66803 - He agrees with the opinion of Ibn Hazm about intimacy. Is it permissible for his wife to engage in foreplay with him when he is fasting?

the question

If a husband follows the opinion of the Zaahiris (literalists), Ibn Hazm and al-Albaani, which says that emission of semen when fasting without having intercourse does not invalidate the fast, is it permissible for his wife to engage in foreplay with her husband during the day in Ramadaan, even if that results in emission of madhiy (prostatic fluid) or maniy (semen) from him?.

Detailed answer

Firstly:

The ruling on emission of madhiy is different from the ruling on emission of maniy. The most correct scholarly view is that emission of madhiy does not invalidate the fast, whether it is from a man or a woman. The scholars' opinions on this issue have been mentioned in the answer to question no. 49752.

Secondly:

It should be noted that it is not permissible for anyone to adopt the opinion of any scholar on the basis of convenience, or because this opinion suits his whims and desires. When there is a difference of scholarly opinion, what we must do is that which Allaah has enjoined in the verse where He says (interpretation of the meaning):

“(And) if you differ in anything amongst yourselves, refer it to Allaah and His Messenger, if you believe in Allaah and in the Last Day. That is better and more suitable for final determination”

[al-Nisa’ 4:59]

It is not permissible for anyone to say: I will follow the opinion of such and such a scholar, and thus go against a hadeeth which is proven from the Prophet (peace and blessings of Allaah be

upon him).

Hence Imam al-Shaafa'i (may Allaah have mercy on him) said: The scholars are unanimously agreed that if a Sunnah of the Prophet (peace and blessings of Allaah be upon him) is proven, it is not permissible to forsake it for the opinion of anyone. End quote. Madaarij al-Saalikeen (2/335).

Once the ruling is proven with saheeh evidence, no one's opinion counts, no matter who he is.

The view that masturbation or intimacy with one's wife to the point of ejaculation are among the things that invalidate the fast is the view of the majority of scholars, including the four imams, Abu Haneefah, Maalik, al-Shaafa'i and Ahmad. They quoted as evidence the fact that it is satisfaction of desire, and that is forbidden to the person who is fasting, because Allaah says, according to the hadeeth qudsi about the fasting person: "He gives up his food, his drink and his desire for My sake." Narrated by al-Bukhaari (1894).

This has been explained in detail in the answer to questions no. 71213and 65698.

We do not deny that there is a difference of opinion on this issue. Ibn Hazm and Shaykh al-Albaani (may Allaah have mercy on them) both thought that emission of semen as the result of intimacy with one's wife does not invalidate the fast. If someone adopts this opinion on the basis of knowledge and follows it on the basis of evidence, not on the basis of his whims and desires, then there is no sin on him for that, because a person is only responsible within the framework of his knowledge, but that is subject to the condition that he only believes that on the basis of what evidence and scholarly opinions he has available to him, and is not simply looking for a concession and the easiest opinion.

It is not permissible for a Muslim to follow the mistakes of the scholars; if he does that, all evil will be combined in him. Hence the scholars said: Whoever follows a matter concerning which the scholars differed and follows the easiest opinion is a heretic, or almost a heretic. End quote. See also the answer to question no. 22652.

What we advise the questioner to do is to be content with that which the scholars have agreed is permissible, which is intimacy in the form of touching or kissing, without ejaculating, so as to protect his fast and fulfil his duty, and for fear of falling into that which is haraam and invalidates the fast according to consensus, namely intercourse.

And Allaah knows best.