106532 - Is expiation for having intercourse during the day in Ramadan required from the woman too?

the question

If a man has intercourse with his wife during the day in Ramadan, does she have to offer expiation?.

Detailed answer

Praise be to Allah.

Intercourse during the day in Ramadan is one of the most serious of the things that invalidate the fast. This has been explained in the answer to question no. 38023.

If a woman's husband has intercourse with her during the day in Ramadan, one of the following two scenarios must apply:

1 – When the woman had intercourse, she was excused because she was forced to do it, or she forgot, or she was ignorant of the prohibition on having intercourse during the day in Ramadan. In that case her fast remains valid and she does not have to make it up or offer expiation. This was narrated in one report from Imam Ahmad, and was the view favoured by Shaykh al-Islam [Ibn Taymiyah]. Among contemporary scholars it was favoured by Shaykh Ibn Baz and Ibn 'Uthaymeen (may Allah have mercy on them).

They quoted a number of things as evidence including the following:

(i)The verse in which Allah says (interpretation of the meaning):

"Our Lord! Punish us not if we forget or fall into error" [al-Baqarah 2:286]

(ii)It was narrated that Abu Hurayrah (may Allah be pleased with him) said: The Prophet (peace

and blessings of Allah be upon him) said: “Whoever eats out of forgetfulness when he is fasting, let him complete his fast, for it is Allah Who has given him food and drink.” Agreed upon. They said: Intercourse and all other things that break the fast may be compared to food and drink.

(iii)It was narrated that Abu Dharr al-Ghifaari (may Allah be pleased with him) said: The Messenger of Allah (peace and blessings of Allah be upon him) said: “Allah has forgiven my ummah for mistakes and forgetfulness, and what they are forced to do.” Narrated by Ibn Majaah (2045) and classed as saheeh by al-Albani in Saheeh Ibn Majaah.

Shaykh Ibn Baaz (may Allah have mercy on him) was asked about a man who had intercourse with his wife when she did not agree to it. He replied: … As for the woman, if she was forced, then she does not have to do anything and her fast is valid. End quote.

Majmoo’ Fatawa Ibn Baz (15/310).

Shaykh Ibn ‘Uthaymeen (may Allah have mercy on him) said in al-Sharh al-Mumti’ (6/404), concerning the ruling on intercourse during the day in Ramadan: If the woman is excused because she was ignorant or she forgot or she was forced, then she does not have to make up that day or offer expiation. End quote.

2 – The woman was not forced, rather she went along willingly with her husband in having intercourse. As to whether expiation is required of her in this case, there is a difference of scholarly opinion and there are two views:

The first view is that she must make up that day and offer expiation, if she went along willingly. This is the view of the majority of scholars.

They quoted the following as evidence:

(i)The proven report in al-Saheehayn which says that the Prophet (peace and blessings of Allah be upon him) ordered the man who had intercourse with his wife during the day in Ramadan to offer expiation, and the basic principle is that rulings apply equally to men and women, unless the Lawgiver makes a clear exception.

(ii)Because she has violated the Ramadan fast by having intercourse during the day, she must also offer expiation like the man.

(iii)Because it is a punishment that has to do with intercourse, so it applies equally to the man and the woman, as in the case of zina.

Al-Bahooti (may Allah have mercy on him) said in Sharh Muntaha al-Iraadaat (1/486): A woman who went along willingly and was not unaware of the ruling and did not forget that she was fasting is like a man with regard to it being obligatory to make up that fast and offer expiation, because she violated the sanctity of the Ramadan fast by having intercourse willingly, so she is like the man. End quote.

The second view is that the expiation is to be offered by the man only, and the woman does not have to do anything, regardless of whether she was forced or did it willingly. This is the view of al-Shaafa'i and was mentioned in one report from Imam Ahmad.

They quoted as evidence the fact that the Prophet (peace and blessings of Allah be upon him) told the man to offer expiation, and did not mention any expiation for the woman. They said: It is not permissible to delay explanation (of the ruling) from the time when it is needed.

My response to that is that the expiation was not mentioned with regard to the woman because the man is the one who asked about himself and the woman did not ask, and it is to be assumed that she is excused because she was unaware of the ruling or was forced.

The most correct view is that the expiation is required from the woman as it is required from the man. This view was favoured by Shaykh 'Abd al-'Azeez ibn Baaz and Shaykh Ibn 'Uthaymeen (may Allah have mercy on him).

See: Majmoo' Fatawa Ibn Baz (15/307) and al-Sharh al-Mumti' (6/402).

And Allah knows best.