

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 Fiqhi Page

Answer to Question

Reciting Al-Fatiha in Congregational Prayer and Mixing in Family Visits

To: Al-Maqdisi

(Translated)

Question:

Assalamu Alaikum Wa Rahmatullah Wa Barakatuh. May Allah help you.

I have two questions; the first is about prayer and the second is about family visits.

The first question: What is the ruling on reciting Al-Fatihah by the one who is praying behind the Imam? If catching the Imam when he is in ruku' or is close to ruku', which means that the follower cannot recite the entire Fatiha, does that count as a rak'ah?

The second question: In family visits or kinship ties on Eid holidays and other occasions, the sister's husband meets with the brother's wife, or the male cousin with the female cousin, or the brother's wife with the brother, and so on with the presence of mahrams in the house and in one gathering over food and without food in the family home or another. What is the Shariah ruling on that?

Please advise us, and may Allah bless you.

Answer:

Wa Alaikum Assalam Wa Rahmatullah Wa Barakatuh

1- As for catching the Imam but not being able to recite Al-Fatiha, i.e., the prayer of Masbouq (one catching up the prayer), we have explained this in the book "Ahkam us-Salah" page 67 (Arabic version) and we said the following:

(If the follower caught up the standing up with the *Imam* and feared that the recitation will escape him, he leaves the *du'a* of opening and starts with the recitation, because it is a *fard* and one should not be diverted from it by the *nafileh*. If he recited some of the *fatiha* and the *Imam* bowed, he bows and leaves the recitation because following the *Imam* is more imperative. If he caught him (the *Imam*) while he is bowing, he makes the *takbeer* of *ihram* while standing then makes the *takbeer* of the bowing (*rukuu*) and bows. If he made the *takbeer* intending thereby that of *ihram* and of bowing then this does not suffice him for the *fard*, because he associated in the intention between a *fard* and *nafileh*, thus his prayer is not convened. If he caught the allowed bowing with the *Imam*, he has caught the *rak'ah*; but if he did not catch that, then he did not catch the *rak'ah*. Whenever he catches a *rak'ah* with the *Imam*, he has caught the prayer of *jama'ah* due to what was narrated from Abu Hurayrah (ra) who said: Rasool Allah (saw) said: «إذا» **When you come to the prayer and we are prostrating, then prostrate and do not count it as anything. And whoever catches a rak'ah has caught the prayer.**» If he caught the last *rak'ah* with the *Imam*, then that is the first of his prayer due to what was narrated from 'Ali (ra) that he said: «ما أدركت فهو» **Whatever you caught is the first of your prayer.**» Accordingly, once he (the *Imam*) said the *salam*, he (the follower) stands for what remains of his prayer. If that were in a prayer wherein there is a *qunut* and he made the *qunut* with the *Imam*, he repeats the *qunut* at the end of his prayer. It is necessary for the follower to follow the *Imam* and not to precede him in any action due to what Abu Hurayrah narrated that the Prophet (saw) said: «إنما جعل الإمام ليؤتم به فلا تختلفوا عليه، فإذا كبر فكبروا، وإذا ركع فاركعوا، وإذا قال سمع الله لمن حمده فقولوا اللهم ربنا لك الحمد، وإذا سجد فاسجدوا» **Verily the Imam was made to be followed, so do not disagree with him. When he says the takbeer, you say the takbeer and when he bows, you bow. When he says: 'Sami' Allahu liman hamidahu (Allah hears the one who praises Him)', you say: 'Allahumma rabbana laka al-hamd (O Allah, our Lord, to you is the praise)' and when he prostrates, you**

prostrate.” If the *Imam* forgets in his prayer, if it were in recitation the follower would reveal it for the *Imam* due to what Anas narrated and said: «كان أصحاب رسول الله ﷺ يلقن بعضهم بعضاً في الصلاة» **“The Sahabah of Rasool Allah (saw) would instruct each other in the prayer.”** If it were in something quoted other than the recitation, the follower would say it aloud so that he hears it. If he forgets in an action, he says: ‘*Subhana’Allah* (Glory be to Allah)’ to inform him. If a follower intends to separate from the *Imam* and complete (the prayer) alone, it is permitted whether that were with an excuse or not. «لأن معاذاً أطل القراءه فانفرد عنه أعرابي، وذكر ذلك للنبي ﷺ فلم ينكر عليه». **“because Mu’adh lengthened the recitation so a Bedouin isolated himself from him. That was mentioned to the Prophet (saw) and he did not reject that.”**)

2- As for maintain ties of kinship: it is mentioned in our books:

1- From the *Social System* Book – “Maintaining Ties of Kinship”

(...The ahadith indicate that keeping ties of kinship include all the relatives whether they are relatives from the marriageable degree (mahram) or unmarried degrees (mahram), from the asabah, or of those belong to raham

(the relations on the paternal side or the relatives from the maternal side), they are all described as Arham. There exist a number of ahadith concerning the keeping of ties of kinship (silat arrahm). He (saw) said: «لا يدخل الجنة قاطع رحم» **“The one who severs ties with the relations will not enter Paradise.”** [Reported by Muslim on the authority of Jubayr b. Mut’im]. It was narrated by Anas b. Malik that the Messenger of Allah (saw) said: «من أحب أن يبسط له في رزقه وينسأ له من أحب أن يبسط له في رزقه وينسأ له» **“Whoever loves that he is granted more wealth, and that his lease of life is prolonged, then he should keep good relations with his kith and kin.”** [Agreed upon]

It is narrated by Abu Hurayrah that the Prophet (saw) said: «إِنَّ اللَّهَ خَلَقَ الْخَلْقَ حَتَّى إِذَا فَرَّغَ مِنْ خَلْقِهِ قَالَتْ الرَّحْمُ هَذَا مَقَامُ الْعَانِدِ بِكَ مِنَ الْقَطِيعَةِ قَالَ نَعَمْ أَمَا تَرْضَيْنَ أَنْ أَصِلَ مَنْ وَصَلَكِ وَأَقْطَعِ مَنْ قَطَعَكَ قَالَتْ بَلَى يَا رَبِّ قَالَ فَهَوَ لَكَ قَالَ فَافْرَعُوا لِلَّهِ ﷺ فَافْرَعُوا إِنَّ شَيْئَكُمْ فَهَلْ عَسَيْتُمْ أَنْ تَوَلَّيْتُمْ أَنْ تُفْسِدُوا فِي الْأَرْضِ وَتَقَطُّوا أَرْحَامَكُمْ» **“Allah created His creation, and when He finished it, the womb got up and said, I seek refuge with you from al-qatia (ties being severed with me).”** On that Allah (swt) said: **“Don’t you accept that I bestow my favours on him who keeps your ties, and withhold My favours from him who severs your ties?”** On that it said, **“Yes, Oh my Lord!”** Then Allah (swt) said: **“That is for you.”** Then the Messenger of Allah (saw) said: **“If you wish, you can recite: Would you then if you were given authority, do mischief in the land and sever your ties of kinship?”** [Muhammad: 22] [Agreed upon, above wording is from al-Bukhari]

«لَيْسَ الْوَاصِلُ بِالْمُكَافِي وَلَكِنَّ الْوَاصِلَ الَّذِي إِذَا قَطَعَتْ رَحْمَهُ وَصَلَهَا» **“The al-wasil (the one who keeps good ties with kith and kin) is not the one who recompenses the good done to him by his relatives, but al-wasil is the one who keeps good relations with those relatives who had severed the bond of kinship with him.”** [Reported by al-Bukhari from Abdullah bin Amru] The maintaining of ties of kinship (*silat ar-rahm*) indicates the importance of what Allah (swt) has legislated regarding the keeping of good and friendly relations within the Islamic community, in the maintaining of good relations and co-operation between relatives, and the extent of the Sharee’ah’s concern to organise the meeting of men and women and organise what results from this meeting in terms of the relationships (*‘alaqaat*) and whatever branches out from it. Hence the Islamic Shari’a, through the rules which it legislated for the social aspect in the society, provides the best social system for humankind...

2- From the *Social System* book- “Private Life”

(...These rules protect the private life from outsiders who wish to enter, regardless of whether it is a stranger (*ajnabi*) or a close person whom marriage is prohibited (a mahram) or an in-law. In the private life, a woman will live with other women or her mahram men since they are the ones in whose presence she can show the parts of charms which she naturally shows in the private life. Apart from other women and her mahram men, the woman may not live with anyone else because she is not allowed to show parts of her body that are usually apparent when she does the housework, which exceed the hands and face. Thus, the private life is restricted to women and mahram men. There is no difference between Muslim or non-Muslim women since they are all women in spite of their religion. The fact that the woman is commanded not to show the parts of charm to people she can marry but allowed to show them to her mahrams is clear

evidence that the private life is restricted to the mahrams only. Allah (swt) said: **﴿وَقُلْ لِّلْمُؤْمِنَاتِ يَغْضُضْنَ مِنْ أَبْصَارِهِنَّ وَيَحْفَظْنَ فُرُوجَهُنَّ وَلَا يُبْدِينَ زِينَتَهُنَّ إِلَّا مَا ظَهَرَ مِنْهَا وَلْيَضْرِبْنَ بِخُمُرِهِنَّ عَلَىٰ جُيُوبِهِنَّ وَلَا يُبْدِينَ زِينَتَهُنَّ إِلَّا لِبُعُولَتِهِنَّ أَوْ آبَائِهِنَّ أَوْ أَبْنَائِهِنَّ أَوْ إِخْوَانِهِنَّ أَوْ بَنِي إِخْوَانِهِنَّ أَوْ نِسَائِهِنَّ أَوْ مَا مَلَكَتْ أَيْمَانُهُنَّ أَوْ التَّابِعِينَ غَيْرِ أُولِي الْإِرْبَةِ مِنَ الرِّجَالِ أَوِ الطِّفْلِ الَّذِينَ لَمْ يَظْهَرُوا عَلَىٰ عَوْرَاتِ النِّسَاءِ﴾** **And tell the believing women to lower their gaze, protect their private parts and not to show their places of charm in public beyond what may (decently) be apparent thereof; hence let them draw their headcoverings (khumur) over their necks and chests (juyooob). And let them not display (more of) their charms to any but their husbands, their fathers, their husbands" fathers, their sons, their husbands" sons, their brothers, their brothers" sons, their sisters" sons, their women folk, their slaves, such male attendants as are beyond all sexual desire, or children that are as yet unaware of women's nakedness;" [An-Nur: 31].**

Falling under the same rules of the mahram men are the slaves they own, and men who have no desire in women such as the elderly lacking any sexual capacity, castrated, eunuchs and the like. Such people may be present in the private life. Apart from them non-mahram men, even if they were relations, are not allowed to be in the private life. This is because the woman is not allowed to show before them the parts of her body which usually appear at home. **Thus, it is absolutely haraam for non-mahram men to meet women in the private life. Exceptions are only those which the Legislator defined such as for food and visiting relatives. Such exceptions, however, are allowed only if the woman is accompanied by a mahram man and has her entire 'awrah covered.)**

3- We have also elucidated this in a number of answers, including:

From the Answer to a Question on 28/2/2010:

(The presence of men and women in the Islamic life approved by the Messenger (saw) and the Shariah evidence that regulates the Shariah transactions between men and women... All of this is clearly stated, and more than one answer has been issued in this matter, and we hoped that there would be no ambiguity in the matter

Nevertheless, in this letter, I will make the matter clearer, Allah willing, in the hope that there will be no ambiguity in this matter:

* The public life means the presence of men and women in public places that do not require permission to enter, and these have Shariah rulings that regulate the presence of men and women in them.

The private life is in places where entry requires permission, such as homes, and this also has Shariah rulings that regulate the presence of men and women in them.

* As for the private life "homes", the matter is clear, and does not need further clarification, as the women's living in them, it is with their mahrams and not with foreigners; unless there is a text regarding a specific case **such as maintaining the ties of kinship (Silat ul-Rahm), then it is permissible for a relative to observe family ties with his female relative, even if she is not a mahram, such as if a cousin visits and greets his female cousin on Eids, of course without being alone (Khalwa), and without revealing her 'awra (nakedness), such as going with his father or uncle and fulfilling his ties of kinship, even if she is not a mahram.**

* As for public life, if there is a need that the Shariah approves of the meeting of men and women during it, then this meeting is permissible according to its Shariah requirements. We say according to its Shariah requirements, because there are Shariah rulings that organize this meeting as follows:

1- The necessity of separating the men's rows from the women if there is a need for which the Shariah recognizes the presence of men and women, if it is for the same purpose of the gathering, such as the presence of men and women for prayer, or to attend a science lesson, or for a lecture in the Dawah, or for a general work of Dawah... In these cases, it is permissible for men and women to be present with the rows segregated, and this is sometimes called a public life with special rulings, meaning that there is a specific method for the presence of men and women.

2- It is not obligatory to separate the rows in public life, if the need for which the Shariah approves the presence of men and women is for different purposes for the gathering, such as the

presence of men and women in the market, or on the street, or in a public park, or when riding in public buses...and this is of two types:

A- The different purposes in it are not performed except by mixing, i.e., interacting, being close in distance and speaking to each other, such as buying and selling in the market, and this type of mixing is permissible.

B- The different purposes are performed in it without mixing, i.e., without interacting, being close by and talking, such as riding public buses and public parks and walking in the street... This type is permissible for men and women to be present in it without mixing, i.e. without interacting, being close by and talking, rather it is possible to exist nearby, each for its purpose and goal, without talking to each other, such as walking in the street, parks, and riding public buses.

* As you can see, the rules for the existence of men and women are clear and specific in private and public life:

The private life “the houses” is the one whose entry requires permission, and the public life is the one that does not require permission to enter, and from this public life what requires separating the rows and some that do not require the separation of the rows, as well as from the public life what is permissible in which there is mixing, i.e. interaction, being close by and talking, and those them in which mixing, interaction is not permissible, rather it is permissible only to be close by without talking...) End

I hope that this will suffice.) **End**

From the Answer to a Question on 06/06/2016, it states:

(A- Mixing, i.e., the meeting of non-mahram men and women, is forbidden if it is not for a need that the Shariah does not approves the meeting for... But if it is for a need that the Shariah approves the meeting for, which it is not fulfilled except by meeting, then it is permissible.

B- Evidences mentioned confirming the meeting for needs, explained by Shariah, whether in private or public life. For example, in private life with relatives, Shariah evidence has been mentioned that permits fulfilling the family ties and food, and visiting of the sick... and in public life, treating the wounded in wars... and going to the markets. Praying in mosques, attending knowledge gatherings, and performing Hajj... **All of this is in accordance to the Shariah rulings in terms of separating the rows, such as in mosques and public lectures, or without segregation such as in market and Hajj.**

C- Maintaining the family ties are not only for mahram relatives, but also for non-mahram relatives such as a female cousin... See Kinship Ties in the *Social System*.” It is permissible for the relatives to visit each other on the Eids and occasions and to sit with them. However, maintaining the family ties, i.e., to ask about their health and conditions, visit the sick, and to fulfill their needs, and so on, but not to sit together “playing games for example,” or to go out together for an outing, and sit together in the garden, chatting... This is not permissible...) **End**

I hope that these answers to your questions are sufficient, and Allah is All-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://web.facebook.com/HT.AtaabuAlrashtah/posts/534581701562537>