

*Khums*  
*(the One – Fifth)*

*By*  
*Ayatullah Shaykh Ja'far Subhani*

*In the Name of God, the Compassionate*  
*The Merciful*

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## Introduction

The grand, impressive Revolution of Iran put an end to foreign dominance and served as an example for all the Islamic countries in the region to dig out the rotten roots of alien authority from their lands, to control their own affairs by drawing their inspiration from Islamic teachings in order to plan wisely to redeem their past shortcomings and go forward to prosperity.

The message of the Islamic Revolution spread on such a way that it gave the cruel rulers and their satellites violent shakes to make them terrified. In the words of Mr. Hassanayn Haykal, "the Iranian Revolution created an earthquake in the region. They should be waiting for its tremors".

Although the strong will of the proud, powerful people, who felt that their honor and dignity was at a loss, was the cause of the Rising; and although it was the self-sacrificing of the nation that felt themselves exposed to the danger that overthrew the corrupt regime which acted as a member of the police force in the situation to protect the benefits of foreigners, we can never ignore the role of the leadership that was so important to bring about the Islamic Revolution.

The great leader of the Revolution was a high-ranking, religious authority and an information Islamic personality. He managed very well to bring together all dispersed forces and put them along a single course to make them of the same voice and of the same direction.

The great leader of the Revolution was an honorable Reference of Imitation for his followers, who considered his orders as their religious obligations to be carried out indisputably. These noble people were able to return their leader back to the country after such a long time of living in exile. They were able to realize, at last, their old ideal in the form of an Islamic Republic.

Although the enemies of the Revolution, those who had incurred a loss from it, were aware of the authority of the religious leaders since a long time and know

about Ayatollah Mirza<sup>1</sup>, whose issuing decree on forbidding the use of tobacco had stopped its trading, they did not believe that the Ulema had such a great power. Encountering the unpleasant experience this time, however, they admitted that the Shiite religious leadership enjoyed such a dominance in the situation that their orders opinion of Immaculate Imams or the prophet, that is, as Divine Commandments.

That was why the enemies thought of holding conferences on Shiism to discuss the origin of its great potential in order to find a way how to confront the Shiite ideas. As a result they could design and nourish the Wahhabi belief<sup>2</sup> to rise as an opponent against all Muslims, whether the Shiites or the Sunnites, being the most important agent of disunion as a concept of waging war against all Islamic sect and communities.

The Wahhabis have recently printed and published some books and pamphlets to criticize or refute the ideas and opinion of the Muslims, especially of the Shiites. Every now and then, these enemies of unity and proximity of different Muslim sects distribute, among Hajjis small or large writing to target at one of the Shiites ideas. They hand out such works of theirs free of charge to the pilgrims who have little knowledge of the religious studies to consequently cause much confusion in their minds. They intend to make the radiant figure of Shiism be observed as an ugly one by misrepresenting it among the Hajjis. A manifest example, in this regard, is a book with the title "al-Khums, between a Legitimate Precept and a Financial Portion<sup>3</sup>" by one of the Wahhabi promulgators in the city of Riad called Sulayman-bin-Saleh-al-Kharashi, a member of the tribe Kharashi a branch of Bani Tamim.

In addition to having the book published separately, the writer has placed it over a site in the internet under [WWW.Fnoor.Com](http://WWW.Fnoor.Com) which is one of the famous computer sites of Salafi and Wahhabi. He has also summarized this book to be disseminated after his manipulation of the original text. Now let us have a look at what he has done: On the cover of the book, we read.

Prepared and Arranged by Ala'eddin Musawi, Translated by Is'haq Dabiri

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Mirza – ye – Shirazi a Source of Imitation in 1 .<sup>1</sup>

. وهابيته .<sup>2</sup>

. الخمس بين الفريضة الشرعية والضريبة الماليه .<sup>3</sup>

But on the page one, we read: Author Ala' Abbas-al-Musawi, Translator Ishaq-bin-Abdullah-al-'Auzi. Then the writer introduces himself to be a Shiite, a claim which is not correct. It would be much better if he told the truth and observed the Islamic morality not to distort anything! It is to be regretted that the persons who start writing such pamphlets in Arabic or Persian are neither jurists nor experts in traditions. They are not informed of the Shiite jurisprudence and they do not have enough knowledge of narrations. That's why they sometimes ascribe false ideas to the Shiite jurisprudence something that does not exist anywhere.

It seems that the writer of the book does not have enough information of even the common behavior of those pious persons who pay the "one-fifth" (khums); so, this becomes the cause of using calumny about them. Here, we will mention samples of the writer's unawareness in our introduction as follows:

1 - The writer says : "The religious people must pay khums out of all their wealth and incomes".

We say : "No, paying khums never includes all kinds of wealth, property or incomes. The property obtained through inheritance and the wealth received as "marriage portion" - however much they be - are not liable to the tax of khums. Moreover, all the incomes do not include khums, only what is left after paying the expenses of living must be calculated for khums.

2 - He says, "From the viewpoint of the Shiites, khums belongs to all the Sayyeds and Sayedats or Sasats (the descendents of the prophet, whether they are rich or poor)".

3 - He says: "According to the Quran and Traditions (Sunna) , there is no reason why the Muslims must pay khums." But later he says: "only once in the Quran do we read, khums is allotted to the spoils of war only".

4 - He sometimes admits that khums paying is obligatory and there are narrations quoted from the Imams (PBUThem) regarding the khums but, then he denies its paying to the religious jurists.

We say that many narrations in the regard have emphasized the guardianship of the jurists in dealing with the khums.

5 - He sometimes asserts that the khums had been originally said to be obligatory to pay by the Shiite Imams but then people were exempted from giving it.

We say, "He thinks it is only the Shiite jurists who consider the khums payment obligatory in the Sunnite jurisprudence, too in several conditions. Including :

A - Spoils of war, one fifth of which belongs to God, to the prophet and his household, to the orphans, to the needy and to the wayfarers.

B - Ownerless property, booties and wealth which are obtained without military operations to become available for the prophet such as:

- \* Lands left behind by the disbelievers when they have migrated to other places without involvement in a war,

- \* The poll tax which is collected from the disbelievers,

- \* The tribute that is taken from the disbelievers who are protected under the Islamic Law and government,

- \* Land tax, which is the income out of the lands belonging to the Islamic government,

C - The heritage of an infidel who has paid tribute,

D - The heritage of someone who died without having an heir,

E - The heritage of an apostate,

F - The one fifth (khums) of the mines-all kinds of them,

G - The khums of treasures and found gold, silver, etc.

H - And gifts given to the Muslim rulers or governors by unbelievers.

6 - The writer of the book sometimes connects two irrelevant thing together, which do not have any connection. He says, "Payment of khums has caused zakat to be forgotten."

First we say: "Khums and zakat are two independent necessary affairs like fasting and praying, but their decrees are separate. So, why should the practice to one

of them become the cause of forgetting the other while their cases of consumption are completely different?

Secondly, those believers whose obligation is to give zakat will also pay khums at the side of it if necessary. Then zakat has never been forgotten. However, since in today's circumstances most of the people won't be liable to zakat-giving, it may be thought that zakat has been forgotten! At the time of the prophet (MGSBH)<sup>1</sup>, most of the people were cultivators, farmers or were busy with animal husbandry. So they had to pay zakat. But in our days, the city dwellers neither grow wheat or barley nor do they possess animal farms. Therefore, they will not get involved in the payment of zakat. The reason why most of the people do not give zakat is not because they pay khums; rather, it is for the reason of a change in the business and job in the large cities or towns.

Thirdly, there is no compulsion in the paying of khums; it is the piety of individuals that causes them to do such a religious obligation. Now, with regard to all of the above reminding, we will discuss the following subjects in order to make everything clear concerning the khums:

- 1 - The reasons of making khums obligatory to be paid by making use of Quran and the prophet's Traditions and narrations from the Imams (PBU Them).
- 2 - Commenting on the narrations which denote to the khums being allowable for the Shiites to pay,
- 3- The precept of khums and the jurists at the Time of Absence – when Mahdi (PBUH) is not present,
- 4 - How the khums must be spent,
- 5 - And a careful examination of the Book of Khums.

*Ja'far Subhani,*

*Muharram, 2, 1429, A.H.*

*January, 10, 2008*

## Part One

Reasons For the Incumbancy of Khumsin:

- 1 - The Book of God (the Quran)
- 2- The Traditions of the Prophet (MGSBH)
- 3 - Narrations from the Imams (PBuThem)

### Section one:

#### Reasons for the Incumbancy of Khums in the Quran

According to one of the verses of the Quran, it is ordered to the Muslims to pay Khums, which is one fifth of the valuable things that they win. Khums is God's His messenger's and his household's; it is for some orphans and for those who have meet and for the wayfarers if they are needy. The exact translation of the whole verse 41, of chapter al-Anfal in the Quran is:

"And know that whatever ye win (if it is of value), lo! A fifth thereof is for Allah and for the messenger and for the kinsman (who hath need) and for orphans and the needy and the wayfarer, if ye believe in Allah and that which We revealed unto Our servant on the Day of Discrimination, the day when the two armies met. And Allah is Able to do all things<sup>1</sup>."

#### The Word "ghanima" in Arabic

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<sup>1</sup> . واعلموا أنّما غنمتم من شيءٍ فإنّ لله خمسهُ وللرسول ولذی القربى والیتامی والمساکین وابن السبیل ان کنتم آمنتم بالله وما انزلنا علی عبدنا یوم الفرقان یوم التقی الجمعان والله علی کلّ شیءٍ قدير.

Does the word *ghanima*<sup>1</sup> in Arabic and as a term in the Quran mean only "the spoils of war" as some translators have written? Has the word not been used in the other meanings as the writer of the book has claimed?

The word ghanima is used in both meaning of "spoils of war" and "whatever valuable we win" although the jurists or some translators of the Quran have taken it to be only spoils of war; but the juridical term does not have anything to do with the etymological meaning of the word and its interpretation in the Quran. Now look at what Arab philologists have said about the word ghanima:

1 - Khalil-bin-Ahmad Farahidi, the first Arab philologist who wrote the lexicon of Arabic, from which all lexicographers have taken words to write their dictionaries says: the root "ghanam" means to attain something and "Ighthenam" (a derivative of it) means to gain an advantage of something.

2 - Ibn Fares, has written a book called *Mu'jam-u-Maqayis-u-Lugha*, the purpose of which was to get together all the meaning of a word to refer to their base root meaning. He says in this regard: "Ghanam has only one meaning ; it is: to utilize or take advantage of something for which it was not used before. Afterward the meaning become limited to something taken from the disbelievers in the war.

3 - Ragheb Isfahani says in his book, *Mufradat*: "*The root 'ghanam' meant to get to or attain something, but then it was used to mean anything valuable taken from the disbelievers, enemies or others.*

4 - Ibn Manzur, in his book *al-Nehayatu-fi-Gharib-al-Hadith wal-Athar*, says: "*Ghanam is whatever we obtain without taking any trouble or pain.*"

5 - Ibn Athir, in a tradition narrated somewhere, says: "The wealth, so long as it is in pledge for something, any profit or loss of it belongs to its owner. But, when it is not in pledge, any profit, increase or its higher price is called "*ghanima*".

So all the lexicographers agree to the meaning of 'ghanima' in Arabic being a profit or increase that the owner attains in addition to what it was before; then it is not ever allotted to spoils of war. Besides, Ibn Fares even says the first meaning of the

word was to attain something useful and valuable and later it was expanded to mean "booties" or "spoils of war".

To sum up what we said: ghanima is used to be the opposite of "indemnity" or "damge". This contrast suggests, according to juridical laws, that ghanima is the thing from which some advantage is derived but "damage" is when there is a loss on the property, and both the profit and the loss belong to the owner of the wealth or the property<sup>1</sup>. The reason for this rule is a tradition quoted from the prophet (MGSBH) who said:

*"The relation between a person and the property he has obtained will never be cut off in terms of 'loss' or 'profit'<sup>2</sup>".* Imam Shafe'I says in this regard:

*"By "ghanam" in this tradition it is meant an increase in the wealth and by "ghanam" it is meant loss, damage or destruction of it."*

Such stipulations by the great Arab lexicographers suggest that the root "ghananm" with its derivatives mean "profit", "advantage" or "income", which are not allotted only to the spoils of war, although the jurists have often, but not always, stressed on whatever is gained by way of wars; otherwise, it covers an expansion of meanings.

## 2- Ghanima in the Quran

Up to here, we have known about the definitions the philologists and lexicographers have written concerning the word ghanima. We should note now that the Quran too is in agreement with the linguists in this regard. Although the Quran, in some instances, uses the word "ghanima" to mean "spoils of war", it doesn't always use it to mean that. In a verse regarding the Next World (the Futurity), Blessings and the rewards on the Day of Resurrection we read:

*"O ye who believe! When ye go forth (to fight) in the way of Allah, be careful to discriminate, and say not unto one who offereth you peace: "Thou are not a believer," seeking the chance profits of this life (so that ye may despoil him). With*

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<sup>1</sup> . من له الغنم فعليه الغرم

<sup>2</sup> . لا يغلط الرهن من صاحبه الذى رهنته، له غنمه وعليه غرمه.

*Allah are plenteous spoils<sup>1</sup>. Even thus were ye before; but Allah hath since then been gracious unto you. Therefore take care to discriminate. Allah is ever Information of what ye do."*

Deliberating over this verse, we understand that by "*spoils*" (ghanimas), it is meant the blessings given Afterlife; because the word is put in contrast with "*accident*"; while the writer of the book *al-Khums* says (on page 68) that the word "*ghanima*" is used six times in different verses of the Quran all referring to the property or wealth taken from the disbelievers in the wars. But he must know that ghanima in the Quran has a general meaning not only as spoils of war unlike what he has claimed.

### 3- Ghanima in Traditions

If the root "*ghanima*" is used in the words of lexicographers or in the Quran in its absolute meaning as profits, and material benefits which a person obtains, we would also like the readers interested in research to look for the meaning of "*ghanam*" in Islamic Traditions.

Ibn Maja quotes in his book "*al-Sunan*" that the messenger of God (MGSBH) once said about Zakat when it is to be taken: "*O Lord, arrange the zakat to be the cause of benefit and the increase of wealth for the payer of it not the cause of loss or damage for him.*"

Ahmad-bin-Hanbal in his book "*Musnad*" quotes from the prophet (MGSBH): "*The ghanima of (the benefit from) the assemblies held for Remembrance of God is the Paradise.*" He also quotes from the prophet (MGSBH) that he said on an occasion describing the month Ramadan: "*It is the "ghanama" for the believers*", that is, a profit and interest for them.

Ibn Athir says: "*It is mentioned in traditions that fasting in winter is a cold ghanima.*" He also uses the word 'ghanima' to mean a reward or benefit.

Therefore, with regard to the saying of the Quran, the linguists and on the basis of the traditions of the prophet, we can decisively say the infinitive "*ghanam*"

has an extensive area of meaning to include all kinds of benefits; so, it is not restricted to spoils of war as used in the Quran, in traditions and the etymology of words.

### **How the Sunnite Jurists Comment on the Necessity of Khums in the property Other than Spoils of War**

The most obvious thing to prove that the verse about Khums conveys the purport of the word not only to include the booties obtained from fighting is that the jurists of the four sects have all reasoned that khums is obligatory to be paid on other belonging such as:

#### **1- Mines**

The Hanafi and Maleki jurists believe that the owners of mines must pay one fifth of their income as khums. Wahaba Zahili, one of the Hanafi jurists quotes: "The reason for the necessity of khums in mines is taken from the verse 41 from the chapter al-Anfa in the Quran: And know that whatever ye take as spoils of war, lo! A fifth thereof is for Allah and for the messenger and for the kinsman ....."

In addition to the Quran, some traditions also denote to the fact of khums about which the prophet (MGSBH) said: "There is khums (the one-fifth) in the found treasures<sup>1</sup> (gold or silver dug out by someone)." This tradition is quoted in the books "Sahih" by Moslem and by Bukhari and other reliable writings of narrations<sup>2</sup>.

#### **2- Treasures**

Another thing on which khums must be paid is treasures. The reason for it is the same Quranic verse mentioned above and the same tradition. The word "rekaz" in Arabic means anything valuable found in the ground, a treasure, whether it is natural, created by God or hidden by someone as gold or silver.

Anas-bin-Malek narrates as follows: "With the prophet, we headed for the forts of Khaybar. A person among us went toward an old wall to ease nature. He picked up a mud brick to clean himself. Suddenly, the old wall collapsed revealing an amount of gold bullion. The man brought the gold to the prophet (MGSBH) and told him the story. The prophet asked the man to indicate the weight or the value of the

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<sup>1</sup> . الركاك

<sup>2</sup> . فى الركاك الخمس ، صحيح بخارى from the book

gold. It was about 200 drachmas. Then, the prophet said to the man. "This is a treasure; you must pay one fifth of it."

Ibn Athir says: "There is hardly any difference between the jurists regarding the conditions of paying khums. I have heard them declare: "Whatever is dug out of the ground and you have paid no money for it, nor have you taken much trouble to possess it, you have to give one fifth of its value as khums."

We can infer two things from these comments:

- 1 - The word 'ghanama' or 'ghanima' as used in the Quranic verse is not allotted only spoils of war but it is more extensive than that.
- 2 - Khums is not characteristic of spoils of war, it also includes the advantages of mines or treasures.

As a matter of fact, a tradition quoted from Imam Sedeq (PBUH) confirms this assumption. He said that it was narrated from the prophet to have told Imam Ali (PBUH): Dear Ali, our grandfather, Abd-al-Mutalleb left behind 5 Sunnas (traditions) at the time of "pagan state" before Islam ; and God has also accepted them in Islam. He found a treasure and granted one-fifth of it in the cause of Allah." Then the prophet recited this verse: *"And know that whatever you win, if it is of value, lo! A fifth thereof is for Allah .....*"

## Section Two

### **Reasons for the Necessity of Khums in the Prophet's Sunna One Fifth of Somebody's Income in their Businesses in the Prophet's Traditions**

The writer of the book "Khums" due to his ignorance of several traditions narrated in the books of Sehad and others, has thought that the necessity of paying

khums on one's income or business is characteristic of the Shiite jurisprudence; whereas, it is mentioned in the books of traditions of the Sunnites too, by proofs and reasons.

The obligation of paying khums on the income out of business of trade has been recorded from the messenger of God (MGSBH):

### **A - The Narration of Abd-al Quys' Delegation**

The tribe of Abd-al-Qays inhabited Bahrayn, Qatif and Ehsa'. There were hundreds of kilometers between their living places and Madina in Arabia. Once, some representatives of the tribe came to the prophet (MGSBH) in the sacred<sup>1</sup> month because of the road being safe and said to the prophet: "Between you and us, there are many polytheists and disbelievers intervening as obstacles. So, we cannot pass them safely during the other months of the year to see you in Medina. Now, we request you to discriminate for us the borderline between Islam and unbelief so that we may do the good deeds and the right acts and go to the paradise after life; and also we can ask other people to do them." The prophet (MGSBH) answered:

"I will encourage you to do four things and forbid you from doing another four things. The four things I want you to do are:

1 - Have faith in Allah; do you know what "faith in God" is? It is: a) to say there is no god except God the great; b) to perform your prayers;c) to pay zakat and d) to pay khums on your incomes<sup>2</sup> (maghnams).

Here, a question is timely to be asked: What did the prophet (MGSBH) mean by the word "maghnam<sup>3</sup>"? There are three possible meanings applicable. Two of them will easily be rejected but the third is acceptable.

1 - spoils of war

2 - Advantages obtained by plundering

3 - Profits of trade or business

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<sup>1</sup> . شهر الحرام  
<sup>2</sup> . وتعطوا الخمس من المغنم  
<sup>3</sup> . مغنم

The first possibility cannot be true because the delegation told the prophet (MGSBH) that they could not go to him in the non-sacred months. This clearly points to the presence of disbelievers or polytheists on the way between Madina and Bahrayn. So they feared that the polytheists might attack them, kill them and rob them of their property. That was why they could not travel that long dangerous distance toward the prophet, let alone fighting with the unbelievers, defeating them and gaining booties!

The second possibility is rejected because no Muslim could ever wage a war or a holy fighting without permission of the prophet or this representative; this is one of the indisputable laws of a holy war (Jihad) in Islam. If the effect were "spoils of war", the cause must have been a war without the permission of the prophet, that is, a willful fighting and plundering, which could never be made to pay one fifth of the booties as "khums" to the great Leader.

Moreover, plundering has been absolutely forbidden in Islam. The narrators of traditions have quoted from the prophet (MGSBH) who said:

"Plundering is forbidden. Those who attack to plunder and get booties are not Muslims!"

Also, in the holy wars all the spoils were delivered and offered to the prophet. It was the prophet who separated one fifth of them and then started to divide the remaining. Then, according to the above tradition, it seems unreasonable for the prophet to have ordered the people to pay one fifth of the spoils of war only. What about the time after the prophet when there were no wars<sup>1</sup>?! So it is only the profit of business, trade or other incomes from which individuals must have paid the one fifth.

Bukhari quotes in his "Sahih" from I'badat-bin-Samet, who said: "We pledged allegiance to the prophet (MGSBH) not to plunder."

Abu Dawud in his book al-Sunan quotes from one of the prophet's disciples: "We went out of the city, one day, with the prophet (MGSBH). The followers had become very hungry. Suddenly, they saw a number of sheep, and they started to plunder and slaughter some of them. The prophet arrived at the place when our pots

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Unfortunately the translation for the words : "maghnam", "ghanam" and the verb "ghanemtum" has .<sup>1</sup>  
been "spoils of war" which is not correct. It must be any kinds of incomes or advantages

were boiling with the meat inside. After he asked about the event, he overturned all the pots with his bow and threw some dirt onto them saying: "Lo! Eating plundered meat is not better than eating the flesh of dead animals<sup>1</sup>."

With regard to what we said, the third meaning of "Khums" will be realized, which is one-fifth of incomes of trade profits or businesses surplus to your expenses. It was not one fifth of the spoils of war when the prophet announced that Muslims must pay khums, because there was no wars to be fought again.

Also, it is not only in traditions that the messenger of God (MGSBH) considers paying khums as a precept of God. This is obvious in his several letters to the heads of the Arab tribes:

### **1 - Letter to Amr-bin-Hazm**

The prophet wrote a letter to Amr-bin-Hazm, whom he had sent to Yemen as his representative to handle the people's affairs: "This is the command of the messenger of God to Amr-bin-Hazm, whom he dispatched to Yemen. He commands Amr to fear God and be virtuous in all ways of his life, to collect khums, the one fifth of God, to collect the and tax and the Zakat (one tenth) of the lands irrigated by streams, rivers or the rain and to take one twentieth of the lands irrigated by the water drawn from wells.

### **2 - Letter to Chiefs of Tribes in Mu'afar and Hamadan**

The prophet (MGSBH), in a letter to these chiefs of tribes confirming the receipt of khums writes: "*You messenger came back and he wants to certify you have paid khums of God from maghanem: one fifth of your incomes.*" As we know, by "maghanem" as it is used in this tradition, it is meant the incomes of businesses or trade, since these groups of people were not the commanders of military operations and were not ordered to fight either.

### **3 - Letter to the Tribes of Qusa'a and Juzam**

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<sup>1</sup> . صحیح بخاری باب التهب from the book

The noble prophet (MGSBH) wrote two identical letters to both tribes and told them how to pay zakat, and reminded them of the difference between khums and zakat that had to be paid to the two representatives of his, called Abi and ‘Anbasa

#### **4 - Letter to Faji' and his Followers**

The noble prophet (MGSBH) wrote a letter to Faji' and his followers beginning the letter with these words: "Those who adopted Islam, performed the prayers, paid zakat, obeyed God and his messenger and paid khums: the one fifth of God<sup>1</sup> ...."

#### **5 - Letter to Junada Azadi**

The prophet (MGSBH) wrote a letter to the tribe of Azd and its branches as follows: "As long as you perform the prayers, give the zakat, obey God and His prophet. Pay the khums (a fifth) of your incomes (maghanem), which belongs to God and His messenger and keep away from disbelievers, you are linked to Allah and His messenger<sup>2</sup>."

#### **6 - Letter to Jahina-bin-Zayd**

The prophet (MGSBH) wrote a letter to Jahina, the head of a tribe: "All the clefts in the lands, plains, ups and downs of the valleys are at your disposal. You can let your animals graze on them and you can use the water of the fountains on the condition that you pay "a fifth" of (the khums of) them."

Now what does "the fifth" mean here? Do you think it is likely to be spoils of war or the payment of the benefit you make out of such gifts of nature, which are the share of the messenger of God?

#### **7 - Letter to Jahina's Tribe**

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<sup>1</sup> . طبقات كبرى from the book

<sup>2</sup> . الوثائق السياسييه from the book

The prophet wrote a letter to this group as follows: "Those who adhered to Islam, performed prayers, gave zakat, obeyed God and His messenger, will pay khums (a fifth) of their ghana'im (incomes and profits<sup>1</sup>).

What purpose do letters as such, which are almost consecutive, pursue? The prophet has certainly pointed to one of the rights of the leader, which is the fact that all Muslims must pay a fifth of their legitimate incomes to the leader after they have deducted their life expenses, so that he can, with a better financial capability, administer the Muslims' affairs, develop Islam and promulgate the precepts by fulfilling his duties. In none of these letters is the command issued for a holy war to be fought, in which we might get the result of spoils or booties.

By the way, jihad or a holy war must be started by the command of the prophet or an Imam. No one has the right to start a war initially (not a defensive fighting). Both Imam Shafe'I and Imam Ahmad explicitly state that "Jihad won't occur without the permission of the Imam or some authority acting on his behalf.

It is also believed that even in small fighting operations, asking for an adversary is not permissible without the Imam's leave when two armies have lined up against each other. The Muslim fighter has no right to step into the battlefield asking for an opponent without the permission of his Imam in order to fight "man to man". Now, even if we admit that these letters might have suggested a preliminary jihad with the enemy, in this case too, the prophet must have indicated in detail the way of dividing the property or the spoils of war, and must have written if the share of the cavalry man were the same as the infantry men or not!

Furthermore, the honorable prophet should have written in his letters to the fighters like this: Call the disbelievers or polytheists to Islam, give them the final notice; if they did not accept Islam, then you might fight them but you must avoid attacking the old, the women, the wounded and the children. Let it not be that you enter their territory by poisoning the water, setting fire to their harvest of crops or gardens! Never attack the enemy's temples if they are owners of heavenly books.

Also, the prophet should have mentioned the sacred months during which the holy war is forbidden, because most of these people to whom the prophet had written

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<sup>1</sup>. طبقات كبرى from the book

had not grown up under the care of Islam so that there wouldn't be any need to convey to them Islamic precepts. Then we can conclude that the content of the letters does not have anything to do with the war and khums must only concern the incomes of trade or businesses.

In fact, the prophet (MGSBH) has hereby pointed to a political principle in Islam, which is paying a fifth of incomes surplus to one's expenses to the leader, and as we mentioned before, this one-fifth (khums) belongs to the position of Imamate. In the words of Imam Hadi (PBUH), the wealth, the property or money collected for position of Imamate must be in their power.

Up to here, the reasons of the incumbency of paying khums were given by way of the Quran, and the traditions quoted in the Sunnite books. Now we want to deal with the causes of its incumbency through narrations from the Imams of the prophet's household.

### **Section Three**

#### **Reasons for the Necessity of Paying Khums In the Traditions of the Imams (PBUHem)**

In addition to the spoils of war, Khums is obligatory to be paid on the following items:

##### **1 - Mines**

Mohammad – bin - Moslem says: "I asked Imam Baqer (PBUH) whether khums must be paid on metals such as iron, zinc or copper extracted from mines." The Imam answered: "Khums is necessary to be paid in all of them; one fifth of such metals must be paid<sup>1</sup>."

## 2 - Treasures

One of the items you must pay a fifth on is "treasure" or hidden gold and silver which may be found by digging the ground. Ubaydullah-bin-Ali, known as Halabi, in a narration, is said to have asked Imam Sadeq (PBUH) about treasures: How much of a treasure if found must be paid as khums?" and the Imam had answered: "One-fifth<sup>2</sup>". It is, of course, worth mentioning that because today such treasures are not existent any more<sup>3</sup>, reaping the benefit of the mines is more applicable in this regard.

## 3 - Precious stone or Jewels Obtained by Diving

Some valuable objects obtained by means of diving become liable to khums. You must pay a fifth of things such as pearls, corals or any kind of gem stones of you have gotten them by diving.

Halabi says: "I asked Imam Sadeq (PBUH) about pearls that are found and brought out of the sea by divers, and the Imam answered that khums must be paid on them."

## 4 - Land that a Non-Muslim Bugs from Muslims

If an infidel, a non-Muslim who pays tribute, buys a piece of land from a Muslim, he must pay khums on it. Abu Ubayde Hazza' says, "I heard Imam Baqer say: if a tributary infidel buys some land from a Muslim, he must pay one fifth of it as khums."

## 5 - Lawful Wealth Mixed with Unlawful Wealth

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<sup>1</sup> . وسائل الشيعه from the book

<sup>2</sup> . وسائل الشيعه from the book

<sup>3</sup> . thanks to so many kinds of banks for monetary actions and saving? .

If an amount of lawful money, wealth or property has become mixed with some unlawful money or wealth where neither the owner or the amount of the lawful wealth is known, one fifth of the whole wealth (lawful and unlawful) must be given to the honorable Imam or the leader for the rest of it to become legitimate. Hassan-bin-Ziad quotes from Imam Sadeq (PBUH), who said: "A man came to Ali, the Leader of the Faithful, (PBUH) and said: 'I have gathered some wealth but I cannot distinguish the lawful of it from the unlawful. What should I do?'" The Imam (PBUH) said: Pay one fifth of it so that God will be pleased. Avoid using it and return any wealth whose owner you know<sup>1</sup>."

## **6 - Incomes of Businesses and Trades**

If a person earns a living by doing some business, trading, manufacturing, or by making economical efforts when the profit of their job exceeds their yearly expenses for those that they support, they must pay the one fifth (khums) on the surplus of the money left to the Imam.

### **Imam Baqer (PBUH) and a Fifth of Incomes**

Abu Basir quotes from Imam Baqer, who said: It is not lawful for anyone to buy something from their wealth unless we have received the khums of it which is our due."

In another narration from Abu Basir, we read: "I heard Imam Baqer saying: If anyone buys something from the money of khums, God won't forgive them; because they have bought something which has not been lawful to them." This tradition applies to anything onto which khums is obligatory to be paid whether it is a treasure, a mine extract or spoils of war.

### **Imam Sadeq (PBUH) and the Khums of Incomes**

Abu Basir says, "I wrote a letter to Imam Sadeq (PBUH) asking: "Sometimes I get a gift whose price is around 2000 drachmas. Do I have to pay khums on it?" The Imam answered: "Yes, there is khums on it."

Once again, I wrote a letter to the Imam and asked: "A man owns a fruit garden. His family and relatives use the fruit but a part of the product is sold. Is there khums in the extra fruit?" The Imam answered: "Whatever they eat of the product is their cost of living, but whatever the man sells is surplus to what they use and there is khums on it<sup>1</sup>."

### Imam Kazem (PBUH) and the Khums of Incomes

Sama'a says: "I asked Imam Kazem (PBUH) about khums in general and he answered: "In all kinds of incomes, whether large or small, there is khums to be paid."

Hamad-bin-'Isa' quoting from another person says: "Imam Kazem (PBUH) said, "Khums must be paid from five things: from spoils of war, from diving, from treasures, from mines and from navigation or shipping<sup>2</sup>." The Imam has hereby pointed to one of these five items, shipping, to involve absolute income, which applies to all other kinds of incomes for paying khums.

'Imran-bin Musa quotes from Imam Kazem (PBUH) : "I recited the Quranic verse of khums to the Imam and he said, 'Whatever is for the sake of Allah, is for the sake of His messenger too; and whatever is for the sake of Allah, is for the sake of His messenger too; and whatever is for the sake of the messenger us for us too; then he added: "God has made the sustenance very easy for the believers to get. Out of every five drachmas only one is to be paid as khums and the other four drachmas are lawful for them to spend;"

By the word sustenance, it is meant the absolute income of the people, since it is what they earn to live on as daily food. It cannot be restricted to the spoils of war.

A part from this, the spoils of war belong to those who wage a holy war against disbelievers. Such advantages do not belong to all the people; whereas, the Imam in the above narration is addressing all the people. That's why he continues his words by saying: 'Only those people can act to the law of khums whose hearts have been tested by God for the practice of religious decrees.

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<sup>1</sup> . وسائل الشيعة from the book

<sup>2</sup> . وسائل الشيعة from the book

## Imam Reza (PBUH) and the Khums of Incomes

Shaykh Saduq says: In one of his letters, Imam Reza wrote: "Khums is calculated after you deduct all your expenses from your income." This suggests that one fifth of the surplus to the cost of living in your income must be made, which implies the existence of people is income in their daily life; other wise, extracting one fifth of spoils of war is impossible since there is no war to be fought, and also it is the obligation of the religious leader to do the job.

Imam Reza (PBUH) is said to have talked to the people as quoted from him in the book Feqh-al-Reza as follows:

"Whatever people obtain is called ghanima (advantage) whether it is in the form of treasure, mining, diving in the sea or any valuable objects found in the ground for which no work is done, or spoils of war. Here are the things some persons have claimed that there is no khums on them but there is: profits of trade and transactions, produce of field plantations, fruits of gardens, incomes of commerce and industry, heritage and other things like them. Such things are considered as ghanima or profit which are given by God."

In another narration we read: "Even the tailor must pay khums from his sewing by the needle and the craftsman working with his tools. Anyone who makes money out of one of the jobs must pay khums."

One of the Shiites wrote a letter to Imam Reza (PBUH) and asked about khums. The Imam answered: "Paying khums helps our religion, our families, our supporters and friends. We spend it to keep our prestige and remain safe from evil-doings of the enemies. So, do not take it away from us. Do not deprive us of our praying as long as you can. Paying the one-fifth is the key to your sustenance, the cause of your exemption from sins and good savings for the days of indigence."

A group of Shiites from Khurassan came to Imam Reza (PBUH) and asked him to exempt them from paying khums. The Imam said, "I will not accept it; you profess your love to us verbally but take away our right, which God has set for us

practically. Khums is what God has specified us for it, and we never make it lawful to you not to pay<sup>1</sup>!"

### **Imam Jawad (PBUH) and the Khums of Incomes**

Mohammad-bin-Hassan Ash'ari wrote a letter to Imam Jawad (PBUH) and asked about khums as follows:

"Please let me know of Khums. Is it allotted to all kinds of incomes whether large or small? Do the artisans have to pay it too? How is it on the whole? The Imam answered in summary: "After you deduct your expenses from your incomes, a fifth of the remaining profits must be paid."

As we infer from the above narration, the payment of Khums had been something indisputable at the time of Imam Jawad (PBUH), which is around 203-220 AH, for the Shiites; but the man who wrote the letter wanted to make completely sure of the quality and quantity of the issue.

Imam Jawad (PBUH) in his letter to Ali-bin-Mahziyar in 220 A.H, talking about the subject of khums, elaborated on the issue saying: "May God bless you! Benefits (ghanimas) and interests are the advantages that a man gains, profits that he obtains, valuable gifts that he receives and heritage that he suddenly becomes the owner of without thinking about them. Paying khums is obligatory on all of them. "Then, the Imam had explained the other instances in detail.

### **Imam Hadi (PBU) and Khums of the Incomes**

Ali-bin-Mohammad-bin-Shoja' Nishaburi says: "I asked Imam Hadi (PBUH) this question: A farmer has taken a hundred Kors<sup>2</sup> of wheat from his farm. He has given a tenth of it as zakat and 30 kors of it has been consumed on his cost of living. Only 60 kors have remained for him. What must he do with the rest of the wheat?" The Imam wrote in the answer. "After he has deducted his life expenses, one fifth of the rest must be given as khums<sup>3</sup>."

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<sup>1</sup>. وسائل الشيعة from the book

<sup>2</sup>. a unit of measurement almost 384 kilograms

<sup>3</sup>. وسائل الشيعة from the book

Imam Hadi (PBUH) wrote the above letter as a decree during his Imamate time (221-259).

Abu Ali, son of Rashed, one of the Imam's agents, says: "I said to Imam Hadi that I had carried out his command to go to the Shiites and ask them to pay his due. The Shiites also wanted to know what the Imam's due was in their wealth and incomes. Then I went back to the Imam and told him about that. The Imam answered that it was incumbent upon them to pay one fifth (khums) of their incomes."

I asked the Imam whether they must give the one-fifth in everything and he answered that people must pay the khums in tools, equipment and industries. I asked again, "Do the merchants, businessmen and shopkeepers have to pay khums too? The Imam said, "Yes, after the deduction of expenses."

The above-mentioned narrations from the Imams will suffice. For more information, the readers may refer to the traditional literature of Islamic commands as much as they need. However, it is well concluded that the issue of khums has a large and wide range not only concerning the Shiite jurisprudence but also found in the Sunnite beliefs with its many reasons. What has really happened is that after the demise of the honorable prophet (MGSBH), the payment of khums like the payment of kinship dues (the rights of those related to him) from the advantages, profits and incomes have been forgotten as some other important duties.

The write of the book al-Khums has written in the introduction that he has figured out right important and exciting facts about khums: The first is that none of the immaculate Imams have ever pointed to the incumbence of khums upon the Muslims. But as all of us know that Shiism is basically dependent upon the narrations from the Imams, and the words of them are principal references for the decrees of the ulema<sup>1</sup>.

Up to here, we have quoted for our readers and the writer of the book al-Khums and his fellow-believers 14 narrations out of traditions belonging to the holy Imams (peace be upon them all). Then, how do they and can they claim there is nothing mentioned about the necessity of payment of khums from the Imams?! Still,

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from the book "Khums from the Viewpoints of the Quran and the Imams" .<sup>1</sup>

from whom and for what are these narrations quoted?! Therefore, it should be accepted that the writer is either ignorant of feigns ignorance!

## **Part Two**

### **Expounding the Narrations that Indicate the Permissibility of Khums to the Shiites Section One: The Secret of Exemption from Paying Khums**

While the payment of khums is a Quranik and traditional precept for all Muslims to apply when it is incumbent on them, the Shiite Imams have exempted their followers from paying khums under some conditions and because of a series of necessities. Of course, such partial instances must not be generalized to give the legitimacy of involving other cases; but since the religious decree for khums had been faced with a lot of troubles, it was considered advisable not to collect khums in some circumstances. Other wise, payment of khums had always remained in force and the Imam or their agents used to collect it in an arderly specific way.

Narrations related to giving exemption from the payment of khums are divided into 3 groups of Items:

#### **The first group includes three subdivisions:**

A - The one-fifth of spoils of war, which the caliphs avoided paying it to the household of the prophet although the Quranic verse about khums explicitly points to it saying that part of the khums belongs to the owners of kinship (the prophet's

relatives). However, the spoils would change hands and only a part of it would be given to the Shiites.

B - Commercial articles which were presented to the Shiites and to their choices.

C - Land benefits (anfāl): lands which were presented to the Islamic government. Lands joined to forests, mountains, etc. Such lands generally belonged to the messenger of God, and after him, to the honorable Imams. Now, let us explain each of these three subdivisions.

### **The first : "khums of spoils" (ghanaem')**

During the rulings of Omayyads and Abbasids, some wars were waged with non-Muslims (with both those having heavenly books and with polytheists). The spoils of such wars would change hands because the caliphs did not give the one-fifth of them to the owners of the prophet's kinship. Under such circumstances, the Shiites who were part of the same society would trade and transact with everybody else with the same spoils on which the khums was not paid. So, the religious leaders, in order to remove the troubles and resolve the difficulties of the Shiites' life exempted them from paying khums on their transactions and profits they made in their incomes so that their marrying female slaves or their transacting in other goods and property could be lawful.

The greater part of the narrations in this regard concerns giving exemption from paying khums for the sake of being it lawful for the Shiites in their buying and selling such spoils of war. Here, we will refer summarily to these narrations in order to make it obvious why the one-fifth become lawful, that is, the Shiites were exempted from paying khums.

\* Imam Baqer (PBUH) quoting from Imam Ali (PBUH) says: "Gluttony and sensuality have made people unlucky and prevented them from paying our due; but our followers and their fathers are exempted from paying it<sup>1</sup>."

By "gluttony", it is meant that they sold the spoils of war and used the money to eat too much; and by sensuality, it is meant that they took possession of slave girls to enjoy themselves without paying khums which was the right of the prophet's household. Of course, this tradition has nothing to do with other instances of khums.

\* Daris Kenasi quoting from Imam Sadeq says that once the Imam asked him: "Do you know where from the illegitimate sexual intercourse originated?" I said, no. The Imam answered: "From the side of khums belonging to the household of the messenger. Only our pure, chaste followers are exempt from paying it. We have made it lawful for them and for the purity of children born to them." Here, purity of children and pure followers suggest that in those days slave girls were traded among the people as spoils of war (ghanaem) without paying khums which was the right of the descendants of the prophet.

\* Abu Khadija says: I was in the presence of Imam Sadeq (PBuH) when a man said to him: "Make the women lawful to me!" Imam Sadeq became uncomfortable but another person said to the Imam that the man does not mean any kinds of women; he means those he might buy or a slave woman he can marry, or a heritage he may receive or some wealth and advantage or gift they may give to him. Then, the Imam said: "All of these are lawful for our Shiites<sup>2</sup>."

About the question the first man asked and with regard to the comments the second man made concerning the slave woman, buying and getting married to them, heritage, trading or receiving gifts, etc. we can get to the result that all of them indicate the spoils of war, which were at the disposal of caliphs in those days. Since they did not pay the dues of the prophet's household, the Imam exempted them from paying the khums of "ghanaem".

\* Mohammad-bin-Moslem quotes from one of the two Imams: Baqer or Sadeq (PBuH), who said:

"The hardest conditions for the people on the Day of Judgement is when a person who been entitled to khums comes forward demanding: O God, what about my

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<sup>1</sup> . هلك الناس في بطونهم وفروجهم لأنهم لم يؤدوا حقنا، إلا وان شيعتنا من ذلك وأباؤهم في حلّ .

<sup>2</sup> . وسائل الشيعة from the book

due of khums? But we made it lawful for our followers (our Shiites), we exempted them from paying it so that their offspring would be cleaned and cleared from sins."

So far, we have quoted some of the traditions in detail; now, we are going to refer to some other evidence in the narrations:

\* In a narration from Hareth-bin-Mughayra, we read: We made khums lawful for our followers (Shiites) and exempted them from paying it in order their children to be born purified."

\* In a narration from Fudayl, these words are said: "We made the mothers in our Shiites lawful for their fathers in order for them to be cleaned and purified."

\* In a narration from Zarara we read as follows: "They made the Shiites exempt from khums so that they would make their birth clean and pure."

\* In a narration, Ishaq-bin'Yaqub quoting from Imam Sadeq (PBUH) says:

".... It was to purify their births not to defile them."

\* In another narration from Imam Hassan Askari (PBUH) we read:

"We made our Shiites exempt from khums so that their benefits, including their eating and drinking. Would be lawful to them and their births would be pure and clean for them, and their children would not ever become unlawful to them."

With regard to the above traditions, we can say that exemption from khums has been relevant to spoils of war especially slave women or freed slaves, which changed hands under the name of spoils of war when the Shiites too, did business in them or traded them. Therefore, such narrations have nothing to do with the payment of khums in other instances.

## **2 - Property of Those Who Did not Believe in Khums**

Due to the propagation of both the Omayyads and Abbasides against khums, deduction of one fifth from incomes was gradually forgotten. Wealth or income obtained from trade, business, transactions, touring, companionship, inheritance, etc. by the Shiites was really liable to khums, which was the right and the due of the Imams. That was why the Shiites sometimes asked the Imams (PBUH) what they

needed to do with such wealth or or property and if the deduction of khums from the incomes was obligatory. The Imams (PBUThem), who wanted to resolve the difficulties of the Shiites and knew that if they paid khums they would incur losses, would exempt their followers from the payment of the one-fifth on their incomes.

Also in the narration of Abu Khadija, the man who asked the Imam to make his property and wealth lawful for him, by wealth or property he meant the things he received without the payment of khums on them.

### 3 - Profits and Advantages (Anfal)

As it is said in the Quran, profits, advantages or other incomes (anfal<sup>1</sup>) belong to God, to His messenger, his household, his descendents, orphans, the indigent, and wayfarers, while the spoils of war are related to the fighters of holy wars. The one-fifth (khums) belongs to the messenger of God, to his household and his relatives (PBUThem All) and the conquered lands belong to all the Muslims. However, anfal, as we said before, belong to the prophet (MGSBH), his household and after them they come down to the Imams (PBUThem).

In the periods of the Omayyads and Abbasides' usurping rule, when all the advantages (anfal) were in the control of the caliphs, the Imams made any use of all advantages, such as buying and selling, trading and transactions, lawful for the Shiites and exempted them from paying khums in order to resolve their difficulties. The greater part of the advantages was the lands that had come into the control of the Islamic government without fighting such as wastelands, undeveloped plains, valleys, mountains, or forests. The Imam (PBUH) too, would make these advantages exempt from paying khums for the Shiites in order to have facilitated their life affairs. Here is an example which seems to be enough as evidence.

Masma'-bin-Abd-al-Malek, known as Abu Sayyar, says in a narration: I asked Imam Sadeq (PBUH), "Shall I bring to you whatever I owe you as my obligation?" The Imam answered: "No, we exempted you from paying it. The advantages are lawful to our Shiites; however much of the land that is in their control, they can make use of it with all confidence. This lawfulness in utilization will continue until the time

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<sup>1</sup> . انفال

when the Imam of time (PBUH) appears. After that, he will collect the Islamic taxes of the lands under the control of the Muslims." What we have said up to here, is the same thing that the jurists of the Imamiyya sects say too: lawfulness of advantages, that is, exemption from the payment of khums is specific of spoils of war, property unpaid of the one fifth and anfāl.

#### Group Two: Exemption for the Indigent

In some narrations, we read that the exemption from khums accounted for a certain time. At a time when some of the Shiites lived in a kind of poverty, the Imam (PBUH) used to exempt such poor men from paying the tax of khums. Look at the following narration in regard to khums.

Yunos-bin-Ya'qub says: Once I had an audience with Imam Sadeq (PBUH) when a man whose job was selling cloth came in and said, "Dear Imam, there is some wealth with us in which you have a right and we seem to have failed in paying it to you". Imam Sadeq (PBUH) said to him in answer, "We will not treat you justly if we charge you for the payment of that right."

Ali-bin-Mahziyar says: I read a letter in which a man had asked Imam Jawad to make it lawful for him the khums he owed the Imam on his living incomes. The Imam said to him. "Anyone who has difficulty paying my due, I will make it lawful for them. They are exempt from paying it."

#### Group Three: Sectional Exemption

Some narrations suggest that the exemption from khums or making it lawful for the Shiites was related to a section and a certain time when there were some difficulties in its using in the right place. Now, we will point to the evidence of two witnesses to prove the exemption of khums in a specific time.

Imam Sadeq (PBUH) in his interpreting the Qurainc verse of 'khums' says: "I swear by God that by ghanima it is meant the people's incomes day after day; but my father exempted the Shiites from paying it so that their wealth and property could become cleaned and purified from unlawfulness." This interpretation of the Imam indicates that exemption from payment of khums is with regard to a period of time. Perhaps it was at the time of Imam Baqer (PBUH) when delivering the one-fifth to

him or spending it in its right instances would become encountered with troubles and the Imam needed to exempt the Shiites from giving it. However, Imam Sadeq (PBUH) would not make them exempt from paying and turned to comment on the verse about khums.

In the period of Abbasides and the severities they caused for Imam Sadeq (PBUH), particularly at the time of Caliph Mansur and the harsh treatment of Harun for Imam Kazem (PBUH), the Imam finally become poisoned in the prison of Baghdad being a martyr. Imam Reza, the eight Imam was sent to the Province of Kurassan being watched by the caliph's functionaries. That was why collecting khums was faced with some difficulties.

A great personality like Mu'alla-bin-Khanis, was captured, tortured and at last martyred by the governer of Madina because he was the financial agent of Imam Sadeq. However hard they tried to make him confess who delivered the necessary dues to the Imam, he did not reveal them; which at last resulted in the loss of his life<sup>1</sup>.

Mohammad-bin-Abi 'Amir, one of the close companions of Imam Kazem (PBUH) was captured at the time of Harun-al-Rashid so as to introduce the Imam's followers. He was whipped 100 lashes but he avoided disclosing the names of those who were at the service of the Imam. So, it was on such conditions that the Imams (PBUH) exempted their Shiites from the paying of khums, but this doesn't mean that the people would be exempted forever<sup>2</sup>.

Mahammad-bin-Tabari says: "A man who was one of the merchants in the Province Fars, wrote a letter to Imam Reza, the eighth Imam (PBUH) and asked him to agree with him to be exempted from paying khums. The Imam wrote in answer:

"No wealth will become lawful except from the way that God has made it lawful for the people. Receiving the one-fifth helps us to deal with religious affairs, to pay the expenses of the family and the followers, to save our face in front of the oppressors and the powerful. So, do not withhold from giving it and do not deprive yourselves of our good wishes. The payment of khums is the key to relieve you of hardships and it is the cause of increase in your sustenance keeping you away from

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from the book al – Ghiba by Shaykh Toosi .<sup>1</sup>

from the book رجال نجاشی .<sup>2</sup>

sins. Khums is an advance prevention for indigence on the Day of Judgement; and the Muslim is one who keeps his promise not one who only serves with his tongue but disobeys with his heart."

A group of people from Khorassan too, went to Imam Reza (PBUH) and asked him to exempt them from paying khums. The Imam said in answer: "I do not accept your request. You verbally profess your love to us but avoid paying our dues which God has indicated as a right!" Then, the Imam added: "By Allah, we never make it lawful to anyone of you in this right of ours!"

Also, for the reason of too many recourses to him with regard to the exemption of the one-fifth, Imam Jawad (PBUH) had to communicate a decree, in 220 AH, to all the Shiites. He wrote his order to Ali-bin-Mahziyar addressing him as follows:

"Our friends have neglected paying our dues before, which is khums, and now I want to clean and purify them. So, from now on I deem it necessary that they pay khums (220 AH)."

The Imam of Time, Mahdi (PBUH) during his Minor Absence answered the question asked khums:

"In the name of God, the compassionate, the merciful. The curse of God and His angels and the people be on those who make even one drachma of our dues lawful to them!"

This is not the only letter in which Hazrat Mahdi curses those who do not pay the Imams' dues. In other writing of his we also read about his disgust for such persons who avoid paying the one-fifth, the right of them<sup>1</sup>.

### **Bani Hashem, Prohibition of Zakat and Alms**

The Islamic jurists are unanimous in stating that zakat and alms are unlawful to Bani Hashem (sons or descendents of Hashem), particularly the prophet's household. God has given them khums instead of Zakat. The Imam is quoted to have said in this regard:

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After his Minor Absence Hazrat Mahdi appeared again, but now he is in his Major Absence .<sup>1</sup>

"God has stipulated that khums be given to the orphans, the indigent and the poor of the prophet's household, but not be given to the orphans, the poor or the wayfarers of other people, so that it can substitute zakat and other alms that individuals pay them. God, in this way, has set the prophet's descendents at a superior level not to receive the filthy lucre of the people so that this household be kept in respect for their affinity to the prophet. Then, it is their specific right to receive khums and be needless of other forms of alms that may make them degraded and contemptuous."

Now with regard to the above principle, we can understand that the exemption from paying khums was related to some periods of time and could never be generalized to all times and periods. Supporting the living costs of the poor from Bani Hashem is dependent upon paying khums. As a result, the one fifth of incomes in addition to extraction of mines, treasures etc, is a Quranic principle and a sunna (tradition) from the prophet (MGSBH); and the Shiites Imams too, have emphasized its payment.

However, after the prophet (MGSBH) this principle was not taken into consideration and the caliphs, especially the Omayyads and the Abbassides directly opposed the Imams since they did not want the Imam (PBUTheM) to become powerful. Thus, receiving khums which was like the artery in the blood circulation was cut off to deprive the Imams of such a vital issue and Bani Hashem did not even get the spoils of war.

The other point in our conclusion is that the exemption from khums can never be allotted to all the times because half of it belongs to Bani Hashem because zakat is denied to them. If khums is not paid to the poor descendents of the prophet's household and the offspring of the Imams (PBUTheM), their living conditions will become much worse than the others, which will never be approved by the prophet (MGSBH).

## Section Two

### The System of Practicing Attorneyship at the Time of the Imams (PBUThem)

In the periods of the two dynasties of the Omayyads and the Abbasides when it was very difficult to establish communication with the Imams, they assigned some individuals to act as attorneys to do their financial affairs. The most important quality in such agents was the quality of virtue, justice and confidence or reliability to collect the necessary dues of the Imams (PBUThem).

Moreover, these agents were informed very much of the Islamic laws according to which they could resolve people's difficulties. Some of them were endowed with such a high jurisprudential position that they were able to answer most of the religious questions. Abd-al-Rahman-bin-Hajjaj, Sefwan-bin-Yahya, Ali-bin-Mahziyar, Ayyub-bin-Nuh, and Othman-bin-Sa'id umri are good examples of them.

Some policies and manners of the Imams (PBUThem) clearly indicate that the system of attorneyship at the time of Imam Sadeq (PBUH) until the time of Imam Mahdi (May God Hasten his Prosperous Advent) had been an active system administered, of course, in a way that the enemies might not understand its nature. Even, when the Shiites brought their obligatory payable dues to the Imam's house, he would commit the job to his agent to see to it. The Imam would not personally handle the affair. As we see in the narration about Imam Hassan Askari (PBUH) when some Shiites from Yemen had gone to him, the following quotation deserves attention:

Imam Hassan Askari (PBUH) lived in the city of samarid where some Shiites attended to him. One day, the Imam's servant came to give news to him:

"Some of your followers have arrived here dusty-faces from Yemen to pay their amount due." The Imam said to the servant: "Call Othman-bin-Sa'id to come to me." Othman came in and Imam Hassan Askari (PBUH) said to him:

"Othman, go to those men from Yemen. You are a reliable deputy and trustworthy for God's right dues. Take whatever our Shiites have brought from Yemen." Then the Imam added: "Lo, Othman-bin-Sa'id is my deputy or attorney, and his son, Mohammad is the attorney of my son, who is your Mahdi<sup>1</sup>."

Now, we will mention the names of some agents of the Imams (PBUH) in summary in order to see that performing the precept of khums would become less important at the time of the Imams, but the payment of the one fifth did not stop.

### **Some Attorneys of Imam Sadeq**

1 - Mu'alla-bin-Khanis was one of the best agents of Imam Sadeq (PBUH) in Medina and a mediator between the Shiites and the Imam in collecting necessary religious funds. He used to travel to some areas where the Shiites mostly inhabited and collect the dues, gifts or other funds to send to Medina. Mansur, the Abbaside Caliph, accused Imam Sadeq of supporting a revolt which had been raised by Mohammad-bin-Abdullah Nafs Zakiyya and summoned the Imam to Iraq. Also, Imam Sadeq was charged with sending Mualla-bin-Khanis to collect funds in order to help those who had revolted. The caliph then asked Dawud-bin-Ali, the ruler of Medina to go, to find and make known the Shiites of the Imam. Dawud told Mualla that he would be killed if he didn't reveal the names of the Imam's followers. Mualla-bin-Khanis said in answer:

"Do you frighten me with the threat of death, I won't be afraid of anything." Then the ruler ordered his men to behead him. After ward, his body was hung on the gallows. Imam Sadeq (PBUH) wrote a letter to Dawud reprimanding him severely in an address: "O Dawud, you killed my closest friend and agent; that didn't suffice you; you hung his body on the gallows too...."

2 - Hamran-bin-A'yun was Zarara-bin-A'yun's brother. Shaykh Tusi, in his book *al-Rejal*, has reckoned him as one of the companions of Imam Baqer and Imam Sadeq. Also the Shaykh, in his book *Ghiba*, has mentioned Hamran to be among the names of the Imam's attorneys. Therefore, it is probable that he had undertaken the responsibility of attorneyship for Imam Baqer (PBUH). If this could be true, we can take the conclusion that the records of attorneyship refer to the time of the Imam

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<sup>1</sup> . بحار الانوار from the book

Baqer (PBUH) and even before him. Perhaps the records could be sought back at the time of Imam Hassan Mujtaba (PBUH) when a man came to him asking for financial contribution and the Imam summoned his deputy and ordered him to pay all the living costs of that person<sup>1</sup>.

3 - Shaykh Tusi says that Naser-bin-Qamus Lakhmi, who was an erudite benevolent man, has been the agent of Imam Sadeq (PBUH) for 20 years.

4 - Abd-al-Rahman-bin-Hajjaj was also an agent of Imam Sadeq (PBUH). He passed away in the period of Imam Reza (PBUH)<sup>2</sup>. Some other names of the men who worked as agents for the Imams are as follows:

5 - Mufazzal-bin-Umar Ju'fi: Shaykh Tusi quoting from Hesham-bin-Ahmar says: He brought some property to Imam Musa-bin-Jafar (PBUH) in Medina. The Imam told him to take the property to the house of Mufazzal-bin-Umar. In another narration we read: Hesham said: "Nothing was given directly to Imam Musa (PBUH) except from Mufazzal. If some people came to the Imam and wanted to pay something to him, he would tell those men to give them to Mufazzal."

6 - Abdullah-bin-Jndab Bejelli: He was an agent working for both Imam Musa-bin-Ja'far and Imam Reza (PBUH). He was a dignified pious man serving the Imams<sup>3</sup> in those days.

7 - Mohhammad-bin-Senan: Shaykh Tusi has introduced him as a dignified agent.

8 - Ali-bin-Mahziyar Ahwazi: Shaykh Tusi has considered him to be one of Imam Jawad's attorneys in his book alGhiba. His position and prestige can be known by the narrations quoted in the necessity of khums.

9 - Jamil-bin-Darraj: The Shaykh has counted him among Imam Jawad's attorneys.

10 - Ali-bin Ja'far Hammani: Abu Taher-bin-Belal says: "I saw Ali-bin Ja'far granting enormous amounts to the needy. On my return, I wrote a letter to Imam Hassan Askari (PBUH) informing him of the event. The Imam too, wrote in an answer that the granting had by his permission, first at a hundred thousand drachmas and then

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<sup>1</sup> . بحارالانوار from the book

<sup>2</sup> . غيبات شيخ طوسي from the book

<sup>3</sup> . بحارالانوار from the book

twice as much. The Imam then added that nothing had been left for him and asked why some people interfere in his personal affairs. After that Ali-Bin-Ja'far brought 30 thousand drachmas to the Imam to spend as he wished.

Abu Ali-bin-Rashed: Imam Askari (PBUH) wrote a letter to the Shiites in Baghdad in Mada'en and in Kufa saying: "I appointed Abu Ali-bin-Rashid to replace Abu Ali-Hussayn-bin-Abdullah and made it incumbent upon my followers to obey him. Opposing him means opposing me."

Saleh-bin-Mohammad-bin-Hamadani: he was an agent and deputy to Imam Jawad (PBUH). One day, Saleh came to the Imam and said, "I have donated the thousand drachmas to the poor." The Imam said: That's all right, it is agreed."

Ali-bin-Abi Hamza Bata'eni

Ziyad-bin-Marwan-Qandi

Othman-bin-Isa

These three people were first financial deputies to Imam Musa-bin-Ja'far (PBUH). Since the amounts of money with them were so great, they avoided paying them to Imam Reza (PBUH). Then an endowment group was established for the donation, which treated benevolently at the beginning but it led to a bad ending.

Othman-bin-Sa'id Omri: He was one of the deputies or agents of Imam Hadi and Imam Askari (PBUH). Shaykh Tusi says: "Whenever the Shiites brought an amount of money to Imam Askari (PBUH), he would immediately say: "Give it to Othman-bin-Sa'id<sup>1</sup>."

Abu Ja'far Mohammad-bin-Othman-bin-Sa'id Umri: Shaykh Tusi says: "Abu Nasr has narrated that Abu Ja'far Umri passed away in 304 A.H. He served as an attorney of the Imams for many years.

Hussayn-bin-Ruh Nowbakhti: Shaykh Tusi quoting from Ibn Khordad says: "I took some funds to Mohammad-bin-Othman Umri so that he would convey it to the Imam of Time (PBUH). The Imam said: "Give all of it to Hussayn-bin-Ruh." From that time on, I always delivered the property or wealth to Hussayn-bin-Ruh.

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<sup>1</sup>. رجال طوسی from the book

All we mentioned above about paying or receiving the property or wealth at the Imams' lifetimes suggests that the Shiites from the period of Imam Sadeq (PBUH) on delivered their obligatory dues to them, the most of which was khums under special circumstances. Since the people did not often have access to the Imams. They handed their dues to the agents or deputies of the Imams (PBUH).

### Part Three

#### The Precept of Khums and the Jurists in the Time of Absence

##### *Section One*

##### *Paying Khums to the Jurists in the Time of Absence<sup>1</sup>*

The issue of paying the one-fifth to the all-qualified religious jurists at the Time of Absence is the most important discussion that the writer emphasizes in this writing. He is not worried about the payment of khums being obligatory, but the

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the absence of Imam Mahdi (PBUH) .<sup>1</sup>

concern of the writer is mostly related to the question why the people must pay khums to the jurist:

All of us know that the belief in the Religious Authority reason for its spread. The source of imitation can guide the Shiites in any time and in any condition. Since the doctrine of Shiism has always prevented the global sovereignty from achieving dominance over the world, it has plotted against the great doctrine of the Shiite faith since many years ago so as to weaken and perhaps to overthrow the pillars that keep the foundation of that authority and fortify, in this way, their influence and dominance again over Iran, which is something impossible.

Let us initially assert that all zakat, khums, and other kinds of alms belong to the honorable Imam. But this does not mean that the immaculate Imam is the personal owner of them because it is below the Imam's dignity to call himself the owner of worldly attractions. However, the Imam is a pious, virtuous and honest man, he is immune from slips and sins. He poses himself at the top of the people's affairs to convey the dues to those that are entitled to them.

Thus khums, at the time of the prophet (MGSBH) was at his disposal. Later the spoils of war were consumed and spent under the expediency of the caliphs. The Shiites also uses to pay what the Imams deemed right to be collected; and their deputies or agents had established their attorneyship organizations for the same reason. That their attorneyship organizations for the same reason. That is, they performed the financial precepts to spend the amounts collected, with the discretion of the Imam.

Then, the critical situation of the period of the Abbasides caused the Imams to seek a means of connection with their followers through agents or representatives.

The main purpose of the attorneyship was collecting khums, zakat, gifts, and dedications from different areas and conveying them to the Imams (PBUThem). Among other obligations of the Imams were answering religious or lend their life by way of their agents.

Imam Hadi (PBUH), who lived in Samaria, Iraq, was under severe control of the caliph's secret agents but he could exactly continue the plan of his father, Imam Jawad (PBUH), who had well established the system of attorneyship to collect the

dues in different cities and regions. That was a harmonious well-administered organization that regularly secured the Imam's purposes.

On the other hand, lack of direct contact between the Imam and his followers had caused the political, religious function of the agents to be increased in such a way that these deputies were committed with more responsibilities in the execution of the affairs.

In the presence of the Imams (PBUH), the agents would administer financial precepts to deal with the poor and needy individuals in the Shiite society. In the period of the Minor Absence (of Imam Mahdi, PBUH), 260-329 AH, the collected funds were spent through the expediency of the Imam wherever financial affairs were necessary; because the agents could easily meet the Imam and receive his directions. But after the Minor Absence ended and the Major Absence started, no more persons were assigned as agents, deputies or attorneys. In such conditions, the Imam introduced common people instead of particular persons as his agents; and in the place of calling them by name, he mentioned some manifest qualities for them to make them qualified for being his deputies. He said they should:

Be able to quote our traditions,

Be authorities in distinguishing the lawful from the unlawful according to the religious policy of the prophet's household and

Know the real precepts of our policy.

It is worth nothing that the above tradition was also quoted at the time of Imam Sadeq (PBUH) and so, it can be generalized to all other periods. To the time of the Advent of Mahdi (PBUH). Imam Sadeq too, had introduced his worthy agents in terms of their common qualities and not by any names like this:

"I appointed them as my deputies to carry out our commandments. If they make comments on the, basis of our precepts but some people do not accept our deputies decrees such persons have degraded God's commands. If someone rejects our precepts, they have rejected God's commandments, and their reaction is to the extent of polytheism."

With regard to this tradition, the jurists of every time and age are really sources for obedience and authorities to refer to the immaculate Imams (PBUH), and the necessity for such a substitution of the religious society, a part of which is khums and another is zakat.

In the an answer to the letter of Ishaq-bin-Ya'qub, the Imam of Time (PBUH) wrote:

"The jurists are our authorities to you: They are narrators of our traditions with regard to the events; they are Proofs to be turned to and I am God's authority over them."

On the basis of all that were narrated from the Imams, the all-qualifies jurisprudents are the most appropriate persons and the most worthy to handle both the worldly and religious difficulty of the people's life and undertake the leadership of the society according to their awareness, insight and great knowledge.

The financial system of the Islamic society requires an organization to manage people's wealth and property, to secure the needs of the needy and settle any problem that might arise in this way: The Sunnite jurists believe that all issues of the Islamic society can be handled and settled under the system of their rulers, who are the very sovereigns, kings or authorities available at the head of the administration. But the Shiites do not accept such a commentary from the phrase "Ulu-al-Amr<sup>1</sup>" in the verse of the Quran. The Shiites believe no other worthy and competent persons are there than the religious jurists among all the strata and groups of the society to do the Imamate obligations in the Time of Absence.

Suppose, there were not such a system in the periods of the Imam's Absence? What do you think would result except chaos and disorder? How would the needy and the poor descendants of the poor descendants of the prophet lead their living without khums while they are deprived of zakat? It is hardly possible for a powerful consolidated organization to survive without collecting obligatory dues to spend them on the financial precepts in the proper manner.

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<sup>1</sup> . اولوالامر those who are guardians of Muslims affairs

The all-qualified<sup>1</sup> jurists are only guarantors of dividing khums and other obligatory dues and funds. They are responsible to lead the people and undertake solving the problems at the Time of Absence. They must do the following:

Pronounce judicial juridical decrees,

Make judgements by making use of religious reasons,

Appoint judges and right arbitrators in different parts of the country,

Establish social order and improve the believers' life as much as they can.

This does not mean that the jurists should do all the above-mentioned jobs by themselves, but there must be a system of institutions and organizations in which they can operate on the basis of freedom and justice. Go to the book "the Islamic Government" and read the obligations in detail.

The writer of the book "al-Khums says: "How is it, while giving khums is recommended<sup>2</sup> at the time of the Imam, its payment to the jurists has become indispensable<sup>3</sup>?" The answer is this:

"There are proof and evidence that the Imam has appointed jurists to act as his deputies by using their power of analogy and practice of religion. The Imams have assigned jurists as their attorneys to give decrees and make judgements."

We hereby remind the writer of the fact that paying khums was not recommended at the time of the Imams, but it was necessary and obligatory. Why is he saying that khums was "recommended"? If his evidence is the narrations that consider some Muslims exempt from paying khums (making khums lawful) they really cancel the payment of it at special times, not pronounce it as recommended.

Moreover, according to the last two traditions (we did not want to repeat them here), it is obvious that the jurists have not analytically and practically entered the situation to become liable to undertake the responsibility of financial receivings and payings, it is the Imam that have charges them to accept that obligation.

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<sup>1</sup> . جامع الشرائط

<sup>2</sup> . مستحب

<sup>3</sup> . واجب

In most instances, the Shiite society has been involved in circumstances where it has had to oppose the governments of the time. The Shiites protested against the Omayyads and the Abbasides because such caliphs were not rightful and legitimate. What is more, the Shiites want to live a free life and at the same time be bound to Islamic laws. One of the holy aspects of the religion, they believe, is to perform financial precepts. Now can the Shiites deal with such financial affairs by themselves?

Can everyone pay their taxes willfully to anyone they like, which will result in anarchy and disorder?

Should they pay their dues to the government of their time while they consider them cruel and unjust rulers? So, the most rightful way is that the people set their payable amount of their wealth at the disposal of the pious, virtuous jurists so that they can in turn be responsible to divide the funds and convey them to the poor and needy Muslims and also spend some of the money on the promulgation of the rightful religion.

## Part Four

### How to Spend Khums?

#### *Section one*

#### *The Division of Khums*

Khums, according to the Quranic verse, is divided into two segments:

The share of God, His messenger and his household

The share of orphans, the poor and the wayfarers of the prophet's descendents (the Sadat<sup>1</sup>).

Since the zakat is unlawful to the poor of the Sadat, the second share of khums is spent on their needs. Almost all the Shiite jurists, whether the ancient or the recent, are unanimous in their decree that the portion of the poor Sadat must be spent for them<sup>2</sup>.

Since this financial precept is the responsibility of the honorable Imam (PBUH), and he is bound to see to the division of the one-fifth to these three groups, this obligation of his is entrusted to his deputies in the Absence Time. Not only is the Imam (PBUH) responsible to the payment of half of khums to the poor of the Sadat, but he should also spend, from the first segment of khums, as much as necessary to finance their cost of living so that they may not get involved in hardship.

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<sup>1</sup> . السادات

<sup>2</sup> . مستند الشيعة فى احكام الشريعة from the book

Imam Kazem (PBUH) said:

"The Imam must divide khums on the basis of the Quran and the prophet's tradition giving the poor as much as they need for one year. If the first donation were more than what the poor needed, the extra money would be the Imam's. But if the donation were less than they needed for one year, the Imam should pay the poor out of his share as much as if would meet their requirements."

This tradition suggests that the Imam (PBUH) is responsible to resolve the difficulties of the life of those three groups, and this is left to the Imam's discretion to be fulfilled. However, in the Time of Absence, the job will be done by his deputies or agents who are the same jurists.

But the first half of the khums which, according to the Quranic verse, belongs to God, to the prophet and to his household, is what we generally call the Imam's share<sup>1</sup>; because the segment of God is given to his prophet and the segment of the household is allotted to the Imam afterward.

Now, when the Imam was present, he would supervise the issue of division; but in his Major Absence when the connection is cut off, there are two viewpoints, the most important among all others to decide:

- 1 - Collection all the property, wealth and funds of khums, entrusting them to others until the day of the Imam's Advent,
- 2 - Dividing the wealth and property and paying them to the indigent and the poor of the prophet's descendents<sup>2</sup>.

The second view is confirmed by many jurists of the Shiites such as Shaykh Mufid (in his treatise, Ghariyya), by Muhaqqeq Helli (in his book Sharaya), by Ibn Fahd Helli (in his book al-Muhazzab), and by Shahid Thani (in al-Rawza). Even in some narrations, the division of khums to the poor of the Shiites has been more emphasized as follows:

- 1 - Mohammad-bin-Yazid says: "Anyone who cannot come to give us our dues should convey them to our followers<sup>1</sup>"

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<sup>1</sup> . سهم الامام

<sup>2</sup> . بنی هاشم

2 - Shaykh Sadeq quotes from the Imam (PBUH) who said: "Anyone who cannot reach us to give us what is due ought to pay it to our worthy Shiites."

This narration suggest that the Imam (PBUH) does not agree to the fact that people remain under the obligation of khums. He prefers its consumption to its preservation, and it is evident that meeting the poor people's needs is the cause of God's satisfaction. Therefore, the jurist is the Imam's representative to spend the money on satisfying the requirements of the poor Shiites, on the promulgation of Islam and on the way of supporting the existence of Shiism such as:

A - The Islamic education of the young people,

B - Training men of the Islamic knowledge and promulgators to proclaim the religion,

C - Sending knowledgeable promulgators to the places where people need Islamic education,

D - Establishing theological colleges for teaching Islamic sciences,

E - Establishing libraries in order to make use of the knowledge of scientists and the learned,

F - Doing other things of publish utility such as building hospitals or clinics for the poor and miserables, etc. It is certain that the Imam's portion is spent under the care of the just jurisprudent on such matters to fulfill those religious obligations. Spending the Imam's share on such cases has a theoretical aspect, but it is only the jurist that can indicate its practical conditions and distinguish those who are entitled to receiving the alms on the basis of religious stipulations. It is for the same reason that the emphasis is on the decrees of the Shiite jurists to decide how khums should be divided. Muhaqqeq Naraqi says:

"Is it necessary for the jurist to undertake the act of dividing khums, on which there is a consensus among most religious sources of imitation or should he permit another one to make the decision, as it is quoted in some teachings of my father's masters<sup>2</sup>?"

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<sup>1</sup> . وسائل الشيعه from the book

<sup>2</sup> . مستند الشيعه from the book

Nevertheless a number of Shiite ulema like Muhaqqeq Helli in his book Sharaye' and Allama Helli, in his book Muntaha and Shahid Thani, in his book Rawza believe that khums can be divided with regard to the jurist's viewpoint without asking for another's comment.



## Part Five

### Examination and Analysis of the Book of Khums A Look Back at the Previous Sections

In the first section of this writing, it was proved that khums is one of the financial precepts in Islam cited in the Quran, in traditions and narrations of the holy prophet (MGSBH) and the immaculate Imams (PBUTheM). It was clearly indicated that khums had been incumbent upon Muslims to pay according to the decree, and it was said that the verse of khums is not allotted only to the spoils of war but it includes all other incomes.

In the second section of this writing, we discussed the one-fifth in detail and proved that all the narrations about the exemption from paying khums (making it laeful) concern three groups of the wealth:

Spoils of war would reach the Shiites after they changed hands without the payment of one-fifth of them to the kinsmen of the prophet. So, the immaculate Imams, because of hardship and relief of guilt, would exempt the Shiites from paying it.

There were some property or wealth coming to the use of the Shiites, while the khums of it, which was the right of the prophet's kinsmen, was not paid, although it was not of spoils of war. Here too, the Shiites become exempt from paying khums so that they might not be burdened with others' dues.

There were some non-utilizes lands (anfal) which were brought under the power of the Islamic government. These too, belonged to the honorable Imams and the prophet and so had to be used for the Islamic expediencies. Without paying khums on them.

The indigent and the impoverished were exempt from paying khums because it was too difficult for them to earn their living. Also at certain times when the Shiites were under the oppression and disturbance of some rulers, the one-fifth was made lawful to them. We enumerated about 30 narrations with regard to khums being

incumbent on the Muslims to pay on their incomes after the deduction of expenses and necessary costs of their living.

In the third part of this book, we talked about the ways how khums must be used, and this was with regard to the verse of khums in the Quran and traditions rendering the Imams responsible for the use of it wherever expedient.

In the fourth part, we tried to specify that the precept of khums is a widespread one that requires an organization to deal with. At the head of such an organization rests the immaculate Imam (PBUH) or the all-qualified jurists to jurist to administer all its issues. If every person starts to pay their dues to whomever they think advisable, this causes nothing but disorder and chaos. Therefore, there must be some regulations to govern the whole situation.

Now in the fifth part of this book we are going to examine and analyze the book al-Khums from the viewpoint of the Quran and the prophet's household and then we will demonstrate the little knowledge and precipitance of the another or authors of this book.

## *Sectin One*

### *The eight Facts*

The writer of the book al-Khums sets forth eight facts which are really the gist of his writing. He says: "I have investigated the issue of khums for a long time and reached some very important points which, as far as I know, are unknown and seem unbelievable to those who relate khums to the descendents of the prophet (the Sadat) or attribute it to the household of Imam Ali (PBUH) only."

Describing the eight facts, the writer starts as follows:

#### **The First Fact:**

He says, "Paying one-fifth of your incomes to the jurists is not reasonable. This does not have any reliable sources in the Shiite traditions. Evidently, no valid proofs have ever been quoted from the immaculate Imams related to the payment of khums."

Answer: What we understand from the first sentence is that paying khums is necessary but not to the jurists. From the second sentence we understand that there is no reason why we must pay khums at all.

### *The Second Fact*

He writes: "The second fact about khums, which is more significant has been really left unknown to those who believe that it is obligatory to pay khums. Such people are not aware of this truth that many narrations quoted from the Imams suggest that the Shiites do not need to pay khums specially at the Time of Absence." Answers: All the narrations about the Imams (PBUH) with regard to khums are completely studied and discussed by the Shiite jurists who elaborate on different traditions. Of course, jurisprudence is a discipline of specialized knowledge. It is natural that an extract of it is propounded for the public in the form of practical decrees in religious treaties. Since a jurist has to study all his life working hard to attain this scientific status, we never expect the common people to leave their jobs to study religious laws to become jurists. It is well-known all over the world that you go to a physician for your illness and you turn to a specialized jurist for some Islamic questions.

### *The Third Fact*

He says, "A greater fact is that according to the Shiite traditions it is not incumbent upon you to pay khums if the Imam is present, but it is only a recommended precept. So, you can pay it or not as you wish.

Answer : It is not known where from the above command has been issued. In the book "Khums", there is not even one narration to say that the paying of khums is recommended. To my surprise, the writer repeats this fact of his and says again, "Paying khums to the immaculate Imam is recommended not obligatory".

However, we know that there are two types of traditions : the thirty traditions about the incumbency of the one-fifth at any time and any place, and those traditions which make part of khums lawful (exempt people from paying it) under some specific conditions.

But we hereby inform them of this fact that there are no narrations to say the payment of khums is recommended not necessary.

How good it would be if the writer pointed to those narrations and quoted a few of them! How can we consider khums as a recommended precept while its incumbency

is explicitly announced to the public in the Quran? The organization of attorneyship or agency at the time of the Imams (PBU them) is the most obvious evidence and at the Minor Absence or the Major Absence of Imam Mahdi (PBUH).

### *The Fourth Fact*

He says, "This is an unknown but very exciting fact that the Shiite Ulema in the past, such as "Mufid", "Murtaza and Tusi" never declared that you must pay khums to the "jurisprudents.

Answer : If these three people did not say any-thing about paying khums to the jurists, this would never negate the precept of khums. These honorable men have emphasized paying khums to the poor sadat (the descendents of the prophet's household) under the supervision of the jurists like other great men who believed in paying the one – fifth.

### *The Fifth Fact*

He says : "It is so amazing that in many reliable narrations we read that paying khums is recommended to the Imam. With regard to this, how is it that khums, being "recommended to pay the Imam, becomes obligatory to pay to the jurist?

Answer : The writer has not propounded a new fact here. It is the repetition of the same point in the Fact Four. We do not know of any narrations expressive of khums being recommended to pay in the Shiite works.

### *The Sixth Fact*

The writer says : "According to the Quranic verse, a half of khums goes to the Imam, which is the right of God, the right of His prophet and his household ; but the other half is the right of orphans, the indigent and the wayfarers of Bani Hashem. The Imam "must pay the second half to such needy persons. He must not allot it to himself.

Answer : The writer has addressed the above saying to the book al-Nahaya by Shaykh Tusi, but he has not turned to that book himself. It seems probable that he has copied it out of a certain writing, perhaps from one of the following :

1. Tatawur – al – Fikr – al – Siyasi<sup>1</sup> by Ahmad Kateb
2. Al – Shia wa – al – Tashih<sup>2</sup> by Musa Musawi

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<sup>1</sup> . تطوّر الفكر السياسي الشيعي the book

<sup>2</sup> . الشيعة والتصحيح the book

The Islamic moral principles do not permit me to introduce these two writers here especially Musa musawi whom I know very well. By the way, Shaykh Tusi has never said anything like this in his book al – Nehaya as the writer says : "... allot it to himself ", that is, take half of the khums for himself. Also, the writer has written in his book without turning to the Shiite sources in a proper way. A sample for his error is that he names the book Man La Yahzuruh al – Faqih – Man La Yahzuruh – al – Faqih` many times adding a word to it.

### *The Seventh Fact*

He writes : "Khums belongs to the poor, needy persons of Bani Hashem such as orphans, the indigent and the wayfarers. It does not go to the rich, to the wealthy of "the household.

Answer : It is not evident where he has gotten these words from. In which treatise, book, or writing of the Shiites can you find that the wealthy must receive khums? In all cases the criterion for receiving khums is to be poor and needy and everyone is aware of this stipulation known as a religious decree.

### *The Eighth Fact*

He writes : "There is no reason why we must pay khums to the jurists. There is no narration quoted from any immaculate Imams saying one fifth of your property must "be paid to the jurists.

Answer : The last fact is the repetition of the first fact of his. We discussed in the previous chapters in detail around the necessity of paying khums. Citing these eight facts is the cause of what we are

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<sup>1</sup> . فقيه من لا يحضره الفقيه changed to من لا يحضره الفقيه

going to say from now on with regard to khums.

## Section Two

### Continuing the Explanation of the Facts in Detail

The writer of the book al Khums goes on writing things in order to prove lawfulness<sup>1</sup> of khums as a whole in all the times.

In the second chapter of his book, he tries to give reasons for the Eight Facts. First of all, he tells the story of Zaris Kanasi by saying : "Abi Abdullah (Imam Hussayn) was once asked how impurity became prevalent among people, and the Imam answered : By not paying khums to us, members of thd Household, but our followers, the Shiites "are exempt from paying it in order to give birth or to be born in a pure manner.

Answer : "The writer has not checked the right source. The correct narration is this : The Imam (PBUH) asked me "From where did the impurity prevail among people? I said : "I don't know." ...

Imam Sadeq (PBUH) once asked : "Do you know from where impurity spread among people? And the narrator answered : "I do not know." Then the Imam said : "It is because of khums that the people don't pay. But it is made lawful to the Shiites, our "followers for the purity of their children.

In the first part of the book, we talked about such narrations concerning the childbirth purity and said that it was related to the women slaves that changed hands as spoils of war among Muslims. Sometimes the Shiites bought such women and had children. However, this has nothing to do with the lawfulness of khums as a whole and for all the times. The writer has set forth many narrations with regard to the exemption from paying khums, that is, the lawfulness of it without paying attention to its different instances and the periods.

Persisting in the matter of khums, the writer says :

When the Imam has left the issue of khums to his Shiites, for what right do some " people come and claim that they are deputies of the Imam? When the Imam has dispensed with his own right, why do others come about asking for the one – fifth and "insist on charging the Muslims for the amount of khums?

All jurists are unanimous in cases where khums is made lawful to the Shiites. So, all the goods that have been obtained as spoils of war will remain exempt from khums

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<sup>1</sup>. تحليل : exemption from paying khums

until the Advent of Imam Mahdi (PBUH). As for other instances, the Imam has never left khums as lawful and the jurists have said it is obligatory to be paid.

The writer of the book has only quoted some narrations out of the books Usul – al – Kafi and the Interpretation of Khums from chapters about property taken from the enemy<sup>1</sup> and spoils of war<sup>2</sup>, but has taken no notice of other narrations that explain the first ones such as :

1. Mohammad – bin – Moslem said : " I asked Imam Baqer (PBUH) about the mines of gold, silver, iron, copper, zinc and he answered : "There is khums on all of them."<sup>3</sup>
- 2 . Imam sadeq (PBUH), after reciting the Quranic verse of khums, said : "By God, "ghanima" in the verse means daily income of the people. My father had made it lawful to make the birth pure ... " This means that the exemption from payment was for a particular length of time, not forever.<sup>4</sup>
3. Sama'a quoting from Imam Kazem (PBUH) says : When the Imam was asked about khums, he answered, "There is khums in all incomes of the people whether a little or a lot." For more information, look at the chapter on the Obligation of Khums.

## Section Three

### Differences of the Views on Khums

In the third chapter of his book, the writer, who has translated from al – Nehaya by Shaykh Tusi, enumerates the differences of opinions on the spending of khums but avoids quoting the last part which is the Shaykh's view. Look :

Some people say that khums is like the spoils of war in the Time of Absence and it is made lawful (exempt from payment) ;

Another group believe that the amount of khums must be preserved until the time of Advent ;

Another group say, it must be buried like a treasure to be dug out by the Imam when he appears and decides how it should be used ;

Still, another group believe half of the collected khums must be spent on the needs of orphans, the poor and wayfarers of the prophet's household, but the other half must be

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<sup>1</sup> . الفء

<sup>2</sup> . الانفال

<sup>3</sup> . واعلموا انما غنمتم من شء ...

<sup>4</sup> . اصول كافي from the book

spent on meeting their complementary requirements in the society. Then the Shaykh continues, at the end of the differences, giving his own judgement :

What seems the worthiest of all is the last view, that is, paying half of it to the poor " Sadat, which is mandatory and indisputable and the other half must be spent on "complementary of them.

Then he considers the first opinion, which may be called permissibility, as imprudent "and says : "The first opinion is unwise and the best thing is to avoid it.

Now, if you compare what we cited above with what he has translated, you will notice that he has omitted the last two points because they were against his claim and would be contradictory to his own idea.

What's more, the opinions Shaykh Tusi quotes are not so authentic, because it is not clear whose they are and what period they belong to. They may be among rare narrations and cannot be accepted as definite or decisive.

### **Hiding narrations of Exemption**

The writer of the book, after pointing to the viewson the exemption on page 39, says : "The Shiites have hidden all the narrations expressive of the fact that paying khums is not obligatory. They have also distorted or omitted parts of the narrations. Moreover, they have taken advantage of the people's ignorance or their trust in the jurists to add "innovated new narrations without having any record in the past.

Answer : How surprising it is, indeed! Look, how they accuse the jurists of hiding the narrations of Tahlil (making it lawful not to pay the one – fifth) ; whereas, dozens of juridical books of traditions have mentioned the fact of Tahlil and its stipulations! If it ever were an unmanifested issue, no one would write anything in their books.

The writer accuses the deceased Mohammad Sadeq – al – Sadr of writing a narration suggestive of the incumbency of khums<sup>1</sup> without a note about Tahlil.<sup>2</sup> That narration is from the book Wasa'il – al – Shia, the fourth part of Anfal as follows :

The hardest condition for the people on the Day of Resurrection is when the owner " "of khums rises saying " O Lord, where is my due khums?

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<sup>1</sup> . الخمس بين السائل والمجيب : Sadr's book is

<sup>2</sup> . Tahlil means making it lawful not to pay khums .

That the deceased Ayatullah Sadr did not mention the note following the narration is because the continuation had more relation to his subject of discussion was the incomes of business and so on. The reason for his citing the narration is related to the slave women who were bought by the Shiites as spoils of war. The translation of the narration is as follows : " We cleaned and purified that deal for our followers (Shiites) so that their birth giving and their children can become free from defilement."

### **Two More Accusations against Sadr**

The writer says that Mohammad Sadr has forged two narrations and then has based his reasoning on them. They are :

1. "Anyone who misappropriates our dues will really eat the hell fire and then they "will soon enter the burning hell.
2. "God and His angels curse and all the people's damn be on those who want to eat "up even one drachma of our property unlawfully!

Answer : As we said before, the writer of the book al – Khums has not turned to the principal sources ; but has. In a way, copied from the two books we mentioned above. Ofcourse, both of the narrations are available in the traditional references of the Shiites and have never been forged by Mohammad Sadr. The First one was quoted by the deceased Shaykh Saduq in the book Kamal – al – Din, and Shaykh Hurr Ameli in the book Wasa'il – al – Shi'a and Shaykh Tabarsi in the book Intejaj. The explicit wording found in the narrational sources of the Shiites is this :

Anyone who eats up something from our property will eat fire in their abdomen and " "will soon be thrown in the hellfire.

The second narration has been quoted by Shaykh Saduq and Tabarsi as follows :

The curse of God, His angels and all the people be on anyone who eats up unlawfully " "even a drachma from our wealth.

Now, with regard to such unfair accusations, is it right to print and publish thousands of copies of this book to mislead the readers?!

### **Falsification in Calculation**

The writer says that in every Mesghal<sup>1</sup> of gold, 1/40 of it must be given as zakat ; while khums is one – fifth of it. Therefore, if someone with 20 mesghals of gold wants to pay zakat, they must pay 1/4 of a mesghal ; but if they want to pay khums, they must pay 4 mesghals of gold and this will be an unjust kind of tax. Then he adds : "The house does not want zakat. The automobile and the garden do not include zakat, but the fruits do. If your money does not get to its record number, you do not pay zakat etc. However, we know that khums is in all of them.

Answer : 1 – According to the Quran one of the conditions of Faith is Submission to God. Any kind of taking lead to God and His messenger is considered the policy of unbelievers.

As we read in the Quran :

O ye who believe! Be not forward to the presence of Allah and His messenger and " keep your duty to Allah. Lo! Allah is Hearer, Knower."<sup>x</sup>

Imam Ali (PBUH) says : "Lo ! Islam is the very submission to the will of God." If God has really charged us to pay khums, we are not to consider it as an unjust tax as we proved its necessity in part one of this book.

Today, all the governments of the world impose taxes on all kinds of incomes at the same amount or percentage of the people's property. Development and prosperity of the countries are due to such payments on the condition that the taxes are spent in their proper ways.

2 – If collecting such a tax (khums) is unjust or oppressive, then, why do you take 1/5 of mines incomes to which all the jurists whether Sunnites or Shiites agree? Why do you deem it just when a muslim inherits from an unbeliever or someone finds a treasure to pay khums?

3 – The writer does not know the jurisprudence of Shiites because he says : "A house, an automobile or a garden does not include zakat but they are liable to khums!

In the Shiite jurisprudence, whatever of incomes is spent as cost of living does not have khums in it. On this basis the house you live in, the car you own and other means of your life do not include khums. More than this, the capital you do your business with does not have khums in it if paying one fifth of it results in the cessation of work.

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unit of weight equal to about five grams .<sup>1</sup>

.<sup>2</sup> يا أيها الذين آمنوا لا تقدموا بين يدي الله ورسوله واتقوا الله ان الله سميع عليم.

4 – One of the things on which the Sunnites must pay zakat is the profit of commerce. The Shiites must pay khums on the profit of commerce or trade in excess of their cost of living. In the Sunnite jurisprudence, 1/40 of all the profits from trade or business must be paid as tax. It is worth noting that in the Imamate jurisprudence, two things cause the reduction of the payment rate of khums. This does not exist in the belief of the four sects of the Sunnites :

### **1 – Deduction of Costs of Living**

If the yearly income of someone is more than their costs of living, they must pay one fifth of its surplus as khums. In the Sunnites, belief you pay 1/40 of your yearly profit without the deduction of your cost of living. So, the tax of khums is less than the zakat of the Sunnites.

### **2 – Khums Is Paid Only Once on Surplus to Requirements.**

In the Shiite jurisprudence, if someone has made a yearly profit of 5 million in excess of their living expenses, they pay one fifth of it, one million, as khums. The remaining 4 million does not contain any khums for the following years and forever. As the juridical rule says :

The khums – paid amount won't be khums –paid again<sup>1</sup>." But according to the " religious jurisprudence of the four sects of the Sunnites, in the above example, the person must pay 1/40 of the five million every year until it falls out of its limit number ; and the limit number is said to be twenty mesghals of gold. Suppose one mesghal of gold cost 100/000 Tomans. This person must pay 1/40 of 4 million which would amount to 100/000 Tomans. Then for the second and the third years the same 1/40 must be paid, which would be subtracted from the remainder of the 4 million capital until it became less than 2 million Tomans. As you understand, this person would have paid almost three times more than the amount of khums within a few years.

### **The Emphasis Being on Zakat Not on Khums**

Referring to some verses in which the word zakat is used, the writer insists that God has emphasized zakat in the Quran but not khums, for example God says :

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<sup>1</sup> .المخمس لا يُخمس

... and speak kindly to mankind, and establish worship and pay zakat (the poor "due") ... but God does not say "pay khums ...".

Answer : If the Quran speaks of the prayers and zakat, this never negates khums and its obligation. In the Quran the word zakat is repeated 32 times in different verses : 11 times in mecca and 21 times in madina. Zakat in the form that is discussed in juridical books has been sent down in madina. The prophet would send some men to collect zakat. Even zakat of property became incumbent upon muslims after zakat – al – Fitr<sup>y</sup> which became obligatory to pay in the first year after Hijra.

Now with regard to these facts, we can say that the verses about zakat revealed to the prophet in madina all contain financial incumbencies whether it is a special order or one of the precepts such as alms or atonements, etc. This special command of God includes khums as well.

The Quran quotes the words of jesus (PBUH) :

... and hath enjoined upon me prayer and almsgiving (zakat) so long as I remain "alive"<sup>r</sup> ...".

Or he quotes from the prophet Yahya :

"And compassion from Our presence, and purity (zakat), he was devout<sup>é</sup>."

As we see, zakat here means "purity" and is not the payment

Or he quotes from Isma'il (Ishmael) as it is said in a verse :

He enjoined upon his people worship and almsgiving (zakat) and was acceptable in "the sight of his Lord<sup>o</sup>".

The writer must know that zakat in all verses is not that financial precept but mostly the general donation of property. So, it is evident that by zakat in most of the Quranic verses, it is not meant that obligatory amount but it is the recommended contribution or donation in general. Khums is also a financial precept included in other payments as such. It is very unlikely to think that by zakat in these verses it is meant that financial precept which was allotted in the first years of the prophet's departure to that the same zakat was necessary to pay in the periods of madina (Hejrat) and say Ishmael, Yahya and Jesus (PBU Them) Precision on the following verses helps us to get the answer :

"1 – "And they ask thee what they ought to spend, Say : That which is superfluous<sup>1</sup> ...

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from chapter Baqara, verse 83 .<sup>1</sup>

paid at the end of Ramadan .<sup>2</sup>

. واوصانى بالصلاة والزكاة مادمت حياً .<sup>3</sup>

. وحناناً من لدنا وزكاةً وكان تقياً .<sup>4</sup>

. وكان يأمر اهله بالصلاة والزكاة وكان تقياً .<sup>5</sup>

. يسألونك ماذا ينفقون قل العفو .<sup>6</sup>

"2 – "Take the surplus and enjoin kindness and turn away from the ignorant<sup>1</sup> .

The narrators and commentators say about this verse :

Take the excess of their needs", which is before the time when zakat had been made " obligatory.

"3 – "And in their wealth, the beggar and the out cast had due share<sup>2</sup> .

When they asked Abdullah – bin – Umar if by the due share here it is meant zakat, he answered that God has made some payments necessary in addition to zakat.<sup>3</sup> There fore, although the word "khums" has been used only once in the Quran, its concept has been included in many other verses – the verses with wider inclusions.

### A Confused Table for Comparison of Zakat and Khums

The writer has arranged a table of comparison between zakat and khums to show that khums is an unjust precept Look at the table to see the mistakes.

#### Comparing Zakat and Khums

Khums	Zakat
1 – the ratio : 1/5 or 20/100 or 200/1000	1 – the ratio : 1/40 or 2.5/100 or 25/1000
2 – No limit number is needed except in the case of treasure or mines.	2 – It is necessary for it to have reached the limit number.
3 – Passing of a year is not necessary.	3 – It is necessary for a year to pass.
4 – It is obligatory to pay in all wealth, property and income even on gifts, housing and home necessities.	4 – It is obligatory only in certain kinds of incomes.
5 – It is incumbent on both the rich and the poor to pay it.	5 – It is only incumbent upon the rich to pay it.
6 – It is only given to either the Sadat or the jurists.	6 – It is given to 8 groups of people.
7 – It belongs to a special class of jurists or the Sadat.	7 – It has become lawful to meet the requirements of all the people.

<sup>1</sup> . خذ العفو وامر بالعرف واعرض عن الجاهلين "Afw" here doesn't mean forgiveness

<sup>2</sup> . و في أموالهم حق للسائل والمحروم.

<sup>3</sup> . تفسير طبري from the book

8 – It is given to the Sadat or the jurists whether they are rich or poor.	8 – No one except the needy are entitled to receive it.
9 – It is not mentioned in the Quran except khums of spoils of war as a result of war.	9 – It is mentioned in many verses of the Quran.
10 – It is intensively emphasized to be paid although God has not wanted it in the Quran.	10 – It is not so much emphasized and it is not insisted upon although God has emphasized it.

### **Some False Saying in the Zakat Part**

"1 – The writer says : "There is a limit number to the property.

According to the jurists in the Hanafete sect. it is not necessary for agriculture, horticulture and other cultivations to keep a record number for zakat.<sup>1</sup>

"2 – He says : "It is necessary for a year to have passed.

This stipulation concerns animals, gold and silver only, but it does not apply to what comes out of the ground, such as crops, treasures, mines etc. As soon as these items are out of the ground, zakat is necessary on them.

"3 – He says : "Zakat is incumbent only on the rich people.

No, in paying zakat, you do not need to be wealthy.

If zakat is obligatory to pay on some goods and you have them, you must pay zakat although you may be in need of money during the year. In the jurisprudence of

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1 . الفقه على المذاهب الخمسة from the book

Hanafites,<sup>1</sup> specially, there is no stipulation for paying zakat. Whatever is extracted from the land, there is zakat on it, however little it may be.

"4 – He says, "Only the needy are entitled to zakat.

However, the payment of zakat is not restricted to the poor and indigent ; sometimes it should be given to persons other than the poor when it is expedient to do so. A sample of this is when the payment of zakat to some opponents causes their enmity toward Muslims to be reduced and their anger to be pacified although they may be very wealthy and well – off.

"5 – He says : "Zakat is not so much emphasized to collect.

This is one of the mistakes he has made. Throughout our life, we have witnessed great personalities such as the deceased Haj Mirza Aliakbar Ardabili, the legitimate ruler of Ardabil in Iran. He had established an organization for collecting zakat money seriously. Right now, there has come into existence a movement in order to deal with the issue of zakat tax, which has been successful to some extent. As we know, there doesn't exist a similar movement for collecting khums. Now. If you say little attention has been paid to zakat, then why have hundreds of books been written and published by so many jurists?

### **Some Errors of His in the Part of Khums**

1 – He says, "No limit number is needed in khums except in the case of mines or "treasures.

But, this idea is incorrect. Limit number is necessary in some instances such as diving : Whatever comes out of the sea like corals and pearls has the limit number of one "dinar". The most important example of the limit number is for the very income of business : The surplus to the expenses of life must be taxed on the one – fifth. Therefore, if anyone did not have an excess of income, they would not pay any khums.

2 – He says : "Khums is obligatory to pay in all the wealth, property and incomes, "even on gifts, housing and home necessities.

But it is not like that! Whatever people use in their life and need it is reckoned as costs or expenses of living, such as house equipment and means. If you have bought an extra electric new vacuum cleaner and have put it in the store left there for one

year ; yes, you have to pay one fifth of its price but not the cleaner you are using every week.

"3 – The writer says, "Khums is incumbent on both the rich and the poor to pay. This is another of his mistakes! If someone is poor and their incomes are than their expenses during the year. They do not pay khums. They must be financially helped too.

"4 – He says : "Khums is given only to the Sadat or the jurists. As we said before, half of the one – fifth is spent on meeting the requirements of the poor Sadat and the other half on the general needs of the public such as defensive affairs and religious promulgations. In fact, it is the jurist who supervises the right spending of the amount of khums not those who have paid it. The write has intentionally mixed the issues and has tried to taint the readers' mind against the jurists who have always resisted the desires of colonizers.

5 – He says, "Khums belongs to one group of people the group of the Sadat and the "jurists. This is the repetition of the previous item we discussed above.

6 – The writer says, "Khums is paid to the jurist or to the Sadat whether they are "needy or not.

In none of the jurisprudential books of the Shiites has it ever been stated that khums could be paid to the rich Sadat. Besides, the jurist has it under his control.

Moreover, the rich Sadat must pay khums too.

7 – The writer says, "Khums has not been said in the Quran to be given except the one "– fifth of spoils of war taken from the disbelievers.

As we said before, although the word "khums: is mentioned only once, its concept is not allotted only to spoils of war. It has a general sense involving everything which is gained. Also, the verses concerning zakat that were revealed in mecca and the verses relating "donation" all have expanded meanings. Such verses include all kinds of financial precepts covering khums as well.

## **Section Four**

### **Khums of Incomes in the Law Court of History**

The writer of the book in the fourth chapter of his writing which is chosen from the book ascribed to Dr.Musa Musawi wants to say that khums is not necessary to pay on incomes, because neither the policy of the prophet mor that of the caliphs after him was it to collect khums on the people's incomes. And the prophet did not send

anybody, during his lifetime, to the markets in madina to take one – fifth of the profits of the businessmen. Then the writer adds : "Abu Bakr's wars with the apostates were because they refused to pay zakat not khums."<sup>1</sup>

Setting forth these matters and referring to the history of Omayyad and Abbaside caliphs when the payment of khums was not customary, the writer wants to prove that khums is an ureal issue.

Answer : As we explained it at the beginning of this writing, there are many narrations quoted from the prophet (MGSBH) about paying khums on the incomes. As for his not sending anyone to the bazaar to collect the tax of khums, the reason is quite obvious. The consumption of half of it was appropriated to his own household and the other half was also his own responsibility to spend. In those days, it was not expedient at all for the prophet to dispatch forces to collect khums, which would otherwise bring about pessimism and malevolence. That was why he did not send anyone for the one – fifth neither on incomes nor on the mines, treasures and the like. This was probably planned that people might offer their dues through their affection and inclination toward the prophet (MGSBH) and his household.

But the reason why Imam Ali and the other Imams up to Imam Baqer and Imam Sadeq (PBU Them) were not so much determined to have the precept of khums fulfilled is quite evident again. In the periods of the Omayyads and Abbassides, collecting any kinds of alms or taxes including khums to divide among the needy would only result in lots of troubles. This would cause sensitiveness for the ruling system or give them a pretext to persecute the Shiites. Although the Imams avoided having khums to be collected, the functionaries of Caliph Mansur would frequently report to him that Imam Sadeq (PBUH) was going to launch a movement and rise against the caliph by collecting money and weapons. Following this intrigue, Imam Sadeq was banished from madina to Hira to stay there for two years. Then, it was during the second half of the Imams' history that the dissemination of Islamic decrees became gradually possible under specific conditions, and the Imams (PBU Them) immediately put them into effect. There are a lot of narrations with regard to this. As for the policy of the Omayyad and Abbaside caliphs, everyone knows that their treatments cannot be models and examples for the Muslims to follow.

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from the book al - khums .<sup>1</sup>

They did not give the dues of the prophet's household even from the spoils of war, let alone practice the precept of khums, which would prove invalidity of their government.

### **The Pharaohs and Khums**

In the last part of his book, the writer has intended to show that taking khums from the people's incomes is a pharaonic life style, because Pharaohs used to take one – fifth of the land incomes. Then, he quotes a part of the Old Testaments relating Joseph, who bought all the lands of Egypt for the Pharaoh. As a result of a famine that had prevailed there, everyone sold their lands and so, the Pharaoh became the owner of all the lands. Joseph said to the people :

Now, I have bought you and your lands for the pharaoh. You can cultivate the lands " for your own sake to earn your living and your families, and then you must pay one – fifth of your incomes to the Pharaoh"<sup>1</sup> And the writer has come to the conclusion that paying khums was a sign of slavery to the pharaoh in that time, how was it that since in the religion of Muhammad, who broke off the rope of captivity and slavery, once again such a medal of honor had to be given to the Muslims?!

1 – In what the man has concluded, there are some false ideas. He is wrong in his saying that khums is Pharaonic and how it has come into the religion of Islam. If we take today's Old Testaments as a criterion, we understand that it was the religion of an immaculate prophet called "Joseph", who saved those famine – stricken people from death, because giving wheat to all of the farmers free of charge was not possible.

Therefore, Joseph had to ask them something instead of what he was going to pay them in those years of famine, which was land and labor. Afterward, when the ruling system become the owner of the lands, Joseph, through his honest planning, managed to put the lands free of charge into the use of the farmers. And now, since Joseph had served the government for a while, he was given the authority to impose a tax called "khums" on the farmers, which must be named "Josephic" not "Pharaonic".

2 – If the writer thinks taking khums from lands is a pharaonic Law, then why does the Islamic government collect tax from State lands called public Domains?

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<sup>1</sup> from the book تورات فارسی chapter Takwin .

It is likely that this tax is more than khums or less than it is. Also, from the viewpoint of the Sunnite jurists it is necessary to pay khums on mines, treasures, and lands taken from unbelievers without fighting, in addition to the spoils of war.<sup>1</sup>

3- As a result of his prejudgement and in order to charge the Shiites with the Pharaonic Adherence, the writer unconsciously introduces Prophet Joseph, who remained in the prison for many years not to get involved in a sin, as a follower of Pharaonic law. Then, how could this prophet enact a law to make everyone slaves of the pharaoh?! Now, every scholar or writer must take care not to make God's prophets so humble and weak for their worldly desires to show them the pharaohs, collaborators.

### Conclusion

Real authors or writers are wise, free men who have devoted themselves to writing as a sacred aim.

They present their readers with the facts that can be easily researched to prove as correct. But unfortunately, the writer of this book has aimed at demolishing the beliefs of the people. He is angry with the reason why people give khums to the jurists so that they spend it on its right places of consumption. He is, of course, against the doctrine of Imamate and Guardianship. He seems to have a liking in the Omayyads and Abbasides, but he has implicitly tried to hide his intention in the writing.

We have hereby raised the complete argument to the writer and his co – believers. If they are convinced, they will treat fairly with self – humiliation and admit the right, and giving up the wrong.

O Lord, save us from selfishness and self – centeredness! O God, do not set in our hearts anything except searching for truth and seeking for the right!

O Lord, help those who work in the proximity of the Muslims, assist the writers who aim at judging truthfully! O God, break the pen of those who use it in disuniting the Muslims and in writing to sow discord among the believers! O God, we shall remain in the hope of your generosity and kindness!

*The Institute of Imam sadeq  
Qom, Iran*

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<sup>1</sup> . موسوعه فقهي كويتي from the book

*Bahman 26<sup>th</sup>, 1386*  
*February 15, 2007*