

Khums: A Support for Financial Independence, Part 1

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A brief study of Islam's history and teachings is enough to illustrate that it is not only a set of moral injunctions and theological doctrines about our origin and the afterlife. Islam planned a governing system to fully meet the needs of a pure and advanced society.

One of the pillars of this government is the institution of the Bayt al-Mal (the Treasury House) to meet financial needs. The Islamic Bayt al-Mal, which had been founded upon the arrival of the Prophet (S) to Medina and his establishment of an Islamic government, consisted of funds such as zakat, khums, anfal (spoils and public resources), kharaj (Islamic tax on agricultural land) and jizyah (tax taken from religious minorities). This paper focuses on khums and is a response to those who make the following assumptions:

1) khums is stated in the holy Qur'an only for war booties and
2) we have no historic record in which the Prophet (S), Imam Ali (A), or the caliphs had collected khums from any source other than booties. In what follows, we will try to explain briefly why Shi'ite jurists insist that khums means one fifth of surplus of income and that it is not limited to booties of war but any income that can be made from agriculture or farming, .industry or trade, working or any other source

Why so much dispute over khums?

Some people make any effort to prove that taqlid (following most qualified jurists) and khums are unnecessary. We can clearly see that the matter has become more political than academic. It seems that two foundations of the spiritual leadership of Shi'ite maraji' (pl. of marji', person whom others follow in practical rulings) are targeted.

With respect to taqlid, we recognize that the issue of referring to knowledgeable people is self-evident in all aspects of life and people tend to refer to experts in medicine, architecture, pharmacy, and other matters in daily life. Similarly, if a person cannot independently understand Islamic matters from the Qur'an and traditions, he or she can refer to a scholar.

With respect to khums, we know that the share of Imam (A) (sahm-e Imam), which is half of khums, is the financial fund of Islamic seminaries, propagation, and cultural activities and, in general, any religious or scientific activity that requires money; if opponents of the Shi'a manage to prevent people from paying khums and in particular, the share of Imam then they

can reach one of their goals which is weakening our seminaries or changing their path. The first condition of independence of any organization is its financial independence and this matter is executed well in the Shi'a world because of the Islamic duty of paying khums.¹

Is khums exclusive to spoils in the Qur'an?

Khums has been mentioned specifically only once in the holy Qur'an. However, there are other important rulings that have also been mentioned only once in the holy Qur'an. Therefore, a single reference is sufficient. Allah (SWT) states in the Qur'an

وَاعْلَمُوا أَنَّمَا غَنِمْتُمْ مِنْ شَيْءٍ فَإِنَّ لِلَّهِ خُمُسَهُ وَلِلرَّسُولِ وَلِذِي الْقُرْبَىٰ وَلِلْيَتَامَىٰ وَالْمَسَاكِينِ وَابْنِ السَّبِيلِ إِن كُنْتُمْ
آمَنْتُمْ بِاللَّهِ وَمَا أُنْزِلَنَا عَلَىٰ عَبْدِنَا يَوْمَ الْفُرْقَانِ يَوْمَ التَّقَىٰ الْجَمْعَانِ وَاللَّهُ عَلَىٰ كُلِّ شَيْءٍ قَدِيرٌ

Know that whatever thing you may come by, a fifth of it is for God and the Apostle, for the relatives and the orphans, for the needy and the traveller, if you have faith in God and what We sent down to Our servant on the Day of Separation, the day when the two hosts met; and God has power over all things. (8:41)

What needs to be discussed in this verse is whether the term ghanimah consists only of spoils of war or extends to any kind of income. If ghanimah only consists of spoils of war the verse for khums of other things we should refer to hadiths. Of course, there is no problem in this. There are cases that the Qur'an points to a ruling in one verse and the details are learned from hadiths.

For example, the daily prayers are mentioned in the Qur'an as well as the prayer of tawaf (circumambulating the Ka'ba) which is an obligatory prayer, though nothing has been mentioned about, for example, the Qada prayers and the Ayat (signs) prayer which is agreed upon by all Muslims, Shi'ites and Sunnites. Because the Ayat prayer has not been mentioned in the Qur'an and it is only available in hadiths of the Prophet (S), it does not mean this prayer should not be performed. Or because the Qur'an only points to some ghusls (full ablution) and nothing has been said about other ghusls, it does not mean we should abstain from them. This is a logic which is shared by Muslims alike.

Therefore, it is not an issue even if we suppose that the Qur'an has expressed only a selection of rulings that pertains to khums and reserve the rest for hadiths. There are many similar issues in Islamic jurisprudence. In any case, let us see what ghanimah in the verse really means. Is it exclusive to spoils of war or does it include all types of income?

The definition which derives from dictionaries is that in the literal root of this word there is

nothing about war or that which is gained from the enemy, but it consists of any kind of income. Let us refer to some of the most famous Arabic dictionaries. We read in the book :Lisan al-'Arab, vol. 12

الغنم، الغنيمة والمغنم، الفياء... وفي الحديث الرهن لمن رهنه له غنمه وعليه غرمه، غنمه زيادته ونمائه وفاضل قيمته... وغنم الشيء غنما: فاز به

"Ghanam" means gaining a thing without any hardship. "Ghanam," "ghanimah" and "maghnam" are all in the meaning of "fay" (fay' also literally means the things which reach a person without labour). It has been said in hadiths that pawn (rahn) is for the person who takes it and its advantage and benefit (ghunm) is for him, and also its loss (ghurm) is for him. And "ghunm" means the excess, growth and surplus of the price. "Ghanam" means "gained."

:And we read in the book Taj al-'Arus, vol. 9

والغنم الفوز بالشيء بلا مشقة

Advantage (ghunm) is that which a person gains without hardship.

The same is mentioned in Al-Qamus. Raghīb Isfahani in his Al- Mufradat says that ghanimah ,is derived from the root ghanam, which means 'sheep.' He says

ثم استعمل في كل مظفور به من جهة العدى وغيرهم

Then it has been used for everything a person gains from an enemy or a non-enemy. Even those who restrict khums of ghanimah to spoils of war do not deny that its lexical meaning is broad and includes all things that a person can gain without hardship. In its common use, ghanimah is the opposite of gharamah, and since gharamah is broad in its meaning and refers to any kind of penalty and fine, ghanimah must also refer to any kind of notable income. This word has been used in many cases in Nahj al-Balaghah. For example, we :read in sermon 76

اغتنم المهل

Take advantage of opportunities.

:And we read in sermon 120

من اخذ بها لحق وغنم

A person who acts according to [the religion of Allah] finds happiness and benefits from it.

:And he says in letter 53 to Malik Ashtar

ولا تكونن عليهم سبعا ضاريا تغتتم اكلهم

Do not act towards them [the people of Egypt] like a wild animal that tries to benefit by eating people (ghanimah).

:And he says in letter 45 to 'Uthman ibn Hunayf

فوالله ما كنزت من دنياكم تبرا ولا ادخرت من غنائمها وفرا

I swear to Allah that I did not hoard any gold from your world, and I did not save anything from its gains.

:And it is in the Wise Saying 331

ان الله سبحانه جعل الطاعة غنيمة الاكياس

Indeed God, may He be glorified, has made obedience an advantage and a benefit (ghanimah) for the clever.

:And we read in letter 31

واغتتم من استقرضك في كل حال غناك

If a person asks you for a loan while you are rich, consider this as an advantage (ghanimah).

.There are many similar expressions in addition to the above

Opinion of exegetes

Many exegetes of the Qur'an have explicitly indicated that ghanimah (the root of the verb "ghanimtum") in this verse has a broad meaning and consists of spoils of war and everything else that one can gain without hardship. Even those who restrict this verse to spoils of war admit that there is no such limitation in its literal meaning and therefore try to find other reasons. Commenting on this verse, Qurtabi - a famous Sunni exegete - writes: Literally, ghanimah is that which a person or a group of people gain without endeavour ... and know that the consensus (of Sunni scholars) is that ghanimah in verse 8:41 refers to what Muslims gain via battle and victory over infidels, but it should be considered that this limitation is not in its literal meaning as we said before; it is only in religious context that this limitation exists.

:In his commentary, Fakhr al-Din Razi asserts

الغنم الفوز بالشيء

Ghunm is to gain something.

He continues to say: "The religious meaning of ghanimah (according to Sunni jurists) is spoils of war."²

In Al-Manar, ghanimah is taken to mean all that is gained, whether it is spoils of war or other gains, although the author believes that religiously it should be limited to spoils of war.³

In Ruh al-Ma'ani, Alusi - a famous Sunni commentator - says:

Originally, ghanimah signifies any kind of profit and benefit.⁴

In Majma' al-Bayan, ghanimah was initially interpreted as spoils of war, but when explaining the meaning of the verse, the author says

قال اصحابنا ان الخمس واجب في كل فائدة تحصل للإنسان من المكاسب وارباح التجارات وفي كل الكنوز

*Our (Shi'ite) scholars believe that khums is obligatory in any profit that a person would make, including profits from business and trade, from treasures or mines, from sea by diving, etc. that are mentioned in (jurisprudential) books. This can be argued from verse 8:41, because all the above- mentioned types of profit fall under ghunm and ghanimah, based on the common sense view of the Arabic language.*⁵

It is interesting that some have mentioned the first part in support of the idea that ghanimah may refer to spoils of war, but they have completely ignored the author's explanation about the generality of the literal meaning of the word and the meaning of the verse in the same place and have ascribed a false matter to him.

Allamah Tabataba'i in Al-Mizan refers to the words of linguists indicating the generality of the meaning of ghanimah, even though the verse was revealed in a particular case, i.e. spoils of war. As we know, the criterion is the generality of the meaning of the verse and not the particularity of the case, in which the verse was initially revealed (al-'ibrah bi 'umum al-warid la bi khusus al-mawrid).⁶

In brief, we can make the following points:

- 1) Verse 8:41 has a broad meaning and includes any kind of income, benefit, and profit because the lexical meaning of the word ghanimtum is comprehensive and there is no reason to restrict it to spoils of war.
- 2) The only thing that some Sunni commentators refer to is that the verses before and after verse 8:41 are about jihad and this shows that this verse must also point to spoils of war.

However, we know that the sequence in which the verses were revealed or compiled never restrict their meaning and they can forever be our guidelines in all aspects of our lives. The only thing we need to do is make sure that the verses are by themselves general in their meaning.

:For example, we read

مَا آتَاكُمُ الرَّسُولُ فَخُذُوهُ وَمَا نَهَاكُمْ عَنْهُ فَانْتَهُوا

Take whatever the Apostle gives you, and relinquish whatever he forbids you, and be wary of God. (59:7)

This verse involves a general command about the necessity of obeying the prophet (S), while the instance in which the verse was revealed was related to properties taken by Muslims from enemies without war (fay').

:We also read

لَا تُكَلِّفُ نَفْسٌ إِلَّا وُسْعَهَا

No soul shall have a burden laid on it greater than it can bear. (2:233)

The above phrase is mentioned as a general rule while the case in which the verse was revealed was in reference to paying women who fed their babies and it has been ordered to the father of the infant to pay according to his ability. Can the reference of the verse to this special matter prevent the generality of this rule?

Thus, while verse 8:41 is located among the verses of jihad, it indicates a general ruling: Pay one fifth (khums) of any income that you gain from any source (one of which is spoils of war). The words 'ma' (whatever) and 'shay' (thing) are two general expressions that confirm the generality of the verse.

Khums in Sunni hadiths

Some argue that khums has not been mentioned in any Islamic hadiths except in reference to spoils of war. This claim is clearly baseless. As a matter of fact, khums has been mentioned in Sunni and Shi'a hadiths in cases other than spoils of war. Of course, in Sunni hadiths some items are mentioned, and in Shi'a hadiths all items are mentioned.

First, we refer to some hadiths from major Sunni collections of hadith which explicitly prove the validity of khums on things other than spoils of war.

:1) In Sunan of Beyhaqi, Abu Hurayrah quotes the Prophet (S) as saying

في الركاز الخمس قيل وما الركاز يا رسول الله؟ قال الذهب والفضة الذي خلقه الله في الأرض يوم خلقت

There is khums in rikaz.” Someone asked: “What is rikaz?” The prophet (S) answered: “Mines” of gold and silver which Allah has created in earth on the day it was created.”⁷

It should be noted that rikaz (pronounced like Kitab) literally means any property which is placed in earth; and accordingly all mines are called rikaz. Moreover, all treasures and assets which have remained in earth from previous generations of humans are called rikaz. Mines of gold and silver which are mentioned in the above hadiths are some of the obvious examples of rikaz.

2) Anas ibn Malik reports that a group was travelling with the Prophet (S). On the way, one companion entered the ruins and found a treasure of gold. They weighed it and found that it was worth nearly two hundred dirhams. The Prophet (S) said that it is rikaz and it is obligatory to pay its khums.⁸

:3) It has been quoted in Sahih of Muslim from Abu Hurayrah that the Prophet (S) said

في الركا ز خمس

There is khums in rikaz.

The same matter has been also mentioned in Sahih of Bukhari.⁹

Thus, it can be understood from Sunni hadiths that khums is not restricted to spoils of war. This is in compliance with what is understood from the root gh-n-m and is documented in famous Arabic dictionaries such as Qamus. According to these dictionaries, rikaz also has a vast meaning and includes any kind of asset that is placed and saved in earth, such as mines and buried treasures; and accordingly, some Sunni jurists like Abu Hanifah affirm that khums is obligatory in mines and that there is no nisab (minimum amount) for mines.¹⁰

:According to Kanz Al-‘Ummal, vol. 7, page 65, the Prophet (S) said

ان لكم بطون الأرض وسهولها وتلاع الأودية وظهورها على ان ترعوا نباتها وتشربوا ماءها على ان تؤدوا الخمس

*Deep inside the earth, fields, and inner and outer parts of the valleys are all in your hands in order to use their plants and drink their water under the condition that you pay khums.*¹¹

There is no doubt that here, the purpose of khums is not zakat of sheep, because zakat of sheep is not one fifth. Therefore, the purpose is to use these lands and pay the khums of its income.

There is a hadith in Usd al-Ghabah that Masruq ibn Wa’il went to the Prophet (S) and embraced Islam. He then asked the Prophet (S) to send some people to his tribe in order to invite them to Islam and to write them a letter so that Allah (SWT) may guide them all. Prophet :Mohammad (S) ordered to write the following letter

بسم الله الرحمن الرحيم من محمد رسول الله إلى الاقيال من حضرموت باقام الصلاة وايتاء الزكاة والصدقة على
التبعية ولصاحبها التيممة وفي السيوب الخمس وفي البعل العشر

*In the name of Allah, the Compassionate, the Merciful. From Mohammad, Prophet of Allah to the chieftains of Hadhramut: Advise them to perform prayer and pay zakat. Zakat is for animals that pasture in the fields, and the animal that is taken in house for the need of its owner has no zakat and khums is obligatory in "Soyub"...*¹²

We will soon discuss Soyub for which khums is obligatory. We read in another hadith in Al-'Iqd al-Farid that the Prophet (S) wrote a letter to Wa'il ibn Hijr Hadhrami: "From Mohammad, the Prophet of Allah, to the chieftains of Abahela [...] and there is khums in Soyub."¹³

We read in a footnote of Al-'Iqd al-Farid after quoting the above hadith that 'soyub' is the plural form of 'sayb', which refers to assets that had remained as treasures from the Age of Ignorance (Jahiliyya) or mines, because they are considered to be divine gifts. But we read in Qamus, which is a famous Arabic dictionary, that: "Mainly 'sayb' means any kind of gift and benefaction, and 'soyub' holds the meaning of 'rikaz' (treasures and mines). If we consider 'sayb' to mean any kind of gift and benefaction and the purpose is divine gift and benefaction, it consists of all incomes and accordingly khums should be paid on all of them; and if we take it to be exclusive to mines and treasures, it also proves that khums is obligatory .for other than spoils of war and it is not exclusive to it

Khums in hadiths of the Ahl al-Bayt (A)

It is beyond the constraints of this paper to list the numerous hadiths located in famous Shi'a texts about khums, the way to spend it, and the things to which khums applies. Approximately eighty hadiths in fifteen chapters on khums are collected from famous Shi'ite books into the well-known book Wasa'il al- Shi'ah:

Chapter one is about the principle of necessity of khums.

Chapter two is about the necessity of khums in spoils of war. Chapter three is about mines.

Chapter four is on the nisab (minimum amount) of mines to which khums applies.

Chapters five and six discuss the necessity of khums in treasure.

Chapter seven is about the necessity of khums in things which are gained from the sea by diving.

Chapter eight is about the necessity of khums in benefits of business, industries, agriculture and situations such as these.

And other chapters are about how to distribute khums, those who can receive khums and some

other cases of necessity of khums.

There are ten hadiths in chapter eight which is one of the most important chapters about profits that are made from any kind of business or industry. Most of our jurists have issued fatwas according to them. According to these hadiths, if after one year a person has been able to save money from any kind of income in that year, he should pay one fifth of this saving to the Imam (A) or his representative after subtracting all costs of the year in order to be spent on the above-mentioned cases.

There are so many of these hadiths that there is no reason to doubt their authenticity. It has been proven in the science of *usul al-fiqh* that when issuing a fatwa according to some hadiths which are known to be very famous among the jurists - especially those who lived close to the time of the Imams (A) - those hadiths can be relied on even if we ourselves do not have direct ways to verify them. This standard is completely achievable for the above hadiths.

Moreover, there are some authentic narrations among these hadiths, such as the hadith of Mohammad ibn Al-Hassan al-Ash'ari (the first hadith of chapter eight of *Wasa'il al-Shi'ah*), hadith of Abu Ali ibn Rashid (the third hadith), hadith of Ibrahim ibn Mohammad al-Hamdani (fourth hadith), hadith of Ali ibn Mahzyar (fifth hadith), and hadith of Sama'ah (sixth hadith). We have enough information and date to verify these hadiths by ourselves.

Unfortunately some people who do not have enough knowledge about the science of *rijal* (biographies of narrators of hadith) have questioned the trustworthiness of some of the great personalities. For example, someone has introduced Sa'd ibn Abdullah Ash'ari Qummi as an "unreliable person" and that "none of the superiors of the science of *rijal* have confirmed his reliability." This is baseless. Sa'd ibn Abdullah Ash'ari Qummi was one of the outstanding Shi'a figures and an eminent faqih, as confirmed by great scholars of the science of *rijal* like Najashi, Shaykh Tusi, and 'Allamah Hilli.

Another narrator who has been questioned is Ali ibn Mahzyar. However, all great masters of the science of *rijal* acknowledge his greatness and reliability. He was a close companion of the ninth Imam (A). According to Najashi and 'Allamah Hilli, there is no place for disputing his narrations.

And yet another person whose narrations have been questioned is Abu Ali ibn Rashid. His name was Hasan and he too was one of the companions of the ninth and tenth Imams (A).

Both Shaykh Tusi and Allamah Hilli have verified his reliability.

A fourth person who has been questioned is Rayyan ibn Salt. The person who has questioned his hadith has argued that he has narrated from Imam Jawad (A), but it is unlikely that he had lived before Imam Askari (A) (without proving why) and that he worked in the Abbasid

administration; therefore, he could not be a reliable Shi'a. However, we know that there were people like Ali ibn Yaqtin who worked in their system under the instructions of the Imams (A) in order to help the oppressed or save the lives of innocent people. In any case, reliability of Rayyan ibn Salt has been confirmed by Najashi, Allamah Hilli, and Shaykh Tusi. Most surprising of all is that the same person has rejected the seventh hadith using the excuse that Kulayni has quoted that from "some of our companions." He assumed that these persons are unknown, while anyone who has the least knowledge about Al- Kafi knows that Kulayni means by "some of our companions" his own masters of hadiths i.e. Mohammad ibn Yahya, Ali ibn Musa Kumidani, Ali ibn Ibrahim ibn Hashim, Ahmad ibn Idris and Dawood ibn Kore. He does not mention their name each time in order to avoid repetitions. Insha-Allah, in the next issue, we will study in more detail khums according to the hadiths of .(the Ahl al-Bayt (A

Notes

1. Once a great Sunni scholar from Syria who had visited the Islamic seminaries of Qom and other different religious institutions in other cities, was amazed at how the costs of these programs were funded, and he learnt that the programs were due to khums and the share of Imam (A). He was so impressed that after his return he advised his friends to pay khums. It is wonderful that others wish to execute these programs and achieve this great privilege which is complete independence in religious programs, though some insist on taking this privilege away from us.
2. Al-Kabir, vol. 15, p. 164.
3. Al-Manar, vol. 10, pp. 3-7.
4. Ruh al-Ma'ani, vol. 10, p. 2.
5. Majma' al-Bayan, vol. 4, pp. 543 & 544.
6. Al-Mizan, vol. 9, p. 89.
7. Sunan of Beyhaqi, vol. 4, p. 152.
8. Ibid. p. 155.
9. Sahih of Bukhari, Kitab of Zakat, Bab 67

حدثنا عبد الله بن يوسف أخبرنا مالك عن ابن شهاب عن سعيد بن المسيب وعن أبي سلمة بن عبد الرحمن عن أبي هريرة - رضي الله عنه - أن رسول الله صلى الله عليه وسلم قال: "العجماء جبار والبئر جبار والمعدن جبار وفي الركاز الخمس"....

See also Volume 2, Book 24, Number 575: Narrated Abu Huraira: Allah's Apostle said, "There is no compensation for one killed or wounded by an animal or by falling in a well, or because of

working in mines; but Khums is compulsory on Rikaz." Similar hadith is cited in Volume 9, Book 83, Numbers 47 and 48.

10. Al-Mughni by Ibn Qudamah, vol. 2, p. 580, printed in Beirut.

11. Cited in Makatib Al-Rasul, vol. 2, p. 365.

12. Usd al-Ghabah, vol. 3, p. 38.

.13. Al-'Iqd al-Farid, vol. 2, p. 48, printed by Isma'liyan