189853 - Expiation for Having Intercourse during Daytime in Ramadan

the question

I have an important, genuine and serious query. If you could please reply back ASAP that will be great and relieve me off the burden.
1) last Ramadan, my husband got weaken with his self-control(intercourse) and during the condition of fasting, we both did it. At that time, I didn't know much in detail, so after Ramadan 20111 finished, we made up/compensated for our fasts & astaghfaar from Allah. I didn't know about kaffara then.
2) this year Ramadan 2012, again during the condition of fasting, my husband ejaculated before doing the intercourse. I did prohibited him that we shouldn't do it but obviously its something you have to exercise self control and control and put reins on your desires. I read much about it and still haven't come to any conclusion.

Kaffara has 2 parts a) to make up for the broken fast b) either feed 60 people or fast continuously for 60 days
What is applicable to both of us this year? Do we have to fast continuously for 60 days right after Ramadan 2012 finishes or can we pay the amount to any charity here in the UK or send money back home for the poor?
is kaffarah still due on us to be paid from last year,where at that time it was more from my husband's side than from me?
Last thing, this time when we broke our fast, due to no self-control, after a couple of hours I got my monthly menstruation and it was an expected date but I still did my sehri and kept my fast till I got my periods around lunch time. In this case, how would kaffara be applicable?

a) will it be kaffara for both of us?
b) will it be kaffara only for my husband?
c) will it be qadah fast for me as i had my periods straight after or it does mean that I have to pay kaffarah?

d) if it is qadah fast for me then ,does my husband have to pay on my behalf or would it be only himself to pay for kaffarah?

Summary of answer

1. The expiation for breaking the fast due to intercourse is to: free a slave; if that is not possible, then one must fast for two consecutive months; if he is not able to do that, then he must feed sixty poor persons.
2. If the wife willingly obeys her husband in having intercourse while fasting, the more correct view is that she is obliged to offer expiation.
3. If the woman is obliged to fast for two consecutive months, and she starts to fast but then her menses comes, then that does not interrupt the sequence of her fasting.
4. The excuse of menses does not mean that the obligation to make up that day or offer expiation is waived.
5. There is nothing wrong with sending the expiation to your original homeland.
6. There is nothing wrong with you delegating a trustworthy charitable organisation to feed the poor on your behalf.

Detailed answer

Praise be to Allah.

Can you have intercourse while fasting?

It should be understood that intercourse during the day in Ramadan , for one who is fasting and is staying at home (i.e., not travelling), is a grave sin and what one must do is repent from it by praying a great deal for forgiveness, regretting it, acknowledging that it is a sin, and feeling sad for having done it.

One should also do a lot of acts of obedience and worship, and resolve not to go back to that sin.

Consequences of having intercourse while fasting

In addition, there are five consequences of having intercourse while fasting:

1. Incurring sin

2. Rendering the fast invalid

3. Obligation to refrain from eating and drinking for the rest of the day

4. Obligation to make up the day when the fast was broken

5. Obligation of offering expiation (Kafarah)

In this case the expiation is severe: it is to free a slave; if that is not possible, then one must fast for two consecutive months; if he is not able to do that, then he must feed sixty poor persons.

It makes no difference whether ejaculation occurred or not, so long as intercourse took place.

That is different from the case if ejaculation occurred without intercourse ; in that case no expiation is required, but one still incurs sin, must refrain from eating and drinking for the rest of the day, and must make up that fast.

With regard to what it says in the question, "he ejaculated before doing the intercourse ", if his penis entered his wife's vagina, even if that was after ejaculation had occurred outside, then the severe expiation must also be offered in this case, because intercourse took place.

It says in Al-Mawsu`ah Al-Fiqhiyyah (35/55):

"There is no difference of opinion among the jurists concerning the fact that expiation must be offered by anyone who has intercourse in the vagina during the day in Ramadan, deliberately and with no excuse, whether he ejaculates or not."

In that case, the husband must offer expiation for every day on which he had intercourse. If intercourse occurred on the second occasion, then he must offer expiation twice.

If it was merely foreplay or thinking about intercourse , then when he ejaculated he felt lethargic and could not penetrate the vagina, then undoubtedly he was sinning by doing that, and he transgressed the limits set by Allah; he must repent, as must his wife if she took part willingly, but they only have to make up the day on which they broke the fast.

Is ignorance of the punishment an excuse?

If a person is aware that intercourse during the day in Ramadan is prohibited, but he does not know that expiation is required for it, he must still offer expiation, because ignorance of the punishment is no excuse.

Expiation for Breaking the Fast due to Intercourse

The expiation for intercourse during the day in Ramadan is one of three things, in this particular order. It is not the matter of choice, i.e., it is not permissible to move from one to another unless one is unable to do what is stipulated. They are: freeing a slave; if one cannot do that, then one must fast for two consecutive months; if he cannot do that, then he must feed sixty poor persons. It is not permissible for him to fast for two months if he can free a slave, and it is not permissible for him to feed sixty poor persons unless he is unable to do the first two actions, freeing a slave or fasting.

The scholars of the Committee said:

“Expiation for intercourse during the day in Ramadan is done by doing one of the things mentioned above, in order of preference. One cannot move to fasting, for example, unless one is unable to free a slave; and one cannot move to feeding the poor unless one is unable to fast. If a person moves to feeding the poor because he is unable to free a slave or fast, it is permissible for him to offer iftar to sixty poor or needy persons who are fasting, giving them enough to eat their fill of the local staple food, once on his own account and once on behalf of his wife. Or he may give to 60 poor persons sixty Sa`s on his own behalf and on behalf of his wife, giving each one a Sa`, which is equivalent to approximately 3 kg.” (Fatawa Al-Lajnah ad-Da’imah (9/245)

Can you delegate a charitable organisation to feed the poor on your behalf?

If the one who is obliged to offer this expiation has to feed the poor (because he is unable to do either of the first two actions listed), then there is nothing wrong with him delegating a trustworthy charitable organisation to feed the poor on his behalf, or distribute this food on his behalf to the poor.

You can also delegate your husband to offer the expiation on your behalf.

Can you send the expiation to your homeland?

There is nothing wrong with sending the expiation to your original homeland, if the need there is greater because of the large numbers of poor people, as this may serve a greater purpose.

Ibn Muflih (may Allah have mercy on him) said:

“It is permissible to transfer vows, expiation and bequests, according to the more correct scholarly opinion.” (Al-Furu` (4/265)

There is also no reason why your husband should not give this expiation on your behalf, if you consent to that.

Must the wife offer expiation for breaking the fast due to intercourse?

If a man has intercourse with his wife during the day in Ramadan, one of two scenarios must be the case:

1. That at the time of intercourse the woman was excused because she was forced, or she forgot, or she was unaware of the prohibition on having intercourse during the day in Ramadan. In that case her fast is valid, and she does not have to make it up or offer expiation.

2. That she had no excuse; rather she willingly obeyed her husband in having intercourse.

There is a difference of opinion among the scholars as to whether she is obliged to offer expiation in this case. The more correct view is that she is obliged to offer expiation in this case just as her husband is.

Does menses interrupt the sequence of the sixty-day expiation?

If the woman is obliged to fast for two consecutive months, and she starts to fast but then her menses comes , then that does not interrupt the sequence of her fasting . She should stop fasting (for the duration of her period), then make up the day' missed while she was menstruating, and then complete the two months.

The same applies if she starts to fast then `Eid comes. She should stop fasting on the day of `Eid, then resume fasting immediately afterwards. Breaking the fast on the day of `Eid does not interrupt the sequence of fasts in the case of a fast offered as expiation.

Is expiation waived if menses comes a few hours after breaking the fast by intercourse?

If a woman breaks her fast by having intercourse or otherwise, then she gets her menses a few hours after breaking the fast, the excuse of menses does not mean that the obligation to make up that day or offer expiation is waived, because she incurred the sin before the excuse came into effect; in other words, she did the forbidden action with no excuse, so the excuse does not have any impact on the ruling, just as it does not waive the burden of sin.

And Allah knows best.