

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 Page (Fiqhi)

Answer to Question

**The Rule of “There Should be No Harming nor Reciprocating of Harm”
and its Relationship to Coronavirus Disease and Distancing in Prayer**

To: Mokliss Amin

(Translated)

Question:

Assalam Alaikum

I did not get the answer to the first question, and here I am attaching it to a second question, which has the priority:

Our honorable Sheikh, may Allah bless you:

I need your help (in explaining) the rule of harming and reciprocating of the harm.

According to what is mentioned in the book, *The Islamic Personality* (Shakhsiyah Islamiya) Volume Three (according to my understanding)

Is the harm related to things and not actions, if it is not so, then is it correct to apply the rule of harm to the Coronavirus epidemic and to allow the distancing in prayer because of the possibility of presence of harm, i.e. being contagious?

Please, provide some details for use as evidence.

Answer:

Wa Alaikum Assalam Wa Rahmatullah Wa Barakatuh

We have detailed the topic of the rule of harm in the book, *The Islamic Personality* (Shakhsiyah Islamiya) Volume Three, page 471-475 [Word file]:

[The rule of harm includes two matters: one of them is that the thing itself is harmful, and there is no evidence in the speech of the legislator of a request to do it, a request to leave it, or a choice about it, therefore being harmful itself is an evidence of its prohibition; because the legislator has prohibited harm. And its rule is: “The basic principle with regard to harm is that it is prohibited.”

As for the second matter, it is that the legislator has permitted the general thing, but there is harm in one of the parts of that which is permissible, so the fact that that part is harmful or leads to harm is an evidence of its prohibition. Because the legislator has prohibited the part of permissible parts, if that part is harmful or leads to harm. And its rule is: “Every part of the permissible, if it is harmful or leads to harm, then that part is prohibited and the matter remains permissible.”

As for the first rule, its evidence is his (saw) saying, peace: «لَا ضَرَرَ وَلَا ضِرَارَ فِي الْإِسْلَامِ» “**There should be no harming nor reciprocating harm in Islam.**” Extracted by At-Tabarani. Abu Dawud extracted from the Hadith of Abu Sirmah Malik bin Qais al-Ansari said: The Messenger of Allah (saw) said: «مَنْ ضَارَّ أَضَرَ اللَّهُ بِهِ، وَمَنْ شَاقَّ شَاقَّ اللَّهُ عَلَيْهِ» “**Whoever harmed, Allah will harm him. And whoever is hard (on people), Allah will be hard on him**”. These two Hadiths are evidence that the legislator has forbidden harm ...

As for the second rule, its evidence is that: «قَدْ كَانَ رَسُولُ اللَّهِ ﷺ حِينَ مَرَّ بِالْحَجْرِ، نَزَلَهَا، وَاسْتَقَى النَّاسُ مِنْ بَنِيهَا، فَلَمَّا رَاحُوا قَالَ رَسُولُ اللَّهِ ﷺ: لَا تَشْرَبُوا مِنْ مَانِهَا شَيْئًا، وَلَا تَتَوَضَّعُوا مِنْهُ لِلصَّلَاةِ، وَمَا كَانَ مِنْ عَجِينٍ عَجَنْتُمُوهُ فَأَعْلَفُوهُ الْإِبِلَ، وَلَا تَأْكُلُوا مِنْهُ شَيْئًا، وَلَا يَخْرُجَنَّ أَحَدٌ مِنْكُمْ اللَّيْلَةَ إِلَّا وَمَعَهُ صَاحِبٌ لَهُ...» “The Messenger of Allah

(saw) when he passed by Hijr, he landed, the people drank from its well, and when they went, the Messenger of Allah (saw) said: Do not drink anything from its water, and do not perform ablution from it. Any dough you kneaded, feed it to your camels and do not eat anything from it, and none of you go out tonight except with a companion ...” Narrated by Ibn Hisham in his biography. In this story, we can see how the Messenger (saw) prohibited part of the permissible, so drinking water is permissible, but the Messenger (saw) forbade them to drink this water from the well of Hijr, and prohibited ablution from it. It is permissible for a person to go out at night alone, but the Messenger (saw) forbade them on that night to go out without a companion, then it became clear that he only forbade this water because of the harm proven to him in it, and he forbade going out alone because of the harm proven to him ... the presence of harm does not prohibit what is permitted by Shariah, but the presence of harm in one of its parts forbids that part, but the matter remains permissible, **whether it is an action or a thing.**

This is if that permissible part is harmful, but if it leads to harm, then the evidence for it is what has been narrated: «أَنَّ رَسُولَ اللَّهِ ﷺ أَقَامَ بِبَنِيكَ بِضَعِّ عَشْرَةَ لَيْلَةً لَمْ يُجَاوِزْهَا، ثُمَّ انصَرَفَ قَافِلًا إِلَى الْمَدِينَةِ، وَكَانَ فِي الطَّرِيقِ مَاءً يَخْرُجُ مِنْ وَشَلٍّ، مَا يُرَوِي الرَّكَّابَ وَالرَّاكِبِينَ وَالثَّلَاثَةَ، بِوَادٍ يُقَالُ لَهُ وَادِي الْمُشَقَّقِ، فَقَالَ رَسُولُ اللَّهِ ﷺ: مَنْ سَبَقَنَا إِلَى ذَلِكَ الْوَادِي فَلَا يَسْتَقِينُ مِنْهُ شَيْئًا حَتَّى نَأْتِيَهُ...» **The Messenger of Allah (saw) stayed for just over ten nights, not more, then he left returning to Madinah, and there was water on the way flowing from between rocks enough to quench the thirst of a rider, two riders, and three riders in a valley called Wadi al-Mushaqq. Then the Messenger of Allah (saw) said: Whoever precedes us to that valley should not drink anything from it until we arrive.”** Ibn Hisham narrated in his biography. In this hadith, the Messenger (saw) forbade drinking that little water, because it leads to the army’s thirst, he (saw) said: «مَنْ سَبَقَنَا إِلَى ذَلِكَ الْوَادِي فَلَا يَسْتَقِينُ مِنْهُ شَيْئًا حَتَّى نَأْتِيَهُ» **“Whoever precedes us to that valley should not drink anything from it until we arrive.”** And cursing those who drank from it, is evidence that it is forbidden to draw from it until he (saw) arrives, so drinking from water is permissible, and to drink from that water in the valley has no harm, however drinking from it before the Prophet’s presence and dividing it among the army leads to depriving the army, meaning it leads to harm, so he (saw) prohibited drinking from that valley until his arrival ...

Therefore, the fact that a thing leads to harm it does not prohibit what is permitted by the Shariah, but rather the fact that one of its parts leads to harm then only that part is prohibited, but the matter remains permissible, **whether it is an action or a thing.** So, these hadiths in these two cases: the case that a thing is harmful, and the case that the thing leads to harm, the second rule is derived from it, which is: “Every part of the permissible, if it is harmful or leads to harm, that part is forbidden and the matter remains permissible” and it is the second matter of the two matters of the harm rule...] **End of quote.**

By considering the two-part harm rule, it turns out that it does not apply to what you mentioned about Corona in your question in terms of distancing for the following reasons:

1- As for the first section of the rule, it requires that there be no text for doing that thing, or not doing it, or choosing to do it, and if there is a text, then the text is adopted without bypassing it to discuss the harm ... and this does not apply to distancing because there is a text about drawing up in rows, meaning that there is a prohibition of distancing, so this section of the rule is not applied to it under the pretext of harm.

2- As for the second part of the rule, the matter must be permissible, then there is a prohibition in part of it. Regarding drawing up in rows there are texts commanding it to be obligatory or recommended, meaning it is not permissible, therefore it is outside the application of the rule.

3- Accordingly, the rule of harm (Dharar) is not applied here, rather the Shariah ruling is sought regarding prayer in the mosque in terms of drawing up in rows ... so it becomes clear that the Messenger obliged the Friday prayer and permitted the patient not to go to the Friday prayer or congregational prayer if he was sick:

﴿يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا نُودِيَ لِلصَّلَاةِ مِنْ يَوْمِ الْجُمُعَةِ فَاسْعَوْا إِلَىٰ ذِكْرِ اللَّهِ وَذَرُوا الْبَيْعَ ذَلِكُمْ خَيْرٌ لَكُمْ إِنْ كُنْتُمْ تَعْلَمُونَ﴾
a- Friday prayer is an obligation because of the saying of Allah (swt): **“O you who have believed, when [the adhan] is called for the prayer on the day of Jumu'ah [Friday], then proceed to the remembrance of Allah and leave trade. That is better for you, if you only knew”** [Al-Jumu'a: 9]. Here the prohibition against permissible (selling) and to proceed for Friday prayer, this is a decisive Qareena that Friday is obligatory.

b- The evidence that the sick person is exempted from the obligation of going to the Friday prayer, is what Al-Hakim extracted from Abu Musa from the Prophet (saw) who said: **«الْجُمُعَةُ حَقٌّ وَاجِبٌ عَلَىٰ كُلِّ مُسْلِمٍ فِي جَمَاعَةٍ إِلَّا أَرْبَعَةً: عَبْدٌ مَمْلُوكٌ، أَوْ امْرَأَةٌ، أَوْ صَبِيٌّ، أَوْ مَرِيضٌ»** **“The Friday prayer in congregation is an obligatory duty upon every Muslim, with the exception of four: a slave, a woman, a child and a sick person.”** Al-Hakim said: This Hadith is Sahih on the condition of Al-Shaikhain and did not extract it. Also An-Nasa'i extracted from Ibn Ummar from Hafsa the Prophet's wife (saw): that the Prophet (saw) said: **«رَوَّاحُ الْجُمُعَةِ وَاجِبٌ عَلَىٰ كُلِّ مُخْتَلِمٍ»** **“Bathing on Friday is obligatory on everyone who has reached puberty.”**

4- The text regarding drawing up in rows is clear of its requirement, Muslim extracted in his sahih from Jabir bin Samura, he said, the Prophet (saw) said **«أَلَا تَصْفُونَ كَمَا تَصِفُ الْمَلَائِكَةُ عِنْدَ رَبِّهَا؟»** **“Why do you not draw yourselves up in rows as the angels do in the presence of their Lord?”** We asked, **“Messenger of God, how do the angels draw themselves up in rows in the presence of their Lord?”** He replied, **“They make the first rows complete and keep close together in the row.”**

Extracted by Ahmad from Abdullah ibn Umar that the Messenger (saw) said: **«أَقِيمُوا الصُّفُوفَ فَإِنَّمَا تَصْفُونَ بِصُّفُوفِ الْمَلَائِكَةِ وَحَادُوا بَيْنَ الْمَنَابِغِ وَسُدُّوا الْخَلَلَ وَلِيْنُوا فِي أَيْدِي إِخْوَانِكُمْ وَلَا تَذَرُوا فُرْجَاتٍ لِلشَّيْطَانِ الصُّفُوفَ فَإِنَّمَا تَصْفُونَ بِصُّفُوفِ الْمَلَائِكَةِ وَحَادُوا بَيْنَ الْمَنَابِغِ وَسُدُّوا الْخَلَلَ وَلِيْنُوا فِي أَيْدِي إِخْوَانِكُمْ وَلَا تَذَرُوا فُرْجَاتٍ لِلشَّيْطَانِ»** **“Set the rows in order, stand shoulder to shoulder, close the gaps, be pliant in the hands of your brethren, and do not leave openings for the devil. If anyone joins up a row, Allah will join him up, but if anyone breaks a row, Allah will cut him off.”**

5- We have already issued several detailed answers on this subject, and I will only remind you of two answers on this topic:

The first was on 17 Shawwal 1441 AH corresponding to 8/6/2020 CE

Second: Accordingly, if the countries in the Muslim countries compel the worshipers to separate one or two meters from the one beside them, whether on Friday or in congregation for fear of contagion, especially without pathological symptoms, then they commit a great sin where this spacing is an innovation, because it is a violation, as it is a clear deviation of the method of making the rows and keeping close together as revealed by the Messenger of Allah (saw) by the Shari' (legal) evidence...

Third: It is not said that contagious disease is an excuse that permits distancing in prayer, because contagious disease is an excuse not to go to the mosque and not an excuse to go and be at one or two meters apart from the worshiper beside him!! Because infectious diseases (the plague) occurred during the era of the Messenger of Allah (saw) and it was not reported from the Messenger Allah (saw) that the plagued patient goes to pray and keeps two meters away from his brother, but is excused and prays in his home... That is, the patient with an infectious disease does not mix with healthy people and is provided with adequate treatment, by the permission of Allah. As for the healthy one, he goes to the mosque and prays Friday and congregation prayers as usual, without distancing. [17 Shawwal 1441 AH corresponding to 8/6/2020 CE] **End.**

The second answer on 14/10/2020 CE, and I quote from it:

It is clear from all of the above that Friday (prayer) is Fard Ain (individual obligation) and that it must be performed according to the method prescribed by the Messenger of Allah

(saw) with its pillars (Arkan), conditions of its correctness and making the rows according to the Shari' manner, as we have shown in our previous answers... The prevention by the authority of performing the prayer in this way is a great sin that falls on the shoulders of the authority, whether that is by the state closing mosques or by preventing its performance in the Shari' manner...

And because Friday (prayer) is an individual obligation, every legally responsible (mukallaf) Muslim is obligated to seek it and perform it in the Shari' manner, with its pillars, conditions of its correctness, and keeping rows close together... etc. And if the individual is not able due to a physical impediment or an unjust ruler who prevents the performance of Friday prayers in the Shari' manner, rather he forces the worshipers to innovate by imposing separation, and the worshiper is not able to prevent that, then one should perform it according to his ability, and the unjust ruler bears the sin...

The Messenger (saw) said, as reported by Al-Bukhari and Muslim, may Allah have mercy on them, on the authority of Abu Hurairah, may Allah be pleased with him: «وَإِذَا أَمَرْتُكُمْ بِأَمْرٍ فَأَتُوا مِنْهُ مَا اسْتَطَعْتُمْ» **“so if I give you a command do it to the best of your ability”** and the wording is of Al-Bukhari ... Therefore, if a Muslim is able to perform Friday Prayer (individual obligation) in straight rows close together then it should be performed in this manner because separation is an innovation as long as he can avoid it. But if he is not able by the act of sinful authority, then he should pray in the manner that is possible for him. Al-Nawawi, (deceased: 676 AH) said in his book, Al-Minhaj Sharh Sahih Muslim Ibn Al-Hajjaj in explaining of this hadith in the wording of Muslim: On the authority of Abu Hurayrah, the Messenger of Allah (saw) said: ... «فَإِذَا أَمَرْتُكُمْ بِأَمْرٍ فَأَتُوا مِنْهُ مَا اسْتَطَعْتُمْ» **“so if I give you a command do it to the best of your ability.”** Al-Nawawi said in his explanation: «فَإِذَا أَمَرْتُكُمْ بِأَمْرٍ فَأَتُوا مِنْهُ مَا اسْتَطَعْتُمْ» **“so if I give you a command do it to the best of your ability”**) this is from the important rules of Islam and the words which are concise but comprehensive in meaning that were given to the Prophet (saw) and include under it countless provisions such as prayer (salah) of all kinds. If a person is unable to perform some of its pillars (Arkan) or some of the conditions (*shoroot*) he should perform the rest ... Allah Knows Best] **End.**

I hope that this is satisfactory regarding the subject of Friday prayers.

In conclusion: healthy people should perform the obligatory Friday prayer, and the sick person is excused, so he does not go, and if his illness is contagious, then not going to Friday is certain, and for the sake of precaution and taking care of affairs, the state places health units near the mosques on Fridays to deal with any emergency situations.

As for your question about the rule of harm if it is related to a thing or action, it is related to the two matters as we mentioned in what we have quoted from the book of the Islamic Shakhsiyah, Volume Three, “The Rule of Harm,” and we have highlighted the phrase **“whether it is an action or a thing”** in the text that we have quoted to confirm that.

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

Your Brother,

Ata Bin Khalil Abu Al-Rashtah

9 Shawwal 1442 AH

21/5/2021 CE

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

<https://web.facebook.com/HT.AtaabuAlrashtah/posts/2937777199801618>