

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Series of Questions Addressed to Eminent Scholar Ata Bin Khalil Abu Al-Rashtah,
Ameer of Hizb ut Tahrir through his Facebook Page (Fiqhi)

Answer to Question

The Ruling on Performing Hajj on Behalf of Someone Else

To: Al-Muhebah Lillah

(Translated)

Question:

Assalamu Alaikum,

Honorable brother, eminent Sheikh Ata Bin Khalil Abu Al-Rashtah, May Allah increase you in knowledge and empowerment and grant victory by your hands.

I have a question I would like to ask your honor. What are the provisions of Hajj al-Badal (Proxy Hajj) and do they apply to the living and the dead? For example: A person has previously performed Hajj and wants to perform Hajj on behalf of a living person in return for the costs and expenses of Hajj. What is the ruling on performing Hajj al-Badal of a deceased person? Is a kinship relationship between individuals required in Hajj Al-Badal?

May Allah increase you in knowledge and empowerment and grant victory by your hands.

Answer:

Wa Alaikum Assalam wa Rahmatu Allahi wa Barakatuh,

Yes, Hajj on behalf of someone else is permissible, taking into account the following matters:

First: The person performing Hajj on behalf of someone else, must have performed the obligatory Hajj on his own behalf, and the evidences for that are:

1- In Sunan al-Daraqutny (Abu Mohammed bin Saa'ed and Hussein bin Ismail narrated to us saying: Yaqoob ibn Ibrahim Aldourgui narrated to us, Hushaym narrated to us, ibn Abu Laila narrated to us on the authority of Ata on the authority of Aisha that the Messenger of Allah (saw) heard a man saying, "Labbayk (Here I am responding to Your call) on behalf of Shubrumah." The Messenger of Allah (saw) asked him: « وَمَا شُبْرُمَةٌ؟ » **"Who is Shubrumah?"** The man replied: "My brother or relative". The Prophet (saw) asked: « أَحَجَّجْتَ عَنْ نَفْسِكَ؟ » **"Have you performed Hajj for yourself?"** He replied: "No". The Prophet (saw) said to him: « فَأَحْجِجْ » **"Perform Hajj for yourself then you may perform Hajj (pilgrimage) on behalf of Shubrumah."**

2- In Al-Sunan al-Kubra by al-Bayhaqi (Abu Nasr ibn Qatada told us, Abu Hassan Mohammed bin Hassan As-Sarraaj informed us, Mutain narrated to us, ibn Namir narrated to us, Abdah ibn Sulaiman narrated to us..., (switch in the chain of narration) and Abu Nasr ibn Qatada told us, Abu Bakr Muhammad ibn Muhammad ibn Dawood Alsijzei narrated to us (in dictation), Abdul Rahman bin Mohammed bin Idris Alhandhali narrated to us, Haroon ibn Ishaq al-Hamadhani narrated to us, Abdah ibn Suleiman al-Kilabi from Saeed ibn Abi Arooba, from Qatada, from Azrah, from Saeed bin Jubair, on the authority of Ibn Abbas that the Messenger of Allah (saw) heard a man saying, "Labbayk on behalf of Shubrumah." The Messenger of Allah (saw) asked him: « مَنْ شُبْرُمَةٌ؟ » **"Who is Shubrumah?"** He replied: "A brother or relative of mine". He (saw) asked: « أَحَجَّجْتَ قَطُّ؟ » **"Have you performed your own Hajj?"** He replied: "No". The Prophet (saw) said to him: « فَأَجْعَلْ هَذِهِ عَنْكَ ثُمَّ حُجَّ عَنْ شُبْرُمَةَ » **"Make this Hajj for yourself then perform Hajj on behalf of Shubrumah."**

This chain of narration is Saheeh, on this topic there is no more authentic (saheeh) hadith that it, it was narrated by Abu Dawood in Sunan Isaac bin Ismail and Hannad bin AlSarri from Abdah; Yahya bin Mueen said: the most accurate listener from Saeed is Abdah bin Suleiman...) as well as it was narrated by Tabarani in Al-Kabeer from Saeed bin Jubair on the authority of Ibn Abbas.

Second: It is permissible to perform Hajj on behalf of the deceased if he did not perform the obligatory Hajj before his death. The evidence for that is:

1- Al-Bukhari narrated in his Saheeh: (Musa bin Ismail narrated to us, Abu Awana bin Abu Bishr narrated to us from Saeed ibn Jabir, on the authority of ibn Abbas that a woman from the tribe of Juhainah came to the Prophet (saw) and said:

"My mother had vowed to perform Hajj but she died before fulfilling her vow, should I perform Hajj on her behalf? The Prophet (saw) said: «نَعَمْ حُجِّي عَنْهَا. أَرَأَيْتَ لَوْ كَانَ عَلَى أُمِّكَ دَيْنٌ أَكُنْتُ قَاضِيَةً؟ أَقْضُوا اللَّهَ فَإِنَّهُ أَحَقُّ بِالْوَفَاءِ» **Yes, perform Hajj on her behalf. Would you not pay off any debts your mother might have left behind upon her death? Pay off what you owe to Allah, for He is most deserving of settlement of His debt.**"

2- Al-Bukhari narrated in his Sahih: "Adam narrated to us, Shu'bah ibn Bishr narrated to us, on the authority of Abu Bishr, who said: I heard Saeed bin Jubair on the authority of ibn Abbas that a man came to the Prophet (saw) and said to him: "My sister made a vow to perform hajj and she died". The Prophet (saw) said: «لَوْ كَانَ عَلَيْهَا دَيْنٌ أَكُنْتُ قَاضِيَةً؟» **If she had a loan to pay would you pay it for her?**" He said: "Yes". He (saw) said: «فَاقْضِ اللَّهَ، فَهُوَ أَحَقُّ بِالْوَفَاءِ» **Pay up to Allah His right, verily He is more deserving to be paid back.**"

To make a vow to perform Hajj means that it was obligatory upon him to perform Hajj and he did not perform it until he died, and it applies to every Hajj that is obligatory on a person who did not perform it until he died, so it is permissible to make it up on his behalf with its conditions such as paying the debt on his behalf.

Third: As for during one's life, it is permissible to perform Hajj on behalf of someone else during his lifetime if one is physically incapable of performing Hajj, such as being paralyzed, or unable to travel and return and move... In other words, he does not have physical ability even if the financial ability is found, for the following evidence:

1- It was related in Sahih al-Bukhari: Abu Asim narrated to us, from Ibn Jurayj from Ibn Shihab from Suleiman ibn Yasar from Ibn Abbas on the authority of al-Fadl ibn Abbas, may Allah be pleased with them, that a woman... (switch in the chain of narration) Musa bin Ismail narrated to us, Abdul Aziz ibn Abi Salamah narrated to us, Ibn Shihab narrated to us, on the authority of Sulaiman ibn Yassar on the authority of Ibn Abbas, may Allah be pleased with them: that a woman from the tribe of Khath'am came during the Farewell Hajj, and said: "O Allah's Messenger! The command from Allah to His servants to perform Hajj has come when my father is an old man and cannot sit firmly in the saddle. Can I perform Hajj on his behalf? He (saw) said, «نَعَمْ» **Yes.**"

2- It was related in Saheeh Muslim: Ali bin Khashram narrated to us, Isa told us, from Ibn Jurayj from Ibn Shihab, Suleiman ibn Yasar narrated to us on the authority of Ibn Abbas that a woman from the tribe of Khath'am said, O Messenger of Allah, my father is an old man and it is obligatory on him to perform Hajj as prescribed by Allah and he cannot ride on the camel (for long), so the Prophet (saw) said: «فُحِّجِي عَنْهُ» **then perform the Hajj on his behalf.**"

3- And the hadith of Abu Razeen Al- Uqaili, that he came to the Prophet (saw) and he said: My father is an old man who cannot perform Hajj, Umrah, or Dhaan (nor can be a ride on a mount). He said: «حُجَّ عَنْ أَبِيكَ وَاعْتَمِرْ» **Perform Hajj and Umrah on behalf of your father.**" Narrated by Ahmad and the authors of the Sunan, and Al-Tirmidhi said: It is Hasan and Saheeh."

Fourth: Other related matters:

1- It is not a condition that the pilgrim who performs Hajj on behalf of someone else is a relative of the person on whose behalf the pilgrim is performed, rather it is permissible for someone who is not related to him, and the evidence for this is that the Messenger, may Allah bless him and grant him peace, made it as debt in his answer to the man and woman who asked. Paying the debt on behalf of the debtor is sufficient for the person's relative and non-relative as long as it is done with the consent of this person, and therefore it is not stipulated relationship in performing Hajj on behalf of others if the conditions of Hajj on behalf of others are fulfilled.

2- With regard to performing Hajj on behalf of a living person, the person must authorize someone to perform Hajj on his behalf, because performing Hajj on behalf of others is in the ruling of acting on delegation, so it must be with the person's permission. As for the deceased person, there is a difference of opinion: some jurists oblige that he leaves a will for performing Hajj on his behalf, and other jurists do not stipulate this condition. Rather, they hold that if another person performs Hajj on his behalf without his instruction, then this Hajj is sufficient, Allah willing, and this is what I prefer because Hajj on behalf of others was made by the Messenger (saw) in his hadith as repaying debt, and debt repayment on behalf of the dead debtor is valid even if he did not make a will to repay the debt... It is worthy to note that Shafi'is and Hanbalis hold this opinion; they said as stated in the Al-Mawsoo'ah Al-Fiqhiyyah (The Kuwaiti Fiqh Encyclopedia): (If a person dies before performing obligatory Hajj, Hajj must be performed on his behalf from all his wealth, whether he left a will to that effect or not, just as all debts are settled from his wealth, whether he left a will regarding them or not. If he does not have inheritance, it is desirable for his heir to perform Hajj on his behalf. If the heir performs Hajj by himself on behalf of the deceased, or if he assigns someone to perform Hajj on his behalf, the obligation of Hajj is removed from the deceased. It is permissible for a stranger to perform Hajj on his behalf, even if the heir does not permit him just as he can pay off his debt without the heir's permission).

And their reference is the Prophet's (saw) comparison of Hajj with debt, so they applied the provisions of debts on making up for Hajj.

3- The pilgrim who is commanded to perform Hajj on behalf of the original (person), intends with his heart and says with his tongue: I entered the state of Hajj on behalf of so-and-so, and Labbayk (Here I am responding to Your call) for Hajj on behalf of so-and-so... And pronouncing aloud is better than not pronouncing, but if he only does the intention in the heart, then it is correct.

4- It is permissible for a pilgrim on behalf of others to take all the expenses and obligations he needs to perform Hajj in a reasonable manner.

5- Hajj on behalf of others is only performed on behalf of one and not on behalf of two or more.

6- The people of honesty and trust should be sought to perform Hajj al-Badal (Proxy Hajj), and that their intention should be for Allah Almighty; not profit.

This is what I prefer in this matter and Allah is Most Knowing and Most Wise.

Your Brother,

Ata Bin Khalil Abu Al-Rashtah

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The link to the answer from the Ameer's Facebook page:

<https://www.facebook.com/HT.AtaabuAlrashtah/posts/2949229725323032>