# 99353 - The husband does not have to pay fitrah for his wife with whom he has not consummated the marriage

## the question

A man has done the marriage contract with a woman but he has not consummated the marriage with her. Does he have to pay zakaat al-fitr on her behalf?.

## Detailed answer

Praise be to Allah.

Firstly:

The scholars (may Allaah have mercy on them) differed as to whether a man has to pay zakaat al-fitr on behalf of those on whom he spends. There are two points of view:

1 – That he has to pay zakaat al-fitr on behalf of himself and those on whom he spends, such as his wife and son. This is the Hanbali point of view.

They quoted as evidence the report narrated by al-Daaraqutni and al-Bayhaqi from Ibn ‘Umar (may Allaah be pleased with him), that the Prophet (peace and blessings of Allaah be upon him) said: “Pay sadaqat al-fitr on behalf of those whom you spend on.” But it is a da’eef (weak) hadeeth which was classed as such by al-Daaraqutni, al-Bayhaqi, Ibn al-‘Arabi, al-Dhahabi, al-Nawawi, Ibn Hajar and others.

See: al-Majmoo’ (6/113) and Talkhees al-Habeer (2/771).

This view was favoured by the scholars of the Standing Committee for Issuing Fatwas. They were asked: Does the husband have to pay zakaat al-fitr on behalf of a wife with whom he has a serious dispute, or not?

They replied: A man must pay zakaat al-fitr on behalf of himself and everyone on whom he is obliged to spend, which includes the wife, because he is obliged to spend on her. End quote.

Fataawa al-Lajnah al-Daa'imah li'l-Ifta (9/367).

This view was also favoured by Shaykh Ibn Baaz (may Allaah have mercy on him) as it says in Majmoo' al-Fataawa (14/197).

2 – He does not have to pay zakaat al-fitr on behalf of anyone else. This is the view of the Hanafis.

They quoted as evidence the hadeeth of Ibn 'Umar (may Allaah be pleased with him) who said: The Messenger of Allaah (peace and blessings of Allaah be upon him) enjoined zakaat al-fitr, a saa' of dates or a saa' of barley, on slave and free, male and female, young and old, among the Muslims. Narrated by al-Bukhaari (1503) and Muslim (984).

This hadeeth indicates that it is obligatory upon everyone among the Muslims, and the basic principle is that the one on whom it is obligatory is each individual.

This view was favoured by Shaykh Ibn 'Uthaymeen (may Allaah have mercy on him) in al-Sharh al-Mumti' (6/154):

The correct view is that zakaat al-fitr is due from a man on his own behalf, and from his wife on her own behalf, and on the father on his own behalf, and from his daughter on her own behalf; it is not obligatory for a man to pay it on behalf of those on whom he spends, such as his wife and relatives. The basic principle with regard to obligatory duties is that they are required of each person as an individual and not on behalf of anyone else. End quote.

Secondly:

The husband is only required to pay zakaat al-fitr on behalf of his wife if he spends on her. It is well known that spending on one's wife is only obligatory if the wife is now living with the husband and she has allowed him to be intimate with her. If the wife is still living in her father's house, then the husband does not have to spend on her, or pay zakaah al-fitr on her behalf.

Ibn Qudaamah said in al-Mughni (2/361): Every wife on whom he does not have to spend, such as one with whom he has not consummated the marriage because she has not joined him yet or she is a minor with whom he cannot be intimate, he does not have to spend on her or pay zakaat al-fitr on her behalf, because she is not one of those on whom he spends. End quote.

Al-Bahooti (may Allaah have mercy on him) said in Kashshaaf al-Qinaa' (2/252): The husband does not have to pay zakaat al-fitr on behalf of those on whom he is not obliged to spend, such as a wife with whom he has not consummated the marriage if she has not joined him yet.

End quote.

And Allaah knows best.