

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

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

Answer to Questions

1- Disposal of Haram Funds

2- Deceit in Trade

To: Yusuf Abu Islam

Questions:

Assalamu Alaikum Wa Rahmatullah Wa Barakatuhu our Ameer, may Allah elevate you and bring victory to this Ummah by your hands.

If I may, I have two questions:

The first: In your Answer to the Question to a brother regarding stocks, you said in the Answer: If you give authority to your mother who is kaffir to sell the shares after you learned that they (stocks) are forbidden, in a certain period, then you must dispose of the profits of your shares in this specific period by spending them in the interest of the Muslims. What is the evidence that he should put it in the interest of the Muslims as long as he is not the owner of this money in the Shariah, how is it allowed for him to dispose of it?

The second question: I work in the field of selling vegetables as a peddler. I buy from the market that is about forty kilometers away from me. Sometimes I find a blemish in the commodity ... It is customary that if the owner of the discount shop or the so-called "retailer" is asked to return an item because of the blemish, he will reduce the price of that commodity. If I returned the item on the same day, the transport costs would probably cost me more than the price. Is this indemnity i.e. the difference in the prices of the not defected and defected commodities, discount that we are asking forbidden to take?

Answer:

Wa Alaikum Assalam Wa Rahmatullah Wa Barakatuhu

First: The answer to the first question on the disposal of Haram funds:

1- It seems that you were confused and assumed that our statement: "you must dispose of the profits of shares during these five months and use it for the benefit of Islam and Muslims." meant charity, that is, that the man will get a reward in placing it in the interests of Muslims, but the issue is not so, we said "dispose of it", that is, as if you have unwanted things in your home and you want to get rid of them, you undoubtedly take them and put them in the right place, that is, you do not take these items and throw them in the streets and say that you got rid of them, instead you will take them and dispose of them where it is suitable for them, and this means you will choose a place for these unwanted items without harming anyone and will choose the most appropriate place, isn't that so. It is not reasonable to take these excesses and throw them in the way of people and cause them harm.

That is why we said that he should disposed of it and place in the interests of Muslims, and he must not take this money for example and throw it to the ground, or put it in the garbage container! My brother Yusuf, he must dispose of it in the most suitable place. But it is not charity that he is rewarded for. Ahmad extracted in his Musnad from Abdullah Ibn Mas'ood that he said, the Messenger of Allah (saw) said: **«... وَالَّذِي نَفْسِي بِيَدِهِ... لَا يَكْسِبُ عَبْدٌ مَالًا مِنْ**

allowed to deceive in the commodity so as to circulate it or to sell it with a higher price. Nor is he allowed to deceive in the currency so that it would be accepted as a price of a commodity. This is because the prohibition of the Prophet (SAW) regarding that was decisive. Ibn Majah narrated from `Uqbah ibn `Amir from the Prophet (SAW) that he said: «المسلم أخو المسلم، ولا يحل للمسلم باع من أخيه بيعاً فيه عيب إلا بيته له» **“The Muslim is the brother of the Muslim, and it is not allowed for a Muslim to buy a faulty thing from his brother without him being shown that fault.”** Bukhari narrated also from Hakeem ibn Hizam from the Prophet (SAW) that he (SAW) said: «البيعان بالخيار ما لم يتفرقا، فإن صدقا وبينا بورك لهما في بيعهما، وإن كتما وكذبا محقت بركة بيعهما» **“The two traders (the seller and the purchaser) have the choice (to conclude or cancel the deal) before they departed (from each other). If they were honest and explained (the commodity and the currency) their sale will be blessed. But if they hid (the defect) and lied (to each other) the blessing of their sale will be eradicated.”** The Prophet (SAW) also said: «ليس منا من غش» **“No one of us is allowed to deceive”**, as narrated by Ibn Majah and Abu Dawud from Abu Hurairah. And whoever earned something through deceit and cheating would not (legally) possess it, because deceit is not one of the means of ownership, rather it is of the prohibited means, and thus it (the thing obtained by deception) is a prohibited and illegal (Suht) property. The Prophet (SAW) said: «لا يدخل الجنة لحم نبت من» **“Any (human) flesh that grows from illegal (suht) property will not enter paradise, then the Hellfire deserves it more”**, narrated by Ahmad from Jabir ibn Abdullah. If fraud occurred, whether in the commodity or the currency, then the cheated person has the choice either to dissolve the contract or to carry it out, without more options. So if the purchaser wished to keep the defective commodity and take the indemnity i.e. the difference in the prices of the not defected and defected commodities, he has no right to do so, because the Prophet (SAW) did not allow the taking of the indemnity; rather he gave the choice between two matters: «إن شاء أمسك، وإن شاء ردها» **“If he wished he could keep (the commodity) or return it back”**, as narrated by Bukhari from Abu Hurairah.)

Therefore, if you find a defect in the commodity after purchasing it, then you have the option either to return it to its owner and take what you have paid for it, or to accept it ... but you can not accept it and take the indemnity i.e. the difference in the prices of the not defected and defected commodities. As for the long distance between you and the market that you bought the items from, it does not affect the ruling. As in the Hadeeth, you have only one of two things: «إن شاء أمسك، وإن شاء ردها» **“If he wished he could keep (the commodity) or return it back”**, (as narrated by Bukhari from Abu Hurairah).

Your brother,

Ata Bin Khalil Abu Al-Rashtah

15 Shawwal 1438 AH

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

<https://web.facebook.com/AmeerhtAtabinKhalil/photos/a.122855544578192.1073741828.122848424578904/656074507922957/?type=3&theater>

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

<https://plus.google.com/u/0/b/100431756357007517653/100431756357007517653/posts/Gn7PerrpQyn>

The link to the answer from the Ameer’s page on Twitter:

<https://twitter.com/ataabualrashtah/status/884862318940696578>