

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

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

Answer to Question

The Concept of the Transition to Dar al-Muhajireen (Migration) and the Borders of Dar al-Islam (Abode of Islam) during the Prophet's Time

To: Yeni Camii

(Translated)

Question:

Assalam Alaikum Wa Rahmatullah Wa Barakatuh

I am attaching a question I sent you two months ago. I am giving you the benefit of doubt for not answering it, and my prayers for you are constant. However, I wanted to send it again as a reminder, and I have made a slight edit to it. I am confident that it will be of interest to you. May Allah bless you and reward you with the good.

Question: Assalam Alaikum Wa Rahmatullah Wa Barakatuh

I ask Allah the Exalted, Almighty that this message reaches you in your perfect health and well-being, and with His (swt) utmost pleasure on you. I also ask Him, may He be glorified and exalted, to grant you your wishes soon and to renew the glory and honour of this Ummah through you soon.

[* The "Introduction", section one, page 24 (Arabic) (page 23 of the electronic version), contains a commentary on the Hadith narrated by Imam Muslim in his Sahih on the authority of Sulayman ibn Buraydah on the authority of his father: «ادْعُهُمْ إِلَى التَّحْوِيلِ مِنْ دَارِهِمْ إِلَى دَارِ الْمُهَاجِرِينَ» **"Then invite them to migrate from their lands to the land of Emigrants (Muhajirin) and inform them that, if they do so, they shall have all the privileges and obligations of the Emigrants"**] End Quote.

It is understood from the preceding Hadith that those tribes who accepted Islam and then agreed to migrate to Medina, the abode of the emigrants, would have the same rights and obligations as those who had migrated before them. Those who did not accept to migrate would be like the Bedouin Muslims who lived in the desert surrounding Medina; they would be subject to the same laws as all believers, and they would not receive any share of the spoils of war or booty (Fai'). However, there is a point to consider here, as the statement on page 24 (and the abode of the emigrants was the abode of Islam with anything else being the abode of disbelief (Dar Al-Kufr). This statement implies that the abode of Islam is exclusively Al-Medina Al-Munawara, and the surrounding lands of the Bedouin Arabs are the abode of disbelief.

However, on page 14 of the same book, there is evidence indicating that the surrounding Bedouin lands are also the abode of Islam. This is explicitly stated where it says: [And listening to and obeying the Messenger of Allah is with regards to his orders and prohibitions, in other words, in respect to the implementation of laws. Another evidence is what Ahmad narrated, Ibn Hibban in his Sahih collection and Abu 'Ubayd in Al-Amwal by 'Abd Allah b. Amr from the Prophet who said: «وَالْهَجْرَةُ هَجْرَتَانِ: هَجْرَةُ الْحَاضِرِ وَالْبَادِي؛ فَأَمَّا الْبَادِي فَيُطِيعُ إِذَا أَمَرَ وَيُجِيبُ إِذَا دُعِيَ. وَأَمَّا الْحَاضِرُ فَأَعْظَمُهُمَا بَلِيَّةً وَأَعْظَمُهُمَا أَجْرًا.» **"There are two kinds of emigration, the emigration of the town dweller and the emigration of the Bedouin. As for the Bedouin, when he is called (to fight in Jihad) he must respond, and he must obey when he is commanded, and as for the town dweller, he is the one who is more severely tested and more greatly rewarded."** The angle of inference is clear from his words (saw) «فَيُطِيعُ إِذَا أَمَرَ وَيُجِيبُ إِذَا دُعِيَ» **"...he must respond and, must obey when he is commanded"** since the desert was part of the abode of Islam (Dar Al-Islam) even if it was not the abode of emigration (Dar Al-Hijrah). And accordingly with the evidence of the narration of Wathilah b. Al-Asqa' in Al-Tabarani, Al-Haythami said through a chain whose people are all trustworthy that the

they are an independent army with an independent flag, since for every squadron there is flag. So they were a Kafir squadron with an independent flag and from the Jewish Banu Qaynuqa who were of the rank of a State between whom and the Messenger were treaties. This was the reason for rejecting them, not merely because they were disbelievers with the evidence that he commanded them to return based upon this and their rejection of Islam not due to their rejection of Islam alone.

The Prophet (saw) turned back the group of Abdullah ibn Salam from the Banu Qaynuqa' because they came as a united force, a battalion of disbelievers, under their banner, as they were from the Banu Qaynuqa', with whom the Prophet had treaties and who were, in effect, a state. Therefore, he rejected them. Their rejection stemmed from their coming under their banner and within their state, as evidenced by his (saw) acceptance of the Jews' assistance in Khaybar when they came individually. This Hadith of Abu Humaid contains a legal l'la (divine reason); if it is present, the ruling applies, and if it is absent, the ruling does not. The l'la in the Hadith is evident in its text, for it states: «إذا كتبية قال: من هؤلاء؟ قالوا: بني قينقاع» **“When there was a squadron. He said: ‘Who are these?’ They said: ‘Banu Qaynuqa and they are the company of Abdullah bin Salam.”**

The Messenger (SAW) returned the company of Abdullah bin Salam of Banu Qaynuqa since they came as a nation (taifa) united in a Kafir squadron, and they came under their flag in their capacity as being from Banu Qaynuqa between whom and the Messenger were treaties; they were like a State. Due to this, he rejected them. Their rejection was due to their coming under their flag and with their State, by the evidence of his (SAW) accepting the assistance of the Jews in Khaybar when they came as individuals. This hadith of Abu Hameed As-Sa'idi includes the Shari'ah reason (illah), so if it exists the rule exists and if it is absent the rule is absent. The reason in the hadith is clear in the hadith's text where it says: “When there appeared an squadron. He said: Who are these? They said: **Banu Qaynuqa who are the company of Abdullah bin Salam.**” The meaning of their being a squadron is that they are an independent army with an independent flag, since for every squadron there is flag. So they were a Kafir squadron with an independent flag and from the Jewish Banu Qaynuqa who were of the rank of a State between whom and the Messenger were treaties. This was the reason for rejecting them, not merely because they were disbelievers with the evidence that he commanded them to return based upon this and their rejection of Islam not due to their rejection of Islam alone. This is strengthened by the hadith of Anas: **“Do not seek light by the fire of polytheists”** since it is (mutasallit) over the entity just as it is strengthened by the Messenger's accepting assistance from Quzman in the same place of the event of Uhud although he is a polytheist. The meaning of this is rejecting the assistance of disbelievers in their capacity as an entity, and accepting their assistance in their capacity as individuals. Therefore seeking assistance of disbelievers as a Kafir nation or tribe or State, and under their own flag as a part of their State is absolutely not allowed in any case. **[End quote].**

Another quote includes:

- [It is obligatory to implement the Islamic rules upon all those in Dar al-Islam under the rule of the Islamic State just like they are implemented upon Muslims equally, whether he is a dhimmi or mu'ahid or must'amin. The ruler is not given a choice in that; rather it is obligatory to implement the Islamic rules upon them without hesitation because Allah ta'ala said in relation to the People of the Book: ﴿فَاَحْكُم بَيْنَهُمْ بِمَا أَنْزَلَ اللَّهُ وَلَا تَتَّبِعْ أَهْوَاءَهُمْ عَمَّا جَاءَكَ مِنَ الْحَقِّ﴾ **“Rule/Judge between them with all that Allah revealed and do not follow their desires after the Truth came to you”** [Al-Ma'idah: 48].

He (swt) also says in relation to them: ﴿وَأَنْ أَحْكُم بَيْنَهُمْ بِمَا أَنْزَلَ اللَّهُ وَلَا تَتَّبِعْ أَهْوَاءَهُمْ وَاحْذَرْهُمْ أَنْ يَفْتِنُوكَ عَنْ بَعْضِ مَا أَنْزَلَ اللَّهُ إِلَيْكَ﴾ **“Rule between them with all that Allah revealed and do not follow their desires. And beware that they do not seduce you from just some of what Allah revealed to you”** [Al-Ma'idah: 49]. And He (swt) says: ﴿إِنَّا أَنْزَلْنَا إِلَيْكَ الْكِتَابَ بِالْحَقِّ لِتَحْكُمَ بَيْنَ النَّاسِ بِمَا أَرَاكَ اللَّهُ﴾ **“Verily We revealed to you the Book in truth so that you rule between the people with what Allah revealed”** [An-Nisa: 105]. This is general covering Muslims and

non-Muslims since the word “nas” (people) is general: ﴿لِتَحْكَمَ بَيْنَ النَّاسِ﴾ “...so that you rule between the people” [An-Nisa: 105]. As for the Supreme’s statement: ﴿سَمَاعُونَ لِلْكَذِبِ أَكَّالُونَ﴾ “Listeners to falsehood, eaters of illicit wealth (suht). If they come to you then rule between them or turn away from them” [Al-Ma’idah: 42], the meaning is those who come to the Islamic State from outside it to arbitrate to the Muslims in his dispute with another disbeliever or disbelievers. The Muslims are given a choice between ruling/judging between them or turning away from them. The ayah was revealed about those whom the Messenger of Allah (SAW) made a treaty with from the Jews of Madinah and they were tribes considered as other States, not inc in the Malysia book and were not subject to the Islamic rule, but were other states: accordingly there were treaties between him (saw) and them. Whereas if the disbelievers were submitting to the rule of Islam such as when they were dhimmis or they came must’amin submitting to the rule of Islam i.e. consenting to enter Dar al-Islam together with submitting to the rule of Islam like mu’ahids or must’amins, it is not allowed to rule between them except with Islam. Whoever among them refuses to return to the rule of Islam, the ruler compels him and punishes him because of it since he entered into a pledge with the condition of being bound by the rules of Islam whether it was the pledge of dhimmah or treaty or security without distinction between them as long as he is in Dar al-Islam.

The Messenger of Allah (saw) wrote to the people of Najran, and they were Christians «إن من بايع منكم بالربا فلا ذمة له» “Whoever among you contracts with riba then there is a no pledge (dhimmah) for him” (Narrated by Ibn Abi Shaibah). Ibn Umar narrated: «أن اليهود جاءوا إلى النبي ﷺ برجل وامرأة زنيا فأمر بهما فرجما» “The Jews brought to the Prophet (saw) a man and a woman who committed fornication, so he (saw) commanded that they were stoned.” (Reported by Al-Bukhari) Al-Bukhari also reported: «أن النبي ﷺ قتل يهودياً بجارية قتلها على أوضاع لها» “The Prophet (saw) killed a Jew for killing a girl in order to take her ornaments.”... These Jews were of the Muslims’ citizens, and what is apparent is that this was after the end of the Jewish entities and their being protected as citizens under the Muslims’ authority.] End of Quote.

2- After the elimination of the Jewish states surrounding Medina, the dominion of Islam extended to include the regions where these tribes resided, as well as the surrounding Bedouin/desert areas. However, the dominion of Islam did not encompass the Arabian Peninsula until some time later... Thus, the Bedouin around Medina became subjects of the state and its citizens, meaning they became subject to the authority and rulings of Islam... These are the ones whom the Noble Quran mentions in the words of Allah (swt): ﴿مَا كَانَ لِأَهْلِ الْمَدِينَةِ وَمَنْ حَوْلَهُمْ مِنَ الْأَعْرَابِ أَنْ يَتَخَلَّفُوا عَنْ رَسُولِ اللَّهِ وَلَا يَرْغَبُوا بِأَنفُسِهِمْ عَنْ نَفْسِهِ﴾ “It was not ‘proper’ for the people of Medina and the nomadic Arabs around them to avoid marching with the Messenger of Allah or to prefer their own lives above his” [At-Tawbah: 120]. And His (swt) saying: ﴿وَمَنْ حَوْلَكُمْ مِنَ الْأَعْرَابِ مُنَافِقُونَ وَمِنْ أَهْلِ الْمَدِينَةِ مَرَدُوا عَلَى النِّفَاقِ لَا تَعْلَمُهُمْ نَحْنُ نَعْلَمُهُمْ سَنُعَذِّبُهُمْ مَرَّتَيْنِ﴾ “Some of the nomads around you ‘believers’ are hypocrites, as are some of the people of Medina. They have mastered hypocrisy. They are not known to you ‘O Prophet’; they are known to Us. We will punish them twice ‘in this world’, then they will be brought back ‘to their Lord’ for a tremendous punishment” [At-Tawbah: 101]. And His (swt) saying: ﴿سَيَقُولُ لَكَ الْمُخَلَّفُونَ مِنَ الْأَعْرَابِ شَغَلَتْنَا أَمْوَالُنَا وَأَهْلُونَا فَاسْتَغْفِرْ لَنَا يَقُولُونَ بِأَلْسِنَتِهِمْ مَا لَيْسَ فِي قُلُوبِهِمْ قُلْ فَمَنْ يَمْلِكُ لَكُمْ مِنَ اللَّهِ شَيْئاً إِنْ أَرَادَ بِكُمْ ضَرّاً أَوْ أَرَادَ بِكُمْ نَفْعاً بَلْ كَانَ اللَّهُ بِمَا تَعْمَلُونَ خَبِيراً﴾ “The nomadic Arabs, who stayed behind, will say to you ‘O Prophet’, “We were preoccupied with our wealth and families, so ask for forgiveness for us.” They say with their tongues what is not in their hearts. Say, “Who then can stand between you and Allah in any way, if He intends harm or benefit for you? In fact, Allah is All-Aware of what you do” [Al-Fath: 11]. Including other additional verses.

The desert surrounding Medina was subject to the authority of Islam, and its inhabitants were subjects of the state. However, migration to Al-Medina Al-Munawarah

was not obligatory for them; rather, it was sufficient for them to submit to the state. They are the ones referred to in the “Introduction to the Draft Constitution, Part One” where it says:

[Another evidence is what Ahmad narrated, Ibn Hibban in his Sahih collection and Abu ‘Ubayd in Al-Amwal by ‘Abd Allah b. Amr from the Prophet (saw) who said: «وَالْهَجْرَةُ هَجْرَتَانِ هَجْرَةُ الْحَاضِرِ وَالْبَادِي فَيُطِيعُ إِذَا أُمِرَ وَيُجِيبُ إِذَا دُعِيَ وَأَمَّا الْحَاضِرُ فَأَعْظَمُهُمَا بَلِيَّةً وَأَعْظَمُهُمَا أَجْرًا.» “There are two kinds of emigration, the emigration of the town dweller and the emigration of the Bedouin. As for the Bedouin, when he is called (to fight in Jihad) he must respond, and he must obey when he is commanded, and as for the town dweller, he is the one who is more severely tested and more greatly rewarded.” The angle of inference is clear from his words (saw): «فَيُطِيعُ إِذَا أُمِرَ وَيُجِيبُ إِذَا دُعِيَ» “he must respond and, must obey when he is commanded”, since the desert was part of the abode of Islam (Dar Al-Islam) even if it was not the abode of emigration (Dar Al-Hijrah)].

These people were from the desert of Al-Medina Al-Munawarah and were subjects of the state under its authority... This is supported by what Abu Ubaid mentioned in the book of “Al-Amwal”:

[- Muhammad ibn Ja`far narrated to us, Shu`bah narrated to us, on the authority of `Amr ibn Murrah, on the authority of `Abdullah ibn al-Harith, on the authority of Abu Kathir al-Zubaydi Zuhayr ibn al-Aqmar, on the authority of `Abdullah ibn `Amr, on the authority of the Prophet (saw), who said: «الْهَجْرَةُ هَجْرَتَانِ: هَجْرَةُ الْبَادِي، وَهَجْرَةُ الْحَاضِرِ، فَأَمَّا هَجْرَةُ الْبَادِي فَعَلَيْهِ أَنْ يُجِيبَ إِذَا دُعِيَ» “There are two kinds of emigration, the emigration of the town dweller and the emigration of the Bedouin. As for the Bedouin, when he is called (to fight in Jihad) he must respond, and he must obey when he is commanded, and as for the town dweller, he is the one who is more severely tested and more greatly rewarded.”.

- Sa`id ibn `Ufayr told me: Sulayman ibn Bilal told me, on the authority of `Abd ar-Rahman ibn Harmalah, who said: I heard `Abdullah ibn Niyar al-Aslami say: I heard `Urwah ibn az-Zubayr narrating on the authority of `A`ishah, that the Messenger of Allah (saw) said – and `A`ishah mentioned the Bedouins in his presence – so He (saw) said: يَا عَائِشَةُ لَيْسُوا بِأَعْرَابٍ، هُمْ أَهْلُ بَادِيَتِنَا، وَنَحْنُ أَهْلُ حَاضِرَتِهِمْ، فَإِذَا دُعُوا أَجَابُوا، فَلَيْسُوا بِأَعْرَابٍ. “O Aisha, they are not Bedouins. They are the people of our desert, and we are the people of their city. So, if they are called upon, they will answer. They are not Bedouins”. Abu Ubaid said: I think that the Prophet (saw) made the name of migration obligatory for them through belief, even if they were in their places, except that the people of the city have their virtue as I informed you. This is something that clarifies for you that they have a right over the Muslims if they need that, whether that right is little or much, it is only according to what the Imam sees fit...] **End Quote.**

3- As for the rest of the deserts in the Arabian Peninsula that were not around Medina, they were not under the authority of Islam, and had not yet been included under the abode of migration and the abode of Islam until the rule of Islam extended to the entire Arabian Peninsula and became established there, so it all became the abode of Islam... And to such tribes in those deserts that were not under the authority of Islam, the Hadith of Sulayman ibn Buraydah mentioned in the book “Introduction to the Constitution, Part One,” when explaining Article 5 and Article 6 of the draft constitution, applies:

[These two articles have been drafted in order to explain the rules pertaining to those who carry the Islamic citizenship irrespective of whether they were Muslims or the people of Dhimmah (non-Muslim citizen of the Islamic State). As for the Muslims, this is due to the fact that the Messenger has denied the Muslims who live outside the Islamic State and who do not hold the Islamic citizenship from the rights enjoyed by the State’s subjects. On the authority of Sulayman Ibn Buraydah on that of his father who said: «كَانَ رَسُولُ اللَّهِ ﷺ إِذَا أَمَرَ أَمِيرًا عَلَى جَيْشٍ أَوْ سَرِيَّةٍ أَوْصَاهُ فِي خَاصَّتِهِ بِتَقْوَى اللَّهِ وَمَنْ مَعَهُ مِنَ الْمُسْلِمِينَ خَيْرًا، ثُمَّ قَالَ: اغْرُوا بِاسْمِ اللَّهِ فِي سَبِيلِ اللَّهِ، قَاتِلُوا مَنْ كَفَرَ بِاللَّهِ، اغْرُوا وَلَا تَغْلُوا وَلَا تَعْدُوا وَلَا تَمْتَلُوا وَلَا تَقْتُلُوا وَلِيدًا، وَإِذَا لَقِبْتَ عَدُوَّكَ مِنَ الْمُشْرِكِينَ فَادْعُهُمْ إِلَى ثَلَاثِ خِصَالٍ أَوْ خِلَالٍ، فَأَيَّتَهُنَّ مَا أَجَابُوكَ فَاقْبَلْ مِنْهُمْ وَكَفَّ عَنْهُمْ، ثُمَّ ادْعُهُمْ إِلَى التَّحْوِيلِ مِنْ دَارِهِمْ إِلَى دَارِ الْمُهَاجِرِينَ، وَأَخْبِرْهُمْ أَنَّهُمْ إِنْ فَعَلُوا ذَلِكَ فَلَهُمْ مَا لِلْمُهَاجِرِينَ وَعَلَيْهِمْ مَا عَلَى الْمُهَاجِرِينَ، فَإِنْ أَبَوْا أَنْ يَتَحَوَّلُوا مِنْهَا فَأَخْبِرْهُمْ أَنَّهُمْ

This text stipulates that migration is a condition for them to have the same rights and obligations as us, meaning that the state's laws apply to them. If they do not migrate, they do not have the same rights and obligations like us, therefore, the laws do not apply to them. Furthermore, the Prophet (saw) considered migration to the land of the Muhajireen a condition for their entitlement to spoils of war (Fai') and booty. All other forms of wealth are measured against this condition. Thus, those who do not migrate to the land of the Muhajireen are treated like non-Muslims in terms of being deprived of their wealth. This means that financial laws are not applied to them because they have not migrated to the land of the Muhajireen. The land of the Muhajireen was Dar Al-Islam, while all other lands were considered Dar Al-Kufr. Therefore, the Prophet (saw) would wage war against any land other than the land of the Muhajireen, considering it a land of war. However, if its inhabitants were Muslims, he would not fight or kill them, but rather invite them to come to Dar Al-Islam. If they were non-Muslims, he would fight them, as this Hadith indicates, and as is also indicated by what was narrated from Anas, who said: «كَانَ رَسُولُ اللَّهِ ﷺ إِذَا غَزَا قَوْمًا لَمْ يُغَزْ حَتَّىٰ يُصْبِحَ، فَإِنْ سَمِعَ أَذَانًا أَمْسَكَ، وَإِنْ لَمْ يَسْمَعْ أَذَانًا أَعَارَ بَعْدَمَا يُصْبِحُ» **“Whenever the Messenger of Allah (saw) wanted to attack a people, he would wait until dawn, if he heard the Adhan, he would refrain, and if he did not hear it, he would pray and then attack”** (Reported by Al- Bukhari)

The Prophet (saw) considered any land other than the land of the Muhajireen (i.e., any land other than the land of Islam) to be a land of war, even if Muslims lived there. In other words, it was Dar Al-Kufr, and its rulings were the same as those of a land of disbelief in terms of applying the laws, including financial rulings. The only difference between Muslims and non-Muslims in such a land was that Muslims were not to be fought, killed, or have their wealth seized, while non-Muslims were to be fought, killed, and have their wealth seized. Beyond that, the rulings were the same. This is the proof of the difference between a Dar Al-Kufr and Dar Al-Islam. Whoever lived in Dar Al-Kufr or Dar Al-Harb. So, whoever resides in Dar Al-Kufr or Dar Al-Harb and his allegiance is that of disbelief, then, all the rulings of Dar Al-Kufr applies to him, whether he is a Muslim or not, except that the Muslim is protected in blood and wealth]. **End Quote.**

This shows that at that time, Dar Al-Kufr contained tribes that had embraced Islam but were not subject to Islamic rule and were not part of Dar Al-Islam. Therefore, when the Prophet (saw) Dar Al-Kufr inhabited by such Muslim tribes, he would not launch an attack until he ascertained whether the tribe he intended to raid had converted to Islam. If they had, he would not attack them. This means that the raids were against tribes in Dar Al-Kufr that were not subject to Islamic rule and were not part of Dar Al-Islam, because Dar Al-Islam was not to be raided or attacked. Such tribes were required, if they converted to Islam, to move to Dar Al-Islam and not remain in Dar Al-Kufr.

4- After the expansion of Islamic rule and its encompassing of the entire Arabian Peninsula, the issue of these tribes moving to Dar Al-Islam became irrelevant because they naturally became subject to Islamic rule and part of Dar Al-Islam without having to leave their original lands.

I hope this answer is sufficient, and Allah Knows Best and Most Wise.

Your Brother,

Ata Bin Khalil Abu Al-Rashtah

9 Muharram 1448 AH

24 June 2026 CE

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

<https://www.facebook.com/AtaAboAlrashtah/posts/122142595527129051>