

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

## **With the Appearance of True Dawn, It Becomes Forbidden for the Fasting Person to Eat and Drink**

To: Ahmad Aghous S Jember

(Translated)

### **Question:**

Assalam Alaikum Wa Rahmatullah Wa Barakatuh,

O my Sheikh, Sheikh Ata bin Khalil Abu Rashtah, Ameer of Hizb ut Tahrir, may Allah preserve and protect you.

A member in Indonesia issued a fatwa stating that eating and drinking during the call to prayer for Fajr (the true dawn) in Ramadan is permissible, as the true dawn has arrived. He cited the Hadith: On the authority of Abu Hurairah (may Allah be pleased with him), who said: The Messenger of Allah (saw) said: «إِذَا سَمِعَ أَحَدُكُمْ النِّدَاءَ وَالْإِنَاءَ عَلَى يَدِهِ فَلَا يَضَعُهُ حَتَّى يَفْضِي حَاجَتَهُ مِنْهُ». **“If one of you hears the call to prayer while the vessel is in his hand, let him not put it down until he has finished his need from it.”** The member argued that the word **“call to prayer”** in the Hadith refers to the call of Abdullah ibn Maktum, which signifies the arrival of the true dawn.

Doesn't his fatwa contradict what the party has adopted for two reasons? They are:

1- It contradicts the meaning of the concept of limit in determining the time of abstention. In his book "The Islamic Personality," Volume 3, it states, "The concept of a limit is the connection of a ruling to a limit. If a ruling is restricted to a limit, it indicates the negation of the ruling after that limit..."

2- It contradicts the principle of reconciling conflicting evidence. An-Nabhani, may Allah have mercy on him, said in "The Islamic Personality," Volume 3, "If two texts conflict, one is only given precedence over the other if it is impossible to act upon either one. If it is possible, even partially, then one should not be given precedence, because acting upon both pieces of evidence is preferable to completely disregarding one of them"...

We request clarification, and may Allah reward you. Ahmad Aghous

### **Answer:**

Wa Alaikum Assalam Wa Rahmatullah Wa Barakatuh

1- There is no doubt that fasting begins with the appearance of true dawn, as Allah (swt) says: «وَكُلُوا وَاشْرَبُوا حَتَّى يَتَبَيَّنَ لَكُمُ الْخَيْطُ الْأَبْيَضُ مِنَ الْخَيْطِ الْأَسْوَدِ مِنَ الْفَجْرِ ثُمَّ أَتَمُوا الصِّيَامَ إِلَى اللَّيْلِ» **“You may eat and drink until you see the light of dawn breaking the darkness of night, then complete the fast until nightfall”** [Al-Baqarah: 187].

And the Prophet (saw) said in the Hadith narrated by Al-Bukhari on the authority of Abdullah bin Umar, may Allah be pleased with them both, who said: The Prophet (saw) said: «إِنَّ بِلَالَ يُؤَدِّنُ بِلَيْلٍ فَكُلُوا وَاشْرَبُوا حَتَّى يُؤَدِّنَ أَوْ قَالَ حَتَّى تَسْمَعُوا أَذَانَ ابْنِ أُمِّ مَكْتُومٍ» **“Bilal calls the Adhan at night, so eat and drink until he calls the Adhan, or he said until you hear the Adhan of**

**Ibn Umm Maktum.**” Ibn Umm Maktum was a blind man who would not call the Adhan until the people told him, “It is morning.” Al-Bukhari and Muslim narrated, and the wording is Al-Bukhari's, on the authority of Abdullah ibn Mas'ud, on the authority of the Prophet (saw), who said: «لَا يَمْنَعَنَّ أَحَدُكُمْ - أَوْ أَحَدًا مِنْكُمْ - أَدَانُ بِلَالٍ مِنْ سَحُورِهِ، فَإِنَّهُ يُؤَدِّنُ - أَوْ يُنَادِي بِلَيْلٍ - لِيَرْجِعَ قَائِمَكُمْ، وَلِيُنَبِّئَهُ نَائِمَكُمْ، وَلَيْسَ أَنْ يَقُولَ الْفَجْرُ - أَوْ الصُّبْحُ -» وَقَالَ بِأَصَابِعِهِ وَرَفَعَهَا إِلَى فَوْقِ وَطْأَطَأَ إِلَى أَسْفَلٍ حَتَّى يَقُولَ هَكَذَا وَقَالَ زُهَيْرٌ: «بِسَبَابَتَيْهِ إِحْدَاهُمَا أَنْ يَقُولَ الْفَجْرُ، ثُمَّ مَدَّهَا عَنْ يَمِينِهِ وَشِمَالِهِ» “Let not the call to prayer of Bilal prevent any of you from eating your pre-dawn meal, for he calls to prayer at night so that those of you who are standing in prayer may return, and so that those of you who are sleeping may be awakened. He does not say 'dawn' or 'morning'." And he indicated this with his fingers, raising them upwards and lowering them downwards, until he said... Thus, Zuhair said: “With his two forefingers, one above the other, then he extended them to his right and left.”

Ibn Hajar said in Fath al-Bari when explaining this noble Hadith: (...and dawn usually comes after sleep, so it is fitting that someone be appointed to wake people up before its time so that they may prepare and attain the virtue of the early hour, and Allah knows best... and likewise his saying, "And he pointed with his fingers and raised them," meaning he indicated... his saying, "upwards, (Fouqu)" with the (Dham Ala Al Bina'), and likewise "below, (Asfalu)"... and it is as if he joined his two fingers together and then separated them to describe the true dawn, because it rises horizontally and then spreads across the horizon, going right and left, unlike the false dawn, which the Arabs call the tail of the wolf, because it appears at the top of the sky and then descends. To that he referred when he said, “He raised and lowered his head...” and horizontally, meaning wide and horizontal.

Similarly, as narrated by Al-Tirmidhi in his Sunan on the authority of Ibn Abbas, that the Prophet (saw) said: «أَمَنِي جِبْرِيلُ عَلَيْهِ السَّلَامُ عِنْدَ الْبَيْتِ مَرَّتَيْنِ... ثُمَّ صَلَّى الْمَغْرِبَ حِينَ وَجِبَتْ الشَّمْسُ وَأَفْطَرَ الصَّائِمُ...» “Jibreel (peace be upon him) led me in prayer at the Kaaba twice... Then he prayed Maghrib when the sun had set and the fasting person broke their fast... Then he prayed Fajr when the dawn broke and food became forbidden for the fasting person...” Al-Tirmidhi said: The Hadith of Ibn Abbas is a sound and authentic Hadith.

**Therefore, with the appearance of true dawn, it becomes forbidden for the fasting person to eat, drink, and do anything else that breaks the fast. Whoever eats or drinks after the appearance of true dawn, or does any other thing that breaks the fast intentionally and without a valid excuse, commits a grave sin. His fast is invalidated, and he must make up that day on which he broke his fast.**

2- The Hadith mentioned in the question about eating or drinking upon hearing the call to prayer while holding a vessel is found in the books of many Hadith scholars, including:

a- Narrated by Abu Dawud in his Sunan: On the authority of Abu Hurairah, who said: The Messenger of Allah (saw) said: «إِذَا سَمِعَ أَحَدُكُمْ النَّدَاءَ وَالْإِنَاءَ عَلَى يَدِهِ فَلَا يَضَعُهُ حَتَّى يَقْضِيَ حَاجَتَهُ مِنْهُ» “If one of you hears the call to prayer while holding a vessel, he should not put it down until he has finished his need from it.”

b- Narrated by Al-Hakim in his Mustadrak: On the authority of Abu Hurairah, who said: The Messenger of Allah (saw) said: «إِذَا سَمِعَ أَحَدُكُمْ النَّدَاءَ وَالْإِنَاءَ عَلَى يَدِهِ فَلَا يَضَعُهُ حَتَّى يَقْضِيَ حَاجَتَهُ مِنْهُ» “If one of you hears the call to prayer while holding a vessel, he should not put it down until he has finished his need from it.” Al-Hakim said: “This is an authentic Hadith according to the criteria of Muslim, but they (Bukhari and Muslim) did not extract it.” Al-Dhahabi commented on it in Al-Talkhees, saying: “According to the criteria of Muslim”.

c- It was narrated by Ahmad in his Musnad: On the authority of Abu Hurairah, on the authority of the Prophet (saw), who said: «إِذَا سَمِعَ أَحَدُكُمْ النَّدَاءَ وَالْإِنَاءَ عَلَى يَدِهِ فَلَا يَضَعُهُ حَتَّى يَقْضِيَ حَاجَتَهُ»

« مِنْهُ » **“If one of you hears the call to prayer while the vessel is in his hand, he should not put it down until he has finished his need from it.”** Rawh narrated to us, Hammad narrated to us, on the authority of Ammar ibn Abi Ammar, on the authority of Abu Hurairah, on the authority of the Prophet (saw), something similar, and he added to it: **“And the muezzin would call the adhan when dawn broke.”**

**This noble Hadith is acceptable and can be relied upon based on its chain of transmission. It suffices that al-Hakim said it meets the criteria of Muslim, and al-Dhahabi agreed with him that it meets the criteria of Muslim.**

3- Upon examining the aforementioned Hadith, it appears more likely that the call referred to is the call when dawn broke, i.e., the call to prayer at which one must begin fasting, specifically the call to prayer of Ibn Umm Maktum (may Allah be pleased with him), and not the call to prayer of Bilal (may Allah be pleased with him). This is because eating and drinking are permissible during and after Bilal's call to prayer, as the Prophet (saw) explained: « إِنَّ بِلَالَ يُؤَدِّنُ بِلَيْلٍ فَكُلُوا وَاشْرَبُوا حَتَّى يُؤَدِّنَ أَوْ قَالَ حَتَّى تَسْمَعُوا أَذَانَ ابْنِ أُمِّ مَكْتُومٍ » **“Bilal calls to prayer at night, so eat and drink until he calls to prayer,”** or he said, **“until you hear the call to prayer of Ibn Umm Maktum.”** Bilal's call to prayer was at night, i.e., before dawn, which is not the Shariah prescribed time for beginning the fast. Therefore, it is not correct to interpret the Prophet's (saw) words, « إِذَا سَمِعَ أَحَدُكُمْ النِّدَاءَ وَالْإِنَاءَ عَلَى يَدِهِ فَلَا يَضَعُهُ حَتَّى يَقْضِيَ » **“If one of you hears the call to prayer while the vessel is in his hand, let him not put it down until he has finished His need from it”** as referring to the call to prayer of Ibn Umm Maktum.

It is not correct to assume that what is meant is Bilal's adhan (call to prayer), because there is no meaning to the permission not to put the vessel down from the hand and to take what is needed from it in relation to Bilal's call to prayer, since it is permissible to eat during Bilal's call to prayer, or even after it for a period of time without any problem... Also, Ahmad's narration contains: **“And the muezzin would call to prayer when dawn broke.”** So, the more likely interpretation is that what is meant is Ibn Umm Maktum's call to prayer, not Bilal's call to prayer, may Allah be pleased with them.

4- The Hadith's text about the vessel seems to contradict numerous Islamic texts that stipulate the beginning of dawn as the time for abstaining from food and drink. Is it possible to reconcile this Hadith with other texts indicating the prohibition of eating and drinking at the time of dawn?

**The answer is that applying all evidence is preferable to neglecting any of them. Since the Hadith about the vessel is considered authentic, the principle is that it should not be rejected but rather acted upon if it can be reconciled with the texts that seem to contradict it. My preferred approach to reconciling it with other texts is:**

Abstaining from food and drink begins at the true dawn call to prayer (adhan), and eating and drinking at that time is not permissible.

There is a specific exceptional case in which the Prophet (saw) permitted the fasting person to drink or eat if he heard the call to prayer, which is: **If the call to prayer came upon him suddenly, meaning that he did not recognize the true dawn broke, and he did not hear the call to prayer, while he was holding a vessel in his hand to eat or drink from, because he thought that the time for abstaining from food and drink had not yet begun. Then, before he could take what he needed from the vessel of drink or food, and while he was about to do so, he suddenly heard the voice of the muezzin calling the dawn prayer.**

This situation, with its three conditions above, **especially (the word “suddenly” which means that he did not expect the time has come)**, is one in which the Messenger of Allah (saw) permitted him to drink from the vessel in his hand or eat from it. This is supported by what Imam Ahmad narrated in his Musnad on the authority of Musa, who said: Ibn Lahi’a told us on the authority of Abu al-Zubayr, who said: I asked Jabir about a man who wants to fast and the vessel is in his hand to drink from it, and he hears the call to prayer. Jabir said: We were told that the Prophet (saw) said: **“Let him drink.”** This is a dispensation for an exceptional case: (A man intends to fast and has a vessel in his hand to drink from, but then he hears the call to prayer). So, he was given permission: **“Let him drink”**.

**But it is not permissible to exceed this special permission to something else by deliberately eating and drinking when hearing the call to prayer and during it. Rather, the matter is limited to the one who had the vessel in his hand and wanted to drink from it, for example, and he thought that the time for abstaining (start fasting) had not yet come, and before he started drinking, the call to prayer suddenly came upon him. So, it is permissible for him to continue what he was about to do and complete his drinking. This is only the special case as in the Hadith above: I asked Jabir about the man who wanted to fast and the vessel was in his hand to drink from it, and he heard the call to prayer. Jabir said: We were told that the Prophet (saw) said: “Let him drink!**

**This situation—being surprised by the call to prayer and not expecting the time had begun, etc.—is rare nowadays because the time for the call to prayer is known, and there are lists and records of the times for the pre-dawn meal (suhoor) widely available. Praise be to Allah, mosques are widespread in Muslim countries and broadcast the call to prayer aloud. However, if such a situation does occur, it is a dispensation (Rukhsa), as mentioned above.**

5- In other cases, the obligation is to begin fasting at the designated time. Therefore, the statement made by the brother you quoted (A member in Indonesia issued a fatwa stating that eating and drinking during the call to prayer for Fajr (the true dawn) in Ramadan is permissible) should be retracted. This statement is incorrect. Rather, when true dawn arrives and the muezzin announces its arrival, the fasting person must refrain from eating and drinking. Otherwise, they have sinned, their fast is invalid, and they must make it up. Only someone with their hand on the vessel is permitted to eat and drink, provided they meet the three conditions mentioned above.

This is sufficient, 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 on the Ameer’s Facebook page:**

<https://www.facebook.com/AtaAboAlrashtah/posts/122127614235129051>