by one who is angry?

Detailed answer

Praise be to Allah.

1. Whatever a Muslim says without intending or choosing to, he is not to be held accountable for it

Whatever a Muslim utters of words that may result in committing himself to something, he is only to be held accountable for what he said if he said it deliberately and by his choice, and he meant it. The basic principle concerning that is the words of the Messenger of Allah (blessings and peace of Allah be upon him): “Actions are but by intentions, and each person will have that which he intended.” Narrated by al-Bukhaari (1) and Muslim (1907).

As for what he says without intending or choosing to say it, such as things that he is forced to say or that he says by mistake, he is not to be held accountable for it.

Allah (may He be exalted) said (interpretation of the meaning):

“Allah does not charge a soul except [with that within] its capacity. It will have [the consequence of] what [good] it has gained, and it will bear [the consequence of] what [evil] it has earned. ‘Our Lord, do not impose blame upon us if we have forgotten or erred. Our Lord, and lay not upon us a burden like that which You laid upon those before us. Our Lord, and burden us not with that which we have no ability to bear. And pardon us; and forgive us; and have mercy upon us. You are our

protector, so give us victory over the disbelieving people’”

[al-Baqarah 2:286].

Shaykh Muhammad al-Ameen ash-Shinqeeti (may Allah have mercy on him) said:

With regard to the words “*Our Lord, do not impose blame upon us if we have forgotten or erred*”, it was not made clear to us here whether Allah responded to this supplication or not. But He indicated that He responded regarding errors in the verse in which He says: *“And there is no blame upon you for that in which you have erred but [only for] what your hearts intended. And ever is Allah Forgiving and Merciful” [al-Ahzaab 33:5]*; and He indicated that He responded regarding forgetfulness in the verse in which He says: *“And if Satan should cause you to forget, then do not remain after the reminder with the wrongdoing people” [al-An‘aam 6:68]*. It is clear that before the reminder, there is no sin on him.

And it is proven in *Saheeh Muslim* that when the Prophet (blessings and peace of Allah be upon him) recited the words “*Our Lord, do not impose blame upon us if we have forgotten or erred*”, Allah (may He be exalted) said: Yes.

End quote from *Adwaa’ al-Bayaan* (1/312).

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

This is what we have said about intentions and aims being important with regard to what one says of words, and that which does not become binding unless the speaker meant to utter it and intended to comply with the consequences. Moreover, it is essential that he should have meant it and wanted to utter those words. Thus it is essential that he should have intended two things: he intended to say these words by choice and he wanted to comply with the consequences and what the words implied. Rather intending the meaning is more important than wanting to utter the words, meaning that what he said was more important, because this is the core of the issue and the words are just a means. This is the view of leading muftis among the scholars of Islam…

End quote from *I‘laam al-Muwaqqi‘een* (4/447).

2. The zihaar or talaaq of one who is angry

Based on the above, we may discuss the words uttered by one who is angry. If his anger was so great that it made the one who uttered these words unable to comprehend what he was saying, or unable to control and choose his words, so that words came out of him by compulsion, without him meaning to say them, then his words do not count and no ruling is to be based on them. This is what the religious texts indicate with regard to talaaq.

It was narrated that ‘Aa’ishah said: I heard the Messenger of Allah (blessings and peace of Allah be upon him) say: “There is no talaaq and no manumission [of a slave] in the case of *ghilaaq*.” Narrated by Abu Dawood (2193); classed as hasan by al-Albaani when all its isnaads are taken into account, in *Irwa’ al-Ghaleel* (7/113). Abu Dawood said: I think *ghilaaq* is anger.

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

With regard to the angry person whose anger makes him unaware of what he is saying and what he means, this is the worst type of *ighlaaq* (anger, rage). In this state he is like one who is delirious, insane or drunk; in fact he is worse off than one who is drunk, because the one who is drunk does not kill himself or throw his child from a high place, whereas the one who is angry may do such things. There is no dispute among the scholars that his talaaq does not count as such. The hadith definitely refers to this level of anger.

End quote from *Ighaathat al-Lahfaan* (p. 19).

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

If anger affects a person greatly but he is still sound of mind and aware of what he is doing, his talaaq does not count, because it was anger that forced him and compelled him to do that, so he uttered the word of talaaq when he did not like to utter it, in order to relieve himself of anger. Because of his anger, he did not have any valid aim, so he is like one who was compelled. Hence his supplication against himself and his wealth will not be answered, and his vow to do righteous deeds is not binding on him.

End quote from *al-Insaaf fi Ma'rifat ar-Raajih min al-Khilaaf* (22/138-139).

What is said about talaaq may also be said about zihaar, because they are both of the same nature.

But if the anger did not remove the speaker's ability to understand what he was saying, and he was still able to choose his words and control his words, then in this case he is bound by the ruling that results from uttering these words.

Shaykh Ibn 'Uthaymeen (may Allah have mercy on him) was asked:

I am married to my cousin, and I have five children from her. There was a small argument, but she insisted on asking me to divorce her, until I got angry with her, so I said to her: "You are divorced and you are haraam to me; you are to me like my mother in this world and the hereafter."

He (may Allah have mercy on him) replied: First we ask about the level of anger: was it so extreme that you did not know what you are saying? In that case, what you said is regarded as null and void, and no talaaq or zihaar has taken place, because when the angry person's anger reaches such a level that he does not know what he is saying, his words are not regarded as meaning anything.

But if the anger was less severe than that, so that you could understand what you were saying and you were in control of yourself, then the talaaq and zihaar do count as such, because you likened her to your mother, and if a man likens his wife to his mother, this is zihaar…

End quote from *Fataawa Noor 'ala ad-Darb* (10/444).

And Allah knows best.