89722 - He used to miss some prayers – does he have to renew the marriage contract?

the question

We live in a society where prayer is neglected to a large extent. I grew up praying, praise be to Allaah, but I did not care sometimes if I prayed Zuhr on time or I made it up with ‘Asr, for example. I also missed some prayers at some points in my life, as did my wife. After we got married, this continued for a while, then we decided to repent to Allaah and now, praise be to Allaah, we offer all the prayers regularly on time. What is worrying me and making me feel that this deed is not rewarded is the view of some scholars, such as Shaykh Ibn ‘Uthaymeen and Shaykh Ibn Baaz (may Allaah have mercy on them) that the one who does not pray out of laziness or carelessness is a kaafir and apostate, and they quoted evidence for that from the Qur’aan and Sunnah, even though there are scholars such as Shaykh al-Albaani (may Allaah have mercy on him) who say that it is a lesser form of kufr. Even though I feel that this is the right opinion, I am afraid that I may be wrong, and I want to follow the view of Shaykh Ibn ‘Uthaymeen so that I can put an end to doubt, but this involves several things, some of which I can do and some I cannot. They are:
1 – My wife and I doing ghusl for entering Islam and uttering the Shahaadatayn. This is something we can do.
2 – We need to renew the marriage contract, because it is regarded as invalid. My question is: how can we do this? Do we need the wife’s wali (guardian) and two witnesses? How can I tell my wife’s father about this and bring witnesses? This would be very difficult for my wife’s father and he may reject this idea or remain angry about it for the rest of his life, so I can never renew the marriage contract and the problem will get worse and worse. Also I cannot be certain that the witnesses always prayed regularly from the time they reached puberty until now. If I follow the view of Shaykh al-Albaani (may Allaah have mercy on him), will I be regarded as falling short? Do I have to make up the missed prayers even though I do not know how many they are, or can I offer more Sunnah and naafil prayers? How should I make them up? Can I pray ‘Asr for today, for example, then pray Fajr, Zuhr and ‘Asr for the past days, or should I offer every obligatory prayer that I missed at the time of that prayer? Please advise me, may Allaah reward you with good, because I

am very confused and it is almost killing me. I do not want my good deeds to go to waste and I do not want to die a kaafir, Allaah forbid.

Detailed answer

Praise be to Allah.

Firstly:

The difference of opinion among the scholars concerning the ruling on one who does not pray out of laziness is justifiable. But what is indicated by the sound evidence is that he is a kaafir. For more information on the evidence please see question no. 5208.

Secondly:

If the one who does not pray repents and prays, then he has come back to Islam and he does not need to repeat the Shahaadatayn.

Shaykh al-Islam Ibn Taymiyah (may Allaah have mercy on him) said: As for the one who does not pray sometimes and does not make them up and does not intend to make them up, or he misses some of the obligatory parts of the prayer and does not make them up or intend to make them up, many of our companions ruled that he becomes a kaafir thereby… Then when he prays again he becomes a believer, as is indicated by the words of the Prophet (peace and blessings of Allaah be upon him): “Whoever misses ‘Asr prayer deliberately, his good deeds will be lost.” And he (peace and blessings of Allaah be upon him) said: “Whoever misses a prayer deliberately is no longer under the protection of Allaah.” End quote.

He also said: If he prays after stopping praying, he comes back to Islam from apostasy, and his prayer is valid, unlike the one who was originally a kaafir, whose prayer is not valid until after he says the Shahaadatayn, because the kufr of the former is due to failing to do something, and if he does it he comes back to Islam. In the case where a person’s kufr results from rejecting (some of the obligations of Islam), if he then accepts and affirms the obligation, then he rejoins Islam.

If it is said that in cases other than this, the apostate's return to Islam is not valid unless he utters the Shahaadatayn, no matter what form his apostasy took, the answer is that it is because he denied something, so he must speak words of affirmation, starting with the Shahaadatayn, which implies accepting everything else. But in this case (the one who does not pray), he accepts that it is obligatory, so all he needs to do is to do it in order to rejoin Islam. End quote.

Based on this, your saying "thus I am still a kaafir and Allaah will not accept any deed from me" is incorrect, rather your having repented to Allaah and your performing the prayers mean that you are no longer a kaafir, and the one who repents from sin is like one who did not sin at all.

Thirdly:

You do not have to renew your marriage contract, unless it was done when one or both of you was not praying, in which case you have to renew it.

But if the prayers were missed after you got married, you do not have to renew the marriage contract, because if one of the spouses apostatizes then returns to Islam during the 'iddah period, then the original marriage contract is still valid and they do not need to repeat the contract. Some scholars are even of the view that the original contract is still valid even if he comes back to Islam after the end of the 'iddah, so long as they both agree to come back. This is the correct view. For more information on that please see question no. 21690.

Shaykh Ibn 'Uthaymeen (may Allaah have mercy on him) was asked: What is the ruling on a married woman staying with a husband who does not pray and he has children from her?

He replied:

If a woman is married to a man who does not pray in congregation or at home, then the marriage is not valid, because the one who does not pray is a kaafir, as is indicated by the Holy Qur'aan and the Sunnah and the views of the Sahaabah. 'Abd-Allaah ibn Shaqeeq said: The companions of the Prophet (peace and blessings of Allaah be upon him) did not regard the omission of any deed to be kufr except prayer.

It is not permissible for a kaafir to marry a Muslim woman because Allaah says (interpretation of the meaning):

“then if you ascertain that they are true believers send them not back to the disbelievers. They are not lawful (wives) for the disbelievers nor are the disbelievers lawful (husbands) for them”

[al-Mumtahanah 60:10]

If he stops praying after getting married, then the marriage contract is annulled, unless he repents and comes back to Islam. Some of the scholars limited that to the end of the ‘iddah; once the ‘iddah ends then it is not permissible for him to go back to her if he becomes Muslim, except with a new marriage contract.

The woman has to separate from him and not allow him to be intimate with her unless he repents and starts to pray, even if she has children from him, because in this case the father does not have custody of the children.” End quote from Fataawa Arkaan al-Islam, p. 279.

This applies if he has stopped praying altogether. But if he misses some of the prayers, then some of the scholars do not regard him as having become a kaafir thereby. This is the view of Shaykh al-Islam Ibn Taymiyah and Ibn ‘Uthaymeen (may Allaah have mercy on him). And some of the scholars say that the one who misses a single obligatory prayer deliberately until the time for it and the time for a prayer to which it may be joined is over, becomes a kaafir thereby, such as if he delays Zuhr until the sun sets. But if this person who has missed an obligatory prayer starts to pray again before the ‘iddah is over, he comes back to Islam and his marriage continues.

Your question does not suggest that either of you stopped praying for a long time that would include the ‘iddah period, rather at the most you did not pray sometimes, then you went back to praying. This means that the marriage contract is still valid, as stated above.

It seems to us from your question that you do not have to renew the marriage contract.

Firstly, because when you did not pray, you did not stop praying altogether, rather you missed some prayers, and this does not constitute kufr according to many scholars, unless one stops

praying altogether.

Secondly: This missing some prayers – even if we assume that it is kufr – was for a short time during which the ‘iddah could not have ended, and going back to prayer before the ‘iddah ends does not invalidate the marriage contract and it remains valid as it was before missing prayers.

Fourthly:

If a person stops praying then repents from that, he does not have to make up the prayers that he missed, according to the more correct view, but he should do a lot of naafil acts of worship and good deeds, because Allaah says (interpretation of the meaning):

“And verily, I am indeed forgiving to him who repents, believes (in My Oneness, and associates none in worship with Me) and does righteous good deeds, and then remains constant in doing them (till his death)”

[Ta-Ha 20:82]

For more information on that, please see the answer to question no. 91411.

We ask Allaah to guide us and you.

And Allaah knows best.