

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 the Question

Subject of Responsibility of Zakat on the Wealth of a Child and the Insane

To: Hamzeh Shihadeh

(Translated)

Question:

Assalamu alaikum, the following sentence was mentioned in the book *Usul al-Fiqh*: “It should not be said here that Allah has obliged the Zakat, provision [Nafaqah], and liabilities [Damanaat] upon the child and the insane and so therefore they are legally responsible [Mukallaf] because they have been made responsible for some of the legal rulings. This is not correct because these obligations are not connected to the act of the child or the insane rather they are connected to their wealth and liability [Dhimmah]. Their wealth and liability are the subject of responsibility, not the child or insane themselves. This is clear by the fact that the lifting of the pen is specified by a clear limit, “until he becomes mature”, and “until he becomes sane”, and this benefits the derivation of an effective cause [I’llah], which is the physical immaturity, and the insanity, and these have no relevance to money and debt, hence they are not an exception to the rule”.

Question: What does “Their wealth and liability are the subject of responsibility” mean?

Answer:

Wa Alaikum Assalam wa Rahmatullahi wa Barakatuh,

The text that you mentioned in your question may be overlapped with words no longer clear; as stated in *The Islamic Personality - Volume III* page 35 (Arabic edition) as follows: “It should not be said here that Allah has obliged the Zakat, provision [Nafaqah], and liabilities [Damanaat] upon the child and the insane and so therefore they are legally responsible [Mukallaf] because they have been made responsible for some of the legal rulings. This is not correct because these obligations are not connected to the act of the child or the insane rather they are connected to their wealth and liability [Dhimmah]. Their wealth and liability are the subject of responsibility, not the child or insane themselves. This is clear by the fact that the lifting of the pen is specified by a clear limit, “until he becomes mature”, and “until he becomes sane”, and this benefits the derivation of an effective cause [I’llah], which is the physical immaturity, and the insanity, and these have no relevance to money and debt, hence they are not an exception to the rule.” **End.**

What is meant by the saying “their wealth and liability is the subject of responsibility” is that responsibility has been linked to their liability and their wealth and it falls upon them, and was not connected to the act of the child or the insane. Thus, the obligation of Zakat for the sane adult is not only connected to his wealth and liability but is connected to his action as well. So it is an obligation upon him to pay Zakat on his wealth; in other words he performs the payment of his due Zakat, and if he does not do then he sins. But for the child and the insane, it is not an obligation upon them to pay their due Zakat because they are not legally responsible [Mukallaf]. So the Shariah does not impose any obligations on them, but has only obliged on their wealth and liability the Zakat, since there exist for them wealth and liability. So the Obligation here is focused upon the Zakat of the wealth and on its necessity on the one liable and is not focused on their act as they are not made responsible to pay Zakat albeit it is due on their wealth and liability. The one who is liable to pay Zakat on their wealth is their guardian (Wali’) or his representative. Therefore, if they did not give Zakat they are not sinning because they are not made responsible, but the sin, if occurs, will fall upon the one who takes care of their affairs.

Your brother,

Ata Bin Khalil Abu Al-Rashtah

12th Muharram 1436 AH

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

<https://www.facebook.com/Ata.abualrashtah/photos/a.154439224724163.1073741827.154433208058098/357400191094731/?type=1&theater>