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Khums

The Imamis assign a separate chapter to *khums* in their books on *fiqh*, after the chapter on *zakat*, and its basis is verse 41 of *Surat al-Anfal*:

وَأَعْلَمُوا أَنَّمَا غَنِمْتُمْ مِنْ شَيْءٍ فَإِنَّ لِلَّهِ خُمُسَهُ وَلِلرَّسُولِ وَلِذِي الْقُرْبَىٰ وَالْيَتَامَىٰ وَالْمَسَاكِينِ وَابْنِ السَّبِيلِ

Know that, whatever booty you take, the fifth of it is God's and the Messenger's, and the near kinsman's and the orphans', and for the needy and the traveler (8:41)

They do not confine the scope of the term '*ghanimah*' to the spoils of war acquired by Muslims, but consider it to include seven categories, mentioned below along with what information we could gather about the view of other schools regarding each category:

1. Booty acquired in war: All the schools concur that it is liable to *khums*.
2. Minerals: It includes everything that is of value extracted from the earth – apart from soil – e.g. gold, silver, lead, copper, mercury, petroleum, sulfur, etc.

The Imamis observe: It is *wajib* to pay *khums* (20%) on minerals if their value reaches the *nisab* of gold, which is 20 dinars, or the *nisab* of silver, which is 200 dirhams. There is no *khums* below this limit.

The Hanafis state: There is no *nisab* for minerals, and their *khums* is *wajib* irrespective of value.

The Malikis, Shafi'is and Hanbalis are of the opinion that there is no levy if the mineral extracted is lesser in value than the *nisab*, but if it reaches that limit it is liable to *zakat* at the rate of 2 1/2%.

3. *Rikaz*: It consists of articles of value buried at a place whose inhabitants have perished and there is no sign left of them, such as sites which the archaeologists excavate for this purpose.

The four schools state: *Khums* is *wajib* on *rikaz*, and it has no *nisab* and therefore entails *khums* irrespective of its worth.

The Imamis observe: *Rikaz* is like minerals with respect to *nisab* and liability to *khums*.

4. The Imamis say: That which is retrieved from the sea through diving, e.g. pearls and corals, is liable to *khums* if its value is one dinar or more after deducting the cost of retrieval.

In the opinion of the four schools, there is no levy on such things, whatever their value.

5. The Imamis observe: *Khums* is *wajib* upon the surplus remaining after a person has made provision for himself and his family for a period of one year, irrespective of his profession and the mode of income – trade or industry, agriculture or office work, or work on daily wages, or real estate, gift or something else. Hence if there remains a single piaster or anything of that value after a year's expenditure, it is liable to *khums*.

6. The Imamis state: If a person comes to acquire some illegitimate wealth which gets mixed with his legitimate wealth and neither the quantity of the *haram* wealth nor its owner is known, he is obliged to pay *khums* from his whole wealth in the way of God. If he does so, his remaining wealth will become *halal* irrespective of whether the illegitimate portion was lesser or greater than a fifth.

But if the illegitimate wealth is identifiable, it is obligatory to return it itself; and if it is not identifiable but its quantity is known, he will return that quantity fully even if it equals all his wealth. If he knows the people from whom he has embezzled it without knowing the quantity of the portion due to them, he is bound to seek their satisfaction by reaching a settlement or seeking their pardon. In short, the payment of *khums* from adulterated wealth is correct only when both the quantity and the owner of its illegitimate portion are not known.

7. According to the Imamis, if a *dhimmi* purchases land from a Muslim, the *dhimmi* is personally liable to pay its *khums*.

Uses of Khums

The Shafi'is and the Hanbalis observe: *Khums* will be divided into five parts, of which one part will be the share of the Prophet (S) and used for the benefit of Muslims. Another part will be the share of *dhawi al-qurba*, and they are those who have descended from Hashim through their fathers, irrespective of any distinction between the rich or the poor among them. The three other parts will be spent on orphans, the poor and the travelers, whether they belong to the Bani Hashim or not.

The Hanafis consider the share of the Prophet as annulled after his demise. As to the *dhawi al-qurba* (i.e. those belonging to Bani Hashim), they are like other poor in receiving *khums*, they say; they will be entitled to it on account of their need, not by virtue of their kinship with the Prophet (S).

The Malikis state: The ruler (*imam*) has complete authority over *khums* funds and he may use it for any purpose that he deems fit.

According to the Imamis, the shares of God, the Prophet (S) and the *dhawi al-qurba* will be paid to the Imam (A) or his representative, to be spent for the benefit of the Muslim community. The other three

parts are to be given to the orphans, destitutes and travelers belonging exclusively to Banii Hashim.

We conclude this chapter with al-Shi'rani's words in his *Kitab al-mizan* (the chapter on *zakat al-ma'din*). He says:

The ruler (*imam*) is authorized to tax the mine owners in accordance with the interest of the public exchequer to avoid the concentration of wealth in the hands of mine owners who may thereby seek political power and spend money on the troops. This would lead to evil (political) consequences (*fasad*).

This is another way of expressing the "modern" view that capital enables the capitalists to gain control of the government. 406 years have passed since the death of the author of this opinion.

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