146448 - He committed zina with a woman when she was menstruating; does he have to offer the expiation for having intercourse during menses?

the question

Me and my wife both commited Zina before our marriage. One occasion, Im ashamed to say, occured during her menses. We gave up this evil act and got married. But I have never made expiation by giving charity. Is the marriage valid based on this?.

Detailed answer

Praise be to Allah.

Firstly:

We praise Allah for having enabled you both to repent and follow the way of righteousness and guidance.

With regard to expiation, if what is meant is the expiation for having intercourse during menses, some of the fuqaha' are of the view that the one who has intercourse with his wife when she is menstruating has to offer expiation, which is one dinar or half a dinar.

Ibn Qudaamah (may Allah have mercy on him) said: If he has intercourse with his menstruating wife in the vagina, he is sinning and he should ask Allah for forgiveness. Concerning the expiation, there are two reports, one of which says that he has to offer expiation because of the report narrated by Abu Dawood and al-Nasaa'i with their isnaads from Ibn 'Abbaas, that the Prophet (blessings and peace of Allah be upon him) said concerning the one who had intercourse with his wife when she was menstruating: "Let him give a dinar or half a dinar in charity." And the second report says that he does not have to offer any expiation; this is the view of Maalik, Abu Haneefah and most of the scholars, because the Prophet (blessings and peace of Allah be upon him) said: "Whoever goes to a soothsayer and believes what he says, or has intercourse with his wife in her back passage or when she is menstruating, has disbelieved in that which was revealed to

Muhammad, blessings and peace of Allah be upon him.” (Narrated by Ibn Maajah.) And he did not mention any expiation. And because it is a kind of intercourse that is forbidden because of the harm caused, so it is like intercourse in the back passage.

And al-Shaafa‘i has two opinions like these two reports.

End quote from al-Mughni, 1/203

And they differed concerning the case where that happens in the event of zina; some of them were of the view that expiation is also required in this case.

It says in Mataalib Ooli al-Nuha (1/245): He has to offer expiation, whether he had intercourse with a woman in a halaal manner or by way of zina. So he has to offer expiation of one dinar or half a dinar. End quote.

In order to be on the safe side, you should offer the expiation. One dinar is equivalent to 4.25 grams of gold. And there is a choice with regard to the expiation: one dinar or half a dinar.

Secondly:

We have discussed previously the stipulation of repentance in order for the marriage contract after zina to be valid, how that repentance should be done and the ruling in the case where it is not known whether repentance has taken place. Please see the answer to question no. 131467.

And Allah knows best.