

بسم الله الرحمن الرحيم

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

Answer to the Question

The Intention of a Warring Belligerent to Reside in the Islamic State

To: Thiman bin Rizq

(Translated)

Question:

Bismillah Ar-Rahman Ar-Raheem, Assalamu Alaikum wa Rahmatu Allah wa Barakatuh, our Esteemed Sheikh, I kindly ask from you to clarify this matter, may Allah reward you greatly. It has been mentioned in the book of *Nizam Al Iqtisadi (The Economic System)* [English version page 339-340/ Arabic p. 302]: "Giving the belligerent protection would also entail protecting his wealth. If he decided to settle in the Islamic State and were given the right of abode, then he decided to leave to the belligerent country... This is because if he left to the belligerent country, but with the intention to remain as a resident of the Islamic State, he would be treated like the Dhimmī who leaves to the belligerent country (Dar ul-Harb); therefore the same rule would apply to both..." The question is: according to my understanding, how can the State know his intention with the consideration that the intention is an intangible reality, and if the case is that the warring belligerent has informed the state departments of his decision to remain in the Dar ul-Islam so the situation then would be one of informing them (state departments) of the warring belligerent's decision to leave and therefore it is not simply an intention, and upon it I reckon that the naming and description would be "according to his decision and not his intention". Apologies for the long post, wasallam.

Answer:

Wa Alaikoum Al Salam wa Rahmat Allah wa Barakatuh,

The text that you are inquiring about in the book, *The Economic System*, in its full text is:

"Giving the belligerent protection would also entail protecting his wealth. **If he decided to settle in the Islamic State and were given the right of abode**, then he decided to leave to the belligerent country, leaving his wealth behind for a Muslim or for a Dhimmī to look after, or lending it to either of them, it would in this case have to be examined as to the reasons why he left. If he left for personal reasons, or as a trader, an envoy, a tourist or for a pressing matter, and returned to the Dar ul-Islam, then the protection he had been given to his person and his wealth would remain in force. This is because if he left to the belligerent country, but **with the intention to remain as a resident of the Islamic State**, he would be treated like the Dhimmī who leaves to the belligerent country (Dar ul-Harb); therefore the same rule would apply to both. His leave to the belligerent country would not nullify his protection **as long as his intention is to reside in the Dar ul-Islam**. However, if he returned to the belligerent country as a resident, his protection for himself would be nullified, and if he wished to return to the Dar ul-Islam, he would require a new application for protection." **End.**

By intention, it is not meant in this context what is placed in the heart as is the case in worship rituals, but the intended here is to achieve the will and the decision, meaning that if the infidel warring belligerent decided to stay in the Islamic State... and using the term "intended" and "intention" is meant for will and decision as known in the books of Islamic Fiqh. Even so, the text did not stop at the term "intended", but it rather added to it the term "residing" so it is said: "**If he decided to settle in the Islamic State and were given the right of abode**", that is he decided to reside and his residence fully existed...

There is also a cute joke when mentioning "he intended... and he stayed" which is that he means actual residence, and not something else... and this is from the duties of the department which will authenticate that... by the permission of Allah, there will be a law in the Islamic State organizing the residence of the non-Muslims and those not having Islamic citizenship (tabiy'ya) if they enter the lands of the State... It would be within the law administrative procedures in the government departments that would be carried out for those who want to reside in the Dar al-Islam.

Your Brother,

Ata Bin Khalil Abu Al-Rashtah

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

<https://www.facebook.com/Ata.abualrashtah/photos/a.154439224724163.1073741827.154433208058098/454371801397569/?type=1&permPage=1>