224164 - Is he sinning if he ignores the view of someone who gave him a fatwa because he did not mention the evidence for his fatwa?

the question

Is a man sinning if he does not accept the view of someone who told him that doing a certain action is unlawful or obligatory according to sharia, because he did not mention the evidence for that action being prohibited or obligatory?

Detailed answer

Praise be to Allah.

Firstly:

It is obligatory for the one who gives a fatwa concerning some religious matter to have knowledge about the matter concerning which he gives a fatwa, whether he rules it to be permissible or prohibited. Whoever knows something may speak of it, and whoever does not know should refer the matter of what he does not know to one who does know it.

Allah, may He be exalted, says (interpretation of the meaning):

“And do not say about what your tongues assert of untruth, ‘This is lawful and this is unlawful,’ to invent falsehood about Allah. Indeed, those who invent falsehood about Allah will not succeed”

[an-Nahl 16:116].

As-Sa‘di (may Allah have mercy on him) said:

That is, do not declare things to be prohibited or lawful of your own accord, fabricating lies against Allah and attributing to Him words that He never said.

End quote from Tafseer as-Sa‘di (p. 451)

Abu Dawood (3657) narrated that Abu Hurayrah said: The Messenger of Allah (blessings and peace of Allah be upon him) said: “Whoever is given a fatwa that is not based on knowledge, his sin is borne by the one who gave the fatwa.”

Classed as hasan by al-Albaani in Saheeh Abi Dawood.

Shaykh Ibn Baaz (may Allah have mercy on him) said:

One of the gravest of crimes is issuing fatwas without knowledge; how many have gone astray and been doomed as a result of that, especially if the fatwa was uttered in front of many people and came from one by whom some people were deceived. The dangers posed by that are great, and the consequences are severe. The one who issues fatwas without knowledge will bear a burden of sin like that of those who follow him.

End quote from Majmoo‘ Fataawa Ibn Baaz (3/219).

Secondly:

With regard to accepting the view of one who says that something is unlawful or something is obligatory, but does not offer any evidence for that:

If the one who says that is not one of the well-known scholars, then he should not be followed in this opinion, and it is not obligatory for the one who hears him to accept his opinion or to follow it.

But if he is a scholar who is known for his knowledge and trustworthiness, then it depends:

If the one who asked him is a seeker of knowledge who can understand the evidence when it is presented to him and is able to check its validity, then he is not obliged to follow him just because he said that, until he explains to him the basis of his opinion and his evidence, because the seeker of knowledge is able to research the matter, find out about different views on a particular issue, weigh up the evidence and determine which evidence is stronger.

But if the one who asked him is an ordinary Muslim who is not able to understand the basis of the scholar's view, and cannot weigh up the evidence and determine which is stronger, then he is obliged to follow the opinion of the mufti. This is what is required in his case, as Allah, may He be exalted, says (interpretation of the meaning):

"So ask the people of the message if you do not know"

[an-Nahl 16:43].

Moreover, not referring to a scholar and accepting his opinion causes people to miss out on knowledge altogether and leads to neglect of shar'i rulings, and it opens the door to toying with the religion and following views that are contrary to the teachings of Islam.

But if he has any doubts about a scholar's opinion, he may ask him about the evidence for that, if he is able to understand it when it is explained to him.

But what is better in his case, if he has any doubts, is to ask another scholar, one of those who are known for their religious commitment and trustworthiness, for the sake of his peace of mind and in order to ward off doubt and anxiety, not by way of toying with the religion, seeking out concessions or looking for errors on the part of the scholars.

If the questioner asks the mufti for evidence, then the mufti must explain it to him.

Ibn al-Qayyim (may Allah have mercy on him) said:

The mufti must explain the evidence and basis for his ruling as much as possible, and he should not present his fatwa to the questioner on its own, without the evidence and basis for his ruling. If he does that, this shows that he is not a qualified scholar and that his share of knowledge is very little. The one who reflects upon the fatwas of the Prophet (blessings and peace of Allah be upon him), whose word constitutes evidence in and of itself, will see that they highlighted the wisdom behind the ruling and the proof of its soundness.

End quote from I'laam al-Muwaqqi'een, 4/123

Some muftis may not mention the evidence for their ruling because it is very subtle and the ordinary Muslim may not be able to comprehend it. The evidence may be based on an analogy (qiyaas) or some principle of fiqh or usool, and so on.

An-Nawawi (may Allah have mercy on him) said:

The ordinary Muslim should not ask the mufti for evidence or say: Why did you say such and such? If he wants to put his mind at rest by hearing the evidence, he may ask for it on another occasion, or in the same meeting after accepting the fatwa as it is.

End quote from Aadaab al-Fatwa wa'l-Mufti wa'l-Mustafti (p. 85).

An-Nawawi also said:

It is not wrong for the mufti to mention the evidence in his fatwa, if it is a clear and brief text.

As-Saymari said: He need not mention the evidence if he is giving a fatwa to an ordinary Muslim, but he may mention it if he is giving a fatwa to one who has knowledge, such as one who asks him about doing the marriage contract without a guardian. In that case it is good for him to say: The Messenger of Allah (blessings and peace of Allah be upon him) said: "There is no marriage without a guardian"; or if he asks about taking back a divorced wife with whom the marriage was consummated, he may say: He may take her back, because Allah, may He be exalted, says (interpretation of the meaning): "And their husbands have more right to take them back" [al-Baqarah 2:228].

End quote from al-Majmoo' (1/52).

What may be understood from this is that if he is giving a fatwa to an ordinary Muslim, and the evidence is not a brief, clear text, then there is nothing wrong with him not mentioning the evidence in his fatwa.

And Allah knows best.