

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

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

Answer to Question:

The Contrary Understanding (Mafhum al-Mukhalafah) of the Number

To: Abu Loay

(Translated)

Question:

Assalamu Alaikum wa Rahmatullahi wa Barakatuh,

In the Mafhum - Mafhum al-Mukhalafah (contrary understanding) - on the subject of contrary understanding of the number that is acted upon to infer Hukm Shar'i, it was proved to apply on the following conditions: the condition of restriction by a specific number, and negating the rule before the stated number from what is beyond it such that the rational necessity (Lazim Dhihni) indicates it and it comes to the brain of a person. And the writer came with an example: the Hadith "إذا كنتم ثلاثة فأمرّوا أحدهم، أو واحد منكم" **"If you are three in a voyage, then appoint one of you over you as an Amir."**, and focused on the clarification to act upon Mafhum al-Mukhalafah of the number on number (one). Meaning that it is not allowed to have more than one. In the Noble Hadith of the Prophet: there is a mention of number (three), so is it acted upon? Or is it like the subsequent example, which is not acted upon and does not have Mafhoum al-Mukhalafah and does not come to mind what is less or more than it: (Give me the two Pounds that you owe me?) i.e the amount that you are indebted. This is considering the two is a group...

May Allah reward you best reward.

Answer:

Wa Alaikum Assalam wa Rahmatullahi wa Barakatuh,

The question is on what is stated in the *Islamic Personality* Volume 3 when talking about Mafhum al-Mukhalafah under the Study of "Mafhum al'adad (Implication of the stated number)", there came the following:

"... But we should know here that Mafhum al-Mukhalafah of the number is only employed in one case, namely, whether the rule is restricted by a specified number, and it indicates proving that rule in the number and negating it in otherwise, or indicates negating the rule in the number and proving it in others, from the context of the speech, as is the case on the content of the speech (fahwa al-khitab) ... So every rule restricted by a specified number, and its indication in proving that rule in the number and negating it in otherwise, or its indication in negating of the rule in the number and proving it in others, was taken from the context of the speech, so that the mind turns to it when hearing the word, then Mafhum al 'adad in this case is acted upon. That's such in the saying of the Prophet (saw): «إِذَا كَانَ ثَلَاثَةٌ فِي سَفَرٍ فَلْيُؤَمِّرُوا أَحَدَهُمْ» "If three people set off on a journey, they should appoint one of them as an Amir." (Narrated by Abu Dawood). The rule here, appointing an Amir, was restricted by a number which is one, and the context of the speech indicates what is meant is appointing one and not two, so its understanding was that it is not allowed the leadership (imarah) of more than one. Thus the context of the speech has indicated that the rule is restricted by this number, hence the Mafhum al-Mukhalafah of the number was acted upon ... but if the context does not indicate it, as if one said to the person who has a debt: (Give me the two Pounds that you owe me) then it does not have Mafhum al-Mukhalafah, since it was not meant by the two pounds to restrict the rule in number, but it is the generalization of the absolute number, for the debt he has may be hundreds of dinars. This means that Mafhum al-Mukhalafah of the number is only acted upon if it fulfills two conditions: firstly, the restriction of the rule by a

number, and the second is that the context of the speech indicates negation of the for other than the stated number." End.

You do realize that the word "one" mentioned in the above Hadith employs the Mafhum al-Mukhalafah of the number which means Mafhum al-Mukhalafah (contrary understanding), and you ask for the word "three" in the same Hadith if it employs contrary understanding (Mafhum al-Mukhalafah) of the number i.e. contrary understanding or not?

The answer to that is that the word three "*Thalatah*" in the Hadith: «إِذَا كَانَ ثَلَاثَةٌ فِي سَفَرٍ فَلْيُؤَمِّرُوا أَحَدَهُمْ» "If three people set off on a journey, they should appoint one of them as an Amir." Employed on it the contrary understanding of the number as it is also with the word "one of them", because the word "three" is a restriction just like the word "one of them", if travelers are less than three i.e they were two then they are not obliged to appoint one of them as an Amir on the other, because Mafhum al-Mukhalafah is acted upon, so when travelers are less than three it is not obliged to appoint one of them as an Amir...

It cannot be said here: they should not appoint someone as their Amir if they are more than three in accordance with Mafhum al-Mukhalafah of the number, we cannot say that because more than three is included within Mafhum al-Muwafaqah by greater reason (*bab uwla*), that is drawing attention to the minimum for a greater or larger, so if the three are ordered to appoint one of them as their Amir, then a greater number than three must appoint someone as their Ameer by precedence... It is known that Mafhum al-Muwafaqah is the necessary meaning for the denotation of the word and is called the content of the speech (*fahwa al-khitab*) and the alert of the speech (*tanbeeh al-khitab*) and is meant the meaning of the speech, which is taken from the sentence structure, and it is an obligatory denotation where the mind moves to it when it hears the word, **and if this rational requirement is found, than it is the one to be employed and not any other. Thus, acting upon the rule of appointing Amir for more than three is by Mafhum al-Muwafaqah and in this case it is not acted upon Mafhum al-Mukhalafah.**

Thus, the rule of three appointing an Amir applies to those over three, and this is well known to the scholars of Fiqh and Usul.... It came in the book, *Neil al-Awtaar* when explaining the Ahadeeth of appointing Amir as follows: "And therein an evidence that it is prescribed for any number reaching three or more to appoint one Amir over them, because in doing so will be security from dispute which leads to discord. For in case of not appointing an Amir everyone will be despotic with his opinion and do what corresponds to his own whims so they perish. However, by appointing an Amir there is less difference and their ward is united. **So if this is prescribed for three who are in an open space of the land or traveling then its legitimacy for a greater number living in villages and elsewhere and in need to eliminate unjust and resolve disputes is of more precedence and more worthiness.**"

I hope that this is clear.

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/AmeerhtAtabinKhalil/photos/a.122855544578192.1073741828.122848424578904/497073173823092/?type=3&theater>

The link to the answer from the Ameer's Google Plus page:

<https://plus.google.com/u/0/b/100431756357007517653/100431756357007517653/posts/6pDXfAvzRE4>

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

<https://twitter.com/ataabualrashtah/status/754052205053939713?lang=en>