

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 the Question:

Proven Generalities via the Deduction Method

To: Ali Ghaith Abu Al-Hassan

(Translated)

Question:

Bismillah Ar-Rahman Ar-Raheem, Assalamu Alaikum wa Rahmatullah wa Barakatuhu,

It was mentioned in the book *Islamic Personality*, Volume 3, [Arabic edition, p. 331] the following: as Allah (swt) says: ﴿فَاتَّوَهُنَّ أَجُورَهُنَّ﴾ **“give them [the women] their Mahr as prescribed”** [An-Nisaa: 24]. It is a general articulation including paying the wage of the nursing woman, i.e. the worker, the house, the car, and others. Comment: The phrasing of the text is not suitable for deducing from its articulation other than paying the wage of the nursing woman, that is: paying the wage of the worker, the house, the car and others. Here is the clarification:

1. The Sharia principle is: The general articulation in the topic of the issue. As the verse is general for each nursing woman, as each nursing woman deserves to be paid the wage for the nursing, and the topic of the verse is to pay the wage for the nursing, and nothing else.

2. Him (swt) saying: ﴿فَاتَّوَهُنَّ﴾ **“give them”** means: Give the divorcees, the brides, and the nursing women, because the pronoun “them” refers to them, and the feminine pronoun “them” does not include the masculine pronoun “them” [in Arabic format]. Thus, paying the wage is for the divorcee, the bride, and the nursing woman, and it is general including all the women falling under this category. It is known that addressing the females doesn’t include the males.

3. For the verse to be a general expression, including the paying the wage of the nursing woman, the worker, the house, the car, and others, the verse must have looked like this: “If they nurse for you (your infants), give the workers their wages,” as the articulation “workers” is general, including males and females, and its topic is paying the wage even if the issue is nursing.

4. Him (swt) saying: ﴿فَاتَّوَهُنَّ أَجُورَهُنَّ﴾ **“give them [the women] their Mahr as prescribed”** we deduce from it a partial ruling, which is paying the wage of the nursing woman. We also deduce from it a holistic ruling – based on what is reasonable in the text – which is: the worker, whoever it may be, deserves to be paid if he did the job.

Ali Ghaith (Abu Al-Hassan)

Answer:

Wa alaikum Assalam wa Rahmatullah wa Barakatuh,

Brother, I appreciate your concern in the general research about the language, but you have not grasped the topic well, as you have covered one aspect and left aspects...

I wished that you have bettered the style of your question as you asked in an inquiring manner, but you have not as you have preceded your message by saying: “Comment: The phrasing of the text is not suitable for deducing from its articulation other than the wage of the nursing woman...”, so you commented, answered yourself, and then decided! You have not left any room for questioning and inquiring!

Even so, it is clear in your question that you care about this topic, and I will look beyond the inadequately phrased style of the question... and I will answer you, and I ask from Allah (swt) to guide you to a better state of righteousness:

Researching in any issue from the Usul issues requires covering all of its aspects rather than covering one aspect and building a ruling upon it, and if you grasped the types of generalities, you wouldn't have been sidetracked. We have researched the types of generalities in the *Islamic Personality Volume 3*, (Arabic version, p. 235-237) under the title "Methods to Proving the Generalities of the Expression", and I convey some to you:

"The proven generalities by expression, either they are proven by language where it is learned from the situation of the language, or they are proven by custom where it is learned from the customs, meaning by using the people of the language and not from their situation, or they are proven intellectually where it is learned from deduction and not from the mind. In other words, the generalities of the expression is either proven to us via the transmission method which the Arabs have put that expression for the generalities, or used this expression in the generalities, or it was proven to us via the deduction method from transmission...

The proven generalities via the transmission method, either they are learned from the situation of the language, or they are learned from the usage of the people of the language. As for the generalities learned from the situation of the language, there are two cases: one of them is already a generality, meaning it doesn't need an indication, and the second case is that its generality is learned from the situation of the language but via its indication...

As for the generalities learned from the usage of the people of the language, which is the generalities learned via customs, it is what Allah (swt) says: ﴿حُرِّمَتْ عَلَيْكُمْ أُمَّهَاتِكُمْ﴾ **"Forbidden to you (for marriage) are: your mothers..."** [An-Nisa: 23] as the people of the customs transmitted this synthesis from forbidding the specific to forbidding all sorts of pleasure; because it is what is meant from the women without the usage, and a similar example is what He (swt) says: ﴿حُرِّمَتْ عَلَيْكُمْ الْمَيْتَةَ﴾ **"Forbidden to you (for food) are: The dead animals (which was not slaughtered)..."** [Al-Maida: 3] as this has been passed on for eating as a custom, and it is from the actual customs.

As for the proven generalities via the deduction method, its regulator is arranging the ruling on the description of the commentary and causation letter "F'a" such as what Allah (swt) says: ﴿وَالسَّارِقُ وَالسَّارِقَةُ فَاقْطَعُوا أَيْدِيَهُمَا﴾ "Cut off (from the wrist joint) the (right) hand of the thief, male or female..." [Al-Maida: 38]." End.

That is how generalities are comprehended with all of its types, and based on that, and especially **the proven generalities via the deduction method**, the answer would be as such:

Your question is about what has been mentioned in the book *Islamic Personality Volume 3*, (Arabic ed, p. 327), which is:

"Allah (swt) says: ﴿فَاتَّوَهُنَّ أَجُورَهُنَّ﴾ **"give them [the women] their Mahr as prescribed"** [An-Nisaa: 24] which is a general expression including paying the wage of the nursing woman, the worker, the house, the car, and others. It cannot be said that I have measured the wage of the worker against the wage of the nursing woman, or I have measured the wage of the car against the wage of the worker, as they are included under it and they are members among it." End.

The generality meant in this situation is the generality of obtaining the wage as they are entitled to benefit, and this generality has been taken from arranging the wage across the fulfillment the benefit of the nursing via the commentary and causation letter "F'a", as the verse says: ﴿فَإِنْ أَرْضَعْنَ لَكُمْ فَاتَّوَهُنَّ أَجُورَهُنَّ﴾ **"Then if they give suck to the children for you, give them their due payment"** [At-Talaq: 6] meaning that the reason behind obtaining the wage was the benefit obtained via the nursing. Thus showing the generality of obtaining the wage via the generality of obtaining the benefit, whether the paying of the wage was for the nursing as it was articulated in the verse, or paying the wage to benefit someone such as paying the wage of a worker, or paying the wage for a particular benefit such as paying for a

car, as all these have been taken from the last kind from the generality mentioned above which is: “The proven generality via the deduction method, its regulator is arranging the ruling on the description of the commentary and causation letter “F’a”...”, and it has not been taken via the measurement method by relating the branch to the original via a justification conjunction. It is as if the verse said: “Obtaining the benefit requires for it to obtain the wage”, and its generality has been deduced via deduction, and that’s why the payment of the wage of the worker and the payment for the car are considered a member from the members of this generality by which the generality is applicable to them and they fall under it, though it is not for the sake of joining the payment of the worker and paying for the car by describing them to be sub-branches of paying the nursing woman due to describing it originally via the justification conjunction, **meaning that it is not due to the nature of the work according to the reasonability of the text**, because the issue is listing the member from the members of the generality under the generality and it is not included in the measurement.

I hope that the answer to the issue has been clarified for you, and that you have realized that what we have mentioned in the book is the correct answer.

For your information, this noble verse is from the Usul of the evidence for the paying of the wages in the Sharia, and none of the scholars limited it to nursing, as far as I know, and I convey to you some of what has been mentioned in related sources:

- It has been mentioned in the book “Bidayat Al Mujtahid wa Nihayat Al Muqtasid” authored by Abu Al Walid Mohamad bin Rushd Al Qurtubi, known as the grandchild o Ibn Rushd (Deceased in 595 AH), published by Dar Al Hadith (Egypt), the following was mentioned in the chapter of Wages:

“Paying the wages has been made permissible by all of the Egyptian scholars, and the foremost...

The evidence of the majority is what Allah (swt) says: ﴿إِنِّي أُرِيدُ أَنْ أَكْفِكَ إِحْدَى ابْنَتِي هَاتَيْنِ﴾ “**I intend to wed one of these two daughters of mine to you**” [Al Qasas, verse 27] and He (swt) says: ﴿فَإِنْ أَرْضَعْنَ لَكُمْ فَآتُوهُنَّ أَجُورَهُنَّ﴾ “**Then if they give suck to the children for you, give them their due payment**” [At-Talaq: 6]”. End

It has also been mentioned in the book “Al Mughna” for Ibn Qudama in the chapter of “Wages” the following:

“The original (source) for making the wages permissible are the Holy Book (Quran), the Sunnah, and Ijma’a. As for the Holy Book, it is what Allah (swt) says: ﴿فَإِنْ أَرْضَعْنَ لَكُمْ فَآتُوهُنَّ أَجُورَهُنَّ﴾ “**Then if they give suck to the children for you, give them their due payment**”, At-Talaq...” End.

Therefore, this noble verse is famous for being a piece of evidence for proving the permissibility for wages.

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/Ata.abualrashtah/photos/a.154439224724163.1073741827.154433208058098/507423136092435/?type=3&theater>