

276493 - She was financially and physically able but she did not do Hajj because she had no mahram, then she died. Is it obligatory to do Hajj on her behalf?

the question

My mother died four years ago. Before she died, she had plenty of gold and wealth, and she used to say in our hearing that she wanted to sell the gold and go for Hajj, but my father kept delaying it and he did not have the intention of going for Hajj, even though he was well off and physically able. After my mother died, we – her sons – took the gold and said: we will perform Hajj on her behalf, in sha Allah. Was it obligatory for my mother to go for Hajj? Can we appoint students who are studying in Saudi to do Hajj on her behalf in return for a sum of money? We, her sons, are not able to do Hajj on her behalf at the present time, and we do not want to keep the gold any longer.

Detailed answer

Firstly:

If a person meets the conditions of Hajj being obligatory, then does not go for Hajj before he or she dies, then money must be set aside from the estate for Hajj to be performed on his or her behalf. The conditions of Hajj being obligatory are being financially and physically able for it, in addition to having a mahram in the case of women.

If your mother was financially and physically able to do Hajj but she could not find a mahram to go for Hajj with her, then Hajj was not obligatory for her, and you may divide the gold amongst yourselves.

But what is recommended is for one of you to do Hajj on her behalf, or you should appoint someone to do Hajj on her behalf.

If she had the opportunity to go for Hajj with one of her mahrams but did not take this opportunity, and she had enough money to sponsor herself and her mahram, then Hajj remains

an obligation that she owes, and it should be done on her behalf with her wealth.

It says in Mataalib Ooli an-Nuha (2/291): One of the conditions of Hajj or 'umrah becoming obligatory for a woman is having a mahram, whether she is young or old. This was stated by Imam Ahmad (may Allah have mercy on him).

He said: The mahram is essential (for Hajj to be obligatory). If a woman does not have a mahram then Hajj is not obligatory in her case, whether she does it herself or it is done on her behalf by a proxy.

That is because of the marfoo' hadith of Ibn 'Abbaas: "No woman should travel except with a mahram, and no man should enter upon her unless she has a mahram with her." A man said: O Messenger of Allah, I want to go out with such and such an army, and my wife wants to go for Hajj. He said: "Go with her." Narrated by Ahmad with a saheeh isnad.

It was narrated from Abu Hurayrah in a marfoo' report: "It is not permissible for any woman who believes in Allah and the Last Day to travel the distance of one day and one night without a mahram." Narrated by al-Bukhaari and Muslim.

And the expenses of the mahram, whilst he is travelling with her so that she can do Hajj, even if the mahram is her husband, are to be borne by the man, as would be the case of they were not travelling; anything more than that is to be borne by the woman, because he is coming for her sake.

In order for Hajj to be obligatory for the woman, she must possess food supplies and a means of transportation for herself and her mahram...

If she does not possess such things for herself and her mahram, then Hajj is not obligatory in her case.

And it is not obligatory for the mahram, even if she is willing to provide food and transportation for him, and whatever else he needs, to travel with her, because of the hardship involved. That is like the case of Hajj on behalf of someone who is old and unable to do it.

If her mahram refuses to travel with her, then she is like one who has no mahram, and Hajj is not obligatory in her case. End quote.

Secondly:

There is nothing wrong with you appointing someone who is studying in Makkah to do Hajj on behalf of your mother, on condition that he has already done Hajj on his own behalf.

For information and guidelines on appointing someone to do Hajj on behalf of someone else, please see the answers to questions no. [111794](#) and [111407](#).

However, many of the fuqaha' have stipulated that the proxy should set out for Hajj from the place from which the one who appointed him would have set out, or from his miqaat. See: al-Mawsoo'ah al-Fiqhiyyah (42/46).

But some of the scholars took a more easy-going approach to the matter, and regarded it as permissible to do Hajj on someone else's behalf, even if the proxy sets out from Makkah.

Shaykh Ibn 'Uthaymeen (may Allah have mercy on him) said in Sharh Qawl az-Zaad:

“From the place where Hajj became obligatory” means from the place from which it became obligatory for the person on whose behalf he is doing Hajj to set out for Hajj. For example, if he lived in Madinah and Hajj became obligatory for him whilst he was in Madinah, then it is essential that the proxy who is doing Hajj on his behalf should also reside in Madinah, and if he were to appoint a proxy from Rabigh or from the miqaat, that is not acceptable. If he appoints a proxy from Makkah, it is even more likely to be unacceptable. So he must appoint someone from the place in which Hajj became obligatory for him.

The reason is that if this man wanted to do Hajj on his own behalf, he would set out for Hajj from his home in Madinah, so the proxy who does it on his behalf must do likewise.

But this is a weak view, because the one who appoints a proxy would have to set out from his own city, because he cannot take a single step or reach Makkah unless he sets out from his own city.

Hence if the one who appoints a proxy in Makkah travelled there for some purpose other than Hajj – either to study or for some other purpose – then he decided to enter ihram for the obligatory Hajj from Makkah, do we regard that as being permissible for him, or do we say: go to Madinah, because you are one of the people of Madinah, and it is obligatory for you to do Hajj from Madinah?

We say: There is nothing wrong with him entering ihram for Hajj from Makkah.

Therefore there is nothing wrong with the proxy entering ihram from Makkah, because travelling from Madinah to Makkah is not something that is sought in and of itself; rather it is something required for some other purpose, because it is not possible for one who lives in Madinah to do Hajj except by setting out from Madinah.

The correct view is that he does not have to appoint a proxy to do Hajj on his behalf from the place where he is; rather he can appoint a proxy to do Hajj on his behalf from Makkah, and there is nothing wrong with that, because travelling to Makkah is not something that is sought for its own sake.

End quote from ash-Sharh al-Mumti‘ (7/33).

The Permanent Committee for Ifta’ was asked about an African man who wants to appoint someone to do Hajj on behalf of his mother. They replied:

It is permissible for the person mentioned to appoint a trustworthy person from Makkah or from elsewhere to do Hajj on behalf of his mother, if she is deceased or she is unable to do Hajj for herself because of old age or sickness from which there is no hope of recovery. And Allah is the source of strength; may Allah send blessings and peace upon our Prophet Muhammad and his family and companions. End quote.

Permanent Committee for Scholarly Research and Ifta’

Shaykh ‘Abd al-‘Azeez ibn ‘Abdillah ibn Baaz, Shaykh ‘Abd ar-Razzaaq ‘Afeefi, Shaykh ‘Abdullah ibn Ghadyaan.

End quote from Fataawa al-Lajnah ad-Daa'imah li'l-Buhooth al-'Ilmiyyah wa'l-Iftaa' (11/80).

And Allah knows best.