

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

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

Answer to Question:

Divine Reason ('Ilah)

To: Eyad Dana

(Translated)

Question:

As-Salaam Alaikum Wa Rahmatullah

Dear Sheikh, can you please answer the following question? It is regarding divine 'ilah, where does it come under in the Speech of the Legislator relating to the actions of the worshippers? Does it come under the speech of following command (Iqtida'), or circumstances (Wadh') or choice (Takhieer)? And what is the difference between 'ilah and sabab?

Answer:

Wa Alaikum us Salaam Wa Rahmatullah Wa Barakaatuhu

The Hukm Shar'i is defined as the Speech of the Legislator related to the actions of the worshippers by following the command (Iqtida'), or choice (Takhieer) or circumstances (Wadh'). Iqtida is a command, it includes the command to undertake an action or to abstain from an action, it includes the definite command and the indefinite command; the definite command to undertake the action is the Fardh, the indefinite command to undertake an action is the Mandoub, the definite command to abstain from an action is the Haram, and the indefinite command to abstain from an action is the Makrooh, these are four rules and the fifth is Takhieer (choice) which is in respect to permissible actions. These are the five Takleef (responsibility) rules. There are five rules of Wadh' (circumstances): Sabab (reason), Shart (condition), Mani' (preventer), Rukhsa and 'Azeema (taking or leaving a license [respectively]), and Siha wa Butlan, and Fasad (correct, false, and invalid actions/contracts [respectively]).

As you can see that 'ilah does not come under the definition of Hukm Shar'i, not under Takleef, and not under Wadh', 'ilah is one of the evidences for a Hukm Shar'i, in terms of the order, it comes before the Hukm Shar'i, and then the Hukm is built on it, i.e. it is an evidence and not a side rule, therefore 'ilah is the reason for legislating the rule. As for Sabab (reason) is an indicator and definer for the existence of the rule and nothing more. The evidence is what makes the Hukm binding in the definite command, but the evidence of the Sabab includes a sign that indicates the existence of the rule.

To explain further:

'Ilah is the reason for the legislating of the rule, 'ilah is an evidence for the rule and indicator and definer for it, but in addition it is the reason for the legislation of the rule. So therefore it is the reasoning of the text (Ma'qool), if the text does not include 'ilah, it will include an expression (Man'tooq) and an understanding (Maf'hoom), but it will not have (Ma'qool), so other incidences cannot follow the rule. But if the text includes 'ilah which is linked to the rule and is clear, it will have Man'tooq, Maf'hoom and Ma'qool, so similar incidences can be related to it. The existence of the 'ilah made the text accommodating to various types of incidences, not because of the Man'tooq or the Maf'hoom, but through following the same rule due to what they have in common that is mentioned in the 'ilah. 'Ilah can be the evidence for a rule, the rule could have been indicated by a speech which

Messenger from the people of the towns - it is for Allah and for the Messenger and for [his] near relatives and orphans and the [stranded] traveler - so that it will not be a perpetual distribution among the rich from among you” [Al- Hashr: 7] Then Allah (swt)

The verse indicated the rule, which is to give Fai’ to the poor emigrants, this is why the Prophet (saw) gave the Fai’ to them when the verse was sent down, regarding Banu An-Nadhir, He (saw) gave it only to the emigrants not the Ansar except for two men who were **“So that it will not be a perpetual distribution among the rich from among you”** [Al-Hashr: 7] i.e. so the state does not become one for the rich only but for others too, so it has indicated the rule and was the reason for the legislation.

The Sabab is: any clear accurate description that the audio evidence indicates that it is defining the existence of the rule, and not for the legislation of the rule, for example the **“Establish prayer at the decline of the sun [from its meridian]”** [Al-Isra: 78] And the saying of the Prophet (saw): «إِذَا زَالَتِ الشَّمْسُ فَصَلُّوا» **“Pray at the demise of the sun”** Narrated by Al-Baihaqi, the verse and the Hadeeth show that sun set is a sign that defines the establishment of prayer, i.e. if the sign is present then the prayer must exist, it should be performed, if the other conditions are met... this is the case with all Sabab, e.g. the saying of **“Whoever witness (sighting the moon) the month must fast it”** [Al-Baqara: 185] And the saying of the Prophet (saw): «صُومُوا لِرُؤُوسِهِ» **“Fast when you sight it (the moon)”** Narrated by Al-Bukhari, it shows that when the moon is out and sighted it is a sign for the fasting of Ramadhan...

Thus, the difference is clear between ‘ilah and Sabab. Sabab is a sign that indicates the existence of the rule, like the demise of the sun is to the establishment of prayer, but ‘ilah is the reason for the legislation of the rule, and not the reason for its establishment, it is one of the evidences of the rules like the text, e.g. the distraction from prayer which is extracted **“O you who have believed, when [the Adhan] is called for the prayer on the day of Jumu’ah [Friday], then proceed to the remembrance of Allah and leave trade”** [Al-Jumu’a: 9]

The distraction is the reason for the legislation of the rule, which is the prohibition of trading during the Athan of Jumu’a (prayer), this is why it is ‘ilah and not Sabab unlike the demise of the sun, which is not ‘ilah, because it is not the reason the Dhuhur prayer is legislated, but it is a sign that Dhuhur prayer must be established.

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.122855544578192.1073741828.122848424578904/468792889984454/?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/FrtZFL7kdWL>

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

<https://twitter.com/ataabualrashtah/status/723864678057820160?lang=ar>