

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

Answer to Question

Dalalat Al-Iqtidha

To: Zahid Talib Na'eem

(Translated)

Question:

As-salam Alaikum Wa Rahmatullah Wa Barakatuh

Subject: Dalalat Al-Iqtidha

Our Eminent Sheikh, May Allah bless your efforts and guide your steps and aid you to what pleases and satisfies Him (swt)

In the book *The Islamic Personality "Ash-Shakhsyah"* Volume III on the topic (whatever leads to a Wajib is itself a Wajib) on page 44 (Arabic version) it states: "and whether the cause is Shar'i like the format regarding the obligatory freeing (of slaves)" as if he refers to the verse of *thihar*, in Allah's saying: ﴿وَالَّذِينَ يَظَاهِرُونَ مِنْ نِسَائِهِمْ ثُمَّ يَعُودُونَ لِمَا قَالُوا فَتَحْرِيرُ رَقَبَةٍ مِّن قَبْلِ أَنْ يَتَمَاسَا دَلِكُمْ تَوْعُظُونَ بِهِ وَاللَّهُ بِمَا تَعْمَلُونَ خَبِيرٌ * فَمَنْ لَّمْ يَجِدْ فَصِيَامَ شَهْرَيْنِ مُتَتَابِعَيْنِ مِنْ قَبْلِ أَنْ يَتَمَاسَا فَمَنْ لَّمْ يَسْتَطِعْ فَاطْعَامُ سِتِّينَ مِسْكِينًا ذَلِكَ لِتُؤْمِنُوا بِاللَّهِ وَرَسُولِهِ وَتِلْكَ حُدُودُ اللَّهِ وَلِلْكَافِرِينَ عَذَابٌ أَلِيمٌ﴾ **And those who pronounce thihar from their wives and then [wish to] go back on what they said - then [there must be] the freeing of a slave before they touch one another. That is what you are admonished thereby; and Allah is Acquainted with what you do. * And he who does not find [a slave] - then a fast for two months consecutively before they touch one another; and he who is unable - then the feeding of sixty poor persons. That is for you to believe [completely] in Allah and His Messenger"** [Al-Mujadala: 3-4].

Or the verse of expiation for killing by mistake in Allah's saying: ﴿وَمَا كَانَ لِمُؤْمِنٍ أَنْ يَقْتُلَ مُؤْمِنًا إِلَّا خَطَاً وَمَنْ قَتَلَ مُؤْمِنًا خَطَاً فَتَحْرِيرُ رَقَبَةٍ مُؤْمِنَةٍ وَدِيَّةٌ مُّسَلَّمَةٌ إِلَىٰ أَهْلِهِ إِلَّا أَنْ يَصَدَّقُوا فَإِنْ كَانَ مِنْ قَوْمٍ عَدُوًّا لَكُمْ وَهُوَ مُؤْمِنٌ فَتَحْرِيرُ رَقَبَةٍ مُؤْمِنَةٍ وَإِنْ كَانَ مِنْ قَوْمٍ بَيْنَكُمْ وَبَيْنَهُمْ مِيثَاقٌ فِدْيَةٌ مُّسَلَّمَةٌ إِلَىٰ أَهْلِهِ وَتَحْرِيرُ رَقَبَةٍ مُؤْمِنَةٍ فَمَنْ لَّمْ يَجِدْ فَصِيَامَ شَهْرَيْنِ مُتَتَابِعَيْنِ﴾ **And never is it for a believer to kill a believer except by mistake. And whoever kills a believer by mistake - then the freeing of a believing slave and a compensation payment presented to the deceased's family [is required] unless they give [up their right as] charity. But if the deceased was from a people at war with you and he was a believer - then [only] the freeing of a believing slave; and if he was from a people with whom you have a treaty - then a compensation payment presented to his family and the freeing of a believing slave. And whoever does not find [one or cannot afford to buy one] - then [instead], a fast for two months consecutively, [seeking] acceptance of repentance from Allah. And Allah is ever Knowing and Wise"** [An-Nisa: 92].

In the same book, Arabic version p. 182, it reads: (Dalalat Al-Iqtidha is the required meaning indicated by the text, so that it is a condition (Shart) for the indicated meaning by conformity.)

I was confused about two issues:

First: Why did he mention the condition (Shart) without the cause (sabab) when the format is a sabab regarding the obligatory freeing (of the slave), and it appears to me that the format is obligatory due to Dalalat Al-Iqtidha (required meaning indicated by the text)?

Second: Why did he mention conformity (Mutabaqa) and not partially (tadhamun)?

I hope that I have not burdened you with these questions, May Allah bless you.

Answer:

Wa Alaikum Assalam Wa Rahmatullah Wa Barakatuh

The first question: you ask why the condition (Shart) is mentioned in Dalalat Al-Iqtida (the required meaning indicated by the text), and the cause (Sabab) was not mentioned, as if you understood from the *Islamic Personality (Shakhsiyah)* in the example (free your servant from me) that it requires the condition of ownership, and thus the condition was adopted in the definition, and you understood from (whatever leads to a Wajib is itself a Wajib) in the example (like the format of obligatory freeing (of slaves) where he stated that the format is a cause (sabab) and thought that this is by Iqtida a cause, and wondered, then, why is the cause (Sabab) not mentioned in the definition of the meaning of Dalalat Iqtidha and is a cause (Sabab). And you asked why the cause is not mentioned in the definition of Al-Iqtidha as the condition (Shart) was mentioned. The answer is that it is different, and this is evident from the reality of Dalalat Al-Iqtidha (required meaning indicated by the text) and (whatever leads to a Wajib is itself a Wajib). This reality is different; Dalalat Al-Iqtidha is from the research of the language related to the Uttered words (Mantouq) and the understood words (Mafhoom) etc., but (whatever leads to a Wajib is itself a Wajib) is the fiqh principle i.e. a complete rule; they should not be confused together because Dalalat Al-Iqtidha (the required meaning indicated by the text) is understood by the standards of language, but the fiqh principle is understood according to the Shariah evidences that the principle is derived from i.e. both have basis that each is built on as is clear from their definition:

First: Dalalat Al-Iqtidha (the required meaning indicated by the text): The jurists have given Dalalat Al-Iqtidha the three important definitions:

- First: does not mention the condition (Shart) or cause (Sabab), but mentions the indication of commitment required by the uttered wording (Mantouq) of truth (Sidq) of the speaker or the correct occurrence of the wording (Lafz), and from these definitions are:

* In "Al-Ihkam Fi Usul Al-Ahkam" by Abu Al-Hassan Sayyid ud-Din Al-Aamadi [deceased: 631 AH]

[The first type Dalalat Al-Iqtidha: it is what is indicated but not explicitly by its format or state, and it is not free of: either to be expressive intended for the speaker, or unintended: if it was intended, it is not free of, either the sincerity of the speaker or the correctness of the wording uttered about it is stopped or does not stop; if it stopped the meaning of the word (lafz) is called Dalalat Al-Iqtidha...] And this is how it is mentioned in my book, *Tayseer Al-Wusool Ila Al-Usul*.

- The second maintained the same definition, but gave it more details, and the situation addresses the condition (Shart) only because it saw that the condition (Shart) is the first thing that comes to mind in the indication of commitment to the uttered wording, and others follow it by evidence. Therefore, when they gave the example of freeing the slave, they discussed the condition of freeing the slave which is ownership, and did not touch on the cause of ownership, which is the format because this is not reached in terms of Dalalat Al-Iqtidha, but by evidence. The example set is "Free your slave from me" is understood through Iqtidha as verification of ownership first to validate the freeing of the slave, and the cause (Sabab for holding the ownership in a certain format, this is understood from the Shariah evidences, and from these definitions are:

* In *Al-Mustasfa fi 'Ilm Al-Usul* by Abu Hamed Muhammad bin Muhammad Al-Ghazali At-Tusi (deceased: 505 AH) it states:

(The second art: that which is taken from words(alfaz) not from its format but rather from its content and reference, and they are five sections; the first: the so-called Iqtidha (the required meaning), which is indicated by the word (lafz), and is not spoken (mantouq), but it is required by the word (lafz) either in terms of the speaker cannot be truthful except by it, or the Shar'i words cannot exist without it, or it cannot be proven rationally without it. An example for what is proven to be Iqtida' (required meaning) to the meaning of the spoken words (mantouq) by Shariah is the saying: "Free your slave from me"; it includes the

ownership, and requires it, and it is not uttered, but the spoken words of freeing of the slave is a Shariah condition; the ownership precedes it, which is the requirement of the words (lafz))

And the same was mentioned in “Al-Bahar Al-Muheet Fi Usul AL-Fiqh” by Zarkashi (deceased 794 AH).

- The third preserved the two previous definitions, but detailed the condition more; he said that the condition of the meaning is what indicates it, by conformity and not partially. Among these definitions:

* According to “Al-Mahsoul fi ‘ilm Al-Usul” by Muhammad bin Omar bin Al- Hussein Al-Razi (606 AH):

(As for the division of Dalalat Al-Iltizam, (indication of the commitment), we say the meaning of the indication of the obligation, either to be taken from the meanings of the individual words or from their composition. And the first is divided into two sections because the meaning signified by the obligation is either a condition of the meaning intended by conformity or a subordinate to it. If it is the first, it is called Dalalat Al-Iqtida; the one with condition could be rational, as saying the saying of the Prophet (saw): «رفع عن أمتي الخطأ والنسيان» **error and forgetfulness are lifted from my nation**”, the mind (aql) indicated that this meaning is not valid unless we include in it a Shariah rule. It may be a Shar’i one like his saying; 'by Allah I will free this slave'. He needs to have ownership; otherwise, he cannot fulfill his Shariah words only after that (ownership).

As we said, the three definitions do not differ in general but in the details in terms of the condition (Shart).

In the *Islamic Personality* Volume 3, we saw that the definition according to language research is subject to the condition (Shart) and conformity (Mutabaqa), so we said:

* (Dalalat Al-Iqtidha must give the required meaning of the words, by it being a condition for the intended meaning by conformity, and that the mind requires it, and the Shariah could require it, either for truthfulness of the speaker or for the correctness of the occurrence of what is said; example the saying of Allah (swt) «قَاتِلُوا الَّذِينَ يَلُونَكُمْ» **“Fight those adjacent to you”** [At-Tawba: 123]. His saying: «قَاتِلُوا» **“Fight”** requires the collection of combat tools, weapons, equipment, training, etc. This is what is required by the mind; it is a condition for the validity of the occurrence of what is said: «قَاتِلُوا» **“Fight”**.

And as when you say to another 'Free your slave for me for a thousand dirhams', the required meaning from of the saying: 'free the slave by sale or gift', and that concept depends on the realization of this meaning by Shariah, as there is no freeing of a slave except for that owned by the son of Adam. As if it was said: 'sell or give (as a gift) this slave from me', then be my representative in freeing him. This is what is required by the Shar’i, which is a condition for the validity of the occurrence of the uttered which is «أعتق» **“free”** and like his saying (saw): «إِنَّ اللَّهَ وَضَعَ عَنِ أُمَّتِي الْخَطَأَ، وَالنَّسْيَانَ، وَمَا اسْتَكْرَهُوا عَلَيْهِ» **“Allah has lifted off my nation error, forgetfulness, and what they were coerced to do”** [Ibn Majah], i.e. removed the ruling of error, forgetfulness, and what they were forced to do. It is not believed that he put these same things considering they will occur definitely; this is what is required by the Shariah, for the need for the truthfulness of the speaker). As you can see, it is a complete definition of Dalalat Al-Iqtidha in all its aspects and Allah is the helper.

Second: The total ruling (whatever leads to a wajib is itself a wajib); its definition does not stop at the linguistic research, but goes beyond to the Shariah evidences. They studied the thing that needs to happen for the wajib to be accomplished, whether it is part of it or was out of it, such as the cause (Sabab), or condition (Shart) or obstruction (Mani’) and did not adhere to this by Dalalat Al-Iqtidha. They instead focused on the evidences. For example, when they gave an example in the chapter of (whatever leads to a wajib is itself a wajib), they said (whether the cause is legitimate (in Shariah), such as the obligatory freeing of the slave). Which is in the situation when the slave belongs to you, and you want to free it, the

ownership condition exists, and you want to understand the format; this is not understood from Al-Iqtidha, but it is necessary to base it on the evidence... and the difference is obvious between this example of being belonging to you and between the previous example in your statement (freed your slave from me), this is understood by Iqtidha, i.e. you must own the slave first otherwise you cannot free him if he belongs to someone else? Ownership is a condition (Shart) for the occurrence of the statement (mantouq).

And because the evidence is adopted here, and ijihad took place, this is why they disagreed on the thing that without it the wajib is not fulfilled; it was said that this thing must be a wajib if it is a cause (Sabab) or condition (Shart), if it is a cause and not a condition, if it was a condition and not a cause or neither this nor that, but by Tawaquf (stops at it). The breakdown of this is in "Al-Bahr Al-Muheet" "1/254" by Zarkashi (deceased 794 AH), as well as in "Sharh Al-Kawkab Al-Muneer" 1/182 by the author "Taqi ud-Din Abu Al-Baqa' Muhammad al-Futuhi Known as Ibn An-Najjar (deceased: 972 AH) and for those who want to know more, they can refer to it.

The most likely (understanding) to us is mentioned in the *Islamic Personality* Volume 3 , based on the evidence from which that principle is derived from, is that everything that is needed for the wajib to happen is itself a wajib, whatever it is: a cause or condition, and whatever its kind. Therefore, after we said in the definition "Whatever is needed for the wajib to be accomplished is two parts: that first is that the obligation is conditional on that thing, and the second is that the obligation is unconditional to it, i.e. to the thing. If the obligation is conditional on it, there is no dispute that getting the condition is not obligatory, but the obligation is what brought the evidence of its obligation, like the obligation of a certain prayer; it is conditional to achieve purity. Purity is not obligatory from the address of the prayer, but it is a condition to perform the obligation. The obligation in the address of prayer is prayer if the condition is found." After we explained the reality of the condition, we concluded the research by saying:

(The thing that without it the wajib is not accomplished is wajib, either by the address of the wajib is itself, or by another address, whether this thing is a cause, which its presence necessitates its existence and its absence its non-existence, or a condition, which its absence necessitates its non-existence, and its presence does not necessitates its existence or non-existence. Whether the cause is Shar'i, such as the format for the obligatory freeing of the slave, or rational, such as the gained view of wajib knowledge, or as normal as cutting the neck for the wajib killing, and whether the condition is also Shar'i, such as ablution (wudu), or rational, which is necessary for the one commanded with it rationally. Like leaving the opposite of what is ordered, or normal that is usually inseparable from it, like washing part of the head in wudu. The obligation of the thing obliges that which without it the wajib is not accomplished. That is, the assignment of the thing requires the commissioning of what is not done except by it, and hence the rule "whatever leads to a wajib is itself a wajib".) End

Thus, the answer to the first question as to why the condition was mentioned in the definition of Dalalat al-Iqtidha and not the cause is now clear, as mentioned above and I repeat it here:

(Because the condition is the first thing that comes to mind in the indication of commitment of the spoken words (mantouq) and others will be part of it by evidences, so when they set the example of freeing the slave, they touched on the condition of freeing the slave, which is ownership, and did not touch on the cause of ownership, which is the format because this is not reached by Dalalat Al-Iqtidha but by evidence. So the example they gave "Free your slave for me" is understood by Iqtidha and ensures ownership first to validate the freeing of the slave, and the cause for the ownership contract with a specific format is understood from the evidences).

As I know, the jurists did not introduce the cause (Sabab) in defining Dalalat Al-Iqtidha. This is the answer to the first question as I know and Allah is All Knowing and Most Wise.

The second question: Why does the definition include: (Dalalat Al-Iqtidha is what is required for the meanings of the words, and must be the condition of the meaning of the thing referred to by conformity). Mentioning conformity (Mutabaqa) and not partially (tadamun) is because the indication of the implication and the indication of commitment is a consequence of the indication of conformity, i.e. is not the original and here is the explanation:

1- The origin of indication is conformity (Mutabaqa), i.e, the indication of meaning of the word to the full meaning, and the word does not add to a part of the meaning "i.e. partial (tadamun)" only by the allocation or restriction, In other words, only due to a pressing cause according to the language research in this section.

2- Indication of commitment (iltizam) is the rational necessity of the meaning of the spoken word i.e. it is part of it, and since the origin in the indication of the word is the conformity, i.e. the exact meaning, this is how it is necessary part of it, that is, by the full meaning of "conformity". And because this is necessary as shown in the answer to the first question is a condition to implement the meaning of the spoken word (Mantouq); therefore, the definition of Dalalat Al-Iqtidha as stated in *Islamic Personality* Volume 3: (Dalalat Al-Iqtidha is what is required to get the meanings of the words, by being a condition to the meaning referred to by conformity).

This is quite evident in Al-Iqtidha. The thing required by the text, that is, the rational necessity of the text, can only be in conformity with full meaning and nothing is taken out from it except by text, for example:

- "Fight"... the rational necessary i.e. Dalalat Al-Iqtidha are the tools of fighting in the war in general with all the weapons possible and not only said by the sword, and others do not fall in the indication of commitment, or cannon and others, and does not enter into the commitment, and so, but rather by the full meaning of "conformity". Every possible type of weapon that can be used in war is included in the obligation.

- "And ask the village"... the rational necessary i.e. Dalalat Al-Iqtidha is the people of the village. The brothers of Yusuf, peace be upon him, said to their father to prove the truthfulness of their words by asking the people of the village and it is in full meaning, i.e. ask whomever from the people of the village to see the validity of our saying. It does not make sense that Yusuf's brothers wanted their father to ask part of the people of the village and it is forbidden to ask the other part because it would be an argument against them and in their favour, where they had wanted their father to ask specific people who agree with them!

The meaning therefore changes. Thus, Dalalat Al-Iqtidha "الأهل" "the people" is the full meaning by "conformity"

- 'Free your servant from me': the rational necessity is that you own him then you free him, and the ownership here is that you have full ownership to be allowed to free him, i.e. by conformity, "full meaning" and so on

Thus, the meaning of the "rational necessity of the spoken word (Mantouq)" must be by conformity, that is, in the full meaning and nothing is excluded from it except by text and not part of the meaning, i.e. Tadamun (partial).

I hope that in this answer is the sufficiency and Allah Knows Best and is Most Wise.

**Your brother,
Ata Bin Khalil Abu Al-Rashtah**

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

<https://web.facebook.com/AmeerhtAtabinKhalil/photos/a.122855544578192/1158804927649910/?type=3&theater>