

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

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

Answer to Question

Do those who Hold the Opinion of At-Tadarruj (gradualism) have any Evidence or even a Semblance of an Evidence (Shubhat Ad-Daleel)

To Hisham Basbous

(Translated)

Question:

As-Salaamu Alaikum,

To begin with, may Allah bless you all for your great efforts and we would like for you to answer the following question for us:

Do those who hold the opinion of At-Tadarruj (gradualism) have any evidence or any semblance of an evidence (Shubhat Ad-Daleel). That is in the case where many of those who hold the view of gradualism say: This issue is one of difference of opinion and so each side should not seek fault in the other, so we will not denounce your view and we will not denounce yours. They make their deduction based on some evidences which include: The statement of 'Aa'ishah (ra) about Al-Khamr, the statement of 'Umar Ibn Abdul Aziz to his son, the suspected suspension of the Hadd (prescribed set punishment) for theft in the year of the famine at the time of 'Umar (ra), the story of 'Umar Ibn Abdul Aziz with his son, likewise the story of Abdul Malik Bin 'Umar Bin Abdul Aziz also with his son... That is because it was related that his son Abdul Malik said: O father, why do you not implement (certain) matters? For verily by Allah, I do not care, in respect to the Haqq (the truth), if me and you were to have been boiled in pots! And so 'Umar said to him: "Don't be hasty my son, for verily Allah censured Al-Khamr in the Qur'aan two times and made it Haraam on the third time (of mention) and I fear that if I was to burden the Ummah with the Haqq (all of it) in one go that they would repel it and that there would be Fitnah" ('Al-Aqd Al-Fareed' 30/1, Al-Muwafaqat 94/2). And there is another Daleel from the Sunnah: It was related from Wahb who said: I asked Jaabir Bin Abdullah about the matter of Thaqeef when they gave the Bai'ah (pledge). He said: They made it a condition upon the Prophet (saw) that there would be no Sadaqah (i.e. Zakaah) upon them and no Jihaad and that he (Jaabir) heard the Prophet (saw) saying after that: "They will give Sadaqah and they will perform Jihaad when they embrace Islam" (Hadeeth Saheeh).

Summation of the question: Is the issue of At-Tadarruj a Qat'iy (definite) issue "i.e. it is definite in its Hurmah (prohibition)" or is an Ijtihadi issue that can be differed in regards to it?

May Allah bless you all and I am sorry for the length.

Answer:

Wa Alaikum Salaam Wa Rahmatullahi Wa Barakaatuhu,

We have previously answered the issue of At-Tadarruj (gradualism) in the application of Islam with a long and ample answer on 11/02/2006 but it may be that you not have come across it because the answer was provided before the launching of the Facebook page... In any case, your question has included some new issues which our previous answer did not cover and so we will attempt to give a full and exhaustive answer and Allah is Glorified and Exalted Be He, the Protector the Guardian.

Firstly: The discussion of gradualism in respect to the application of the Ahkaam of Islam is a very serious (dangerous) matter. That is because the meaning that is spread by the callers to gradualism is that the application of the rulings of Islam does not happen in one go and

consequently it is necessary to apply the rulings bit by bit. In other words, it means the application of the rulings of Kufr (disbelief) in some issues and the application of Islam in some issues...! That is whilst the great sin and corruption of such a matter is clearly evident...

Secondly: It is apparent in respect to the evidences used by the proponents of gradualism that most of them have been brought and crammed in upon the subject of At-Tadarruj. That is because they did not deduce that gradualism is permissible from the Islamic evidences after studying them, rather it is clear from their usage of the evidences that they had decided that gradualism is necessary and then went about seeking evidences for its permissibility. And so they gathered the evidences without ascertaining their applicability or conformity to the reality of the issue that was being deduced... This is in contravention and violation to the correct and valid manner of Al-Istinbaat (deduction) which is as follows:

1 – When deducing a Hukm Shar’i for an issue, its reality is studied thoroughly, then all of the evidences related to this reality are brought together; the evidences are studied in an Usooli manner in order to deduce the Hukm Ash-Shar’i.

2 – Effort is expended first to bring together the evidences (i.e. to not neglect any of them) because making to evidences work together (Al-Jam’u) is better and more appropriate (Awlaa) than neglecting one of them.

3 – If bringing them all together is not possible then outweighing (At-Tarjeeh) is sought in accordance to the following Usool: So the Muhkaam overrides the Mutashaabih, the Qat’i overrides the Zhanni. If the Zhanni and Zhanni are brought together then the strength of the Daleel is studied in respect to its Sanad (chain of transmission) and in respect to the ‘Umoom (generality)... And so the stronger Sanad outweighs the one of lesser strength, the Khaass (specific) outweighs the ‘Aamm (general), the Muqayyad (restricted) outweighs the Mutlaq (unrestricted) and the Mantooq (explicit) outweighs the Mafhoom (implicit)... and so on, as has been explained and detailed in its section (of study).

Thirdly: By studying the Shar’iah evidences in becomes clearly evident that gradualism (At-Tadarruj) in respect to the application of Islam, which occurs through the application of a part whilst leaving a part, is not permitted... The evidences for that are Qat’iyah Ath-Thuboot (definite in transmission) and Qat’iyah Ad-Dalaalah (definite in meaning/import). We will now mention some of them:

1 – Allah Ta’Aalaa said:

﴿وَأَنِ احْكُم بَيْنَهُم بِمَا أَنْزَلَ اللَّهُ وَلَا تَتَّبِعْ أَهْوَاءَهُمْ وَاحْذَرْهُمْ أَنْ يَفْتِنُوكَ عَنْ بَعْضِ مَا أَنْزَلَ اللَّهُ إِلَيْكَ﴾

“And so rule between them by what Allah has revealed and do not follow their desires and beware of them lest they tempt you away from some of what Allah has revealed to you” [Al-Maa’idah: 49].

This is a decisive command from Allah to His Messenger and to the rulers of the Muslims after him, with the obligation to rule by all that Allah revealed in terms of Ahkaam (rulings), whether it was a command or forbiddance. That is because the Lafzh (worded expression ‘ما’ (maa) mentioned in the Aayah is from the forms of generality and as such it encompasses all of the revealed Ahkaam (rulings). Allah has forbidden His Messenger and the rulers of the Muslims after him to follow the desires of the people and to listen to their wishes, when He ‘Azza wa Jalla said: ﴿وَلَا تَتَّبِعْ أَهْوَاءَهُمْ﴾ **“And do not follow their desires”** ... Similarly, Allah warned His Messenger and the rulers of the Muslims after him from the people who seduce or tempt them so as to divert them from the application of **some of what Allah has revealed to them in terms of the Ahkaam**. Rather, it is obligatory upon him (and the rulers) to implement all of the Ahkaam that Allah revealed upon him, whether they were commands or forbiddance, without paying any regard or attention to what the people want. That is when Allah Subhaanahu said: ﴿وَاحْذَرْهُمْ أَنْ يَفْتِنُوكَ عَنْ بَعْضِ مَا أَنْزَلَ اللَّهُ إِلَيْكَ﴾ **“And beware of them lest they tempt you away from some of what Allah has revealed to you”**.

2 – And Allah Ta’Aalaa said: ﴿وَمَنْ لَمْ يَحْكَمْ بِمَا أَنْزَلَ اللَّهُ فَأُولَئِكَ هُمُ الْكَافِرُونَ﴾ “**And whosoever does not rule by what Allah has revealed then they are the disbelievers**” [Al-Maa’idah: 44] and in a second Aayah ﴿وَمَنْ لَمْ يَحْكَمْ بِمَا أَنْزَلَ اللَّهُ فَأُولَئِكَ هُمُ الظَّالِمُونَ﴾ “**Then they are the oppressors/transgressors**” and in a third Aayah ﴿وَمَنْ لَمْ يَحْكَمْ بِمَا أَنْزَلَ اللَّهُ فَأُولَئِكَ هُمُ الْفَاسِقُونَ﴾ “**Then they are the rebelliously disobedient**”. And so Allah, in these three Aayaat, has made the one who does not rule by all that Allah has revealed in terms of Ahkaam, whether they are commands or forbiddances, a Kaafir (disbeliever) if he denies them and a Zhaalim (oppressor) and Faasiq (rebellious disobedient) if he does not deny them but does not rule by them... That is because the ‘ما’ (maa) mentioned within the three Aayaat is from the form of generality and as such it encompasses and includes all of the Ahkaam Ash-Shar’iah that Allah revealed whether they are commands or forbiddances.

3 – This is what the rightly guided Khulafaa’ were upon in respect to the application of the Ahkaam of Islam upon the lands which had been opened (to Islam) and they were the most knowledgeable of people in respect to the Book of Allah Exalted and the manner of how the Messenger of Allah (saw) applied the Ahkaam. Their application of Islam (May Allah be pleased with them) was as a whole in one go without delay, procrastination or gradualism. **So they did not allow the one who entered into Islam to drink alcohol or commit Zinaa (fornication) for a year for example and then after that prevent and forbid that... Rather all of the Ahkaam were applied and this matter is Mutawaatir and thorough proven in respect to the application of the Ahkaam upon the opened lands.**

Fourthly: Consequently, no Zhanni (indefinite) Daleel has been reported in respect to this Hukm (ruling). Therefore, the prohibition of the Tadarruj (gradualism) and the obligation to apply the Ahkaam of Islam, all of that is established by the Qat’i Nass (definite text). That means that any Zhanni (indefinite) evidence which has a Shubhah Dalaalah (semblance of an indicative meaning) is in contradiction to the Qat’i (definite) in the case where the Qat’i overrides it. That means that the Zhanni must be understood in accordance to that which does not contradict or oppose the Qat’i. Expressed differently, it means making the two evidences work is sought with the Zhanni in accordance to that which does not conflict with and contradict the Qat’i if that is possible. If it is not possible then the process of At-Tarjeeh (outweighing) is sought which means taking the Qat’i and discarding the Zhanni.

Fifthly: And now, is it possible to make the two evidences work together, meaning is it possible to understand the Zhanni in a manner that does not contradict the Qat’ii within the issue of gradualism in respect to the application of Islam? So let us examine the evidences that were presented within the question:

1 – The Hadeeth of ‘Aa’ishah (ra) about Khamr (intoxicants):

Al-Bukhari reported in his Saheeh from Yousuf Bin Mahak who said: I was in the presence of ‘Aa’ishah the Mother of the Believers (ra) when an Iraqi approached her. And so he said: What type of shroud is the best? She replied: What is the matter with you, what does it matter? He said: Mother of the believers, show me your Mus’haf (copy of Qur’an)? She asked: Why? He said: So that I can compile the Qur’an and order it because it is being recited in an unordered manner. She said: And what is the problem to you which Aayah you recite first? The first that was revealed were from the Mufasssal, mentioning paradise and the fire. That was until when the people came to Islam and the Halal and the Haram were revealed and had the first thing to be revealed been: And do not drink Al-Khamr, they (the people) would have said: We will never leave alcohol. And if it had been revealed: Do not fornicate, then they (the people) would have said: We will never leave Zinaa (fornication). It was revealed to Muhammad (saw) in Makkah whilst I was a little girl who still played: ﴿بَلِ السَّاعَةِ مَوْعِدُهُمْ وَالسَّاعَةُ أَذْهَى وَأَمْرٌ﴾ “**Nay but the hour is their appointment [for due punishment] and the hour will be more grievous and bitter**” [Al-Qamar: 46], whilst Surah Al-Baqarah and An-Nisaa’ were not revealed until I was his with him. He (Yousuf the narrator) said: Then she took out for him the Mus’haf and dictated to him the verses of the Surah.

So where is the Dalaalah (indicated meaning) in the statement of 'Aa'ishah (ra) for gradualism in respect to the application of the Ahkaam Ash-Shar'iah?! Verily, 'Aa'ishah (ra) explained to the Iraqi questioning about the first or early revelation of the Qur'an that they are the Suwar (chapters of Quran) discussing the Islamic Aqeedah and that was until the people believed in Islam. Then when the people believed the Suwar which discussed the Halal and the Haram were revealed i.e. the Ahkaam Ash-Shar'iah. There is nothing within it suggesting that gradualism took place in respect to application of the Halal and the Haram. Rather, it is the opposite of that, indicating to the complete application of the Halal and the Haram... All that is indicated in this matter, is that Allah Subhaanahu did not reveal the Ahkaam of the Halal and the Haram at the beginning of the revelation until the people had first believed in Islam. Then when they had believed He Subhaanahu revealed upon them the Aayaat of the Ahkaam and then they applied and implemented them... The following was mentioned in Fat'h ul-Baari' in respect to the explanation of this Hadeeth: (Its statement: Until the people came (to Islaam) ... (Then) its statement: Then the Halal and the Haram were revealed... guides to the divine Hikmah (wisdom) in respect to the ordering or the revelation and that the first to be revealed of the Qur'aan was the call to Tawheed and giving tidings to the obedient believer of Jannah (paradise) and the disobedient disbeliever of the Hellfire). Then when the souls were at peace and assured upon that then the Ahkaam (rulings) were revealed...) **End.**

Consequently, this ordering of the revelation of the Suwar of the Aqeedah first and then followed by the Suwar of the Ahkaam (legal rulings) conforms to the true reality of the matters. That is because those who do not believe in Allah, His Messenger and the Day of Judgment will never respond affirmatively to the command of Allah Subhaanahu. As such, it was necessary to first invite them to Iman and Tawheed and then after their positive response and acceptance, the Takleef (legal responsibility) in respect to the Ahkaam would follow... So what is the relationship between this and to the gradual application of the Ahkaam Ash-Shar'i upon the Muslims within the lands of the Muslims?!

2 – The subject of the suspension of the Hadd (prescribed punishment) of theft in the time of 'Umar (ra):

Verily, 'Umar (ra) did not undertake any action from amongst the acts of gradualism regarding the application of the Hadd (prescribed punishment) of theft. That is because the Hadd of theft was applied immediately upon its revelation in the time of the Prophet (saw) and remained applied in the time of Abu Bakr (ra) and 'Umar and the times of the remaining Khulafaa'... As for what 'Umar (ra) did, then he applied the Hukm Ash-Shar'i as has been stated in Islam, meaning that he didn't suspend any Shar'i Hukm (ruling). Rather, he applied it as it is must be done. That is because there are circumstances or situations in which it is not permitted for the hand to be cut in them and one of those is the situation of the famine in which it is not permitted to cut the hand within it. I will now mention some of the evidences for the non-permissibility of cutting the hand in the year of the famine:

- As-Sarkhasi mentioned in Al-Mabsoot that he said that it was related from Mak'hool (ra) that the Prophet (saw) said: « لَا قَطْعَ فِي مَجَاعَةٍ مُضْطَرِّ » **“There is no amputation in the compelling famine”**.

- It was also mentioned in Al-Mabsoot of As-Sarkhasi that it was narrated from Al-Hasan from a man who said: I saw two men who were tied up and meat. So I went with them to 'Umar (ra). Then the one possessing the meat said: “We had an 'Usharaa' (pregnant she-camel) that we were waiting for (its delivery) just as the fertile spring is waited for. But then I found that these two men had slaughtered it”. So 'Umar said: “Would you be content to accept two similar 'Usharaa' (pregnant) camels in place of it? That is because we do not cut the hands at the time of Al-Ithq and not in the year of the famine”.

The 'Usharaa' is the pregnant she-camel that has reached ten months of its pregnancy and is approaching her birth and as such it is the dearest thing to its people whilst they await its fertility and abundance in respect to its milk just like they await the coming of spring. And in respect to his statement: 'For verily we do not cut in the 'Al-Idhq'...', which some have related it

as 'Al-Irq' although 'Al-Idhq' is the most common, refers to meat. Its meaning is therefore that there is no cutting (amputation of the hand) in the year of the famine due to the Daroorah (necessity) and dire need i.e. the hunger and the famine (drought).

- Ibn Shaibah extracted in his Musannaf from Ma'mar who said: Yahya Bin Abi Katheer said: 'Umar said: "The (hand) is not cut in regards to the 'Idhq (meat) and not in the year of the famine".

Therefore, the non-occurrence of the Hadd of theft in the year of the drought "i.e. the year of the famine" returns to the Hukm Ash-Shar'i in respect to the non-occurrence of the Hadd of theft in the year of the famine... That means that 'Umar (ra) did not go beyond working in accordance to the Hukm Ash-Shar'i by not applying the Hadd of theft upon the one who stole in the year of the famine ... That is because that is the Hukm Ash-Shar'i in this case and circumstance... So where does this fit into gradualism in respect to the application of the Ahkaam Ash-Shar'iah?!

3 – The story of 'Umar Ibn Abdul Aziz with his son:

It is well-known that the Umayyad State was the Khilafah State and that it did not implement anything other than Islam although some violations and injustices took place by some of the Khulafaa' and Wulaah (governors). So when 'Umar Ibn Abdul Aziz assumed the role he continued the application of Islam upon the people completely as it is and he did not undertake a gradual approach in respect to the application of the Ahkaam Ash-Shar'iah upon the people at all in the case where for instance he would apply Islamic rulings whilst leaving others... However, he, may Allah be pleased with him, was eager to lift the injustices and return the rights to their people. This had been related to the Khulafaa' who has preceded him from Bani Umayyah and it required verification, thorough examination and a great effort. That was because some of the properties that some of the assistances of the Khulafaa' had many hands that had passed over them whilst some of the wealth or properties had been spent or turned into other types of commodities of trade, buying and selling. There were people whom rights belonged to who had passed away or had gone off to other parts of the world... All of that required effort and hardship in respect to the thorough examination, verification and ascertaining matters... 'Umar thought to compel the sons of the Khulafaa', their assistants and likes to return those injustices without problems or annoyance... And as such he began to demand that from them to put an end to the Mazhaalim (injustices) and to place the rights in the deserving places and there is no doubt that this demands both time and effort... And when Abdul Malik entered and saw his father dealing with this equation or problem he was driven by the zealous concern of youth saying to his father that he should end and deal with this matter quickly. Then came the response of 'Umar to him as was mentioned in the sources related to this issue... There is nothing, under any circumstances, anything within it indicating gradualism but rather it relates to applying the Hukm as it is after taking the necessary examination and thorough investigation in order to acquire knowledge of the injustices, all of that takes its right. In order to make this clear we will make mention of this issue from its sources.

It is important to note that the historical narrations and *Hikaayaat* (accounts) (With the form *Hakaa An..* i.e. He reported that) can be looked at and examined if there are no Ahaadeeth mentioned in that subject area. If there are however then these Ahaadeeth are taken (and referred to) ... I say this because in the question, historical narrations and accounts were mentioned about the story of 'Umar ibn Abdul Aziz (ra) which mention the subject of Khamrah (alcohol) whilst the narrations in the Ahaadeeth about the story of 'Umar and his son do not contain the subject area of Al-Khamrah (alcohol). As such, what is mentioned in the Hadeeth is taken whilst the historical narrations and accounts are left...

The following are some of the Ahadeeth that relate the story of 'Umar Ibn Abdul Aziz and his son Abdul Malik:

- 'Huliyat ul-Awliyyaa' and *Tabaqaat Al-Asfiyaa'* by **Abu Na'eem Ahmad Bin Abdullah Bin Ahmad Bin Ishaq Bin Mousa Bin Mahran Al-Asbahaani (deceased 430 AH):**

Abdullah Bin Muhammad Bin Ja'far relayed, Ahmad Bin Al-Husein Al-Hadhaa' relayed, Ahmad Bin Ibrahim told us, Mansoor told us, Shu'aib told us, Muhaddith told us: That Abdul Malik Bin 'Umar Bin Abdul-Aziz entered upon 'Umar and then said: "O Ameer of the believers, I have a need to speak to you, so provide me with privacy" and Maslamah Bin Abdul Malik was there with him and so he (Maslamah) said to him (Abdul-Malik): "Is there a secret that your paternal uncle is not privy to?" He replied: "Yes" and so Maslamah stood up and left and then he sat in front of him ('Umar) and said to him: "O Ameer of the believers, what are you going to say to your Lord tomorrow when He questions you? You have witnessed innovation which you have eliminated or a Sunnah that you have not revived? So he ('Umar) said to him: "O son, is this a matter that you have been made to bring up to me from the subjects or is this an opinion that has come from yourself?" He replied: "No, by Allah, it is a matter that I have seen from myself whilst I have known that you will be held to account for, so what are you saying?" And so his father said to him: "May Allah have mercy upon you and reward you with good on behalf of your father, because by Allah, I have hoped for you to be from amongst those who assist upon goodness. O son verily your people, have consolidated this matter knot by knot and bind by bind and when I wish to challenge them head on to take away that which is in their hands I am not assured that it will not open a fissure or wound from which a lot of blood will be spilled, and by Allah the perishing of the world is lighter to me than the spilling of even a small amount of blood. Or would you be content, that there does not come a day upon your father from amongst the days of the Dunyaa except that he has eliminated within it an innovation and revived a Sunnah, until Allah passes judgement between us and our people upon the truth, and He is the best of Judges?").

- 'Huliyat ul-Awliyaa' and Tabaqaat Al-Asfiyaa' by **Abu Na'eem Ahmad Bin Abdullah Bin Ahmad Bin Ishaq Bin Mousa Bin Mahran Al-Asbahaani (deceased 430 AH):**

"Al-Hasan Ibn Kaysan told us... Isma'eel Ibn Ishaq Al-Qaadi told us, Muhammad Ibn Abi Bakr told us, Sa'eed Ibn 'Aamir told us, related from Juwairiyah Bin Asmaa who said: Abdul Malik Bin Umar Bin Abdul Aziz said to his father Umar: "What prevents you from seeing through your opinion in this matter, for by Allah I do not care that we are boiled in pots of water as a result of seeing through this matter?" So Umar said: "I am preparing the people in a process of taming that is difficult, and so if Allah wills for me to live on I will continue and persevere upon my opinion and my death is brought forward, then Allah is aware of my intention. I fear that if I confront the people head on unexpectedly with that which you are saying, that it will compel me to resort to the sword, and there is no good in a matter that is only dealt with by the sword".
End.

- 'Al-Amru Bil-Ma'rouf Wan-Nahyi 'An il-Munkar Lil-Khallaal' by **Abu Bakr Ahmad Bin Muhammad Bin Haroon Bin Yazeed Al-Khallaal Al-Baghdadi Al-Hanbali (deceased 311 AH):**

"Abdul Malik Al-Maimuni informed me... Ahmad Bin Hanbal told us, from Mu'tamir Bin Suleyman, from Furaat Bin Suleyman, from Maymoon Bin Mihraan, from Abdul Malik Bin Umar Ibn Abdul Aziz, that he said to his father: "O father, what prevents you to stay the course upon that which you want in terms of justice? For by Allah, I do not care that I and you are to be boiled in pots as a result". He said: "O my son, I am only taming (preparing) the people is a difficult process of taming. Verily, I wish to revive the matter of justice but am delaying that until I am able to take out the coveting of the covetousness of the Dunyaa, so that they flee from this (i.e. injustice or corruption) and find tranquillity upon this (i.e. justice)".

It is clear from these Ahadeeth that the matter does not relate to the application of the Islam upon the people and taking a gradual approach in respect to that. Rather, it is related only to the restoration of the rights to their rightful people and lifting the injustices that had taken place in the times of the Khulafaa' who preceded 'Umar Ibn Abdul Aziz... So where is the link to Tadarruj (gradualism) concerning the application of the Ahkaam of Islam where Islam is mixed with Kufr within this?

4 – Ahadeeth of the Prophet (saw) about the delegation of Thaqeef:

A – ‘Uthman Ibn Abi Al-‘Aas related that when a delegation from Thaqeef came to the Messenger of Allah (saw) they were set down by the Masjid so that it would be softer to their hearts. Then they stipulated upon him that they would not Yuhsharoo (be gathered) and not Yu’sharoo (give the Ushr) and not Yujabbaw (pray). So the Messenger of Allah (saw) said to them: «نُكِّمَ أَنْ لَا تُحْشَرُوا، وَلَا تُعْشَرُوا، وَلَا خَيْرَ فِي دِينِ لَيْسَ فِيهِ رُكُوعٌ» **“You don’t have to Tuhsharoo and not Tu’sharoo, and there is no good in a Deen that does not have in it a Rukoo’ (i.e. prayer)”** This is the worded version recorded by Abu Dawud. Not Yujabbaw (لا يُجَبُّوا) is from At-Tajbiyah (التجبية) which means the Rukoo’ and it has been expressed as Majaaz (metaphorically) to mean the Salaah (prayer).

B – In another Riwaayah (report) from Abu Dawud also related from Wahb he said: I asked Jaabir about the affair of Thaqeef when they gave the Bai’ah (pledge)? He said: They stipulated upon the Prophet (saw) that there would be no Sadaqah upon them and no Jihaad and that he heard the Prophet (saw) saying after that: «سَيَنْصَلِّقُونَ، وَيُجَاهِدُونَ إِذَا أَسْلَمُوا» **“They will give Sadaqah and undertake Jihaad when they have become Muslim”**.

- The first Hadeeth related from ‘Uthman Bin Abi Al-‘Aas is taken even though Al-Mundhiri did say about him (And it was said that Al-Hasan Al-Basri had not heard of ‘Uthman Bin Abi Al-‘Aas) although the statement here is in the form (Seeghah) of the Majhool (unknown) and as such it is possible to use it as evidence. And the second Hadeeth narrated from Wahb is a Saheeh Hadeeth.

- It is not valid to understand from the two Hadeeths the permissibility of the gradualism manifested in the application of a part of the Ahkaam and leaving a part. That is because the definite Adillah (evidences) establish the prohibition of At-Tadarruj (gradualism) in respect to the application of the Ahkaam (rulings).

- As such, either the two Hadeeth are understood in accordance to that which does not contradict the Qat’i (definite) evidences where both evidences are worked with and utilised, the Qat’i and the Zhanni, or the Qat’i evidences are worked with and the Zhanni (indefinite) are discarded, in the case where it is not possible to work with both of them together. This means that Al-Jam’u (bringing the evidences together) is attempted if that is possible and if not then At-Tarjeeh (outweighing) is resorted to, in which case it is known that the Qat’i (definite) overrides the Zhanni (indefinite).

- In the Hadeeth of ‘Uthman Bin Abi Al-‘Aas the Messenger of Allah (saw) accepted from the Thaqeef delegation (لا تحشروا ولا تعشروا ولا يستعمل عليكم غيركم) (That they don’t gather (*laa Tahsharoo*), they don’t give *Ushr (Laa Ta’sharoo)* and that other than them will not be appointed over them) however he did not accept from them the leaving of the Salaah. As for not appointing someone over them in the case where the Wali over their Wilayah is from amongst the people of the Wilayah, then there is no problem in that as this is permissible in origin if someone of capability is found amongst them. However, what is the meaning of *‘Laa Tahsharoo’* and *Laa Ta’sharoo’* that came in the Hadeeth? It is said in ‘Al-Lisaan’ (dictionary) that the meaning of ‘*laa yahsharoon*’ (لا يحشرون): (Meaning they are not assigned to military expeditions and they are not compelled to undertake missions ... and it is said that they will not gather for the Zakaah collector to take the Sadaqah of their properties/wealth). It was also mentioned in ‘Al-Lisaan’ about the meaning of ‘*Laa Ya’sharoon*’ (لا يعشرون): (That it means not to take the *‘Ushr* (tenth) of their wealth/properties and it is said that the meaning of the obligatory Sadaqah is meant by it). Consequently, it is possible to understand the Hadeeth for (*Laa Tahsharoo*) to take the meaning that they will not gather for the Zakaah collector and pay their Zakaah to him but rather they will pay in their own places, meaning that it is the collector who goes to their places and takes the Zakaah from them, which is in line with one of the meanings of ‘*Yahsharoon*’ (يحشرون). And it is possible to take the meaning of *‘Laa Ta’sharoo’* as meaning that the tenth of their wealth is not taken and this is one of the meanings of ‘*Ya’shiroon*’ (يعشرون).

Therefore, what they stipulated as conditions and what the Messenger of Allah (saw) agreed to was that they pay the Zakaah of their wealth in their own places and that the tenth is not taken from them but rather only the Zakaah. So it is permitted for the one who wishes for Islam to stipulate the paying of his Zakaah in his place and that the ‘Ushr

is not taken from him but rather only the Zakaah and this is permissible and there is nothing in that. In this way the Jam'u (bringing together) of the Ahaadeeth has been accomplished between the Hadeeth and the Adillah Al-Qat'iyah (the definite evidences).

However, the second narration of Abu Dawud related by Wahb states: I asked Jabir about the affair of Thaqeef when they gave the Bai'ah (pledge)? He said: They stipulated upon the Prophet (saw) that there would be no Sadaqah upon them and no Jihaad and that he heard the Prophet (saw) saying after that: «سَيَتَصَدَّقُونَ، وَيَجَاهِدُونَ إِذَا أَسْلَمُوا» **“They will give Sadaqah and undertake Jihaad when they have become Muslim”**. This then would outweigh the meaning of 'La Yahsharoo' to mean not to be assigned for military expeditions (i.e. not undertake Jihaad) and the meaning of 'La Ya'shiroo' would mean not to give Zakaah. In such a case the Hadeeth would be Khaass (specific) to the delegation of Thaqeef and that the acceptance of them not undertaking Jihaad or not giving Zakaah represents a specific text (Nass Khaass) in respect to them (alone) and it does not apply beyond them to other than them. That is because the Hukm Khaass (specific ruling) does not extend beyond the one that it is for. The Hukm Al-Khaass requires a Qareenah (linking indication) for its specificity so that it does not extend beyond it and the Qareenah here is the informing of the Messenger (saw) that they will give Zakaah and they will undertake Jihaad if they become Muslim and that their condition would have no reality to it. That is whilst the 'Ilm ul-Ghaib (Knowledge of the Unseen) does not occur to other than the Messenger (saw) and so it represents a Qareenah for this Hukm being Khaass. Specific rulings (Ahkaam Al-Khaassah) are known in the Sharee'ah like for example: The testimony of Khuzaimah which the Messenger (saw) considered to be equal to the testimony of two men and this is specific to him alone and does not extend beyond him to anyone else. Another example is the sacrifice of Abu Bardah of the goat which had reached six months and this was specific to him and did not extend to other than him and that is because the sacrifice of the goat obliges the reaching of a year.

In this way the two evidences are worked with: Gradualism in respect to the application of the Ahkaam is prohibited in accordance to the definite evidences whilst the gradualism in respect to the Jihaad and the Zakaah is specific to the delegation of Tahqeef due to the knowledge of the Messenger (saw) that if they become Muslim that they will undertake Jihaad and give the Zakaah.

Sixthly: Summary Conclusion:

- Gradualism by applying a part of the Ahkaam and leaving another part is Haraam due to the definite evidences related to that.
- The Hadeeth of 'Aa'ishah (ra) does not contain any indication of gradualism in respect to the application of the Ahkaam Ash-Shar'iah but rather only discusses that the Aqeedah preceded the Ahkaam in regards to the chapters of the Qur'an that were revealed.
- 'Umar Ibn Al-Khattaab (ra) did not suspend the Hadd (prescribed set punishment) of theft and did not apply gradualism in respect to its application. Rather, he acted in accordance to the Hukm Ash-Shar'i by not applying the Hadd for theft upon the one who steals in the time of the famine.
- 'Umar Ibn Abdul Aziz did not utilise gradualism in respect to the application of the Ahkaam Ash-Shar'iah and that is because that which was being applied within the Ummayyad state was the Shar'a alone and there was not within the state any other Ahkaam other than the rulings of Islam. What was related about him is related to the lifting of the injustices and the restoring of the rights to their people...

The Hadeeth of Abu Dawoud with its two narrations where the Messenger (saw) did not agree for them to leave the Salaah and accepted their condition of not performing Jihaad and giving the Zakaah, represents a Hukm Khaass (specific ruling) attached to that delegation, and that was because the Messenger (saw) knew by way of the Wahi (Divine Inspiration) that their condition would never have a reality attached to it because when they become Muslim they will partake in Jihaad and give the Zakaah. That means that the two Hadeeth are not discarded but rather they are brought together (Al-Jam'u) with the definite evidences (Al-Adillah Al-Qat'iyah)

which guide to the prohibition of At-Taddaruj (gradualism) in regards to applying a part and leaving a part of the Ahkaam. And that is according to how we have explained it (above).

- Therefore, the study of all of the evidences that the proponents of gradualism present for gradualism in the application of the Shar'a makes clear and evident that they do not indicate or guide to gradualism but rather they guide to other matters that have no relationship with gradualism or they are specific evidences for specific circumstances... It is not possible to oppose the definite evidences that indicate to the prohibition of gradualism in relation to the application of the Shar'a as has been explained in detail above... Consequently, those who advocate the view of gradualism do not have any Daleel or Shubhat Daleel (semblance of an evidence) that makes it permissible to rule by a part of Islam and to rule by a part of Kufr (disbelief). This a major (serious) matter and a great Munkar that is in opposition to the definite evidences related to the obligation to rule by all that came in Islam in terms of Ahkaam (rulings). Alhamdu Lillahi Rabbil 'Aalameen.

Your brother,

Ata Bin Khalil Abu Al-Rashtah

19th Ramadan 1437 AH

Corresponding to 24/06/2016 CE

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

<https://www.facebook.com/AmeerhtAtabinKhalil/photos/a.122855544578192.1073741828.122848424578904/497800833750326/?type=3&permPage=1>

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

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