164833 - What is the ruling on saying: I swear by the most solemn oath?

the question

What is the ruling on swearing by oaths, or by the most solemn oath, such as saying: I swear by the most solemn oath? Please note that I read your answer to question no. 105375 about the ruling on swearing by the virtue of the Quran.

Detailed answer

Praise be to Allah.

Firstly:

An oath is not binding unless it is sworn by one of the names or attributes of Allah, may He be Exalted.

So if a person swears solemnly, saying: by Allah, or by the Most Gracious, or by the One besides Whom there is no god worthy of worship, the Ever-Living, the All-Sustaining, and the like, that is permissible in principle.

It says in *al-Mawsu`ah al-Fiqhiyyah* (13/69): The jurists are agreed that it is permissible to swear oaths in disputes by adding more divine names and attributes, but there is a difference of opinion among them as to whether that is obligatory, recommended or permissible, such as if the one who is swearing the oath says, for example: By Allah besides Whom there is no god worthy of worship, the Knower of the unseen and the seen, the Most Gracious, the Most Merciful, Who knows of what is hidden what He knows of what is visible.

The basic principle regarding that is the hadith of Abu Hurayrah (may Allah be pleased with him), according to which a man swore such an oath before the Messenger (blessings and peace of Allah be upon him), and because there are some people who would refuse to swear an oath if asked to

make it solemn by repeating or adding more divine names, but they would have the audacity to swear an ordinary oath, without that. End quote.

If he does not repeat his oath to make it solemn – rather he says it as a simple sentence, such as saying: I swear by the most solemn oath – his oath becomes binding, because he has said something that constitutes an oath, which is swearing by Allah or by one of His attributes, and that does not need to be repeated in that case.

But solemn oaths should not be sworn except for matters of great importance.

Shaykh Ibn `Uthaymin (may Allah have mercy on him) said: In the case of simple matters, it is not permissible to swear a solemn oath regarding them. The one who may demand a solemn oath is the judge or the claimant. If the claimant demands a solemn oath, and the judge thinks that the matter is serious, then he may demand a solemn oath. For example, if there is a claim of one million riyals, this is a very serious matter, but if the claim is for ten riyals, that is not serious. Another example is where Zayd and `Amr bring a case before the judge regarding a sandal worth five riyals, and the defendant says: I do not have it and I have not seen it. The judge says to the claimant: Do you have proof? And he says: I do not have proof. The judge says [to the claimant]: Then all you have from him is his oath, and the claimant says to him: But make him swear a solemn oath. In that case, the judge should not respond to his request, because the case is about an insignificant matter. But if the claimant says: It is insignificant to you, but it is not insignificant to me, we say: What matters is what people of average income regard this amount to be. The amount that is serious is a large amount. Cases of legal retribution, theft and so on, this is what is serious; as for insignificant matters, no solemn oath is required.

One of the scholars said: Whenever the judge thinks that the matter warrants a solemn oath, he may demand it, but whenever he thinks that it does not warrant a solemn oath, he should not demand it. In other words, the matter is to be decided by the judge. He may think that a case warrants a solemn oath, because the defendant is a bad man who does not care about saying “By Allah I owe him nothing,” but if a solemn oath is demanded of him, he may not swear it and he may retract. Or the judge may decide that no solemn oath is needed, because the defendant is an

honest man, and he cannot say “I owe you nothing,” even if he does not swear an oath, because he is telling the truth.

The correct view is that this matter is to be decided by the judge; if he thinks that a solemn oath is warranted, he may demand it, otherwise he should not.

End quote from *ash-Sharh al-Mumti`*, 15/480.

See also the answer to question no. 152120.

And Allah knows best.