106533 - Is the expiation for having intercourse during the day in Ramadan waived in the case of one who is unable to do it?

the question

1. My husband had intercourse with me during the day in Ramadan. At first I refused, then I gave in to him. What is the ruling on our case? Please note that we are not able to free a slave or to fast for two consecutive months, because we are afraid of hardship caused by fasting. If we give rice to sixty poor persons, how many kilos should we give?
2. I do not work and I do not have any money of my own, so how can I feed the poor? Do I have to give it on my own account or is my husband the one who should do that?.

Detailed answer

Praise be to Allah.

Firstly:

Intercourse during the day in Ramadan is one of the most serious of the things that break the fast and one of the most abhorrent of haraam things. The fact that it is haraam and that it is one of the things that break the fast has been discussed previously on this site, in the question to answer 38023.

Secondly:

The one who has intercourse with his wife during the day in Ramadan has to free a believing slave. If he is not able to do that, then he should fast two consecutive months. If he is unable to do that, then he has to feed sixty poor persons. The expiation is in this order of preference and one cannot move from one degree of it to the next unless one is unable to do the first option, because of the report narrated by al-Bukhaari (1936) and Muslim (1111) from Abu Hurayrah (may Allah be

pleased with him) who said: A man came to the Prophet (blessings and peace of Allah be upon him) and said: I am doomed, O Messenger of Allah! He said: “What has doomed you?” He said: I had intercourse with my wife in Ramadan. He said: “Do you have the means to free a slave?’ He said: No. He said: “Can you fast for two consecutive months?” He said: No. He said: “Do you have the means to feed sixty poor persons?” He said: No. …

Expiation for having intercourse during the day in Ramadan is required from the man and women equally.

If a man or woman is unable to offer expiation, then it is waived in his or her case, because Allah says (interpretation of the meaning):

“So keep your duty to Allah and fear Him as much as you can”[al-Taghaabun 64:16]

And because when the Prophet (blessings and peace of Allah be upon him) instructed the man to offer expiation, and the man told him that he could not do that, he did not tell him that it remained due from him; and because obligations are waived in the event of incapability.

Shaykh Ibn ‘Uthaymeen (may Allah have mercy on him) said in al-Sharh al-Mumti’ (6/417):

The fact that the expiation may be waived is based on evidence from the Qur'aan and Sunnah. In the Qur'aan, Allah says (interpretation of the meaning):

“Allah burdens not a person beyond his scope”[al-Baqarah 2:286].

This poor man did not have anything, and Allah does not expect anyone to do something that is beyond his means.

And Allah says (interpretation of the meaning):

“So keep your duty to Allah and fear Him as much as you can”[al-Taghaabun 64:16].

And the third point of evidence is the general meaning, i.e., the general meaning of the shar’i principle that there is no obligation in the case of incapability, so obligations are waived when one

is incapable of fulfilling them. This man who had had intercourse during the day in Ramadan was not able to free a slave or fast or feed the poor, so we say: You do not have to do anything and you are free of obligation.

But if Allah makes him independent of means in the future, does he have to offer expiation or not?

The answer is: He does not have to do that, because it has been waived in his case. Similarly, if Allah makes a poor man independent of means, he is not obliged to pay zakaah for past years, because he was poor. By the same token, this person who was not able to offer expiation, if Allah makes him independent of means, he is not obliged to make it up.

As for the evidence from the Sunnah, it is that when the man said, I am not able to feed sixty poor persons, the Prophet (blessings and peace of Allah be upon him) did not say: Feed them when you are able to; rather he instructed him to feed them when he found the means, and he said: Take this and give it in charity. The man said: Is there anyone poorer than us? So [the Prophet] said: Feed your family, and he did not say: The expiation remains due from you. This indicates that it was waived because he was incapable of doing it. End quote.

Note:

You say, “we are not able to fast for two consecutive months, because we are afraid of hardship caused by fasting”.

Merely being afraid of hardship is not an excuse for not fasting; rather it is essential that the person not be able to do it.

For more information, please see the answer to questions number 12329, 1672 and 93109.

And Allah knows best.