



**Funds in
The Khilafah State**

Al-Amwal fi Dowlat Al- Khilafah

Abdul- Qadeem Zalloom

Dar al-ilm lil-Malaayiin,

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The Funds in the Khilafah State

The back cover's photograph:-

The first *Shara'i Dinar* of an Islamic fashion, was that which the Khaleefah Abdul Malik Ibnu Marwan minted in the year 77 AH, with the Arabic Kufi script.

It is of the *Shara'i* (official) *Mithqal (Miskal)*, equivalent to 4.25 grams. Its diameter is 2cm approximately.

The cover shows the golden *Dinar* minted by the Khalifah Abdul Malik, in the middle of its face the following was engraved:

*There is no god but Allah, Alone with no associate to Him
(La Ilaha Illa-Allah, Wahdohu La Shareeka Labu).*

On the circumference of the *Dinar*, the following words are engraved:

Muhammad the Messenger of Allah, He sent him with the guidance and the Deen of Truth to make it dominate over all other deens.

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Translation of the Qur'an

It should be perfectly clear that the Qur'an is only authentic in its original language, Arabic. Since perfect translation of the Qur'an is impossible, we have used the translation of the meaning of the Qur'an throughout the book, as the result is only a crude meaning of the Arabic text.

Qur'anic *Ayat* and transliterated words have been *italicised*.

Ahadith appear in **bold**

ﷻ - subhanahu wa ta'ala

ﷺ - sallallahu 'alaihi wa sallam

ra - radhi allaho anha/anho

AH - After Hijrah

CE - Christian Era

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

مَا آفَاءَ اللَّهِ عَلَى رَسُولِهِ مِنْ أَهْلِ الْقُرَى فَلِلَّهِ وَلِلرَّسُولِ
وَلِذِي الْقُرْبَىٰ وَالْيَتَامَىٰ وَالْمَسْكِينِ وَأَبْنِ السَّبِيلِ كَيْ لَا يَكُونَ
دُولَةً بَيْنَ الْأَغْنِيَاءِ مِنْكُمْ وَمَا آتَاكُمُ الرَّسُولُ فَخُذُوهُ وَمَا
نَهَاكُمْ عَنْهُ فَانْتَهُوا وَاتَّقُوا اللَّهَ إِنَّ اللَّهَ شَدِيدُ الْعِقَابِ ﴿٦﴾
لِلْفُقَرَاءِ الْمُهَاجِرِينَ الَّذِينَ أُخْرِجُوا مِنْ دِيَارِهِمْ وَأَمْوَالِهِمْ
يَبْتَغُونَ فَضْلًا مِنَ اللَّهِ وَرِضْوَانًا وَيَنْصُرُونَ اللَّهَ وَرَسُولَهُ أُولَٰئِكَ
هُمُ الصَّادِقُونَ ﴿٧﴾ وَالَّذِينَ تَبَوَّءُوا الدَّارَ وَالْإِيمَانَ مِنْ قَبْلِهِمْ
يُحِبُّونَ مَنْ هَاجَرَ إِلَيْهِمْ وَلَا يَجِدُونَ فِي صُدُورِهِمْ حَاجَةً
مِمَّا أُوتُوا وَيُؤْتِرُونَ عَلَىٰ أَنْفُسِهِمْ وَلَوْ كَانَ بِهِمْ خَصَاصَةٌ
وَمَنْ يُوقِ شُحَّ نَفْسِهِ فَأُولَٰئِكَ هُمُ الْمُفْلِحُونَ ﴿٨﴾
وَالَّذِينَ جَاءُوا مِنْ بَعْدِهِمْ يَقُولُونَ رَبَّنَا اغْفِرْ لَنَا
وَلِإِخْوَانِنَا الَّذِينَ سَبَقُونَا بِالْإِيمَانِ وَلَا تَجْعَلْ فِي قُلُوبِنَا
غِلًّا لِلَّذِينَ آمَنُوا رَبَّنَا إِنَّكَ رَءُوفٌ رَحِيمٌ ﴿٩﴾

In the Name of Allah Ar-Rahman Ar-Rabeem

“What Allah has bestowed on His Messenger (and taken away) from the people of the townships, belongs to Allah and His Messenger, to kindred, orphans, the needy and the wayfarer; in order that it may not remain a circuit between the wealthy among you. So take what the Messenger gives you and refrain from what he prohibits you. And fear Allah; for Allah is strict in punishment.

(Some part is due) to the indigent Muhajirs, those who were expelled from their homes and their property, while seeking grace from Allah and (His) good pleasure, and aiding Allah and His Messenger: such are indeed the truthful;-

And those who before them had homes (in Madinah) and had adopted the faith,- show their affection to such as came to them for refuge, and entertain no desire in their hearts for things given to the (latter), but give them preference over themselves, even though poverty was their (own lot). And those saved from their covetousness of their own souls,- they are the ones that achieve prosperity.

And those who came after them say: “Our Lord! Forgive us, and our brethren who came before us into the faith and put not in our hearts any hatred against those who have believed. Our Lord! You are Ar-Raooof Ar-Raheem.”

[Al- Hashr: 7-10]

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Introduction to the Second Edition

After all the copies of the first edition went out for print, and numerous requests for more copies of the book were received, it was decided to reprint it, particularly as we received several comments, notes and edited corrections.

I have studied all these comments, notes, and edited corrections precisely and have chosen after careful study the strongest of the opinions before us.

The whole book was reviewed afresh to correct it. The revision of the *Abadiith* mentioned in it was given careful attention to correct them according to what exists in the sound books and to remove any weak *Hadith*.

Therefore, this is the second edition, (and all praise is for Allah ﷻ,) which is corrected. It is accurate and the *Abadiith* are checked. We ask Allah ﷻ to make this a good book to benefit Islam and the Muslims, and to help the Muslims to place it into implementation and execution in a righteous *Khilafah* State, for verily He is capable to do all He ﷻ wills.

21st Rajab, 1408 Hijra Wednesday, 9th March, 1988

The Author (Abdul Qadeem Zaloom)

Introduction



Bismillah Ar-Rahman Ar-Rabeem

As Islam, with which Allah ﷻ to His Messenger Muhammad ﷺ, is a system of life, and a message for the whole world, it is absolutely necessary for it to have a State which implements it and carries it to the world. Islam has made this State the *Khilafah* State, and made it of a distinct form and a unique structure which differs from the structure of all the States in the world. It is different in its pillars upon which it is established, in the structures that it is formed of, in its constitution and laws that are taken from the Book of Allah ﷻ and the *Sunnah* of His Messenger ﷺ which are obligatory for the *Khalifah* and the *Ummah* to adhere to, implement and restrict themselves to, because they are from the *Shar'a* of Allah ﷻ and not from the legislation of the people. Islam has entrusted the *Khilafah* State with the duty of taking care of the affairs of the *Ummah*, and entrusted it to be in charge of administering the funds received by the State and their expenditure such as to look after the affairs of the people of the citizens and the carrying of the *Da'wah*. The divine evidences have explained the sources of the State's financial revenues, their types and how they are collected, in the same way they clarified the beneficiaries of these funds and the areas over which they are spent.

We discuss in this book 'The Funds in the Khilafah State' and their rules. We explain their sources and types, from where they are collected, the time of their collection and the way they are collected, and the sections in which they are kept. We also explain those who are entitled to these funds and the

areas of their expenditure.

Since the record of these funds and their collection requires the knowledge of the lengths, areas, measures and weights, we address that so as to become quite clear in a way that determines their reality and removes any vagueness about them. We evaluate these funds in lengths, areas, measures and weights that are used today, so that they are easily followed and fairly understood, far from any complications.

Since the monetary aspect has a special importance in the funds of the *Khilafah* State, because it is linked to the divine rules, we address it and explain its reality, the basis upon which it is established, the units that are related to, together with their weights, and also the problems faced and the way of solving these problems.

The rules of the funds of the *Khilafah* State are derived from the Qur'an and the *Sunnah*, after study and scrutiny of the sayings of the *Sahabah*, the *Tabi'een* (the followers) and their followers and the opinions of the *Mujtahideen*. All this is done based on the evidences proven to be the strongest in our view; for the divine rules are adopted based on the least amount of doubt (*Ghalabat uz-Zun*) without the stipulation of the evidences being definitive as is required when establishing the creed.

We ask Allah ﷻ to help us and make it easy for us to put these rules into application in the coming *Khilafah* State. Indeed He is our protector (*Mawla*), and indeed He ﷻ is the best protector and the best Helper.

16 Rabi'a Thani 1402 Hijra 20th February, 1982

The Author



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1 The Bait ul- Mal and its Departments

The State Treasury (*Bait-ul-Mal*) is the competent authority in charge of all the State's revenues and all the expenditures for which the Muslims are eligible. So every property, be it land, buildings, minerals, money, or merchandise for which the Muslims are entitled, according to the divine rules, but the person entitled for its ownership has not been designated though the area upon which it is spent is determined; such property would be a rightful property of Muslims' Treasury, regardless of whether it is already in the sanctuary of the Treasury or not. Likewise, every property due to be spent upon its beneficiaries and rightful owners, or in the interests of the Muslims and their affairs, or in carrying the Islamic *Daw'ah*; all such funds area duty upon the treasury, regardless of whether the funds are spent or not. Therefore, the Treasury in this context, is the competent authority.

The Treasury is also a term used to describe the place where the funds which are the state's revenues are kept and from which they are spent.

The first Treasury to be established, meaning the competent authority, was after the Revelation of Allah ﷻ of the following verse:

يَسْأَلُونَكَ عَنِ الْأَنْفَالِ قُلِ الْأَنْفَالُ لِلَّهِ وَالرَّسُولِ فَاتَّقُوا اللَّهَ وَأَصْلِحُوا ذَاتَ بَيْنِكُمْ وَأَطِيعُوا اللَّهَ وَرَسُولَهُ إِن كُنْتُمْ مُؤْمِنِينَ

"They ask you about spoils of war. Say such spoils are at the disposal of Allah and the Messenger: so fear Allah and keep straight the relations between yourselves, and obey Allah and His Messenger if you do believe." [Al-Anfal: 1]

This was revealed in the wake of the battle of Badr, when the Muslims engaged in dispute over the spoils of war. Sa'eed Ibnu Jubair reported: I asked Ibnu Abbas regarding the *Surah* of Al-Anfal. He said: "It was revealed in Badr." The spoils of Badr were the first funds the Muslims gained after the spoils of Abdullah Ibnu Jahsh expedition, Allah ﷻ demonstrated the rule concerning their distribution. He ﷻ made the spoils the property of the Muslims, and He commissioned the Messenger of Allah ﷺ to dispose of them according to what he deemed in the best interest of the Muslims. So they were the property of the Treasury, to be disposed of by the guardian of the Muslims according to what he deemed in their best interest.

As for the Treasury, meaning the place where the revenues are kept and from which expenses are spent, this did not have a specific place during the lifetime of the Messenger of Allah ﷺ, for at that time, the revenues were limited and there was hardly anything left after what had been distributed amongst the Muslims and spent in looking after their affairs. The Messenger of Allah ﷺ used to distribute the spoils and the fifths (*Al-Khums*) at the end of each battle. He ﷺ would not delay the distribution of the funds or spending them to their eligible categories. Hanzalah Ibnu Sayfi, who was a clerk to the Messenger of Allah ﷺ, reported: **"The Messenger of Allah ﷺ said to me: "Accompany me and remind me of everything, for no later than three days." He said: 'so I kept on reminding him for three days about any fund or food or any money I received.' So the Messenger of Allah ﷺ would not spend the night except after the disposed of everything."** Most of the time, the funds used to be distributed on the same day. Al-Hassan Ibnu Muhammad reported that the Messenger of Allah ﷺ **never used to keep any fund till late in the day or overnight**, "i.e. if he ﷺ received it in the morning, he would distribute before noon, and if he ﷺ received it in the evening he would spend it and would not keep it overnight." Therefore, there never used to be any saved funds that needed to be kept in a place or on record.

This state of affairs continued during the lifetime of the Messenger of Allah ﷺ. When Abu Bakr was appointed *Khalifah*, he continued on that course in the first year of his *Khilafah*. He used to bring any funds that reached him from any region to the mosque of the Messenger of Allah ﷺ and distribute them among those entitled. He appointed Abu Ubaidah Ibnul Jarrah as his deputy in this matter. Abu Ubaidah said to him, when he held this post: I will look after the funds on your behalf. Abu Bakr however did

in the second year of the khilafah establish a starting point for the treasury, where he assigned a place in his house to place in the funds which came to Madinah, and he used to spent all of that on the Muslims and their affairs. When Abu Bakr died and ‘Umar was appointed *Khalifah*, he gathered the trustees and entered Abu Bakr’s house. He opened the treasury and found one single *Dinar* which had fallen from a sack. When the conquests had intensified during the *Khilafah* of ‘Umar, and the Muslims conquered the lands of “Kisra” (Persians) and “Qaysar” (Romans), the funds increased and poured into Madinah, so ‘Umar designated a house for them. He set down for them account books and appointed accountants, allocated grants from them and equipped the armed forces, though he used to sometimes place the fifths of the spoils that reached him in the mosque and distribute them without delay. Ibnu Abbas reported: “Umar once summoned me, and when I got there he was sitting before a rag with the gold scattered over it like hay. He said: Come on and divide among your folk, for Allah knows best why He did hold this from His Messenger ﷺ and Abu Bakr and He gave it to me?, Did he want good or bad by this?” Abdul Rahman Ibnu Auf reported: “Umar summoned me once at noon, so I went to him. When I entered his home, he took me by the hand and led me to a room where the parcels were stacked on top of each other. He then said: “Now the family of Al-Khattab became lowly before Allah, by Allah if we were to be honoured by this, Allah would have given it to my two companions and they would have set for me a precedent to follow them in this matter..” Abdul Rahman said: “When I saw what he has brought I said to him. ‘Sit down O Amir of the believers, and let us think.’ He said: ‘we sat down, we wrote down the people of Madinah, we the *Mujahideen* in the way of Allah and the wives of the Messenger of Allah ﷺ and then we wrote the others.”

Thus, the Muslims turned to have an established Treasury where the funds were collected, the books of record were kept, from which the grants were given and the funds were paid to their beneficiaries.

2

The Account records of the Treasury (Dawawin)

The *Diwan* is a name given to the place where the secretaries sit down to work and records are kept. It is also a name given to the records themselves, and there is an attachment between the two meanings.

The first established Diwan

The first establishment of *Dimans* and designation of a place to keep them in was at the time of ‘Umar b. Al-Khattab in the year 20AH. In the life time of the Messenger of Allah ﷺ, the Treasury did not have a reserved *Diwan* though the Messenger of Allah ﷺ did appoint secretaries to keep record of the funds. He appointed Mu’ayqeeb Ibnu Abi Fatima Aldusi as secretary of the spoils (*Al-ghanaim*), and Zubayr Ibnul Awwam as secretary of the *Sadaqat*, Huzaifah Ibnul Yaman as secretary over the agricultural produce of Hijaz, and Abdullah Ibnu Ruwaha as secretary over the agricultural produce of Khaybar. Al Mughira Ibnu Shu’ba was appointed as secretary for the loans and transactions, while Abdullah Ibnu Arqam was a secretary for the records of the tribes and their water. However, the Messenger of Allah ﷺ did not keep any *Dimans* nor did he set up a place for keeping them and writing them. This went on during the *Khilafah* of Abu Bakr . However, things changed when ‘Umar b. Al-Khattab became *Khalifah*, and the conquests increased. This consequently increased funds pouring into Madinah, which necessitated the setting up of diwans and writing records and designating places for keeping them and writing them.

It has been reported that the direct reason behind establishing the *Dimans* was because Abu Hurayra once brought to ‘Umar a large amount of funds from Bahrain. So ‘Umar asked him: “What have you brought?” He said: “I brought you five hundred thousand *Dirhams* (500,000).” ‘Umar said to him:

“Do you know what you are talking about? You must be tired, so go to sleep and come and see me in the morning. When he came the next day, ‘Umar asked him ‘How much is it?’ Abu Hurayra said: ‘500,000 *Dirham*.’ ‘Umar enquired: ‘Is it legitimate (*Halal*)?’ Abu Hurayra replied: ‘I know nothing else but that. Upon this ‘Umar stepped up the *Mimbar*, praised Allah and glorified Him, then said: ‘O people! A large amount of funds has reached us, so if you wish we can divide it among you in measure or if you wish we can count it. A man from among the people said: “O Amir al-Mu’amineen!, Why don’t you set up account books (*Diwan*) so that you can record whatever you give to people.””

Al- Waqidi reported: Verily ‘Umar b. Al-Khattab consulted the Muslims about setting up the account books (*Diwans*). Ali said to him; “Each year, you should divide all the funds you receive without holding back anything.” Uthman said: “I can see that there are large amounts of funds to be given to the people, if these people are not counted to help keep track of who has taken from who has not, I fear that things could get out of hand.” Upon this Al-Walid Ibnu Hisham Ibnul Mughira said: I have been to Ash-Sham and I learnt that its Kings had set up an account book(*Diwan*) and recruited conscripts (for war), so why don’t you do the same? ‘Umar took up his advice and summoned Aqueel Ibnu Abi Talib and Makhrama Ibnu Nawfal, and Jubayr Ibnu Mut’im who were of the genealogist of Quraysh, and said to them: Go and carry a house to house census. So they began with Bani Hashim, then with Abu Bakr and his folk then ‘Umar and his folk, then they counted the tribes and reported back to ‘Umar. When ‘Umar looked at the census he said: No, I did not want it to be like this, however, do start with the family of the Messengerﷺ, then the nearer to them and so on until you put ‘Umar where Allahﷻ has put him.

This, as far as the *Diwan* (account book) of the grants and the conscripts is concerned, and it was written in Arabic. As for the *Diwan* of the payment time and fund collection, the case was different. The *Diwan* of Iraq was written in Persian as it was the case in the times of the Persian empire, so was the *Diwan* of the countries which were under the Persian ruling. Thus the *Diwan* of their land tax and *Jizya*, payment time and funds collection were written in Persian. As for Ash- Sham and the areas which were ruled by the Romans, their *Diwan* was written in Roman as it was the case when these were ruled by the Romans. This went on since the days of ‘Umar b. Al-Khattab until the time of the *Khilafah* of the Umayyad Abdul Malik Ibnu

Marwan, when in the year 81AH the *Diwan* of Ash-sham was transferred to Arabic.

It has been reported that what led Abdul Malik Ibnu Marwan to transfer the *Diwan* from Roman to Arabic was that the Secretary of the *Diwan* who was Roman, was once in need of water for his inkwell so he urinated in the inkwell instead of putting water. Abdul Malik heard of this and rebuked him; then he ordered Sulayman Ibnu Sa’ad to transfer the *Diwan* to Arabic. So he asked him for assistance by making the *Kharaj* of Jordan available to him for one year. He agreed and appointed him Wali over Jordan, whose *Kharaj* was 180,000 *Dinars*. It took Sulayman less than a year to complete the translation of the *Diwan* into Arabic. He took it to Abdul Malik Ibnu Marwan who then summoned his Secretary Sarjoon and showed it to him. Sarjoon was saddened by this and left Abdul Malik’s court dejected. Other Roman clerks met with him, so he said to them: “You better seek another way of earning your living, for Allah has taken away this provision from you.”

As for the *Diwan* of Iraq, it was Al- Hajjaj Abdul Malik’s Wali over Iraq that ordered his Secretary Salih Ibnu Abdul-Rahman to transfer it from Persian into Arabic. Salih was fluent in both languages, so he agreed to do this and was given time to complete the task. When the Persian Secretary of Al-Hajjaj, Muradnashah Ibnu Zadan Farukh, heard of this, he tried to bribe Salih with 100,000 *Dirham* in order to pretend his incompetence, but he refused. So he said to him: May Allah dissect you from this life as you have dissected the Persian language.

3

The Divisions of the Treasury's Account Books

The Treasury's account books (*Divans*) consist of two main divisions. The first one deals with the Treasury's revenues and the funds owed to it. The second deals with the expenditure and the funds which the Treasury is liable to pay to the rightful owners.

The Revenues division

This includes the following *Divans* according to the type of funds.

The Diwan of Booties (Fai') and Kharaj

This *Divan* would be the place where the records of the State's revenues are kept and recorded. These funds would be the general booties for which all Muslims would be entitled. This *Divan* would also include all the revenues from taxes, which the Muslims could in some cases be liable to pay, in case the revenues are not sufficient to cover the expenditures due on the Treasury. These taxes could be due as recompense for the State's employees, or as service for the common interest and affairs of all the Muslims. A special place within the treasury is assigned for the funds of the *Divan*, without being mixed with other funds. This is because such funds are spent in looking after the Muslims affairs and in their common interests, according to the opinion and *Ijtihad* of the *Khalifah*.

The departments of the *Divan* of booties and *Kharaj*, set up according to its revenues and funds due to it, consists of the following:-

- a) The department of war booties (*Al-ghana'im*):
This includes the war booties, spoils, booties and the fifth.

- b) The Department of land tax (*Kharaj*)

- c) The Department of Lands:

This includes the lands conquered by force, the tithe lands (*Ushriyyah*), the *Sawafi*, the States properties, public property lands and the protected lands (*Al-Hima*).

- d) The Department of head tax (*Jizya*)

- e) The Department of *Al-Fa'*:

This includes the records of the *Sawafi* revenues, the tithes, the fifth of the hidden treasures (*Rikaz*) and minerals, the revenues of the State's rentals and of the State's lands and buildings, or the *Sawafi* and the wealth which has no heir.

- f) The Department of Taxes

The Diwan of Public Property

It is the *Divan* where the funds of public properties are kept and recorded, in terms of research, exploration, mining, marketing, as well as all revenues and expenditure. A special place is reserved for the public properties funds within the Treasury, where these funds are not mixed with other funds, for they are the property of all the Muslims, The *Khalifah* would spend such funds according to what he deems in the interest of the Muslims following his own opinion and *Ijtihad* within the *Shari'ah* rules.

The Departments of the *Divan* of public property are set up following its types of funds and according to the need to set them up. These would be as follows:-

- a) The Department of oil and gas.

- b) The Department of electricity.

- c) The Department of minerals.

- d) The Department of seas, rivers, lakes and springs.

- e) The Department of forests and grazing lands.

- f) The Department of protected lands (*Al-Hima*).

The Diwan of Sadaqat

It is the *Diwan* where the obligatory *Zakat* funds are kept and recorded. The various departments of this *Diwan* are set up following the type of the obligatory *Zakat* funds, and they are:

- a) The Department of “monies and commercial goods” *Zakat*.
- b) The Department of crop and fruit *Zakat*.
- c) The Department of camels, beef, and sheep *Zakat*.

The *Zakat* funds are kept in a separate place within the Treasury, and they are not mixed with any other type of fund. This is because Allah ﷻ has restricted those entitled to *Zakat* in the eight categories, He ﷻ mentioned in the Quran: He ﷻ says:

إِنَّمَا الصَّدَقَاتُ لِلْفُقَرَاءِ وَالْمَسْكِينِ وَالْعَامِلِينَ عَلَيْهَا وَالْمُؤَلَّفَةِ قُلُوبُهُمْ وَفِي الرِّقَابِ
وَالْغَارِمِينَ وَفِي سَبِيلِ اللَّهِ وَابْنِ السَّبِيلِ

“Verily the Sadaqat are (only) for the poor, needy, those employed upon it, those whose hearts are to be reconciled, slaves, debtors, those in the way of Allah and the wayfarers” [At- Tauba: 60]

It is therefore forbidden to allocate the *Zakat* funds to any other category.

The Expenditures' Division

That was as far as the first Division was concerned. As far as the second Division which is related to the expenditure side and to the funds which are due on the Treasury, this includes all the expenditure of the following *Divans*, Departments, Offices and eligible bodies:-

1) The Diwan of the Khalifah House

This includes:

- a) Dar ul-Khilafah.
- b) The consultants' office.
- c) The Delegated Assistant's office.

d). The Executive Assistant's office.

2) The Diwan of Government Administrations

- a) The *Amir* of *Jihad's* Department.
- b) The *Walis'* Department.
- c) The Judges' Department.
- d) The Department of various government agencies, offices and related general utilities.

3) The Diwan of Grants

This would be the place where the records of whom the *Khalifah* deems eligible for funds, such as the poor the needy, the indebted, the wayfarers, the farmers, the industrialists and others, as well as those whom the *Khalifah* considers it to be in the common interest of the Muslims to give them funds.

These three *Divans'* expenditure will be covered by the revenues from the *Diwan* of booties and *Kharaj*.

4) The Diwan of Jihad

This includes:

- a) The *Diwan* of the Armed forces covering their establishment, formation, equipment and training.
- b) The Department of armament.
- c) The Department of weapons industry.

The expenditure of this *Diwan* would be covered by the revenues of the first Division of *Divans*. So it would be funded by the revenues from the booties and the *Kharaj*, for this *Diwan* is part of the recoverable and irrecoverable liabilities of the Treasury. It would also be funded from the *Hima* (protected properties) revenues raised from public properties. It would also be funded from the revenues of the *Diwan* of *Sadaqat*, for it forms part of the eight categories mentioned in the verse:

إِنَّمَا الصَّدَقَاتُ لِلْفُقَرَاءِ وَالْمَسْكِينِ وَالْعَامِلِينَ عَلَيْهَا وَالْمُؤَلَّفَةِ قُلُوبُهُمْ وَفِي الرِّقَابِ
وَالْغَارِمِينَ وَفِي سَبِيلِ اللَّهِ وَابْنِ السَّبِيلِ

“Verily the Sadaqat are (only) for the poor, needy, those employed upon it, those whose hearts are to be reconciled, slaves, debtors, those in the way of Allah and the wayfarers”
[At- Tauba: 60]

5) The Diwan of the Sadaqat expenses

These are covered by the *Diwan* of *Sadaqat* revenues if funds were available.

6) The Diwan of the Public Property’s expenses

These are covered by the public property’s revenues, according to the *Khalifah’s* opinion and within the *Shar’a* rules.

7) The Diwan of Emergencies (natural disasters)

This includes all what the Muslims may suddenly face, such as earthquakes, floods, famines etc... Emergencies are covered by revenues from the *Diwan* of booties and *Kharaj*, and from revenues of the public property’s *Diwan*. If these two *Dimans* did not hold sufficient funds, funds would be raised from the Muslims.

8) The Diwan of the General Budgets, General Accounts and Control

The *Diwan* of the general (budget is responsible for the preparation of the future budget of the State, according to the *Khalifah’s* opinion, in terms of estimating the State’s revenues and expenditure, comparing the overall and real revenues and expenses with that budget, and monitoring the total revenues of the State and its real expenditure. This *Diwan* would be affiliated to the *Dar ul- Khilafah*.

9) The Diwan of General Accounting

This is in charge of controlling all the State’s funds, i.e. accounting its existing funds, its credits, revenues and expenditures, be it those already collected and those due for collection

10) The Diwan of Control

This takes charge of reviewing and checking all the balance sheets of the State’s funds and its administrations, making sure of the exact amount of the existing assets, expenses, revenues and expenditure. It also takes charge of accounting the officials in relation to the collection and spending of those funds. It also monitors and accounts all the *Dimans*, the State departments and employees regarding the administrative matters.

These are briefly and in general the *Dimans* of the *Khilafah* State’s finance. As for the evidence about their establishment, they are one of the administrative styles and means to carry out the action of. The Prophet ﷺ, had dealt with the administration by himself and he appointed secretaries for it, whether in matters related to the finance or others. We said before, in the subject of the “First Established *Diwan*”, those whom the Prophet ﷺ appointed as secretaries for the financial matters. Besides, the verses and the *Abadith* which indicate the permissibility of the *Anfal*, the *Ghana’im* and *Al Fai’* (booties and spoils) as well as the *Jizya* and the *Kharaj*, and which also indicate that they are a legitimate gain for the Muslims from the disbelievers, in addition to the verses and *Abadith* which indicate the obligation of *Zakat* and to whom it should be allocated and which also indicate the public property, all this necessarily allows the setting up of administrative systems which would allow these funds to be collected, kept, recorded, counted and disposed of. These administrative styles would be a branch derived from the origin, thus they would be part of it and they would be part of the permitted (*Mubah*) actions. The *Khalifah* would be entitled to adopt them in which way he deems necessary to collect, control, safeguard, distribute and spend these funds. The setting up of the *Dimans* and their adoption took place in the time of the *Khulafa’ ur-Rashidoon* and this was witnessed by the *Sahabah* who did not object or disown such action.

Funds of the Khilafah State

The first funds the Muslims gained –after permission was given to them by Allah ﷻ to fight, following the *Hijra* of the Messenger of Allah ﷺ to Madinah, and after he built his mosque and began building the Islamic State brick by brick –was the booty of the caravan belonging to Abdullah b. Jahsh. This booty was some of the camels belonging to Quraysh and loaded with leathers and trading goods, taken during *Jumada Al-Akhirah* in the second year of *Hijra*. In the same year, during Ramadhan, the battle of Badr took place, where the Muslims acquired much wealth and weaponry but disputed in its distribution, so Allah revealed *Surah Al-Anfal*, saying:

يَسْأَلُونَكَ عَنِ الْأَنْفَالِ قُلِ الْأَنْفَالُ لِلَّهِ وَالرَّسُولِ

“They ask you concerning (the) spoils of war. Say: “(Such) spoils are at the disposal of Allah and the Messenger...” [Al-Anfal:1]

Thus, Allah ﷻ made it’s distribution the responsibility of the Messenger of Allah ﷺ, who divided it, without taking out the fifth. Then the Muslims seized the booty of Bani Qaynuqa’, after having violated the covenant, and the Messenger of Allah ﷺ banished them to Azra’rat in Ash-Sham. This followed Badr by one month, so he divided the booty and took out the fifth in accordance to the *Ayah* regarding the spoils of war, revealed after Badr:

وَاعْلَمُوا أَنَّمَا غَنِمْتُمْ مِنْ شَيْءٍ فَإِنَّ لِلَّهِ خُمُسَهُ وَلِلرَّسُولِ وَلِذِي الْقُرْبَىٰ وَالْيَتَامَىٰ
وَالْمَسْكِينِ وَابْنِ السَّبِيلِ

“And know that out of all the booty that you may acquire (in war), a fifth share is assigned to Allah and to the Messenger, and to the close relatives, orphans, the needy, and the wayfarer.” [Al-Anfal: 41]

The first land opened by the Messenger ﷺ was the land of Bani Al-Nadheer, after having violated the covenant, following the battle of Uhud. So he besieged them for fifteen nights, then made peace with them on condition that they leave Madinah, taking only what they can load onto their camels, excluding the arms and the various weaponry. The Messenger of Allah ﷺ divided their wealth, excluding their lands, between the early *Muhajireen*, giving none to the *Ansar*, except for Sahl b. Hunaif and Abu Dajana Samak b. Kharsha, since they mentioned their state of poverty, so he ﷺ gave them of the booty. He reserved the lands, taking from it a year's worth of sustenance to his family, dedicating what remained of that to the animals used for war and the weaponry used for *Jihad*. In this battle Surat Al-Hashr was revealed, where Allah ﷻ said:

وَمَا أَفَاءَ اللَّهُ عَلَى رَسُولِهِ مِنْهُمْ فَمَا أَوْجَفْتُمْ عَلَيْهِ مِنْ خَيْلٍ وَلَا رِكَابٍ وَلَكِنَّ اللَّهَ يُسَلِّطُ رُسُلَهُ عَلَىٰ مَنْ يَشَاءُ وَاللَّهُ عَلَىٰ كُلِّ شَيْءٍ قَدِيرٌ

“What Allah has bestowed on His Messenger from them, for this you made no expedition with either cavalry or camels, but Allah gives power to His Messengers over any He pleases; and Allah has power over all things.” [Al-Hashr: 6]

Thus, Allah ﷻ dedicated all of it to the Messenger alone. After this was the battle of Bani Qurayzha, after they had violated the covenant, betrayed the Muslims, and sided with the opposing tribes in the battle of Al-Khandaq (The Ditch). So the Messenger of Allah ﷺ divided their wealth between the Muslims and dedicated to each rider three shares and to each footman one share. Later on the battle of Khaybar came, after the Prophet ﷺ concluded the peace treaty with Quraysh in Hudaibia, thus Allah opened Khaybar for His Messenger and the Muslims by force, giving them ownership over their land, homes and wealth. The Prophet then divided the spoils and lands taking out the fifth. He divided the land into 1800 shares and 18 sections, each section having 100 shares, and agreed with its people to take half of what the land produced of fruits and grains. After the victory of Khaybar, the people of Fadak came to the Prophet of Allah where he made peace with them, on condition that he take half of their land and date trees, on which they continue to work and he leaves the other half for them to keep. So half of Fadak was made completely for the Messenger of Allah ﷺ, because it was gained without force, and he ﷺ used to spend whatever would come to him of it as charity. Similarly with the people of Wadi Al-Qura, he made peace

with them after he opened their land by force, on condition that he keeps their land under their control, similar to what he concluded with the people of Khaybar. As for the people of Tima', they made peace with the Prophet ﷺ by paying him *Jizya*, keeping their country and land to them.

After the conquering of Makkah came the battle of Hunayn, where the Messenger of Allah ﷺ divided their wealth and released their women and children, after envoys from Hawazin appealed for this. And in the battle of Tabuk, the Prophet ﷺ made peace with Yahya b. Ru'ba, the leader of Al-Aqaba, –and he was a Christian –on the condition that he pays the *Jizya*, and he made peace with the people of Azrah and Jarba and Maqna –and they were Jews –on the condition that they pay the *Jizya* as well. He ﷺ also made peace with Akidra, the Christian head of Domat-Al-Jandal, on paying the *Jizya* after being arrested by Khalid b. Al-Walid and forgiven by the Prophet ﷺ

Then came the envoys of Najran and Al-Yemen, where whoever of them became Muslim was enjoined to pay *Zakat*, and whoever remained a Christian or a Jew were obliged to pay the *Jizya*, after the verse regarding the *Jizya* was revealed, and *Zakat* became obligatory. During these battles the Messenger of Allah ﷺ reserved the (*Naqir*) for the camels of charity and the camels and steeds of war for *Jihad*. He ﷺ also designated the minerals, water, the produce of grazing land and fire as public property for all Muslims. After the Messenger of Allah ﷺ passed away and Abu Bakr took over, then 'Umar, the conquests followed and brought great wealth, from spoils of war, *Jizya* and *Kharaj*, all pouring into the *Bait ul-mal* of the Muslims in Madinah.

In this quick summary we can get a picture of the type of funds that reached the *Bait ul-mal* of the Muslims, and which Allah ﷻ has made permissible for them, and made the right due to the *Bait ul-Mal*, to be spent on whatever the divine rules decreed. This was according to the *Ijtihad* of the *Khalifah* regarding what he sees most fitting for the interest of the Muslims and for looking after their affairs.

Thereupon, funds in the *Khilafah* State are made up of the following types:

- ∪ The booties and the spoils of war, *Al-Fa'* and the fifth.
- ∪ *Al-Kharaj*.
- ∪ *Al-Jizya*.

- ∪ Public property (in all its forms).
- ∪ State property of land, buildings, utilities and their revenues.
- ∪ *Al-Ushur*.
- ∪ Money attained illegally by the rulers, the employees of the State, illicit money and money from penalties.
- ∪ The fifth of *Al-Rikaz* (hidden treasures) and minerals.
- ∪ The inheritance property of the one who has no inheritors.
- ∪ The property of apostates.
- ∪ Tax funds.
- ∪ Charity funds – *Zakat*.

We will discuss each of these different types to understand its reality, who is entitled to dispose of it, the manner of expenditure, the area of its expenditure and who are eligible of it.

5

Al-Anfal and the spoils of war, Al-Fai and the Fifth

Al-Anfal (booties) and The Spoils of War

The word *Al-Anfal* is said to indicate the spoils of war. Allah ﷻ says:

يَسْأَلُونَكَ عَنِ الْأَنْفَالِ قُلِ الْأَنْفَالُ لِلَّهِ وَالرَّسُولِ

“They ask you concerning (the *anfal*) spoils of war. Say: “(Such) spoils are at the disposal of Allah and the Messenger...” [Al-Anfal: 1]

Ibn ‘Abbas and Mujahid were asked regarding *Al-Anfal* in His ﷻ saying:

يَسْأَلُونَكَ عَنِ الْأَنْفَالِ

“They ask you concerning (the *anfal*) spoils of war...” [Al-Anfal: 1]

and they replied: *Al-Anfal* are the spoils of war. The word *Al-Anfal* is also used for what the *Imam* takes as booty – what is taken from the *Kuffar* before battle and after. Therefore, *Al-Anfal* and *Al-Ghana'im* are the same, being what the Muslims acquire of booty from the *Kuffar* on the battleground, of money, weaponry, goods, provisions, etc. This is what is meant by the verse revealed by Allah ﷻ:

وَاعْلَمُوا أَنَّمَا غَنِمْتُمْ مِنْ شَيْءٍ فَإِنَّ لِلَّهِ خُمُسَهُ وَلِلرَّسُولِ

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“And know that out of all the booty that you may acquire (in war), a fifth share is assigned to Allah and to the Messenger.” [Al-Anfal: 41]

The spoils of war were made lawful for the Messenger of Allah ﷺ, whereas they were forbidden for the previous nations. The Messenger of Allah ﷺ said: **“I have been given five things that which were not given to anyone before me...”**, mentioning of them: **“...and the spoils of war were made lawful for me.”** And on the authority of Abu Hurairah, the Messenger of Allah ﷺ said: **“The spoils of war were not made lawful for anyone with black hair before you; a fire would come from the sky and eat it up.”**

This is the reality of *Al-Anfal* and the *Ghana'im*. Allah ﷻ has charged the one in authority over the Muslims the responsibility of distribution and disposal of them. This has been made explicit in the saying of Allah ﷻ:

يَسْأَلُونَكَ عَنِ الْأَنْفَالِ قُلِ الْأَنْفَالُ لِلَّهِ وَالرَّسُولِ

They ask you concerning (the anfal) spoils of war. Say: “(Such) spoils belong to Allah and the Messenger” [Al-Anfal: 1]

and His ﷺ saying:

وَمَا أَفَاءَ اللَّهُ عَلَى رَسُولِهِ

“What Allah has bestowed on His Messenger” [Al-Hashr: 6]

This was also clear in the actions of the Prophet ﷺ in terms of distributing the spoils of war, as well as in the actions of the *Khulafa'a* after him. The Prophet ﷺ was in charge of the distribution of the spoils and the disposal of them, as were the *Khulafa'a*, either personally or by delegating someone to distribute on their behalf. Therefore, the *Khilafah* of the Muslims is the person responsible for distributing the spoils of war and disposal of them.

As far as how he disposed of them, this is based on what he views in the interest of the Muslims, according to the divine rules, This is because the Legislator charged the *Khilafah* to manage the affairs of the Muslims and discharge their interests, in accordance to the *Abkam Shari'ah*, following his opinion and *Ijtihad* that achieves the interests of Islam and the Muslims.

The Division of The Spoils, The Area of Their Expenditure and Those Who Are Entitled to Them

As for the division of the spoils of war, the area of their expenditure and those who are entitled to them, the Prophet ﷺ divided the spoils of Badr amongst the fighters, without taking out the fifth. He gave the rider three shares and the foot soldiers one share. Whereas in other battles he would take out the fifth from the spoils. This shows that his disposal of the spoils was not according to one fashion, rather it varied. He would hand out *Al-Anfal* before and after he divided them. He would give them before taking out the fifth in one instance, after taking out the fifth in another instance, and from the fifth sometimes, and he would promise to give from the coming *Anfal* and conquests. He does all that according to what he views in the interest of Islam and the Muslims. The first verse revealed regarding *Al-Anfal* and spoils made their matter and their management the responsibility of Allah and His Messenger ﷺ, and later on, the responsibility of the man in charge of the Muslims' affairs after the Prophet ﷺ. Allah ﷻ says:

يَسْأَلُونَكَ عَنِ الْأَنْفَالِ قُلِ الْأَنْفَالُ لِلَّهِ وَالرَّسُولِ

“They ask you concerning (the Anfal) spoils of war. Say: “(Such) spoils are at the disposal of Allah and the Messenger” [Al-Anfal: 1]

So the verse gave the right of the division of spoils and *Al-Anfal* and their management, to the Messenger ﷺ, ie: the leader of the Muslims. It was reported by Abi Umamah that he said: I asked 'Ubadah b. As-Samit about *Al-Anfal*, and he said: “It (the verse) was revealed regarding us, after the fighters of Badr disputed over the distribution of the spoils and we began displaying our bad manners, Allah took them all out of our hands, and gave them to the Messenger of Allah ﷺ, who then divided them between the Muslims equally.” The verse is general, including all spoils, and is not specific to the battle of Badr.

The actions of the Prophet ﷺ in regards to the spoils show that their distribution is subject to the opinion of the *Imam* where he disposes of them the way he deems most fitting for the interest of Islam and the Muslims. This is because the Prophet ﷺ gave out the third, as he gave out the quarter, after giving out the fifth of them. It was reported by Abi Umamah from

‘Ubadah b. As-Samit who said: **“We fought with the Messenger of Allah ﷺ so he gave us, at the beginning, the quarter of the spoils, and the third as we returned home.”** He ﷺ also gave the booty of those killed in battle to the one who killed them. On the authority of Abi Qutadah, the Prophet ﷺ said on the day of Hunain: **“Whoever kills someone, and has evidence (to prove it), to him belongs his booty.”** And he ﷺ distributed the spoils of Bani Al-Nadheer amongst the *Muhajireen*, giving none to the *Ansar*, except for Sahl b. Hunaif and Abu Dajana, he gave them due to their poverty. Allah ﷻ had given a reason for this way of distribution in Surat Al-Hashr saying:

كَيْ لَا يَكُونَ دُولَةً بَيْنَ الْأَغْنِيَاءِ مِنْكُمْ

...in order they (the funds) may not remain in circuit between the wealthy amongst you [Al-Hashr: 7]

He ﷺ gave to those whose hearts needed reconciliation a very generous share on the day of Hunayn. Anas b. Malik said: **“The Messenger of Allah ﷺ divided the spoils of Hunayn, giving to Al-Aqra’ b. Habis one hundred camels, and to ‘Uyaynah b. Hussn one hundred camels, and to Abu Sufyan b. Harb one hundred camels, and to Hakeem b. Hazam one hundred camels, and to Al-Harith b. Kaldah one hundred camels, and to Al-Harith b. Hisham one hundred camels, and to Suhail b. ‘Amr one hundred camels, and Huaytib b. ‘Abdul Al-‘Uzza one hundred camels, and to Al-‘Ala’ b. Jariyah Al-Thaqafi one hundred camels and he ﷺ gave to the others Muallafati Qulubuhum less than this. The Ansar found themselves upset by this, since the Messenger ﷺ gave them nothing of the spoils, so he ﷺ gathered them, and spoke to them, to the point that he made them cry and thus pleased them.**

The *Khulafa’u ur-Rashidoon* followed in the same footsteps of the Messenger of Allah ﷺ, they used to give the gains before the battle and before it was divided into shares. ‘Umar b. Al-Khattab for instance allocated to Jarir Ibnu Abdullah Al-Bajali and his tribe Bajila, the third of the land having set aside the fifth first. This was when Jarir responded positively to ‘Umar’s request to head for Iraq. Jarir benefited from the third of the land for two to three years, then ‘Umar reclaimed it back off him and said: “O Jarir, were I not a responsible divider, you would keep what you have got, but the number of people have increased and I suggest you returned it to them,” Jarir accepted

that, so ‘Umar granted him eighty *Dinars*.

All these verses and the actions of the Messenger of Allah ﷺ and the *Khulafa’u* after him, demonstrate that the issue of the booties is commissioned to the *Imam*, to handle according to what he deems in the interest of Islam and the Muslims. If he thought it best to divide them or divide part of them, he would do so, and if he thought it best to add them to other funds of the Treasury, such as the *Fa’*, *Jizya* and the *Kharaj*, to be spent on Muslims’ affairs, he would be within his rights to do so. This is especially now that it is the State which undertakes the equipment of the regulars and the reservists of the armed forces. It is also the State which pays their wages, supplies them with provisions and support for their families, as well as supplying the weapons and military hardware. The heavy war machines are no longer owned by individuals nor are the other equipment, as was the case in the past, especially now that the weapons became more sophisticated, heavy and owned by the State, which makes it impossible to be owned by individuals.

Therefore, the rule of the *Ghana’im* (booties) would be the same as that of the *Fa’*, *Kharaj*, *Jizya* and *Usbr*. They are deposited in the Muslims’ Treasury, and spent on looking after their affairs. The *Khilafah* could also divide these *Ghana’im* among those who take part in the battle, in a manner that he deems is in the interest of Islam and the Muslims.

The Fai’

The *Fa’* is a term used to refer to what the Muslims seize from the disbeliever’s possessions without resorting to armed conflict and without having to move the armed force or to travel; as was the case with Bany Nadhir. The *Fa’* could also be what the Muslims’ seize from the disbelievers who, fearing the Muslims, flee and leave their homes and possessions behind, or those who, for fear from the Muslims, give the Muslims part of their possessions and land in exchange for peace and to avoid armed conflict, such as the case of the Jews of Fadak. This is the meaning of *Fa’* intended by Allah ﷻ in *Surah* Al-Hashr:

وَمَا أَفَاءَ اللَّهُ عَلَى رَسُولِهِ مِنْهُمْ فَمَا أَوْجَفْتُمْ عَلَيْهِ مِنْ خَيْلٍ وَلَا رِكَابٍ

“What Allah has bestowed on His Messenger and taken from them, for this you made

no expedition with either cavalry or walking.” [Al-Hashr: 6]

The property of Bany Nadhir and Fadak were part of the *Faʿ* for which Muslims did not resort to armed conflict, it was therefore all bestowed on the Messenger of Allah ﷺ. In his lifetime, he ﷺ used to spend from the *Faʿ* on his family for a year, and the rest would go towards buying horses and weapons for *Jihad* in the way of Allah ﷻ. When he ﷺ departed, Abu Bakr and ‘Umar followed in his footsteps.

Bukhari reported in the chapter of *Al-Khums* that one day Uthman, Abdul Rahman Ibnu Auf, Al-Zubair and Sa’ad Ibnu Aby Waqqas sought permission to meet with ‘Umar. He granted them their request, they sat for a short while then came Ali and Abbas also asking to meet him, ‘Umar ushered them in so they entered, greeted everyone and sat down. Abbas then said: “O *Amir Al-Mu’mineen*, be the judge between me and this man, and they were in dispute over what Allah ﷻ has bestowed on His Messenger ﷺ from the wealth of Bany Nadhir.” The others, Uthman and his friends, said: “O *Amir Al-Mu’mineen*, do judge between them and rid them of each other.” Upon this, ‘Umar said: “Be patient. I adjure you by Allah ﷻ with Whose power the heaven and the earth stand, did you know that the Messenger of Allah ﷺ said: **‘We do not bequeath, what we leave behind, is Sadaqah?’** The Messenger of Allah ﷺ was talking about himself.” Uthman and his friends said: “Yes, he ﷺ did say so.” ‘Umar then turned towards Ali and Abbas and said: “I adjure you by Allah ﷻ, did you know that the Messenger of Allah ﷺ said this?”, they said: “Yes, he did say so.” ‘Umar then said: “Let me tell you about this. Verily Allah ﷻ has bestowed this *Faʿ* on His Messenger ﷺ and never gave it to anyone else.” ‘Umar then recited Allah ﷻ saying: “*What Allah has bestowed on His Messenger...until His ﷻ saying: ‘Qadir’; so this was specifically given to the Messenger of Allah ﷻ. Allah ﷻ, he did not take it from you nor did he keep it from you, he gave you from it and kept it going among you until this wealth is left from it. The Messenger of Allah ﷻ used to spend from it on his family for a year, then allocate what was left for Jihad in the way of Allah ﷻ. He ﷺ did this throughout his life. I adjure you by Allah ﷻ, did you know this?’*”. They said yes. ‘Umar then went on saying: “Then Allah ﷻ took His Prophet’s life and Abu Bakr said: ‘I am the successor of the Messenger of Allah ﷻ’, and he took it over and used it in the same way as the Messenger of Allah ﷻ and Allah ﷻ knows that he was truthful, pious, rightly guided and the follower of the Truth. Then Allah ﷻ took Abu Bakr’s life away and I was appointed as successor to Abu Bakr, so

I took over this *Faʿ* for the two years of my *Imama*, and I am following in the Messenger of Allah ﷺ and Abu Bakr’s footsteps, and Allah ﷻ knows that I am truthful, pious, rightly guided and follower of the Truth...”etc... to the end of the report, which is quite long.

Therefore, the rule regarding every *Faʿ* which the Muslims gain from their enemy without resorting to armed conflict and without moving the armed forces, would be that of the wealth of Allah ﷻ that is taken from the disbelievers such as the *Kharaj* and the *Jizya*; it should be put in the treasury and spent on looking after the Muslims affairs and on their welfare according to the *Khalifah*’s opinion in what he deems would be in the interest of the Muslims.

The *Faʿ* also refers to the land that is conquered either by force or by peaceful means, and whatever may follow the conquest of that land in terms of *Kharaj*, *Jizya* and *Ushur* of trade. This is indicated by Allah’s ﷻ saying:

مَا أَفَاءَ اللَّهُ عَلَى رَسُولِهِ مِنْ أَهْلِ الْقُرَى فَلِلَّهِ وَلِلرَّسُولِ وَلِذِي الْقُرْبَىٰ وَالْيَتَامَىٰ
وَالْمَسَاكِينِ وَأَبْنِ السَّبِيلِ كَيْ لَا يَكُونَ دُولَةً بَيْنَ الْأَغْنِيَاءِ مِنْكُمْ

“*What Allah has bestowed on His Apostle (and taken away) from the people of the townships belongs to Allah to His Apostle and to kindred and orphans the needy and the wayfarer; in order that it may not (Merely) make a circuit between the wealth among you.* [Al-Hashr: 7]

This is how ‘Umar understood the verse, and acted accordingly with regard to the *Sawad* (land) of Iraq, and to the lands of Ash-Sham and Egypt. This was when Bilal and his friends asked him to divide what Allah ﷻ bestowed on them from Iraq and Ash-Sham. ‘Umar and the *Sahabah* understood that the lands of Iraq, Al-Sham and Egypt were part of what Allah ﷻ bestowed on them, for they conquered these lands by force with their swords. This was clearly mentioned during their debate with ‘Umar, they said: “Would you hold from us what Allah ﷻ bestowed on us, with our swords, to share it with people who did not take part, and did not even witness the battle, and to their sons and their grandsons even though they did not take part in the fight?” And it was clearly mentioned in ‘Umar’s conversation with the ten *Ansar* he summoned to consult them about the *Kharaj* and the *Jizya* being part of the

Faʿ; He said: “I thought I would make the two lands and their trees an inalienable property and impose on them the *Kharaj*, and on their owners the *Jizya*, these would be a *Faʿ* to the Muslims, be it the fighters, their sons and those who come after them.”

So all the funds of this *Faʿ* and whatever it may entail from *Jizya*, *Kharaj*, *Ushur* and other, should benefit all the Muslims, the rich and the poor among them. The funds should be placed in the treasury of the Muslims and spent on looking after their affairs and on their welfare, and all the Muslims should be entitled to these funds. ‘Umar said about this after he had imposed the *Kharaj* on the lands of Iraq, Ash-Sham and Egypt: “Every Muslim has to be entitled to share from these funds. “ He then recited:

مَا أَفَاءَ اللَّهُ عَلَى رَسُولِهِ مِنْ أَهْلِ الْقُرَى

“What Allah has bestowed on His Messenger (and taken away) from the people of the townships,” [Al-Hashr: 7]

وَالَّذِينَ جَاءُوا مِنْ بَعْدِهِمْ

until he reached

“...and those who came after them say” [Al-Hashr: 10]

He then said: “This includes all the Muslims, and if I lived, the shepherd would come from the cypress of Himyar, and he would get his share even if he did not sweat for it.”

The Khums (the fifth)

It means the fifth of the booty, referred to by Allah ﷻ saying:

وَاعْلَمُوا أَنَّمَا غَنِمْتُمْ مِنْ شَيْءٍ فَإِنَّ لِلَّهِ خُمُسَهُ وَلِلرَّسُولِ وَلِذِي الْقُرْبَىٰ وَالْيَتَامَىٰ
وَالْمَسَاكِينِ وَأَبْنِ السَّبِيلِ

“And know that our of all the booty that you may gain (in war) a fifth share is assigned to Allah and the Messenger, and to the near relatives, orphans, the needy and the wayfarer” [Al-Anfal: 41]

This fifth used to be, in the lifetime of the Messenger of Allah ﷺ, divided into five shares: one share to Allah ﷻ and the Messenger ﷺ, another for the family of the Messenger ﷺ, and the other three to the orphans, the needy and the wayfarers.

The Messenger of Allah ﷺ used to spend his own share of the *Khums* on the Muslims and on *Jihad* in the way of Allah ﷻ, where he would buy camels and horses and weapons, and he would also equip the fighters. It has been reported that when he ﷺ returned from Hunayn, he lifted a camel’s hair and held it aloft in his fingers saying: “**I have nothing from that which Allah bestowed upon you even this hair except a fifth of your booty and the fifth I will return to you.**”

As for the share allocated to the relatives, this was shared among Bany Hashim and Bany Al-Muttalib during the lifetime of the Messenger of Allah ﷺ, none of the other relatives of the Messenger ﷺ were given anything from that share. The share of the relatives served as means of provision to the Messenger of Allah ﷺ and as assistance to Bany Hashim and Bany Al-Muttalib as a reward for their support of the Messenger of Allah ﷺ and Islam. That is why the share was confined to them. Jubayr Ibnu Mut’im reported: “**When the Messenger of Allah ﷺ divided the share of the relatives among Bany Hashim and Bany Al-Muttalib, Uthman and I went to see him, and I said: ‘O Messenger of Allah: No one denies the merits of Bany Hashim due to the position in which Allah ﷻ put you among them, you however gave Bany Al-Muttalib and denied us our share, though we are equal to them are we as also family.’ He ﷺ replied: ‘They have not let us down, and have been with us in**

Jahiliyyah and Islam. Therefore Bany Hashim and Bany Al-Muttalib are one and the same,' and he ﷺ tightened his fingers together.'"

When the Messenger of Allah ﷺ departed, and Abu Bakr was appointed *Khalifah*, the share of the Messenger of Allah ﷺ and the share of the relatives form the fifth (*Khums*) were put in the Treasury, and spent on looking after the Muslims affairs and on *Jihad* in the way of Allah ﷻ. This continued to be the case thereon. Ibnu Abbas was asked about the share of the relatives after the departure of the Messenger of Allah ﷺ so he said: "We used to claim that it was ours, but our people denied us this." He also said in answer to Najda Al-Hurury when he asked him about the share of the relatives: "It belongs to us. 'Umar once proposed that the share could be used to help our widows to get married and to assist the sick among us but we refused and asked for the whole share to be handed to us, but he refused."

We have earlier explained in the topic of *Ghana'im*, how the *Ghana'im* today should be placed in the Treasury and we gave evidence about this, and how the matter of the *Ghana'im* is commissioned to the *Khalifah*, to handle them and spend them on looking after the Muslims' affairs according to his own opinion and *Ijtihad*. Since the *Khums* represents part of the *Ghana'im*, it therefore follows the same rule and it should be placed where the *Ghana'im* are placed, and they both would be treated like *Jizya*, the *Kharaj* and the *Ushur*.

6

The Kharaj

The *Kharaj* is the right of the Muslims imposed on the land that is conquered from the *Kuffar*, either by the use of force or by peaceful means, it would thus be a *Kharaj* of force and a *Kharaj* of peace.

The Kharaj of Force (Kharaj Al-Unwa)

It is the levy imposed on any land which the Muslims have conquered from the disbelievers by the use of force, such as the lands of Iraq, Ash-Sham and Egypt. The basic nature of *Kharaj* is referred to in Allah's ﷻ saying:

مَا أَفَاءَ اللَّهُ عَلَى رَسُولِهِ مِنْ أَهْلِ الْقُرَى فَلِللرَّسُولِ وَلِذِي الْقُرْبَىٰ وَالْيَتَامَىٰ وَالْمَسَاكِينِ
وَأَبْنِ السَّبِيلِ كَيْ لَا يَكُونَ دُولَةً بَيْنَ الْأَغْنِيَاءِ مِنْكُمْ وَمَا آتَاكُمُ الرَّسُولُ فَخُذُوهُ وَمَا نَهَاكُمْ
عَنْهُ فَانْتَهُوا وَاتَّقُوا اللَّهَ إِنَّ اللَّهَ شَدِيدُ الْعِقَابِ (٧) لِلْفُقَرَاءِ الْمُهَاجِرِينَ الَّذِينَ أُخْرِجُوا مِنْ
دِيَارِهِمْ وَأَمْوَالِهِمْ يَبْتَغُونَ فَضْلًا مِنَ اللَّهِ وَرِضْوَانًا وَيَنْصُرُونَ اللَّهَ وَرَسُولَهُ أُولَئِكَ هُمُ
الصَّادِقُونَ (٨) وَالَّذِينَ تَبَوَّءُوا الدَّارَ وَالْإِيمَانَ مِنْ قَبْلِهِمْ يُحِبُّونَ مَنْ هَاجَرَ إِلَيْهِمْ وَلَا يَجِدُونَ
فِي صُدُورِهِمْ حَاجَةً مِمَّا أُوتُوا وَيُؤْتُونَ عَلَىٰ أَنفُسِهِمْ وَلَوْ كَانَ بِهِمْ خَصَاصَةٌ وَمَنْ يُوقِ شَحًّا
نَفْسِهِ فَأُولَئِكَ هُمُ الْمُفْلِحُونَ (٩) وَالَّذِينَ جَاءُوا مِنْ بَعْدِهِمْ يَقُولُونَ رَبَّنَا اغْفِرْ لَنَا وَلِإِخْوَانِنَا
الَّذِينَ سَبَقُونَا بِالْإِيمَانِ

"What Allah has bestowed on His Messenger (and taken away) from the people of the townships, belongs to Allah and His Messenger; to the kindred, orphans, the needy and the wayfarer; in order that it may not remain a circuit between the wealthy among you. So take what the Messenger gives you and refrain from what he prohibits you. And fear Allah; for Allah is strict in punishment. (Some part is due) to the indigent Muhajirs, those who were expelled from their homes and their property, while seeking grace from Allah and (His) good pleasure, and aiding Allah and His Messenger: such are indeed the truthful;-

And those who before them had homes (in Madinah) and had adopted the faith,- show their affection to such as came to them for refuge, and entertain no desire in their hearts for things given to the (latter), but give them preference over themselves, even though poverty was their (own lot). And those saved from their covetousness of their own souls,- they are the ones that achieve prosperity. And those who came after them say: "Our Lord! Forgive us, and our brethren who came before us into the faith." [Al-Hashr: 7-10]

These verses have been used by ‘Umar to support his argument about not dividing the lands of Iraq, Ash-Sham and Egypt among the fighters, as requested by Bilal, Abdul Rahman and Al-Zubayr. They asked him to divide these lands which Allah ﷻ had bestowed on them with the help of their swords, arguing that this was what the Messenger of Allah ﷺ did with the land of Khaybar, for he ﷺ divided that land among the fighters after he had conquered it. ‘Umar is reported to have said to the *Ansar*, when he summoned them to consult them, in support of his argument: “I have decided to make the land and their trees an inalienable property, and to impose on them the *Kharaj* and on their owners the *Jizya*, these would be a *Fa’* to the Muslims, be it the fighters, their children and those who come after them. Do you not think that these frontiers (front lines) need to be manned by soldiers? Do you not think that these great cities of Ash-Sham, Al-Jazira, Al-Kufa, Basra and Egypt need to be fortified with armed forces to whom we ought to be generous? Where do we give them from, if the lands and the trees were divided?.” ‘Umar then backed his argument with evidence from the Qur’an. He recited the verses of *Al-Fa’* until he reached Allah’s ﷻ saying:

وَالَّذِينَ جَاءُوا مِنْ بَعْدِهِمْ

“*And those who came after them*” [Al-Hashr: 10]

and then said: “This verse refers to all the people till the day of Judgement, and every single Muslim is entitled to share of this *Fa’*.” The *Ansar* agreed with him and said: “Your opinion is right, you have said the right thing and come up with the right decision, if these frontlines and these cities were not fortified by the fighters, and if those men were not given provisions, the disbelievers would return to their cities.” Upon this ‘Umar said: “The matter has become clear to me, do you know a man who has a ability and experience in measurement, who could survey the land and assess the fruits reasonably?.” Then all agreed that Uthman Ibn Hanif was the best man for the job and said: “You can rely on him in more complicated matters than this,

for he has vision, intelligence and experience.” ‘Umar then hurried to him and assigned him with the task of surveying the land of the *Sawad* (land of Iraq and Iran).

Uthman then set off and surveyed the *Sawad*. He put on the *Sawad* a *Kharaj*, then reported back to ‘Umar who approved the survey. The revenues from the *Sawad* of Al-Kufa alone reached before the death of ‘Umar a hundred million *Dirhams*. The *Dirham* at the time was equal to the weight of the *Miskal*. ‘Umar therefore allowed the landowners to keep the land and imposed on them a *Kharaj* which they paid to the *Bait ul-Mal* and ‘Umar made the land a *Fa’* for the Muslims till the day of Judgement. It will remain a *Kharaj* until Allah ﷻ inherits the Earth and those on it, it cannot be transferred or converted into a *‘Usbr* (to the land), even if the landowners embraced Islam or sold the land to a Muslim. This is because the nature of the land will remain as such and will not change, i.e. a land that has been conquered by force and a land that a *Kharaj* has been imposed on.

Tariq Ibnu Shihab reported: “Umar b. Al-Khattab wrote to me about the tribe of Dahqana in Nahr Al-Malik, who had embraced Islam. He wrote: “Give the tribe her land so that they pay the *Kharaj* of that land.” This clearly indicates that ‘Umar b. Al-Khattab did not waiver the *Kharaj* imposed on the land conquered by force and whose owners embraced Islam, and he ordered them to continue to pay the *Kharaj* of that land after becoming Muslims.

The Kharaj of the peace treaty

It is the *Kharaj* levied on every land whose inhabitants a peace treaty has been signed. It will be subject to the peace treaty agreed between the Muslims and the people with whom they made peace. If the peace treaty was on the basis that the land belongs to us or that it allows its inhabitants to settle there in return for *Kharaj* which they will pay then this *Kharaj* will remain for ever on this land and its land shall remain *Kharaji* land until the Day of Judgement, even if it was transferred to Muslims through the inhabitants conversion to Islam or by purchasing it by Muslims, etc.

However if the peace treaty was on the basis that the land belonged to them and that it shall remain in their hands and they shall settle there for a known amount of *Kharaj* which would be levied on them, then this *Kharaj*

will be in the position of the *Jizya*. In this case it will cease if they embrace Islam or sell the land to Muslims due to the saying of Allah ﷻ: “*And fulfil the covenant. Verily! The covenant, will be questioned about.*” [Al-Isra: 34]

It is also due to the Prophet’s ﷺ saying: **‘Muslims are bound by their conditions’**. As for if they sold their land to a *Kafir* then the *Kharaj* will remain and will not cease because the *Kafir* is from the people of *Kharaj* and *Jizya*.

Kharaj is different to the ‘*Ushr*. ‘*Ushr* is what is taken from the produce of ‘*Ushri* land, and the ‘*Ushri* lands are:

a. The Arabian Peninsula, because its inhabitants were from the worshippers of idols, and nothing was accepted from them except Islam and the Messenger of Allah ﷺ did not impose any *Kharaj* on them even though he had fought and conquered a number of places in the peninsula.

b. Any land whose inhabitants embraced Islam like Indonesia and South East Asia. The Messenger of Allah ﷺ said: **‘I have been ordered to fight the people until they say ‘there is no god but Allah’. Whoever says ‘there is no god but Allah’ then his life and property are safe from me except for the right on his property and his reckoning will be with Allah’**. The land is in the position of property.

c. Every land opened by force and divided by the *Khalifah* between the Muslim fighters. This is like the land of Khaybar. This applies to lands partially left in the hands of Muslim fighters, as ‘Umar allowed the army of Ash-Sham to gain possession of the shores of the Irbid river in Hums, and Marj Barada in Damascus.

d. Every land with whose inhabitants a peace treaty has been signed that we leave their land in their possession in return for a *Kharaj* which they will pay. It will become ‘*Ushri* land if they embrace Islam or sell it to a Muslim.

e. Every dead land which has been revived by a Muslim. He ﷺ said: **‘Whosoever revives a land that belongs to nobody then he is more deserving of it’**. Bukhari reported the same *Hadith* with the words: **‘Whosoever inhabits a land that belongs to nobody he is more deserving of it’**.

This ‘*Ushr* remains as ‘*Ushr* and does not change to being *Kharaj* except when a *Kafir* buys a ‘*Ushri* land from a Muslim in the land of ‘*Ummah* (ie land opened by force). Then he will have to pay the *Kharaj* and he will not be required to pay the ‘*Ushr*. This is because ‘*Ushr* is *Zakat* and the *Kuffar* are not from the people of *Zakat* for it is *Sadaqah* (worship) and a purification for the Muslim. As for if a *Kafir* buys an ‘*Ushri* land from a Muslim in a land other than a land of ‘*Ummah* then then he will pay *Kharaj* and not the ‘*Ushr*. This is because the ‘*Ushri* land has no *Kharaj* and the *Kafir* is not required to pay *Zakat*. This is similar to the case when a *Kafir* buys a cattle from a Muslim there is no *Zakat* on him.

Combining the ‘*Ushr* and *Kharaj*

Kharaj is imposed from the beginning on the land of ‘*Ummah* (opened by force) which the *Kuffar* used to own at the time it was conquered. If the land continues in the hands of the *Kuffar* then *Kharaj* will be paid for it whether the land was cultivated or not. It will have no ‘*Ushr* because ‘*Ushr* is *Zakat* and the *Kuffar* do not pay *Zakat*. If they become Muslim or sell it to a Muslim the *Kharaj* does not cease because its description as a land opened by force remains for all time. So they have to pay the ‘*Ushr* with the *Kharaj*. This is because *Kharaj* is a right obliged on the land and ‘*Ushr* is a right obliged on the produce of the land owned by a Muslim according to the *Ayat* and *Abadith*. There is no contradiction between the two rights because they became obligatory for two different causes. This is similar to the case when a Muslim in *Ibram* (state of ritual consecration) kills in the *Haram* (ritual places) a hunt (animal) owned by somebody, he is then obliged to pay its value to its owner and the penalty due upon him to Allah ﷻ. As for what the *Hanafis* cite as proof for not combining the ‘*Ushr* and *Kharaj* from a *Hadith* which they report from the Messenger ﷺ: ‘There shall be no combining of the ‘*Ushr* and *Kharaj* in the land of a Muslim’. It is not a *Hadith* and the scholars of *Hadith* did not confirm if it was from the speech of the Messenger ﷺ.

So the payment of *Kharaj* is started first. If after paying *Kharaj* there remains crops and fruits which reach the *Nisab* on which *Zakat* has to be paid then the *Zakat* is exacted. If it does not reach the *Nisab* then there is no *Zakat* on him.

The Practical Reality According To Which We Must Proceed Today

Now that we are very distant from the time of the conquests and the great majority of the people have become Muslims in all the lands whether conquered by force or by peace treaty. Now after the majority of the *Divans* and registers, which distinguished the land which is granted, revived and settled in from the land taken by force or peace treaty became obsolete, then this can be distinguished in the following manner: by considering the most predominant general situation of the land that is known to have been opened by force, or its people have embraced Islam or it has been dealt with in a specific way.

The whole of the land of Iraq, including Kuwait, Iran, India, Pakistan, Afghanistan, Turkistan, Bukhara, Samarqand, the land of Ash-Sham, Turkey, Egypt, Sudan and north Africa, all of these are considered *Kharaji* land because they have been opened by force. *Kharaj* must be paid over them by the Muslims and *Kuffar*. Payment of *'Ushr* is likewise obligatory on the Muslims if the produce of the land is such that *Zakat* is obligatory or that it reaches the *Nisab* after paying the *Kharaj*, except those Muslims who can prove with evidences and documents that their land is *'Ushri* land, who will then not pay *Kharaj* but will pay the *'Ushr* as *Zakat*.

As for the Arabian Peninsula including Yemen, Indonesia, south east Asia and other such lands they are *'Ushri* and not *Kharaji* land. It is only obligatory to pay *'Ushr*, as a *Zakat* on the produce on which *Zakat* is obligatory.

The Method of Levying the Kharaj

When putting down the *Kharaj* the *Khalifah* must delegate persons from the people of experience, who know how to survey the land, value it and estimate the produce, as it happened with 'Umar b. Al-Khattab when he wanted to survey the rural area of Iraq (*As-Sawad*) in order to fix the *Kharaj*. He consulted the Muslims as to who should be assigned for this task. He told them. The matter has become clear for me. So who is the man who has vision and intellect to put the land in its right level and place on its owners of the *Kuffar* the amount of *Kharaj* that they can afford. So they all agreed upon 'Uthman b. Haneef. They said: "You can send him to tasks that are more important. He is a man of vision, intelligence and experience." Thus 'Umar hastened to him and assigned him the responsibility of surveying the *Sawad*.

The one assigned to estimate the *Kharaj* must consider the reality of the land in terms of whether it is very fertile, it gives quality and plentiful produce, or it is of low quality and gives little low quality yield. Is it watered by rain, from springs and wells or canals and rivers? Is it watered by rain, sprinklers or machines, because the cost is not the same. What types of crops and fruits are cultivated and produced, because there are crops and fruits whose price is expensive and of a high value and other crops that are cheap and of low value. What is its location? Is it close to the cities and their markets or far from them? Does it have a passable road so that it can be reached and its harvest can be transferred to the markets or are the paths rugged?

All of these matters have to be taken into consideration and observed so that the land is not harmed or overburdened. 'Umar b. Al-Khattab asked 'Uthman b. Haneef and Huzayfah b. al-Yaman after they had returned from surveying the land and fixed the *Kharaj*. How did you fix the *Kharaj* on the land? Perhaps you burdened the people you worked with what they cannot bear? Huzayfah said: "I left some extra." And 'Uthman said: "I left the weak ones, if I wanted I could have taken from them." As well one must bear in mind that land owners are left a certain amount in terms of the circumstances they may be forced into by natural disasters and crop damage. Just as we see the Messenger of Allah ﷺ ordered that in estimating the crops for the payment of *Zakat* that a third or a fourth of the date palm be left. He ﷺ said: **'Reduce the estimate for in the property there is bequests, the one affected by cold weather (Ariyyah), the falling down crops and natural disasters.'**

The *Kharaj* can be fixed on the land or it can be on the crops and fruit. If it is imposed on the land then its year is considered the lunar year because it is the year with which one counts the times of the *Zakat*, blood money, *Jizya* and others according to the *Shari'ah*. If it is imposed on the crops and fruit then the ripeness of the crops and fruit, and their sale will be their year and time-span. The *Kharaj* can be paid with money, or money and grains or it can be a share of the crops and fruit. Its year will be when the crops and fruit ripen and they are sold. These days it may be easier for the *Kharaj* to be paid in money on the land according to what is cultivated on it.

The Value of Kharaj

Setting the value of *Kharaj* which is imposed on the land must be done by

experts who know how to fix it as clarified in the previous topic as ‘Umar b. al-Khattab did when he sent ‘Uthman b. Haneef after he had consulted the people about his appointment due to the fact that he enjoyed vision, intelligence and experience. He assigned him for Kufa, over the Euphrates just as he assigned Huzayfah b. al-Yamaan over the area beyond the Tigris river. So they surveyed the *Sawad* (rural areas of Iraq) and calculated that which was liable to *Kharaj* and they raised the matter with ‘Umar who then approved it. It was narrated from ‘Amr b. Maymun who said: “I saw ‘Umar b. al-Khattab and Ibn Haneef came to him and began speaking to him and I heard him say: “By Allah! If I levied a *Dirham* and *Qafeez* of food on every patch of arable land then that would not be overburdening for them, nor will it wear them out.” In a report from Muhammad b. ‘Abeed Ath-Thaqafi he said: “Umar b. al-Khattab levied, on the people of *Sawad* for every patch of arable land whether populated or filled with water, a *Dirham* and *Qafeez* and on the wet land he levied five *Dirhams*’. Ash-Sha’bi narrated from ‘Umar: that he sent ‘Uthman b. Haneef to Sawad and he levied two *Dirhams* on a patch of barley, on a patch of wheat he levied four *Dirhams*, on a patch of sugar cane he levied six *Dirhams*, on date palm he levied eight *Dirhams*, on grapes he levied ten *Dirhams* and on olives he levied twelve *Dirhams*”.

From this it becomes clear that the value of *Kharaj* set down by ‘Uthman b. Haneef on the land of Iraq and approved by ‘Umar was not the same. It was different considering the lands, their productivity, means of watering, and type of crop cultivated. He took *Kharaj* from the inhabited land which is being cultivated and from the copious land overflowing with water. He took *Kharaj* on the land, and crops and fruit. He valued them with money and with grains. The evaluation was according to ability and the people were not dealt with injustice or difficulty, and that he left for them some crops.

Since this evaluation was imposed in a certain time and it is based on *Ijtihad*. That is why it is not an obligatory evaluation prescribed by the *Shari’ah* which cannot be overstepped by any increase or decrease. Rather it is allowed for the *Khalifah* to increase it or decrease it according to his opinion or *Ijtihad*, and according to the altering circumstances of the land. This is in terms of the increase in the fertility or lack of it, making the land more arable or being ruined or unused because of natural disasters ravaging the land. It could be in terms of the increase in the water, its paucity, its supply being completely stopped, disease or destruction, an expensive or cheap price. All of these alterations have an effect on the evaluation. They must be taken into

account and the evaluation must be renewed from time to time so that no injustice is caused to the land owner or the *Bait ul-Mal* (State Treasury).

The Expenditure of the Kharaj

What has been mentioned in the speech of ‘Umar b. al-Khattab in his discussion with those who differed with him regarding the matter of dividing the land of Iraq, Ash-Sham and Egypt clearly indicates the expenditure of the *Kharaj*. In this discussions the following saying has been reported: ‘If I had divided it, since then nothing would have remained for those coming after you. How is it possible that Muslims coming after you will find that the land has been divided and inherited through the fathers and owned? What kind of opinion is this? What will fill the frontiers? What will be for the children and widows of this country, and for others from the land of Ash-Sham and Iraq?’ His saying to the *Ansar* whom he consulted was: “I took the view that I should keep the land in the hands of its disbeliever and set down a *Kharaj* on it and impose *Jizya* on their necks which they will give. So it will be *Fa’i* for the Muslims, for the fighters and the offspring and those who come after them. Do you see these frontiers which must have men who will live in. Do you not see these great cities; Ash-Sham, Al-jazeera, Kufa, Basra and Egypt. They have to be manned with armies and grant these armies enough provisions. So who will give those people that if the land and disbelievers are divided up? He said after reciting the verses of *Fa’i* and he recited the *Ayah*: ‘*And those who came after them.*’ This *Ayah* encompasses all the Muslims. There will not be a single person from the Muslims who will not have a right in this wealth. If Allah ﷻ gave me more time to live, every Muslim would receive his right, to the point that the shepherd grazing in Hemyer will have his share, though he did not do effort in that.”

All of this is explicit in that *Kharaj* is a right of all the Muslims. It is spent on all the departments in the state, from which the salary of the employees, soldiers and grants will be paid. From this wealth the armies will be prepared and weapons will be made ready. It will be spent on the widows, needy and the interests of the people and by which, their affairs will be looked after. The *Khalifah* will administer it according to his opinion and *Ijtihad* in terms of that which is good and right for Islam and the Muslims.

7

Standard of lengths, Area, Measures and Weights

Cognition of many of the *Ahkam Shar'iah* related to *Al-Kharaj*, *Jizya*, *Zakat*, *Diyya*, cutting and expiation requires the knowledge of the lengths, measures and weights which were used during the time of the Messenger ﷺ and in the era of the honourable *Sahabah* (may Allah be pleased with them). As time prolonged away from the usage of these standards of lengths, measures and weights, the majority of them today, if not all of them, have become redundant. Thus, it has become difficult to know these measurements and their values corresponding to the lengths, measures and weights used today, which have become easier to deal with, easier to understand and able to precisely define.

Therefore, the standards of these lengths, measures and weights will be demonstrated to explain their reality and ratio to today's lengths, measures and weights in order to make them clear, easy to deal with, simple to understand and precise in definition.

Length and Area

A *Jareeb* was the only basic unit of area. It was applied to measure arable land and define estate, where the *Kharaj* was estimated based on this basis. It is reported that Sh'abi said, "Indeed 'Umar b. Al-Khattab surveyed the *Sawad* (arable land of Iraq) which reached 630,000,000 *Jareeb*." In the book, *al-Ahkaam al-Sultaniyya* it is said, "The *Jareeb* is 10 *Kasabaats* times 10 *Kasabaats*. The *Kafeez* is 10 *Kasabaats* times a *Kasabah*. And the *Kasabah* is equal to 6 cubits. Hence the *Jareeb* is equal to 3600 cubit pieces and the *Kafeez* is equal to 330 cubits which is a tenth of a *Jareeb*."

Commenting on the *parasang*, it has been reported that Ja'afar bin

Qudamah said that, "It is a cubit area and is equivalent to the Hashemite cubit, that is 9000 cubits." Qalqashandi mentioned that, "The Hashemite cubit is equal to a cubit and a third of the hand which is the *Mursala* (long dispatched) cubit. And the cubit of the hand is equal to 6 handfuls (clasps) on the basis of the average handful. Each handful is the four fingers i.e. the smallest finger, ring finger, the middle and the index finger. Each finger is 6 little hairs laid across."

The Muslims used the following lengths:

The clasp = 4 fingers

The dispatched *Mursala* cubit = 6 clasps or 24 fingers

The Hashemite cubit = 8 clasps or 32 fingers

The *Kasabah* = 6 Hashemite cubits

The *Jareeb* = 100 *Kasabaats* squared (10 x 10)

The ten *Kasabaats* = 10 x 6 cubits

Length of the *Kasabah* = 60 cubits which is the length of the side of the *Jareeb*.

The area of *Jareeb* = 60 cubits length of side x 60 cubits = 3600 squared Hashemite cubits.

Kafeez = 1/10 area of *Jareeb*, that is it is equal to 360 square Hashemite cubits.

It is possible to understand the reality of these measurements by comparing them to today's measurement of metre, which is considered to be the easiest and most precise measurement for length and area, if we know the average width of the finger in centimetres.

To calculate, it is clear that the average width of the finger equals 1.925 centimetres and thereby the lengths of this measurement will be as follows:

The arm = 1.925 cms

The clasp = 4 fingers x 1.925 cms (width of the arm) = 7.700 cms

The *Mursala* cubit = 24 arms x 1.925 cms (width of the arm) = 46.200 cms

The Hashemite cubit = 32 arms x 1.925 cms (width of the arm) = 61.600 cms

Kasabah = 6 Hashemite cubits x 61.600 cms
(length of the Hashemite arm) = 3.696 metres

The ten *Kasabaats* = 10 x 3.696 metres length of *Kasabah* = 36.960 metres, the length of *Jareeb*

Area of *Jareeb* = 36.960 metres length of *Jareeb* x 36.960 metres = 1,366 square metres. This is equal to one and a third *Dunum*
(ie. $1 \frac{1}{3} \times 1000\text{sq.m} = 1333\text{sq.m}$).

Area of *Kafeez* = $1/10$ *Jareeb*, that is 136. 600 sq. metres

This is everything related to the measurements of area. As for the measurements of length of distances, they are the *Bareed*, parasang and mile. They are evaluated in terms the *Mursala* cubit which is also called the original cubit, and the *Shar'aa* cubit whose length is 6 clasps, or 24 fingers, like it came in the measurements of area. The author of al-Ahkaam al-Sultaniyya mentioned that the mile is equal to 4000 *Mursala* cubits. The books of *Fiqh* agree that the parasang is equal to 3 miles and a *Bareed* is equal to 4 parasang. Therefore their estimation according to the previous measurements and the kilometre used today and which is considered to be the easiest and most precise form of measurement of the distance length, will be as follows:

The *Mursala* cubit = 6 clasps or 24 arms

Mile = 4000 *Mursala* cubits

Parasang = 3 miles

Bareed = 4 parasangs

In metres and kilometres calculation, they will be as follows:

The *Mursala* cubit = 24 arms x 1.925 cms (width of the arm) = 46.200 cms
Mile = 4000 *Mursala* cubits x 46.200 cms, length of the *Mursala* cubit = 1848 metres or 1.848 kms

Parasang = 3 miles x 1848 metres length of a mile = 5544 metres, or 5.544 kms

Bareed = 4 parasang x 5544 metres length of parasang = 22176 metres, or 22.176 kms

In view of the fact that the distance of *Al-Qasr* is 16 parasang, or 48 miles, in kilometres it will be as follows:

Al-Qasr = 16 parasang x 5.544 kms, length of parasang = 88.704 kms
or it is equal 48 miles x 1.848 kms, length of mile = 88.704 kms

Compliance of measurement of area and distance with the standards used in the past is not mandatory from the *Shari'ah* perspective. This is because they are means and tools which were adopted for carrying out and facilitating tasks. Thus it is permissible to use them or alternatives in following to the easiest, simplest and most precise form. This is though the *Jareeb* in origin is a Persian measurement and that acre was and still is the unit of measurement in Egypt. Its area is different from the area of the *Jareeb*.

Since the measurements of metre, kilometre and square metre which are used today are considered the easiest and most precise measurements, it is possible to use the *Dunum* as the unit for measuring the area of land, the metre as the unit to measure cloth and houses and the kilometre as the unit to measure distance. Thus the *Jareeb* which 'Umar ibn Al -Khattab used as the foundation to measure area of *Kharaj* is equal to 1366 square metres, which is equal to one and one third of a *Dunum* approximately, because the area of *Dunum* is 1000 square metres.

Measure and Weight

It has been narrated that Abu Said al-Khudri said, "We used to give a *Sa'a* from food for *Zakat ul-Fitr*, or a *Sa'a* from barley, or a *Sa'a* from dates, or a *Sa'a* from cheese, or a *Sa'a* from the raisons." It has been narrated from

Jabir ibn Abdullah who said, **“The Messenger of Allah would wash himself with a Sa’a and purify himself with Mudd.”** And it has been narrated from Abu Saeed al-Khudri, without mentioning the Prophet ﷺ who said, **“There is no Sadaqah in less than 5 Awsuq.”**

Al-Wasq is 60 *Makhtoom* that is a *Sa’a* by evidence of what has been narrated from al-Hassan and Ibn Sirreen who both said, “*Al-Wasq* is 60 *Sa’a*.” Al-Sha’bi narrated that the Messenger of Allah ﷺ said to Ka’ab ibn ‘Uzra, **“Don’t you have something to slaughter?”** He said, “No.” RasoolAllah ﷺ said, **“Then fast three days or give in charity 3 Sa’a of dates to 6 needy people, giving two of them one Sa’a.”** And it has been narrated from Muhammad bin Ubaidullah al-Thaqafi who said, “Umar ibn Al-Khattab imposed on the people of the *Sawad* on each *Jareeb* inhabited or overflowing a *Dirham* and a *Kafeez*.” Abu ‘Ubaid says in the Book of Funds, “A *Sa’a* is 4 *Amdaad*, and the *Mud* is a pound and third in *Baghdadi* measurement, thus the a *Sa’a* is 5 pounds and a third, which is the *Sa’a* of the Prophet ﷺ as Malik and the people of the *Hijaz* mention.”

Examining the *Abadith*, what has been mentioned by the Jurists and *Muhadditheen* and the linguists about the measures and weights shows that a *Sa’a* is a unit of measurement for all measures which was used. A *Sa’a* is equal to 4 *Amdaad* and a *Mudd* is a pound and third in *Baghdadi* measurement and the *Baghdadi* pound is 128 4/7 *Dirhams*. The estimate of the *Dirham* in terms of the gram used today was 3.17 grams. This is not the cash *Dirham*. The weight of the *Shar’i* silver *Dirham* is 2.975 grams. Thus the weight of the *Baghdadi* pound is 408 grams.

Thereby the values of these measures and their weights become clear in grams and kilograms from the substance of wheat in the following form:

Al-Mudd = 1 1/3 Pound *Baghdadi*

Al-Mudd = 1 1/3 Pound x 408 grams, the weight of the Pound = 544 grams, the weight of *Mudd* of wheat.

Sa’a = 4 *Mudds* in measure

Sa’a = 4 *Mudds* x 544 grams the weight of *Mudd* = 2176 grams the weight of *Sa’a* of wheat, or 2.176 kilograms the weight of *Sa’a* of wheat

Kafeez = 12 *Sa’a* in measure

Kafeez = 12 *Sa’a* x 2176 grams, the weight of *Sa’a* = 26112 grams, the weight of *Kafeez* of wheat or = 26.112 kilograms, the weight of *Kafeez* of wheat.

Al-Wasq = 60 *Sa’a* in measure

Al-Wasq of wheat is 60 *Sa’a* x 2176 grams the weight of *Sa’a* = 130560 grams, the weight of *al-Wasq* of wheat, or = 130.56 kilograms the weight of *al-Wasq* of wheat.

From this, the following is clear:

In view of the fact that the *Nisab* of *Zakat* is 5 *Awsuq* its weight will be 652,8 kilograms of wheat since a *Sa’a* of dates, or cheese, or raisins is different in weight from the weight of a *Sa’a* of wheat though they are of the same measure. Therefore the weight of the *Nisab* of *Zakat* from dates, or raisins or cheese is different from the weight of the *Nisab* of wheat, because the materials are not equal in weight, though they have the same measure.

Since the *Zakat* of *Ul-Fitr* is a *Sa’a* then in weight it will be 2.176 kilogram of wheat. Similarly ritual redemption is 3 *Sa’a*, so its weight will be 6.528 kilogram of wheat.

Likewise it is clear that the weight of *Kafeez*, which ‘Umar ibn Al-Khattab put together with the *Dirham* as *Kharaj* on the *Jareeb* in the land of Iraq is equal to 26.112 kilograms of wheat.

The *Dirham* which was imposed was equal to the weight of the *Mithqal* that is 4.25 grams of silver. Since the area of *Jareeb* is equal 1.366 square metres, then it will be the amount ‘Umar ibn Al-Khattab put on the *Dunum* as *Kharaj*, which was 19.116 kilogram of wheat and 3.11 grams of silver.

8 Jizya

Jizya is a right that Allah ﷻ allowed the Muslims to take from the *Kuffar*, in return for their submission to the ruling of Islam. The Muslims adhere to forbearing, protecting and ensuring the security of the *Kuffar* who give the *Jizya*. *Jizya* originates from the saying of Allah ﷻ in *Surah At-Tauba*,

فَاتْلُوا الَّذِينَ لَا يُؤْمِنُونَ بِاللَّهِ وَلَا بِالْيَوْمِ الْآخِرِ وَلَا يُحَرِّمُونَ مَا حَرَّمَ اللَّهُ
وَرَسُولُهُ وَلَا يَدِينُونَ دِينَ الْحَقِّ مِنَ الَّذِينَ أُوتُوا الْكِتَابَ
حَتَّى يُعْطُوا الْجِزْيَةَ عَنْ يَدٍ وَهُمْ صَاغِرُونَ

“Fight those who do not believe in Allah and the last day and who forbid not what Allah and His Messenger have forbidden, who do not practise the religion of truth, being of the people of the Book, until they pay the Jizya out of hand and are humbled.”

(At-Tauba: 29)

Who are Jizya taken from?

Jizya is taken from the people of the Book, the Jews and the Christians, by evidence of the previous mentioned *Ayah*, *“Being of the people of the Book”* whether they are Jews, Christians, Arabs or non-Arabs. This is because the Messenger of Allah ﷺ took *Jizya* from the Jews of Yemen and from the Christians of Najran. It has been narrated from Arwa ibn Az-Zubayr who said, **“The Messenger of Allah ﷺ wrote a letter to the people of Yemen saying, ‘...whoever is upon the religion of Judaism or Christianity is not forced to turn away from it and he must pay the Jizya.’”** It has also been narrated from Ibn Shihaab who said, *“The first to give the Jizya were the people of Najran who were Christians.”* Abu Bakr took the *Jizya* from the

Christians of al-Hira who were Arabs, and ‘Umar, likewise took the *Jizya* from the Christians of Ash-Sham who were both Arab and non-Arab.

Jizya is also taken from people other than the people of the Book namely from the Zoroastrians, Sabians, Hindus and the communists, because the Messenger of Allah ﷺ took *Jizya* from the Zoroastrians of Hajr. It has been narrated from Hasan bin Muhammad who said, **“The Messenger of Allah ﷺ wrote to the Zoroastrians of Hajr inviting them to Islam and those who accepted were accepted into Islam and those who didn’t Jizya was enforced upon them, observing that their meat must not be eaten and their women must not be married.”** It has been narrated from Ibn Shihab that the **“Messenger of Allah ﷺ took the Jizya from the Zoroastrians of Hajr,”** and ‘Umar took the *Jizya* from the Zoroastrians of Persia and that Uthman took the *Jizya* from the Berbers. It has also been narrated that ‘Umar ibn Al-Khattab stopped from taking *Jizya* from the Zoroastrians until Abdur-Rahman bin Auf testified that the Messenger of Allah ﷺ took the *Jizya* from the Zoroastrians of Hajr. Likewise, it has been narrated from the Messenger ﷺ that he said, **“Deal with them as you would with of the people of the Book.”**

As for the Arabs who worshipped idols they are forced to accept Islam otherwise they would be fought against according to Allah ﷻ’s saying,

فَاقْتُلُوا الْمُشْرِكِينَ حَيْثُ وَجَدْتُمُوهُمْ

“Kill the polytheists wherever you may find them”, [At-Tauba: 5]
and His ﷻ’s saying,

سَتُدْعَوْنَ إِلَى قَوْمٍ أُولِي بَأْسٍ شَدِيدٍ تُقَاتِلُونَهُمْ أَوْ يُسَلِّمُونَ

“You shall be summoned to fight against people of great strength, you shall fight or they shall submit(become Muslims).” [Al-Fath: 16]

This was in the year of Tabuk in the ninth year of *Hijra* in which *Surah At-*

Taubah (*Bara'ah*) was revealed making the collection of *Jizya* from the people of the Book and the killing of the polytheists from the Arabs who worshiped idols as obligatory. The Arab people of who worshiped idols ceased to exist after the tenth year of *Hijra*.

As for the people or groups who were Muslim and then apostatised such as are present today, their current reality has to be examined. If they were born to parents who had apostatised and didn't apostatise themselves, rather their parents, or grandparents, or great grandparents apostatised like the Druze, the Bahais, the Ismaelies and the Nusairis who made Ali god; all of them are not treated as apostates. They are rather treated as the Zoroastrians and the Sabians. *Jizya* is enforced upon them, their slaughtered meat is not eaten and their women cannot be wedded. However, if they renewed their Islam and entered Islam again, then the rule applied to Muslims would apply to them

As for those who apostatised from Islam themselves, be it they converted to Judaism, or Christianity, or communism, or to any thought which denies that Islam is a *Deen* revealed by Allah ﷻ, or denies that Muhammad ﷺ is the Messenger of Allah, or denies the duty of implementing Islam, or denies some of the Quranic *Ayat* as the communists and those like them do, they are treated exactly like the apostates.

Jizya is taken from men who are sane and mature and it is not taken from the youth, the insane or the women. This is because when the Messenger of Allah ﷺ sent Mu'az to Yemen, he ordered him to take a *Dinar* from every boy that had reached puberty. And 'Umar wrote to the leaders of the armies saying, "Enforce the *Jizya*, but do not enforce it upon the women and the boys who had not reached puberty – namely do not enforce it upon boys unless they started to shave (their private parts) ie. they had become mature." When the boy reaches maturity, or the insane regains sanity then the *Jizya* becomes mandatory upon him. If the maturity or the sanity, was attained at the beginning the of first year of his people, the *Jizya* is paid for the whole year with them, and if the maturity or sanity was attained during the year, a portion of the *Jizya* is paid with his people so that his year with their year is disciplined. It is also forced on the monk in the temples, the people of the monasteries, the ill, the blind and the elderly if they are prosperous. This is because the *Ayah* and *Abadiith* related to *Jizya* are general and include them and there is no text to exclude them. However, if they are entitled to charity,

then the *Jizya* is lifted and is not collected from them because they cannot afford to pay it. And the *Ayah* says, "*Allah does not charge a soul with more than it can bear.*" And it has been narrated from 'Umar ibn Al-Khattab that he passed by an old man from the *Ahl az-Zimma* begging from the people. He said to him, "what forced you to do that?" The man said, "The *Jizya*, old age and need." So 'Umar said to him, "We have not done justice to you, as we have taken *Jizya* from you in your youth then we have failed you in your old age." He took him to his house and gave him something to eat. Then he sent him to the treasurer of the *Bait ul-Mal* and ordered him to stop taking *Jizya* from him and to give him from the funds of the *Bait ul-Mal*.

When is the Jizya Waived?

The *Jizya* is waived by embracing Islam, so whoever embraced Islam, the *Jizya* enforced on him is terminated, whether he became Muslim at the beginning of the year, in the middle, at its end or after its elapse, thus no *Jizya* is obliged on him at all. This is due to what Allah ﷻ said, "*Say to those who disbelieve, if they desist then Allah will forgive them for everything that has passed.*" Ibn Abbas also narrated from the Prophet ﷺ that he said, "**The Muslim does not pay the Jizya.**" The reason for *Jizya* is *Kufr* and Islam eliminates it, so it does not exist together with Islam. If Islam eliminates what preceded it of *Shirk*, *Kufr* and sins then how would it not eliminate *Jizya* and its humiliation?

It has been narrated from the Messenger ﷺ that he said, "**Islam has nullifies what preceded it.**" It has been narrated from Masrooq that one of the non-Arabs embraced Islam and *Jizya* was taken from him. He came to 'Umar ibn Al-Khattab and said, "O *Amir-al Mu'mineen* I have become a Muslim." 'Umar said, "Perhaps you embraced Islam seeking protection." The man said, "Is there not in Islam that which guards me?." 'Umar said, "Yes, Indeed." He said, "Umar wrote to say that no *Jizya* is to be taken from him."

The *Jizya* does not cease by death if the person died after a year had elapsed as it would become *Wajib* and a debt upon him. Thus it is necessary to take the appropriate amount from his bequest like his other debts. If he doesn't have any bequest then he doesn't pay and it is not necessary for his heirs to pay, as this then falls into the rule pertaining to the poor and needy.

Any person from the *Ahl az-Zimma* who is obliged to pay the *Jizya*, can be excused from it because the *Ayabs* and *Abadith* oblige its collection and not its exemption. No one is excused from it except those mentioned in the *Abadith*. Even if the *Zimmi* joined the Islamic army as a soldier and fought against and killed the *Kuffar* along with the Muslims, or he was employed in a post, all this wouldn't exempt him from paying the *Jizya*, as long as he remained on his *Kufr* and because he is paid for joining the army or the post.

A special register should be made for all the *Ahl az-Zimma* according to their religions and sects which is kept in the department of *Jizya*. It should contain all the necessary information regarding their date of birth, age, death and financial status in order to be the basis for estimating the amount of the *Jizya*.

The Amount of Jizya

The amount of *Jizya* enforced in the days of the Messenger ﷺ and the *Khulafa'a* after him was not fixed, rather it differed from one place to another. When the Messenger of Allah ﷺ sent Mu'az to Yemen he ordered him to take, **“A Dinar or its equivalent of M'afir (garment) from every mature youth of the Ahl az-Zimma.”** 'Umar imposed 4 *Dinars* on the rich in Egypt and Ash-Sham, 2 *Dinars* on the middle class people and 1 *Dinar* on the poor who earns. Likewise he also imposed them to provide food for the soldiers and hospitality for the Muslims. He imposed 48 *Dirhams* on the rich in Iraq, 24 *Dirhams* on the middle class and 12 *Dirhams* on the poor who earn. Likewise, he imposed double the *Zakat* on Christians of bani Taghlab when they refused to impose *Jizya* on them. It has been narrated by Nu'man bin Zara'a that he asked 'Umar ibn Al-Khattab and spoke to him regarding he Christians of bani Taghlab. 'Umar was intent on taking the *Jizya* from them but they had dispersed throughout the land. Nu'man said to 'Umar, “O *Amir al-Mu'mineen*, indeed the Bany Taghlab are an Arab tribe who look down upon the *Jizya*, and they don't have wealth, as they are only people of farming and cattle. They have defiance against the enemy so do not help your armies by using them against you.” He said, so 'Umar made peace with them by imposing double charity (*Zakat*)”

In Sahih al-Buhkari it has been narrated by Abu Najeer who said, “I said to Mujahid: ‘What is the matter with the people of Ash-Sham who pay 4 *Dinars* and the people of Yemen pay 1 *Dinar*?’ He said, ‘This was decided

based on prosperity.””

The value of the *Dinars* which 'Umar imposed as *Jizya* on the people of *adh-Zimma*, estimated in grams, which is the standard unit of the gold today, is as follows:

	Dinar	Weight of Dinar in Grams	Grams in Gold
1. The rich	4	4.25	= 17 grams
2. The Middle class	2	4.25	=8.50 grams
3. The Worker	1	4.25	=4.25 grams

From this it is clear that the *Jizya* amount of was not the same, nor fixed by a certain limit that can't be exceeded like the *Nisab* of *Zakat*. Rather it is left to the opinion and *Ijtihad* of the *Khalifah* where he takes into consideration the aspect of prosperity and poverty, in a way that he does not overburden *Ahl az-Zimma*, nor hrges them beyond their capabilities. Likewise he ensures that the *Bait ul-Mal* is not treated unjustly, nor he deprives it of fund rightly due to it from the people of *Ahl az-Zimma*.

Defining the levels of richness, middle class and poverty is referred to the common convention (*Urf*) and to the knowledge of experts. In this regard the *Khalifah* appoints people from the experts to distinguish between the rich, the middle class and the poor so as to put the levels of richness, middle class and poverty, and to suggest the value of *Jizya* for each category. Thus the *Khalifah* would use this as the premise to decide the amount of the *Jizya* in a way that he does not overburden the *Ahl az-Zimma* nor charges them beyond their capability, and does not deal unjustly with the *Bait ul-Mal*, by reducing its due right..

Time for the Collection of the Jizya

The *Jizya* is due on the passing of the year, and it is taken annually. The beginning of the year is defined by the start of *Muharram* and it is concluded by the end of *Dhul-Hijja*. In order to accomplish the collection before the arrival of *Muharram* of the following year, it is possible to specify the last three months of the year i.e. *Shawwal*, *Dhul-Qi'ada* and *Dhul-Hijja* as the appointed time for the payment of the *Jizya*. Thus, the year is fixed at the

beginning and end for everyone, rather than making a special time of the year specific for each person. This arrangement achieves precision and ease in levying and collection

Specific collectors will be chosen to collect and levy the *Jizya* and a certain section will be specified for them in the Department of *Jizya* in the *Diman* (office) of *Fai* (war booty) and *Kharaj*. Their provisions and salaries will be from *Bait ul-Mal* and not from the people of the *Zimmah*.

The collectors are prevented from taking anything more than the obliged amount from the people, and the increase in this is subject to punishment by law, because such an increase is injustice which is considered as darkness on The Day of Judgement. Also it is property stolen by the collectors and stolen property leads to the Hell-Fire.

Similarly, the collectors are prevented from beating or torturing the people of *Zimmah* during the collection of *Jizya* as the Messenger ﷺ prohibited this. Hisham b. 'Urwa narrated from his father that 'Umar b. al-Khattab passed in the road of Ash-Sham, while returning from his journey from Ash-Sham, by people who had been forced to stand in the sun with oil being poured onto their heads. He said: "What is the situation of these people?" They said: "They have not paid *Jizya* due on them. So they are tortured till they pay it." 'Umar said: "What do they say and what is their excuse is for not paying the *Jizya*?" They said: "They say, 'We do not have it.'" He said: "Leave them and do not impose upon them what they cannot afford, for verily I heard the Messenger of Allah ﷺ say: **"Don't torture the people, as the one who tortures them in this world will be punished by Allah on the Day of Judgement."** He ('Umar) ordered that they be released. And it was related from the Messenger of Allah ﷺ that he appointed Abdullah b. Arqam over the *Jizya* of the people of *Zimmah* and when he was leaving, he ﷺ called him back and said: **"Surely, whoever oppresses a person under covenant (Mu'ahid) or imposes upon him more than he can afford and humiliates him or takes anything from him without his consent I will challenge him (i.e the oppressor), on the Day of Judgement."**

The one who claims poverty from the people of *Zimmah*, he will be requested to prove his poverty; if he proves it he is granted a respite until a time of ease. But if he does not prove it and it is proved that he is a procrastinator then he is imprisoned and left in prison until he pays the

Jizya. The Messenger ﷺ has imprisoned procrastinators of debts. There is no superimposition of *Jizya*. Even if two years or more passed without payment, they do not superimpose and it is obligatory to settle the amount as it is obligatory to settle the debt. The assets of the *Zimmi* are not sold to pay off the *Jizya*.

Gold and silver are not specified for *Jizya*. It is allowed that *Jizya* be in gold or silver and it is allowed to be goods or animals, or it is allowed to take its equivalent value. It was mentioned in the *Hadith* when Mu'adh was sent to Yemen that the Messenger ordered him to take one *Dinar* from each mature person of the people of *Zimmah* or its equivalent in "Mu'afir" i.e. in garments. The Messenger ﷺ also concluded a peace treaty with the people of Najran over two thousand garments of which they give half in *Safar* and the other half in *Rajab*. And 'Umar used to take grazing livestock and grains for *Jizya* instead of *Dinars* and *Dirhams* as did the righteous *Khulafa'a*. In order to ease collection, preservation and distribution in these days it is allowed to collect the *Jizya* in the circulating currency.

Expenditure of Jizya

There was no difference among Muslims that *Jizya* is spent the same way as the funds of the *Fai* (war booty) i.e. the *Kharaj* and tenths, are spent. So, it is placed in *Bait ul-Mal* and funds are spent from it according to the interests of the Muslims and carried in the way of Allah, as viewed by the *Khalifah*, according to his opinion and *Ijtihad* in looking after the affairs of the Muslims and in discharging of their interests.

9 Public Properties and their types

Public properties are the assets which the Legislator (*Asb-Shari'*) has given their ownership to all the Muslims in association between them. He ﷺ has permitted individuals to benefit from them but prevented them from possessing them.

These assets are represented in three main types: -

1. Public utilities which the public cannot do without in their daily life.
2. Assets whose natural formation prevents designation to specific individuals from their ownership.
3. Replenishable minerals which do not deplete.

These three main types of properties, and those which branch out from them, and revenues they produce, are possessed by all the Muslims and jointly owned between them. They represent one of the revenues of *Bait ul-Mal* of the Muslims, distributed by the *Khalifah* among them according to his own *Ijtihad*, within the rules of the *Shari'ah* and according to the interest of Islam and Muslims.

The First type of Public Properties

This is the public utilities of all people that they cannot do without in their daily life and they disperse in case of their absence, such as water. The Messenger of Allah ﷺ has explained the description of these utilities and clarified them in the most perfect manner by the relevant *Abadith* reported from him. From Abi Khurash from some of the companions of the Prophet ﷺ, he said: **“The Messenger of Allah ﷺ said: ‘Muslims are partners in three (things): Water, pasture and fire.’”** And in another transmission: **“People are partners in three: water, pasture and fire.”** From Abu

Hurayra that the Prophet ﷺ said: **“Three should not be withheld: Water, fire and pasture.”** It was also reported from him ﷺ his saying: **“The Muslim is a brother to the Muslim, they accommodate each other over water and trees.”** Water, fire and pasture were among the first things that the Messenger ﷺ permitted to all the people, and he made them partners in them and forbade them from protecting any part of them against the use by all Muslims as it is a right for all Muslims. Thus people can camp in their travels and bedouins live in a land which has vegetation (plants) that Allah has brought forth for grazing livestock without the effort of anybody in ploughing, planting or irrigation; such land is for the one who reaches it first. No one can be singled out in using it to the exclusion of other people. Rather, they can graze their cattle and livestock and beasts jointly, and they use the water which is there in the same way as well. People are partners in such properties.

This matter is not restricted to these three assets mentioned in the previous *Abadith*. It rather includes everything that can be described as being from the public utilities. The evidence to this is, that at the time the Messenger of Allah ﷺ said: **“People are partners in three: water, pasture and fire”**, he consented that individuals in Khayber and Taif own their wells as individual property such that they drink from them, water their cattle, livestock and gardens and he did not prevent them from owning them. These wells were small such that the need of the public did not relate to them. To reconcile these two *Hadith*, it becomes clear that when water is related to the need of the community it would be a public property and is prevented from being a private property. Whereas, when the need of the public is not related to it, it can be a private property and thus individuals are allowed to own it. The general rule regarding whether there is a need for the public in it is that the public cannot do without it in their daily life such that, if it were not found, the community would disperse in search for it. This is like the tribes who used to disperse when water was not found or when pasture for their cattle and grazing livestock was lost. Therefore, everything to which there is a need of the public, (such that) they cannot do without it in their daily life and they scatter once they did not find it, is of the public properties.

Connected with this type of public properties are all tools used in them, for they take their rule and similarly become public property. Thus the machines used in drawing out public waters from springs, wells, rivers and lakes and those used to pump these waters and the conduit pipes that deliver

them to the houses of people, are also public property. This is because the water which they draw out, pump and supply is public property. However, if these machines are set up at lakes and major rivers like the Nile and the Euphrates, then it is permitted for these machines to be owned individually and be used individually. Similarly, the machines used to generate electricity from public waterfalls like canals and rivers, and their poles, cables and power stations are public property. This is because these machines produce electricity from assets of public property and therefore take its rule. Similarly the machines used to generate electricity and its power stations, poles and cables are public property even if electricity is produced by the method of machines or without using waterfalls, if electricity is generally used for fuel, and its use for lighting is secondary. This is like when it is used for cooking, heating, driving factory machines or melting minerals. This is because electricity would then be fire, and fire is of the public properties. Thus its generators, stations, machines, poles and cables are public property, following it.

Similarly the generators of electricity, its power stations, poles and cables are of public properties if these tools are erected in public roads, whether the electricity is used as fuel or for lighting.

The reason for this is that the public road is not allowed to be owned by any individual or company so as to have any part of it solely for oneself, where it is protected for oneself and people are prevented from using it. This is because protection (*Hima*) of public properties is not allowed except for the State. But if electricity was generated from machines and its generators, stations, poles and cables were placed in other than the public road, such as being placed in the properties of its owner, then it would be private property, and it is permitted for individuals to possess it privately.

It is permitted that factories of gas and soft (bituminous) coal be public property, following that gas and soft coal are public property, for they are of the replenishable minerals, and of fire, since replenishable minerals and fire are of public property.

The Second Type of Public Properties

These are the assets whose natural formation prevents individuals specifically from their possession. This type of public property, being of the public utilities like the first type and it is included by the evidence of

the public utilities, yet the nature of its formation also prevents designating it to individuals. This is contrary to the first type as the nature of its formation does not prevent designating individuals with it. Thus, small wells in which there is no established need for the community, are owned individually.

The evidence that this type is of the public properties besides the evidences for the first type, is the saying of the Messenger ﷺ: **“Mina is the resting place of the one who reaches first.”** This is in addition to what came from the Messenger ﷺ that he consented to people being partners in owning the public road and not allowing an individual specifically owning it. Mina is a famous place outside of *Makka Al-Mukarramah*, and it is a place in which the pilgrims camp after completing the standing at ‘Arafat, so as to carry out specific rites of the *Hajj*, like the stoning of the *Jimar*, slaughtering the sacrificial animal, *Eid* sacrifice and staying overnight. The meaning of its being a resting place for the one who reaches first is that it is owned by all the Muslims so that the one who reaches first to any part of it and stops by in it then it is for him, as it is a partnership between them and is not owned by anyone such that he prevents others from it. Similar to that is the public road as the Messenger ﷺ had consented to joint partnership of the people in it, and the right of everyone to passage, and he made the removal of harm from it a form of charity, as came in the *Hadiith*: **“The removal of harm from the road is charity.”** He ﷺ prohibited the sitting down on the roads and said: **“Beware of sitting on the road”** as sitting might prevent the passage of people or restrict it for them.

Examining the reality of Mina and the reality of public roads shows that the nature of their formation prevents designating an individual for their possession. In Mina pilgrims halt to carry out some of the rites of *Hajj* and the nature of its formation as being a place to carry out the rites of *Hajj* for all Muslims prevents specifying a particular individual or individuals with it the same way as ‘Arafat and Muzdalifa. The public road is similarly for all the people intended for the passage of everyone, and it is not befitting to specify a particular individual or individuals with it. Thus, the evidence which came in their regard applies to everything whose nature of formation prevents specifying an individual or individuals with it, and it is thus a public property. Therefore seas, rivers, lakes, oceans, gulfs, straits, general canals like the Suez Canal, the public parks and mosques are all public property for all the citizens.

Connected to this type of public properties are railways, tramways, electricity poles, water mains ducts and sewage system which pass by the public road: these are all public property, following the road which is public property. They are not allowed to be private property as it is not allowed for anyone to be specified with public property in a permanent manner nor to protect (for oneself) what is for the public, due to the statement of the Messenger ﷺ: **“No protection (of property) (Hima) except for Allah and His Messenger”** i.e. except for the State. The meaning of the *Hadith* is that it is not allowed for anyone to protect for himself that which is for all the people. What designates tramways, electricity poles, water ducts and sewage systems, which are on public roads as public property is that they occupy a section of the public road permanently and it is permanently allocated to them, thereby becoming of the protected property, which is not allowed for other than the State. Therefore, they become public property.

The Third Type of Public Properties

This is the replenishable minerals which do not deplete completely, and are the vast amount of minerals which are not limited in measure. As for insignificant amounts of minerals which are limited in measure, these are private property that individuals are permitted to own as the Messenger of Allah ﷺ gave Bilal ibn Al-Harith al-Muzni the minerals of the Qabaliya in the area of Al-Far'a in Hijaz. Bilal had asked the Messenger of Allah ﷺ to allocate them to him, so he granted them to him and made him the owner. Therefore the deposits of gold and silver, and other types of minerals, present in small non-commercial amounts are private property. Individuals are permitted to own them as is permitted for the State to allot them to the people. In this case people have to pay one-fifth of what they extract of them to the *Bait ul-Mal*, whether they extract a little or a lot.

As for the vast minerals, not limited in measure, these are public property owned by all Muslims and are not allowed to be assigned, given in ownership or allotted to any person or persons. Similarly, it is not allowed to give concession for their mining to individuals or companies. Rather they must remain a property jointly owned by all Muslims and the State should carry out their extraction, purification, smelting and selling on their behalf and place their price in the *Bait ul-Mal* of the Muslims. There is no difference in the rules of these minerals whether they are apparent on surface and are reached to without trouble like salt and antimony (*Kohl*), or are underground

and deep in earth and cannot be extracted except by hardship, labour and great trouble like gold, silver, iron, copper, lead, tin, uranium, phosphate and other minerals; nor whether they are solid, like gold and iron, or liquid, like petroleum, or gaseous like natural gas.

The evidence that these vast minerals of unlimited measure are public property, is what is narrated from Abyadh b. Hammal al-Mazini **“that he called on the Messenger of Allah ﷺ and asked him to allocate to him the salt and he allocated it to him. When he turned away a man in the gathering said: ‘Do you know what you have allotted to him? Verily you have allotted to him replenishable water’, so the Prophet ﷺ withdrew it from him.”** The fact that the Messenger of Allah ﷺ took back from Abyadh b. Hammal the salt he had allotted to him, after he knew that it was abundant, is an evidence that any vast quantity mineral, which does not deplete, is not allowed to be owned by individuals as it is an ownership of all the Muslims. This matter is not specific to salt, rather it is general for all minerals whatever their type, on condition that they are of the same status as the vast quantity of water (salt mineral) i.e. which is replenishable.

As minerals which are replenishable are public property for all citizens, it is not therefore permitted for the State to allocate them to individuals or companies nor to allow individuals or companies to mine them for their own benefit. Rather it is obligatory upon it to mine them by itself on behalf of the Muslims as a form of looking after their affairs. All that it extracts will be a public property for all the citizens.

Extraction of these minerals, particularly that which is underground whether liquid or solid, requires machines and factories. The State, in all circumstances, extracts these minerals on behalf of the citizens in its capacity as public property. This extraction will either be directly by the State via machines and factories owned by the State they are from the public properties, or it will extract them through individuals in return for wages paid based on their efforts accrued or the machines they own.

If it extracts these minerals with machines and factories which it owns, it is permitted that the ownership of these machines and factories remain as property of the State. The State might also convert them to public property, which is more preferable than to remain as a state property. Thus they take the rule of the ownership of these minerals i.e. becoming public property.

This follows the rule of the ownership of the minerals they produce. This is derived from the prohibition of manufacturing alcohol and prohibition of owning an alcohol factory following the prohibition of alcohol taken from the *Hadith* of Anas: **“The Messenger of Allah ﷺ cursed ten (persons) in relation to alcohol: The one who presses (produces it) and the one for whom it is pressed (produced)...”** *Hadith*. And from the *Hadith* narrated by ibn ‘Umar: **“alcohol was cursed in ten ways: Curse is for itself, and its drinker, the one who serves it to another (to drink), its vendor, its purchaser, presser (one who squeezes it), and the one for whom it is pressed...”** These *Abadith* prohibited the pressing of alcohol and its manufacture, despite the fact that pressing grapes for other than manufacturing of alcohol is not prohibited, and following from this it is prohibited to own a factory for producing alcohol. Thereupon it is permissible to make the tools and factories owned by the State to extract the replenishable minerals public property, following that these minerals are public property, and therefore the price of these machines and factories is of the public property.

As for the mining of these minerals by the State through using individuals in return for wages, based on labour, benefit accrued or the machines, which they possess, these machines and factories remain owned privately by the individuals, due to the fact that a factory in itself is of the private property. The Messenger ﷺ had consented to individuals owning factories as private property, and he manufactured his pulpit (*Mimbar*) and ring from them.

However, the individuals’ ownership of these machines and factories does not allow them to mine or extract the replenishable minerals for themselves, for these minerals are owned by all Muslims. No one is allowed to have concession to an individual among them, but it is permitted that they be hired by the State for a defined wage in return for operating them in mining these minerals. All that they mine of minerals will be owned as public property for all Muslims and its revenue will be placed in *Bait ul-Mal* of the Muslims in the section of Public Property, as *Bait ul-Mal* is its place of keeping though it is owned by all Muslims.

Therefore, it is allowed for the machines and factories used for the mining of replenishable minerals and gas to be owned by the State or it may be public property, and it is allowed for them to be owned as private property by individuals or companies, from whom the State might hire them.

The Manner of Utilising the Public Property Assets and their Revenues

As the public property assets and their revenues are owned by all the Muslims, every citizen has the right to benefit from the assets of public property and their revenues, whether he is a man or woman, young or old, righteous or evil.

The public property assets are not the same in the manner of utilising them. Some of them are easy for a citizen to utilise directly with the use of his machines, and others are not as easy.

As for the first division, e.g. water, pasture, fire, public roads, seas, rivers, oceans, lakes and great canals, a person might benefit directly from water, pasture and fire by himself. So he can go to wells, springs and rivers in order to drink from them and carry water from them to give to his cattle and grazing livestock. He can go to grazing pastures in order to graze his cattle and livestock and go to the forests to gather wood from.

He is also allowed to erect a machine at the big rivers to irrigate his plantation and trees from them as long as the big rivers are wide enough for all the people, and erecting personal machines does not harm any of the Muslims. Similarly, it is for each individual to benefit from the public road, seas, rivers and general canals like the Suez Canal. So he has the right to walk in the public road by himself or with his animals or cars. He can also travel in the seas, rivers and general canals with his boats and ships, for he does not harm any Muslim nor would he restrain anyone, due to the width of the public road, seas, rivers and canals.

As for the second division of the public property assets which are not easy to benefit from directly and thus require hardship, difficulty and mining like petroleum, gas and minerals, the State is the one who supervises them and mines them on behalf of the Muslims and places their revenues in *Bait ul-Mal* of the Muslims. The *Khalifah* is the only competent person for distributing their proceeds and revenues according to his own *Ijtihad*, within the rules of *Shar’a* and according to what he sees fulfilling the interest of Muslims.

It is possible to proceed in distributing the proceeds and revenues of public properties in the following forms:

Firstly: To spend upon what is related to public property, so funds are

spent on:

1. The department of Public Property; its buildings, offices, records, studies and employees.
2. The experts, advisers, technicians and employees who are employed to study, explore and drill for petroleum, gas and minerals, and work to extract, process and treat them to make them suitable for use. And also those who are employed to supply water and produce and supply electricity.
3. For purchasing machines, factories and the necessary means of transportation so as to mine and refine petroleum and gas, to process, purify and treat minerals and make them suitable for use, and upon the machines and factories necessary to manufacture and utilise public property assets.
4. The machines to extract water and pump it, and the pipes to supply it.
5. The electricity generators, power stations, its poles and wires.
6. Railroads and tramways

Each of these expenditures relates to public property, its administration and treatment so as to benefit from it. Thus the expenditure upon these matters should come from the revenues of the public property, just as spending upon the collectors of *Sadaqat* (obligatory charity) comes from the money of *Sadaqat*:

وَالْعَامِلِينَ عَلَيْهَا

“And those employed over it” [At-Tauba: 60]

Verily Allah ﷻ has made for them a portion of the *Sadaqat* in return for their of collection it.

Secondly: Distribution upon individual citizens who are the owners of these public properties and their revenues. The *Khalifah* is not restricted in this distribution in any specific manner. It is for him to distribute amongst them of the public property assets like water, electricity, petroleum and gas equal to their need for their private use in their homes and markets without

price. He can as well sell it to them at a cost price only or at the market price just as he can also distribute amongst them money, out of the profits of the public properties. He would proceed in all this according to what he views as good and of benefit for the citizens.

Thirdly: The state expenditures nowadays have become enormous since its responsibilities have widened and its expenditures increased. The general revenues due to *Bait ul-Mal* of *Jizya*, *Kharaj*, *Usbr* and *Khums* may not meet all the public expenditures as was the case in the past, at the time of the Messenger ﷺ the *Khalifa'a* after him, the days of the 'Umayyads and Abbasids and even in the days of the Uthmanis. This is after the huge development in the means of life and its civic forms, particularly in the weapons of war which has reached a terrifying level hence calling for increase in expenditure. Therefore, it is inevitable that the state has another source of income to cover the expenditures due on *Bait ul-Mal* whether there are funds in it or not; the obligation to spend on matters is transferred in case there are no funds in *Bait ul-Mal*. This is like the expenditures of the offices and departments of the State, the compensation of the rulers, the provision of the army, salaries of the civil servants, the expenditures to supply water, open roads, establish schools, universities, mosques and hospitals which are necessary for the *Ummah* and she cannot do without and would suffer in case of absence. The spending upon the poor and needy, wayfarers, orphans, widows and disabled in need. Similarly is the spending upon *Jihad*, preparation of a strong army and supplying all the requirements of the heavy industry to produce modern developed weapons, both nuclear and otherwise as well as missiles, planes, tanks, artillery, warships. This is in response to His saying ﷻ:

وَأَعِدُّوا لَهُمْ مَا اسْتَطَعْتُمْ مِنْ قُوَّةٍ وَمِنْ رِبَاطِ الْخَيْلِ تُرْهِبُونَ بِهِ عَدُوَّ اللَّهِ وَعَدُوَّكُمْ
وَأَخْرِينَ مِنْ دُونِهِمْ لَأَنْتُمْ أَعْلَمُ بِهِمُ اللَّهُ يَعْلَمُهُمْ

“Prepare for them as much as you are able of force and tethered cavalry to frighten by it the enemies of Allah and your enemies, and others whom you do not know (but) Allah knows them.” [Al-Anfal: 60]

Each of these areas of expenditure requires a considerable source of revenues in order to spend on them, and there is no way for the *Khalifah* to

cover the expenditure upon these areas except by one of three ways. This is in addition to what may come from the new conquests. These three ways are:

1. Borrowing from foreign countries and international financial institutions.
2. Protecting some of the public property assets of petroleum, gas and minerals.
3. Putting taxes on the *Ummah*.

Borrowing from Foreign Countries

As for borrowing from foreign countries or international financial institutions, it is not allowed by *Shar'a* because such loans would not be except with bank interest or with imposed conditions. Bank interest is prohibited by *Shar'a*, whether from individuals or countries, as the imposition of conditions gives the lending countries and institutions control over Muslims and makes the will of Muslims and their disposition subject to the will of the lending countries and institutions, a matter which is prohibited by *Shar'a*. The international loans were among the most dangerous afflictions and among the causes for imposing the authority of the *Kuffar* upon the Islamic lands; and how often has the *Ummah* suffered from the calamities of these loans? Therefore, the *Khalifah* is not allowed to resort to international loans to cover the expenditure on these areas.

Protecting some Public Property Assets (Hima)

Protecting some of the public property assets of petroleum, gas and minerals, such as when the *Khalifah* designates specific petroleum and gas wells or specific mineral mines like, for example, phosphate, gold and copper mines, where he protects them and designates their revenues for the expenditure on the mentioned areas, is allowed by *Shar'a*. It is a useful method to raise the necessary revenues to spend in these areas. It is permitted for the *Khalifah* to do this based on the following:

1. The Messenger of Allah ﷺ and the *Khalifa'a* after him shielded specific places which were part of the public property. From Ibn 'Abbas from Sa'ab b. Juthama, he said: "The Messenger of Allah ﷺ said: **'No protection (Hima) except for Allah and His Messenger'**". That is, no

protecting except for the State similar to what Allah and His Messenger shielded for *Jihad*, the poor, the needy and the interests of Muslims generally. This is not similar to what they protected in the days of Ignorance (*Jabilyyah*) where the noble alone among them protected for himself. From Nafi' from Ibn 'Umar: **"The Prophet ﷺ protected An-Naqi'i (this was a famous place in Madinah) for the horses of the Muslims."** Similarly Abu Bakr protected Al-Rabatha for the camels of *Sadaqat* and appointed his servant Abu Salama, over it. 'Umar also protected Al-Sharaf in Al-Rabatha and appointed his servant, who was called Hani.

This protection was of places of pasture and grazing and they were of the public properties. Al-Naqi'i which was protected by the Messenger of Allah ﷺ was outside Madinah, and water used to stagnate in it and pasture would grow when it dried up i.e. it was owned as public property by all Muslims. Abu 'Ubaid, in explaining this, after mentioning the *Hadith* "No protecting except for Allah and His Messenger" said: "The interpretation of the protection which is prohibited in our view (and Allah knows best) is that you shield the things which the Messenger of Allah ﷺ made all the people partners in, which is water, pasture and fire."

The Messenger of Allah ﷺ, Abu Bakr and 'Umar designated places and protected them for the horses which were used in the way of Allah, the camels and livestock of *Sadaqat*, and they used to prevent others from grazing in them. From 'Amir b. 'Abdullah b. Az-Zubair (RA), he said: "A bedouin came to 'Umar ibn Al-Khattab (RA) and said: 'O *Amir al-Mu'mineen*, our land that we fought upon in (the days of) *Jabilyyah* and upon which we became Muslims in (the days of) Islam, why did you protect it?' 'Umar bowed (his head), twisted and breathed into his moustache (whenever a matter troubled him, 'Umar would twist his moustache and breathe into it) and when the bedouin saw how he reacted, he repeated his question to him. 'Umar replied: 'Property is the property of Allah, and the servants are the servants of Allah. By Allah, were it not for what I carry upon it in the way of Allah, I would not protect a handspan by handspan.'" And from Aslam, he said: "I heard 'Umar b. al-Khattab as he was speaking to Hani when he appointed him over the *Hima* of Al-Rabatha: 'O Hani, withhold your hand (i.e. restrict yourself) from the people and fear the *Dua'a* of the oppressed for it is accepted. Allow to enter the owner(s) of camel and sheep, but turn away the grazing livestock of ibn 'Affan and ibn 'Awf for if the livestock of these two die they will return to palm trees and palms. But if the livestock

of this miserable man die he will come shouting: ‘O Amir al-Mu’mineen, has the pasture become of little importance to me or has gold and money suffered loss?’ For verily it is their land upon which they fought in (the days of) *Jahiliyyah* and became Muslims in (the days of) Islam, and their view is that we are oppressing them. Were it not for the livestock upon which things are borne in the way of Allah, I would never have protected anything from the people of their land.’

These *Ahadith* and other reports denote clearly that the State can shield from the public properties what it needs for *Jihad* and what relates to it, and for any other interest of the Muslims, however much it may be.

2. Allah ﷻ has obliged *Jihad* upon Muslims collectively, their rich and their poor, and obliged them to make *Jihad* with their wealth and persons. Allah ﷻ said:

لَكِنَّ الرِّسُولَ وَالَّذِينَ آمَنُوا مَعَهُ جَاهِدُوا بِأَمْوَالِهِمْ وَأَنْفُسِهِمْ وَأُولَئِكَ لَهُمُ الْخَيْرَاتُ
وَأُولَئِكَ هُمُ الْمُفْلِحُونَ

“But the Messenger and those who believe with him strive with their wealth and their lives. Such are they for whom are the good things. Such are they who are the successful” [At-Tauba: 88]

And He ﷻ said:

إِنَّ الَّذِينَ آمَنُوا وَهَاجَرُوا وَجَاهَدُوا بِأَمْوَالِهِمْ وَأَنْفُسِهِمْ فِي سَبِيلِ اللَّهِ

“Those who believed and emigrated and fought with their wealth and persons (lives) in the way of Allah.” [Al-Anfal: 72]

And He ﷻ said:

إِنَّمَا الْمُؤْمِنُونَ الَّذِينَ آمَنُوا بِاللَّهِ وَرَسُولِهِ ثُمَّ لَمْ يَرْتَابُوا وَجَاهَدُوا بِأَمْوَالِهِمْ وَأَنْفُسِهِمْ
فِي سَبِيلِ اللَّهِ أُولَئِكَ هُمُ الصَّادِقُونَ

“Verily the believers are (only) those who believed in Allah and His Messenger then did not doubt, and fought with their wealth and persons (lives) in the way of Allah. Those are the sincere ones” [Al-Hujurat: 15]

And He ﷻ said:

وَقَاتِلُوا فِي سَبِيلِ اللَّهِ

“Fight in the way of Allah” [Al-Baqarah: 190]

And He ﷻ said:

قَاتِلُوا الَّذِينَ لَا يُؤْمِنُونَ بِاللَّهِ وَلَا بِالْيَوْمِ الْآخِرِ

“Fight those who do not believe in Allah and the Last Day” [At-Tauba: 29]

And He ﷻ said:

وَقَاتِلُوا الْمُشْرِكِينَ كَافَّةً كَمَا يُقَاتِلُونَكُمْ كَافَّةً

“And fight the polytheists all together as they fight you all together” [At-Tauba: 36]

These *Ayat* are explicit in obliging *Jihad* by the person and wealth upon the Muslims. The Muslims at the time of the Messenger ﷺ, and the *Khulafa’a* after him, used to make *Jihad* with their wealth and persons. They used to equip themselves with what they need for *Jihad* of weapons, horses, camels and provisions, without waiting for the State to prepare the same for them, as this is what Allah ﷻ obliged upon them.

Based upon this, the spending upon *Jihad* and what it requires is transferred to the Muslims when there is not enough funds in *Bait ul-Mal* to spend upon it. It is left for the *Khalifah* to get the necessary funds for this expenditure from the Muslims or take it from the revenues of the public property, which

is the property of the Muslims. This could be by protecting from it what would cover these expenditures instead of collecting them from the Muslims.

3. ‘Umar ibn Al-Khattab rejected dividing the lands of Iraq, Ash-Sham and Egypt between those who conquered them with their swords after they had requested of him to do so. This is, despite his knowledge that they had conquered them with their swords and that they had become war booty for them. He knew that war booty is divided between the conquerors where four-fifths of it goes to the fighters who participated in the battle. And he knew that the Messenger of Allah ﷺ had divided the land of Khayber between the warriors who had participated in the battle. Despite all this, he rejected dividing it between them based upon his understanding of the Ayat of booty (*Fuʾ*) and his understanding that it is inevitable that there should exist a permanent and constant source of income to give as grants and to spend upon the interests of the State, the armies, frontiers, poor, needy, orphans, widows and to pay for those who take care of the interests of the Muslims. This is explicit in his debate with those who requested from him to divide the land, and in presenting his argument before the Ansar whom he had gathered to consult with them when he said: "What about those Muslims who would come after them and find the land with its infidel inhabitants has been divided, inherited from forefathers and possessed. This is not a (good) opinion." And he said: "If the land of Iraq with its infidel population and the land of Ash-Sham with its infidel population are divided, with what the frontiers be barricaded and what would remain for the children and widows of this land and other lands like Iraq and Ash-Sham?" And he said to the Ansar: "I have thought that I should hold back the land with its infidel population and impose upon them kharaj and upon their heads *Jizya* which they need to pay so that it becomes booty for the Muslims, the fighters, the offspring and those who come after them. Do you not see these frontiers? They definitely require men to stay in permanently? Do you see that these great cities like Ash-Sham, Al-Jazira, Kufa, Basra and Egypt definitely require to be manned with armies and to pay grants to them. From where would these armies be paid if the land is divided with its infidel population?"

This debate and these arguments clarify that ‘Umar understood the necessity for a permanent and constant source of income to spend from it on *Jihad* and the areas upon which the State is obliged to spend. He considered that these conquered lands in Iraq, Ash-Sham and Egypt are the

sources of income requested. Thus he did not divide them between those who conquered them, who were a minority among the Muslims, and left them to remain in the hands of their owners in return for *Kharaj* which they pay so as to spend from their on the interests of all the Muslims.

It is derived from this that the *Khalifah*, with greater reason, can protect what is owned by all the Muslims from the public properties, to spend from it on the areas which are obligatory upon the Muslims to spend on in case there are no funds in the *Bait ul-Mal* of the Muslims.

10

State Property; Land, Buildings, Utilities and their revenues

Each asset of land or building to which is attached a right for all the Muslims, and which does not belong to the public property, is a State property. The State property consists of assets which can be owned privately, like land, buildings and movable property. But since a right for all the Muslims is attached to it, taking charge of it and running it are entrusted to the *Khalifah* because he is the legitimate person responsible for the disposal of everything to which is attached a right for all the Muslims. These assets are not of the public property, as it is permitted for the *Khalifah* to grant the ownership of their origins (*Asl*) and their benefit to individuals, whereas it is not permitted for him to grant the ownership to anyone, whether an individual or group, the origin of public property. Therefore, these assets become State property, for the State has the authority to dispose of them, and this is the meaning of ownership.

Though the State takes charge of managing the public property and state property, there is a distinction between the two properties. All that is part of the public property such as petroleum, gas, replenishable minerals, seas, rivers, springs, open squares, forests, pastures and mosques, is not permitted for the *Khalifah* to grant its ownership to anyone, whether an individual or group, as they are property for all Muslims. The *Khalifah* has to enable all the people, through a specific type of management, to benefit from these properties according to his own *Ijtihad* in looking after the affairs and discharging the interests of the Muslims.

As for what is part of state property of land and buildings, it is for the *Khalifah* to grant ownership of it to individuals, whether its origin and its benefit or its benefit without granting ownership of its origin, or to allow its cultivation and possession. He disposes of all this, according to what he views as proper and good for the Muslims.

Types of State Property

1. Deserts, mountains, sea coasts (beaches) and uncultivated (dead) land not owned by individuals.

Every desert and every mountain, hill, valley, beach or uncultivated land, whether dead from a very long time and had never been cultivated before or had been cultivated before, then it changed into dead land because its landlords had vanished. All these lands of deserts, mountains, beaches and uncultivated land are considered as uncultivated (dead) and are owned by the State, and the *Khalifah* disposes of them according to his opinion and *Ijtihad* according to what he sees fit for the interests of Muslims. It is for him to allocate of it or give permission so as to be cultivated or closed off as private property (*Tahjeer*). From Bilal b. al-Harith al-Muzni: **“The Messenger of Allah ﷺ allocated to him the whole of Al-‘Aqeeq.”** And in another narration, **“The Messenger of Allah ﷺ allocated to Bilal bin al-Harith al-Muzni what was between the sea and the rocks.”** From ‘Amru b. Shu’aib from his father who said: **“The Messenger of Allah ﷺ allocated to people from Muzaina or Juhaina.”** From ‘Adi ibn Hatim it is narrated **“that the Messenger of Allah ﷺ allocated to Furat b. Hayyan al-‘Ajli a land in Al-Yamama.”** From Abyadh bin Hammal al-Mazini **“that he was sent as an envoy to the Messenger of Allah ﷺ and he asked him to allocate the salt to him and he allocated it to him. When he was turning away a man in the gathering said: ‘Do you know what you have allocated to him? You have allocated to him vast quantities of salt, water (mineral).’ He said: So the Messenger ﷺ took it back from him.”** And from ‘Amru b. Dinar, who said: **“When the Messenger of Allah ﷺ came to Madinah he allocated to Abu Bakr and allocated to ‘Umar as the Messenger ﷺ made allocations to Az-Zubair b. al-‘Awwam spacious land. He also allocated to him a place enough for his horse to race in the uncultivated land of An-Naqi’i, and he allocated to him land with trees and palm trees.”**

These *Ahadith* which clarify that the Messenger of Allah ﷺ allocated to Abu Bakr, ‘Umar, Az-Zubair, Bilal al-Muzni, Abyadh b. Hammal, Furrat b. Hayyan, the people of Muzaina and Juhaina and others, denote that the desert, mountains, valleys and uncultivated land not owned by anyone are State property and it is for the *Khalifah* to dispose of as he sees proper to Muslims. The disposal of the Messenger of Allah ﷺ of these lands, and his allocation of them to such persons, without their being personal property for

him either by inheritance or conquest, clearly indicate that they are owned by the State. Were they not property of the State he would not have had authority over them, nor would he have allocated them for he was not owner of any of them in a personal (or private ownership) capacity.

The property of Allah and His Messenger means the property of the State and the ownership of the Messenger ﷺ of it gave him authority and free right of disposal over it. His authority and right of disposal over it transferred to the *Khulafa'ū* after him, thus Abu Bakr, 'Umar, Uthman, Ali and those who came after them used to allocate to people as the Messenger of Allah ﷺ used to allocate to them due to their understanding that the desert, mountains and uncultivated land are owned by the State. So they have authority over them and are the people with the competence to dispose of them. Similarly the Companions and Muslims understood that these deserts, mountains and uncultivated land are the rights of Muslims in general and the authority over them is for the State, and that the Messenger ﷺ and the *Khulafaa* after him are those who are competent to administer and manage their affairs, allocate them and give permission for their revival, cultivation and inhabitation. Therefore, Az-Zubayr b. al-'Awwam, Abyadh b. Hammal, Bilal b. al-Harith al-Muzni, Abu Tha'alaba al-Khushni, Tamim al-Dari and others requested the Messenger ﷺ to make allocations to them. Similarly Naf'i Abu Abdullah of the people of Basra from Thaqif requested 'Umar ibn Al-Khattab to allocate to him land in Basra (not the land of *Kharaj* nor that would harm any Muslim) to plant it with seeds for his horses, as narrated by Kathir b. Abdullah from his father from his grandfather, who said: "we came with 'Umar ibn Al-Khattab in his *Umra* of the 17th year (Hijri) and the people owning water along the road spoke to him requesting the building of houses between Makkah and Madinah which had not existed previously. He gave permission to them upon the condition that the traveller has a greater right to water and the shade." Abu Bakr b. Abdullah b. Maryam also narrated from Attiya b. Qays "that some people asked 'Umar ibn Al-Khattab (for) land from Anzarkisan in Damascus as a place to tie up their horses." From all of this, it is explicit that the desert, mountains and uncultivated lands are owned by the State and the *Khalifah* disposes of them according to his own *Ijtihad* whether in allocation, cultivation, selling, leasing, investment, shielding or any other forms of disposal as he deems good and proper for Muslims.

2. River-plains (Al-Bataih)

These are the low lands over which water overflows such as the river-plains present between Kufa and Basra over which flows the water of Dijla and al-Epherate after it breaks some of the fences that surround the watercourse of the two rivers and make the water gush from the places of breaching and cause the lands to overflow thus making them unsuitable for cultivation even though they were gardens, farms and houses. These river-plains (*al-Bata'ih*) resulted at the time of Qabath ibn Firoz, and they increased afterward and spread due to the negligence and ignoring of them because of the wars between the Muslims and Persians. Thus their area reached 30 *Farsakh* times 30 *Farsakh* i.e. what is equivalent to 27,225 square kilometres as a *Farsakh* is approximately equal to 5.5 kilometres. These lands which the water overflows and become unsuitable for planting due to the overflow of water take the rule of uncultivated (dead) land even if they happened to be inhabited with buildings and plants before. Thus they become property of *Bait ul-Mal* and property of the State as long as they are not owned by anybody. Linked with these river-plains are the thick forests, jungles and swamps as they are similar to them and take their rule.

3. Al-Sawafi (The State's share of the booty)

These are all lands which the *Khalifah* decides to add to *Bait ul-Mal* from the conquered lands which remain without an owner after its people evacuated it or was owned by the conquered State, its rulers and leaders or those who were killed in the war or fled from the battle and abandoned it.

The first to segregate this share of the booty, and make it purely for *Bait ul-Mal*, was 'Umar ibn al-Khattab. Abu Yusuf said: Abdullah b. Al-Walid, the slave of Abdullah ibn Abi Hurra, narrated to me and said: "'Umar ibn Al-Khattab segregated from the people of Iraq ten types (of property): The lands of the one killed in the war, the one who fled, all lands belonging to Khosrau (the Persian king (Kisra)), all lands belonging to anyone of his family, all thickets of water, and every monastic post office, and he said: I forgot four remaining properties belonging to the Persian kings', he said: 'And the *Kharaj* of what 'Umar sequestered amounted to seven million *Dirhams*.'

Therefore, when the *Khilafah* state conquers lands the *Khalifah* has to add

to the property of *Bait ul-Mal*, i.e. State property, all buildings and lands which were owned by the conquered state, or its rulers or leaders, or those killed in the fields of war or those who fled from the war leaving their land behind. The *Khalifah* will dispose of it as he sees fit and of interest to Islam and Muslims.

4. Buildings and Roofed Houses (*Al-Musaqafat*)

These are the palaces, buildings or roofed houses seized by the State in the land it conquered and which were designated to the offices and departments of the conquered state, or to its institutions, utilities, universities and schools, hospitals, museums, companies and factories. They were also properties owned by the State, its rulers, leaders or those who fled the war or the battlefield, or those who were frightened of the Muslims and fled leaving them behind. All these palaces, buildings and roofed houses become booty and spoils to the Muslims, and they are due to the *Bait ul-Mal* and owned by the State.

Similarly every building or roofed house built by the State or purchased by funds from *Bait ul-Mal* is owned by the State and is designated for the offices of the State or its institutions, departments, utilities, universities and schools, hospitals or any utility which it supervises. The State also owns every building or roofed houses awarded, donated or bequeathed to her, or inherited from those who have no inheritor or from the apostate who has died or been killed due to his apostasy.

Utilising the State Properties

Shari'ah has entrusted to the *Khalifah* the taking care of the affairs of Muslims, discharging their interests and fulfilling their needs with what is of good and benefit, according to his own *Ijtihad*. He has to utilise the State properties to the best of his ability, so as to increase the revenues of *Bait ul-Mal*, to benefit all Muslims, and to prevent the State properties from being neglected, their benefits wasted and their revenues stopped.

The Messenger of Allah ﷺ, and the *Khalifa'a* after him, all used to utilise these properties according to what they saw as beneficial to Islam and Muslims.

Investing the State properties does not mean that the State becomes a merchant, a producer or a businessman, such that it behaves as a merchant, manufacturer or businessman. The State is a guardian, therefore there should appear in its utilisation of the State properties, the taking care of the affairs of the people, discharging their interests and providing for their needs. So its job in principle is guardianship and not one of acquisition.

The State properties can be used in a number of ways including: -

1. Sale or leasing: All that which is State property and the public interest also requires the giving of its ownership, or the ownership of its benefit to the people, of land or buildings, it may sell or rent to them according to its view in achieving the benefit. This is whether it is land within a town to establish markets or houses or outside or close to it to establish warehouses or enclosures for cattle, sheep, livestock or domestic birds, or at the coast of seas or rivers to establish factories or economic installations or cultivated agricultural land for farming and forestation. Agricultural land is an exception to this and is only sold not rented.

2. Utilising a land which is mostly planted with trees and owned by the State is given to people to work in it, in return of a part of what it produces such as a quarter, a third or a half, similar to what the Messenger of Allah ﷺ did with the people of Khaybar, Fadak and Wadi al-Qura.

3. Utilising the cultivated agricultural land by employing workers to till, farm and take care of it.

4. Reviving stagnant, wide-beds of streams, swamps, thickets, marshes swamps by blocking water from them, creating rivulets for them and discharging water from them and drying them so as to become suitable for cultivation and forestation.

5. Allocating land: This is carried out by the *Khalifah* by allocating land belonging to the State to people as he sees beneficial to Islam and Muslims. He may allocate this to someone rich or he has done service to Islam as he may allocate to people to reconcile their hearts to Islam. He may also allocate land to the peasants who need a means of sustenance. He also allocates land for cultivation so that it does not remain neglected or to increase its produce and fruits. He may allocate whenever he sees a benefit in doing so.

The Messenger of Allah ﷺ and the *Khalifa*'a after him allocated land as was previously mentioned in the *Abadith* on this issue.

Allocation could be of either *Ushri* land or *Kharaji* land. If allocation is from *Ushri* land, (that is similar to the land of the Arabian peninsula and all lands whose people embraced Islam upon it like Indonesia), then the *Khalifah* is permitted to give the ownership of its neck (*Raqaba*) and benefit to the allottee (*al-muqta'a*) or he may give its benefit only without its neck, permanently or for a limited time, as he sees beneficial to Muslims. This applies whether the land was dead (uncultivated) land which has never been cultivated or it was cultivated then neglected thus becoming dead, or it was cultivated land suitable for cultivation and forestation. In all these situations, ownership is not established by allocation alone, but by reviving the allocated land if it is dead land or planting crops and fruits if it was cultivated land. Allocation gives someone a legal right but ownership is not established except by completing cultivation in dead land or planting in cultivated land. Nothing is due upon this allocated land except the tenth (*Ushr*) of the produce of the land as *Zakat* if there is *Zakat* due on such produce after it reaches the *Nisab*. Absolutely no *Kharaj* is obliged upon it as there is no *Kharaj* on *Ushri* land.

If the allocation is from *Kharaji* land which is the land opened by conquest such as Iraq, Ash-Sham and Egypt-then it has to be examined. If the allocation is from cultivated land, whether *Kharaj* has ever been imposed upon it or not, then the allottee will only possess its benefit not its neck as its neck is owned by Muslims. The *Khalifah* may grant ownership of the benefit to the allottee permanently or for a limited time as he sees beneficial for Muslims.

Kharaj is obliged upon this allocated land, and *ushr* on the crops and fruits upon which *Zakat* is obliged if it reaches the *Nisab* after paying *Kharaj* from it. From Musa b. Talha, he said: "that Uthman b. Affan made allocations to five of the Prophet ﷺ's companions, Az-Zubayr, Sa'd ibn Mas'ud, Usama b. Zayd and Khabbab b. Aratt, and he said: 'My neighbours from among them were Ibn Mas'ud and Khabbab.'" Abu Yusuf said: "Abu Hanifa narrated to me from those who narrated to him saying: 'Abdullah b. Mas'ud had *Kharaji* land as did Khabbab, Hussein b. Ali and others among the Companions, and also Shuraih, and they paid *Kharaj* upon it."

If the allocation is from uncultivated land then it is examined. If the allocated land was uncultivated from the beginning of time, or it was cultivated and tilled then became neglected and uncultivated before *Kharaj* was imposed upon it, like the wide-beds of water (*al-batail*) in Iraq lying between Kufa and Basra, then the *Khalifah* can allocate both the neck and benefit of such land to the allottee or the benefit alone. Ownership of this land is not accomplished except by reviving it after its allocation. While the allocation gives the allottee a legal right in it, ownership is not completed except after achieving its cultivation and this must happen before the end of three years after the allocation. This came in the narration narrated by Tawus from 'Umar ibn Al-Khattab who said: "The *muhtajir* (who shield a land) has no right after three." From Muhammad b. Ubaid ath-Thaqafi, he said: "'Umar b. al-Khattab allocated land in Basra to a man from Basra called Nafi' Abu Abdullah which was *Kharaji* land that did not harm any Muslim when he grew reeds for his horses. 'Umar wrote to Abu Musa al-Ash'ari that if it is as he says then allocate it to him." Uthman b. Affan allocated to Uthman b. Abi al-'As ath-Thaqafi land in Basra that was salt-marsh and forest which he removed and cultivated.

If this land is allocated to a Muslim then *Ushr* is due upon it while *Kharaj* is not due. Its rule is like the rule of uncultivated *ushri* land that is allocated and cultivated due to the *Abadith* about this. From 'Umar b. al-Khattab from the Messenger of Allah ﷺ he said: **"Whoever revives dead land then it is for him."** And from 'Amru b. Shu'aib from his father from his grandfather from the Prophet ﷺ, he said: **"Whoever cultivates dead land then it is for him."** If this land is allocated to a *Kafir Zimmi* then *Kharaj* is due upon it like the land upon which its people are allowed to stay after its conquest in return for *Kharaj*, that they have to pay.

If this allocated land had previously been cultivated and *Kharaj* imposed upon it, then *Kharaj* is obliged whether it is allocated to a Muslim or *Kafir Zimmi*. For whatever *Kharaj* has been imposed upon conquered land continues until Allah inherits the earth and whoever is upon it.

6. Permission and encouragement to revive dead land. Such as when the *Khalifah* permits to the people, and urges them to revive uncultivated land, whether *Ushri* or *Kharaji* land which was uncultivated from the beginning of time and thus it was never cultivated, or it was previously cultivated then neglected and became dead.

With regards to reviving land, this could be for residence or establishing warehouses, factories or enclosures for animals or birds, and is accomplished by building and roofing as this is the first completion of architecture which makes possible its use as residence or as for warehouses, factories or putting animals or birds in. If the revival is for agricultural purposes then it is accomplished by encompassing the land to seclude it, distinguishing it from other lands, transferring water to it or digging a well in it, if it is a dry land where crops depend upon irrigation. It could be by blocking the water from it and drying it if the land is submerged with water or by ploughing the land, flushing the highland and inundating the lowland. By completing the revival, ownership is completed due to what came in the *Abadith* on reviving (land), and the *Hadith* of ‘Umar from the Messenger of Allah ﷺ: **“Whoever revives dead land then it belongs to him.”**

As for seclusion, it only establishes a legal right to the *Muhtajir* in what he secluded but does not complete his ownership. If three years passed without cultivating what was secluded then his right expires in that land. From Tawus from ‘Umar, he said: “The *Muhtajir* has no right after three.”

Whoever revives dead *Ushri* land, Muslim or *Kafir*, owns its neck and benefit. *Ushr* as a *Zakat* is due on the Muslim in the crops and fruits upon which *Zakat* is obliged, if they reach the *Nisab*. *Kharaj* is not due in it as there is no *Kharaj* on *ushri* land. As for the *Kafir*, neither *Ushr* or *Kharaj* is upon him as he is not of the people of *Zakat* and *Kharaj* is not due on *Ushri* land.

Whoever revives dead *Kharaji* land upon which *Kharaj* had never previously been imposed owns both its neck and benefit, if he is a Muslim, and its benefit alone if he is a *Kafir*. *Ushr* is due upon the Muslim not *Kharaj*, while *Kharaj* is due upon the *Kafir* equal to what was put upon its people when it was conquered in return for *Kharaj*.

Whoever revives dead *Kharaji* land upon which *Kharaj* had previously been imposed before it changed into dead land, owns its benefit alone not its neck whether he is a Muslim or *Kafir*. *Kharaj* is due upon him for it being a conquered land upon which *Kharaj* was imposed, so *Kharaj* must remain imposed upon it, whether owned by a Muslim or *Kafir*, until Allah inherits the land and whoever is upon it.

All the above apply if the revival was for agriculture. Whereas if the revival was for residence, or for establishing factories, storehouses or enclosures, there is no *Ushr* or *Kharaj* due upon it, whether this is *Ushri* or *Kharaji* land. The *Sahabah* who conquered Iraq and Egypt acquired land for building houses in Kufa, Basra and al-Fustat and settled there at the time of ‘Umar together with other people and did not have *Kharaj* imposed upon them, nor did they pay *Zakat*, as *Zakat* is due upon crops and fruits not houses and buildings.

Utilities

Utilities (*Marafiq*) are the assets from which benefit is derived, such as those of a house, land and government. This is derived from the word *Rafiqe Bih* which means ‘helped him and benefited him’. The public utilities are the assets and services established by the State for the benefit of all citizens, and they include:

1. Communications Services such as for letters, telephones, telegrams, telex, television and satellite communications etc.
2. Money-exchange Services for transferring, depositing, changing currency, minting gold and silver currency or transforming it into ingots. The State bank will take charge of these services and those non-usurious services allowed to be executed.
3. Public Transport Services, such as trains in other than the public roads, as railroads in public roads are public property following the rule of public roads, which also applies to planes and means of sea transport.

These means are of individual property which are permitted for individuals to own. At the same time, it is allowed for the State to own these means, such as planes, trains and steamships, if it sees it fit for Muslims to help them and to facilitate their transport.

4. Factories: The State is obliged to set up two types of factories, owing to the obligation upon it to take care of the interests of the people.

The first type are factories related to the public property assets like factories for mining, treating and smelting minerals, as well as factories for

extracting and treating gas. This type of property is allowed to be owned as public property conforming to the products which is being produced or to which it relates. Since the public property assets are owned as public property for all Muslims, the factories producing them can be owned as public property for all Muslims and the State establishes them, on behalf of Muslims.

The second type are factories related to heavy industry and manufacturing weapons. This type of property is allowed to be owned individually as it is of the private properties. However, these types of factories and industries require immense funds which are not available to individuals. In addition, these heavy weapons are no longer of the private property which can be owned by individuals unlike in the time of the Messenger ﷺ and the *Khulafa'a* after him. Instead they have become State property which the State takes charge of it furnishing as a duty upon it, due to its responsibility of guardianship, particularly after weapons have developed in a terrifying manner and become heavy equipment of high cost. Due to all this, it became an obligation imposed upon the State to establish factories for weapons production and for heavy industry. This does not prevent individuals from establishing these industries.

These are the four utilities which the state is obliged to provide the people with, as a duty upon it in taking care of their affairs, and which accrue income. Since these utilities are owned by the State, their revenues and income would be owned by the State as well. They would be of the revenues of *Bait ul-Mal*, and placed in the department of the war booty and *Kharaj*, and spent on its other expenses.

The other utilities which the State has to provide and establish for them as services for them in taking care of their affairs, include schools and universities, hospitals, public roads and other services essential in taking care of the people's affairs. Neither do they generate any revenue but instead require permanent expenditure, and there is absolutely no revenue derived from it.

Al-'Ushur (Tithes) Taxes

This is the right of Muslims taken from the people of *Zimmah* (*Zimmis*) and their trading goods, and from the people of the land of war (*Dar ul-Harb*) who are crossing through the frontiers of the *Khilafah* State. The one who is in charge of collecting it is known as *Al-'Ashbir*.

The *Maks* is taken despite the fact that there are many *Abadith* which censure taxes (*The maks*) and are harsh against its collector, such as what was narrated by Uqba b. Amir that he heard the Messenger of Allah ﷺ saying: **“The tax-collector will not enter Paradise.”** Such tax is the funds taken from merchants when they cross the State frontiers. It was also narrated by Kareez b. Sulaiman, who said: “Umar b. Abdul Aziz wrote to Abdullah b. Awf al-Qari that he should travel to the house known as the house of tax in Rafah and demolish it, then carry it to the sea and scatter it. He also wrote to Ady b. Arta'a to waive ransom, food and taxes from the people for they are not taxes but reduction (of the people's properties) about which Allah ﷻ said:

وَلَا تَبْخَسُوا النَّاسَ أَشْيَاءَهُمْ وَلَا تَعْتُوا فِي الْأَرْضِ مُفْسِدِينَ

“Do not withhold from the people the things that are their due nor commit evil in the land” [Hud: 85]

So whoever comes to you with charity accept it from him, and he who doesn't come to you then Allah ﷻ will account him.

All these *Abadith* and reports censure the *Maks*, and are severe and harsh against its collector which indicates the illegality of collecting it.

There also came other reports that clarify that the tithe (*Ushur*) is not taken

from Muslims or the trading goods of the *Zimmis* when they carry them across the frontiers, but only from businessmen of the traders of *Dar ul-Harb* such as what was narrated by AbdurRahman bin Ma'qil who said "I asked Ziyad bin Hudayr 'from whom did you collect *Ushur*?' He said: 'We did not take *ushr* from Muslims or a *Mu'abid* (under covenant).' I said: "From whom then did you take *Ushur*?' He said: 'The merchants of *harb* just as they used to tax us when we reached their lands.'" And Amru bin Dinar narrated: 'Muslim bin Misbah informed me that he asked ibn 'Umar: 'Do you know if 'Umar took *Ushur* from Muslims?' He said: 'No, I do not know that.' These reports clarify that *Ushur* was not taken from Muslims or *Zimmis* but only from *Harbis* as a reciprocal measure.

However, there are other reports which indicate that 'Umar ibn Al-Khattab and the *Kbulafa'a* after him, Uthman, Ali and 'Umar bin Abdul Aziz, used to take *Ushur* from merchandise crossing the State frontiers. They used to take quarter-tithe (2.5%) from Muslim merchants, half-tithe (5%) from *Zimmis* and the tithe (10%) from *Harbi* merchants. A report from Ziyad bin Hudayr states: "'Umar ibn Al-Khattab appointed me over the tithe and commanded me to take quarter-tithe from Muslim merchants.'" And in another report he said: "'Umar ibn Al-Khattab commanded me to take the tithe from the Christians of Bani Taghlib and half-tithe from the Christians of *Ahl ul-Kitab* (people of the Book).'" In the previous mentioned narration of Abdur Rahman bin Ma'qil from Ziyad bin Hudayr, he said that he used to take tithe from *Harbi* merchants. From As-Saib bin Yazid, he said: "I was appointed over the market of Madinah in the time of 'Umar. He said: 'We used to take the tithe from the Nabateans.'" Abdullah bin 'Umar narrated: "'Umar used to take half-tithe from oil and wheat so as to increase their load into Madinah (in order to encourage the Nabateans to bring oil and wheat to Madinah) and he took tithe from vegetables.'" Zareeq bin Hayyan al-Damashqi who was responsible about the passage of Egypt narrated that 'Umar bin Abdul Aziz wrote to him: "Take one *Dinar* out of every twenty from whoever passes from the *Zimmis* from the trading goods of their wealth which they circulate. Use this calculation for whatever is less (than 20 *Dinars*) until it reaches ten *Dinars*, and don't take anything when it decreases by a third of a *Dinar*."

The reports are explicit that 'Umar and the *Kbulafa'a* after him, used to take quarter-tithe from the merchandise of Muslim merchants crossing the frontier, half-tithe from *Zhimmi* merchants and the tithe from *Harbi*

merchants. This was witnessed by the *Sahabah* with their consent, confirming their *Ijma'a* on the permissibility of taking it. Also 'Umar bin Abdul Aziz, who commanded Ady bin Arta'a to stop taking taxes from the people and Abdullah bin Awf al-Qari to destroy the house of tax in Rafah, commanded his governor in Egypt, Zareeq bin Hayyan al-Damashqi to take half-tithe from the *Zimmis*; In addition Ziyad bin Hudayr narrated: "We did not take *Ushur* from Muslims or *Mu'abids* (people under covenant)" Other narrations state: "'Umar commanded him to take quarter-tithe from Muslims and half-tithe from *Zimmis*.'" These *Abadith* and reports appear to contradict the previous *Abadith* which censure the *Maks* with harshness and severity against its collector, and also those which say that 'Umar and Ziyad did not tax Muslims or *Zimmis*.

Close scrutiny of all these *Abadith* and reports on this issue shows that there is no contradiction between them whatsoever. The *Mak* which is censured with harshness against the collector refer only to money taken without right (i.e. illegitimately) from Muslims such as taking the tithe from them or taking more than a quarter-tithe from their merchants crossing the frontier. *Ushur* are not obliged upon the Muslims, nor is anything imposed upon their trading merchandise except *Zakat*, which is a quarter-tithe (2.5%). This is neither a *Maks* nor a tithe (*Ushur*). This clarifies the meaning of the *Abadith* of ibn 'Umar and Ziyad bin Hudayr in saying that 'Umar did not take the tithe; instead he took *Zakat* from them and its amount was quarter-tithe not the tithe (2.5%).

As for *Zimmis*, the tithe was not taken from them, the amount taken was only half-tithe. The half-tithe taken from them was a condition of the peace agreements (*Sulh*) contracted with them at the time of 'Umar ibn Al-Khattab when Iraq, Ash-Sham and Egypt were conquered. Thus, the *Maks* which is prohibited and its collector harshly rebuked is that which is taken illegitimately from Muslims, *Zimmis* or *Harbis*, irrespective of whether more than the stipulated amount is taken or is greater than that taken from Muslim merchants when they visit their lands.

Some reports remove this apparent contradiction. Abu Ubaid, in the book of al-Amwal, cited a *Marfu' Hadith* when he mentioned the taxman (*Al-'Ashbir*) which stated: "He is the one who takes the *Sadaqah* illegitimately." Abu Ubaid translated this and said: "If he takes more than the original *Zakat* then he has taken it illegitimately." Then he continued to say: "Similarly what

is understood from the *Hadith* of ibn ‘Umar when he was asked: ‘Do you know if ‘Umar took *Ushr* from Muslims?’ He said: ‘No, I do not know of this.’ We consider that he means taking more than the original *Zakat* but did not mean the *Zakat*, for how could ibn ‘Umar deny this? ‘Umar and other *Khulafa’a* took it when they distributed the grants and it was ibn ‘Umar’s opinion to give it to them.” He then said: “Similar is the *Hadith* of Ziyad bin Hudayr when he said: ‘We did not take *Ushr* from a Muslim or *Mu’abid*.’ What he meant was that we used to take quarter-tithe from Muslims and half-tithe from *Zimmis* as mentioned explicitly in other reports narrated by him.” Abu Ubaid mentioned that collecting from *Zimmis* was ambiguous to him as they were not Muslims from whom *Sadaqah* is taken nor *Harbis* such that it is taken from them as they take from Muslims. He went on to say: “Until I contemplated the *Hadith* and found that ‘Umar contracted peace with them upon this, apart from *Jizya* on their heads and *Kharaj* on the land.” This is similar to what came in the narration of Qatada from Abu Majliz when ‘Umar sent Uthman bin Haneef to Iraq in a long *Hadith*: “And he imposed on the money of the *Zimmis* in which they trade with, one dirham in every twenty and *Jizya* on their heads.” He continued: “I deem the collecting from their merchants is in the origin of the peace treaty so it is a right today for the Muslims.” Similarly Malik bin Anas used to say: “They were covenanted to settle in their lands, so every time they cross it for trade they should be taxed.” Thus it becomes clear that there is no contradiction and the tax (*Maks*) that is censured is the collection of property illegitimately.

A quarter-tithe is taken from the merchandise of Muslim merchants crossing the State frontier as *Zakat*, as *Zakat* on trade merchandise is the same as *Zakat* on currency, for merchandise is evaluated by it. The obligatory *Zakat* on currency is quarter-tithe (2.5%), so the *Zakat* on trade merchandise is the same. It should neither be increased nor decreased as it is a right on the Muslim’s wealth which Allah obliged to be given to the eight categories as *Zakat* and purification. It is placed in the department of *Sadaqah* and spent amongst those listed in the *Ayah*.

Half-tithe (5%) is taken from the merchandise of *Zimmi* merchants when they cross the frontiers according to the peace treaty and agreements contracted with them at the time of ‘Umar ibn Al-Khattab. Today, if new agreements are contracted with the people of the Book or others, determining the amount taken from the goods with which they cross the State’s frontiers whether this is at the tithe (10%), one-third, one-quarter, one-

half, or more or less than that, then it is obligatory to conform to what is agreed upon.

Tithe (10%) is taken from the goods of *Harbi* merchants when they cross the frontiers. This amount is determined by what is taken from Muslim traders and merchants in a reciprocal arrangement. The tithe was the amount taken by *Harbis* from Muslim merchants crossing their lands at the time of ‘Umar and the *Khulafa’a* after him, so tithe was taken from the *Harbis* in reciprocation. From Ziyad bin Hudayr, he said: “I was the first person sent by ‘Umar ibn Al-Khattab to collect tithe. He said: ‘He commanded me that I should not search anyone and to take one *Dirham* out of every forty from whoever passes among the Muslims, one out of twenty from *Zimmis* and the tithe from those without a covenant.” From Anas bin Malik, he said: “‘Umar ibn Al-Khattab sent me to collect *Ushr*. He gave me a decree to take quarter-tithe from what Muslims moved with of their merchandise, half-tithe from *Zimmis* and the tithe from *Harbis*.”

Abu Musa al-Ash’ari wrote to ‘Umar saying: “The Muslim merchants go to the land of war and they take tithe from them. He said: ‘Umar wrote to him: Take from them the same as they take from Muslim merchants.’” The people of Manbij wrote to ‘Umar: “Allow us to enter your land as merchants and you can tax us. He said: ‘Umar consulted the companions of the Messenger of Allah ﷺ about this and they advised him to accept their offer and tax them.’” Thus the amount that was taken from *Harbis* was equivalent to the amount they took from Muslim merchants. If new agreements are contracted today it is necessary to restrict the amount taken from *Harbi* merchants and traders in accordance with the amount taxed by the *Harbis* on Muslim traders.

Taxes taken from *Zimmi* and *Harbi* merchants is booty for Muslims. It is to be placed in the department of booty and *Kharaj* and to be spent like the expenditure of *Jizya* and *Kharaj*.

The amount taken from *Zimmi* and *Harbi* merchants is delegated to the *Khalifah*. He may increase or decrease it according to the peace agreements either already contracted or to be contracted. He may also act reciprocally to how Muslim merchants are treated in accordance to the interest of the Muslims and the conveying of the *Da’wah*. Abdullah bin ‘Umar narrated that “‘Umar used to take half-tithe (5%) from oil and wheat so as to increase

their load into Madinah and took the tithe from vegetables (peas, beans, lentils).”

From What is the ‘Ushr (Tithe) Taken and When

Ushr is taken from all types of trading properties, whatever their type, whether goods, animals, crops or fruits. It is not taken from non-trading properties, so it is not taken from a person’s clothes, his tools, personal articles or food. If anyone claims that the commodities he is carrying are not for trade, where similar commodities are for trade, then his claim will not be accepted except with proof supporting his claim.

Ushr is not taken from *Zimmi* or *Harbi* traders except from goods crossing the frontiers. It is not taken from trading goods of *Zimmis* or *Harbis* internally (within the State) unless stated in the peace or trading agreements with other states. This is so because there is no *Zakat* upon them, nor is anything obliged upon *Zimmis* within the State except *Jizya* on their heads and *Kharaj* on their lands, or what was stated in the peace treaties with them such as their feeding the army or showing hospitality to Muslims, as in the contractual obligation in ‘Umar’s time. As for *Harbis*, it is necessary to deal with them reciprocally and according to the texts of the agreements and conditions that allow them to enter *Dar ul-Islam*. If these allow the taking of something from their goods internally then it is taken. If not, then nothing is taken from them. As for Muslims, *Zakat* is imposed upon their properties and trading merchandise.

Ushr is only taken once each year upon a single good even if the trader crosses with it by the collector (*Al-'Ashir*) repeatedly. From Ziyad bin Hudayr, he said: “His father used to collect from a Christian twice in every year, so the Christians went to ‘Umar ibn Al-Khattab and said: ‘O *Amir al-Mumineen*, your governor takes from me *Ushr* twice each year.’ ‘Umar said: ‘That is not correct. He should collect it only once each year.’ Then he came again and said: ‘I am an old Christian man.’ ‘Umar said: ‘And I am an old Muslim man. I have written regarding your case (in other words, taken care of you).”

As for a *Zimmi* or *Harbi* trader repeatedly crossing with different goods on each trip, his case for each new trade he crosses with is the same as that of the Muslim where *Zakat* is taken for each trade he crosses with. If the Muslim claims he has given the *Zakat* on his trade, it will be accepted by his

oath or his presenting a legal proof supporting that he has given the *Zakat* on his trade, as *Zakat* is not obliged except once in a year. Quarter-tithe (2.5%) is taken as *Zakat* from each trade that he has not given *Zakat* upon.

Quarter-tithe is taken from the Muslim trader if his trade reaches the Nisab (limited amount) of *Zakat* and a year has passed. In other words, if the value has reached 20 golden *Mithqal* or 85 grams of gold, or 200 silver *Dirhams* or 595 grams of silver. Nothing is taken from him if his trade has not reached the *Nisab* amount of *Zakat*. As for the *Zimmi* or *Harbi*, it is taken from all trading properties that they carry irrespective of the amount.

The post of *Al-'Ashir* (*Ushr* collector) is a sensitive one since the collector may possibly oppress the people, or be subject to temptation and bribery, therefore it is necessary that the collector be a good and pious person such that he does not oppress people, deal with them harshly nor take more than that which is obliged from them. Similarly he should not be susceptible to temptation or bribery so as to reduce what must be taken from the traders. In doing this, he would harm the rights of Muslims in *Bait ul-Mal*. It is thus important to continuously examine the characteristics of the collector so that whoever is found to be offensive is punished, disciplined or removed.

12 Illicit Money from the Rulers or Civil Servants, Money acquired Illegitimately and Fines

Illicit money (*Mal al-Ghulul*) is property acquired by the governors, government employees and civil servants illegitimately, whether acquired from the State or peoples' properties. Nothing is allowed for them except what the State obliged for them as compensation or a salary. Any other money acquired by force, authority or their position is considered illicit property and illegally acquired, whether acquired from the State's or individuals' property. It is property not legally owned as it was acquired illegitimately and must be returned to its owner if known. If the owner is not known, then it must be confiscated and placed in the *Bait ul-Mal* of the Muslims. Allah ﷻ says:

وَمَنْ يَغْلُلْ يَأْتِ بِمَا غَلَّ يَوْمَ الْقِيَامَةِ

"Whoever took (property) illicitly will bear what he acquired on the Day of Judgement"
[Al-Imran: 161]

From Mu'az bin Jabal, he said: "The Messenger of Allah ﷺ sent me to Yemen. As I traveled he sent someone after me to call me back so I returned. He said: **'Do you know why I sent for you? Don't acquire anything without my permission as it is illicit (Ghulul), and whoever acquired illicitly will bear what he acquired on the Day of Judgement. For this I called you. So proceed with your work'**" (narrated by Tirmidhi). From Abi Mas'ud, he said: "The Messenger of Allah ﷺ sent me to collect Sadaqat, and he said: **'Let me not observe you on the Day of Judgement coming**

with a camel of the camels of Sadaqah that you had illicitly acquired, foaming on your back!' I said: 'Then I will not proceed,' and he said: 'Then I will not force you.'"

The illegitimate methods of acquisition from the governors, government employees and civil servants are as follows.

Bribery

This is all money given to the governor, official, judge or civil servant to fulfil one of the interests of the people that he is obliged to fulfil without such payment. All bribery, whatever its type, is *Haram* irrespective of the amount, the means, or reason for its payment. Abu Dawud narrated from Abu Hurayra, he said: **"The Messenger of Allah ﷺ said: 'The curse of Allah is on the briber and the taker in authority.'"** Tirmidhi narrated from Abdullah bin Amru, he said: **"The Messenger of Allah ﷺ said: 'The curse of Allah is on the briber and taker.'"** Ahmad narrated from Thauban, he said: **"The Messenger of Allah ﷺ cursed the briber, taker and the middle-man between them."** These *Abadith* are explicit in establishing the absolute prohibition of bribery.

Bribery is taken, as remuneration for fulfilling an interest that must be fulfilled without such remuneration for the one obliged to fulfil it. It is also taken as remuneration for not undertaking an action that must be undertaken, and it can be taken as remuneration for undertaking an action prohibited by the State. There is no difference in the interest whether it is obtaining a benefit or avoiding harm, or whether it was valid (*Haqq*) or void (*Batil*). Every property acquired by way of bribery is considered prohibited (*Haram*) that it is not legally owned. It must be confiscated and placed in *Bait ul-Mal* for it has been illegitimately acquired. The taker, payer and middleman between them must all be punished.

Gifts and Donations

Any property presented to the governors, officials, judges or civil servants by way of gifts or donations is considered as bribery and it is not allowed for the persons listed to accept it. There is no reason for a person to present such a gift to these officials unless he has an interest he wishes to pursue or if he wishes to gain some kind of favour. Gifts and donations to governors,

officials, judges and civil servants are considered illicit property (*Ghulul*) and lead to Hellfire. There has come explicit prohibition from the Prophet ﷺ about accepting such gifts. Al-Bukhari and Muslim narrated from Abu Hamid As-Sa'idi, he said: **“The Prophet ﷺ appointed a man from Banu Asad, known as ibnul- Lutbiyya, over the Sadaqah. When he returned he said: ‘This is for you and this has been gifted to me.’ The Prophet ﷺ stood on the Mimbar, praised and commended Allah then said: ‘What is wrong with the official we appointed that he comes and says: This is for you and this has been gifted to me. Why did he not sit in his father’s or mother’s house to see if he would get any gifts or not? By the One in whose hand the soul of Muhammad lies, none of you will obtain anything of the like save that he will come bearing it on his neck on the Day of Judgement, whether a foaming camel or a mooing cow or a bleating sheep!’ Then he raised his arms upwards until we saw the hair of his two armpits and said twice: ‘O Allah, have I conveyed?’”**

Therefore, every property gifted or donated to the governors, officials, judges and civil servants is considered illegally acquired and not legally owned. It must be confiscated and placed in the *Bait ul-Mal* of the Muslims.

Properties Seized by Influence and the Ruler’s Power

These are the properties and lands seized by the rulers, governors, officials, their relatives or civil servants from the State’s or people’s properties and lands by coercion, authority and domination due to the ruler’s power and position. Any property seized in any of these ways, whether of the State’s or people’s properties and lands, is considered illegally acquired and is not legally owned. All such seizures are considered injustice (*Zulm*) and injustice is *Haram* and darkness on the Day of Judgement. It is also considered illicit property (*Ghulul*) that belongs to Hellfire. The Prophet ﷺ said: **“Whoever takes anything from land illegitimately he will be sunk on the Day of Judgement down to seven earth’s.”** In another narration: **“Whoever takes a hand span of land unjustly it will be put around his neck as a collar of seven earths on the Day of Judgement”** (narrated by the two Shaikhs). From Aiesha, she said “that the Prophet ﷺ said: **‘Whoever takes unjustly a hand span of land Allah will put around his neck a collar of seven earth’s’**”(agreed upon).

If the seized properties and lands are people’s properties whose owners are known, then they must be returned to them. If their owners are not known, then they must be placed in the *Bait ul-Mal*. If they are of the State’s properties then they must inevitably be returned to the *Bait ul-Mal*. When ‘Umar bin Abdul Aziz assumed the *Khilafah*, he returned all properties and lands seized by Banu Umayyah from the State’s or peoples’ properties to the *Bait ul-Mal* of the Muslims, except those he returned to their owners, as they were known. He also divested Banu Umayyah of their allocated land allowances and all they had seized, as he considered that they seized them by the force of their authority and by illegitimate means, and were thus not legally owned. He actually began with himself, surrendering all his funds, properties, riding animals, perfumes and chattels, which he subsequently sold for 32,000 *Dinars*, and placed them in the *Bait ul-Mal*.

Agency and Brokerage

This is any property acquired by the governors, officials and civil servants via agency and brokerage from foreign or regional companies or individuals in exchange for contracting deals or undertakings between them and the State. Any property acquired through this means is considered illicit and *Haram* so it is not legally owned. It must be placed in *Bait ul-Mal* of the Muslims as it was illegitimately acquired. From Mu’az bin Jabal, he said: **“The Prophet ﷺ sent me to Yemen. As I went away, he sent someone after me to call me back so I returned. He said: ‘Do you know why I sent for you? Do not acquire anything without my permission for it is illicit, and whoever acquires anything illicitly he will bear what he acquired on the Day of Judgement. For this I called you, so go now to your work.’”**

Agency and brokerage are funds from companies and individuals to governors, officials and civil servants who remunerates them without the State’s knowledge and behind her back, like bribery. It is used to facilitate companies or individuals contracting bargains or commitments to undertake projects in a manner calculated to achieve their interests, not the interests of the State or *Ummah*.

Misappropriation

This is the property embezzled by governors, officials or civil servants

from the State property placed under their control to fulfil their duties or supervise installations, projects and other things related to the State's interests or utilities. Linked to this is what is taken from the people by postal, telegraph, telephone or telecommunications officials, as well as officials of other departments, in excess of the established rates by way of tricking them, deceit or forgery. All these funds acquired through embezzlement from State properties or by the way of tricking people and deceit is considered *Haram* acquisitions that are not legally owned. These are considered illicit property that must be confiscated and placed in *Bait ul-Mal*.

If 'Umar ibn Al-Khattab suspected a governor or official, he would confiscate his properties that exceeded the amount specified for him or divide it between him and the State. He used to count the wealth of the governors and officials before and after their appointment. If he found extra funds or became suspicious, he confiscated their wealth or took half of it and placed it in *Bait ul-Mal*. He did this with Abu Sufyan when he returned from his son Mu'awiya who was 'Umar's governor in Ash-Sham. Abu Sufyan had come to greet 'Umar, so 'Umar, after he had suspected that Mu'awiya had presented funds to his father on his return, said to him: "Recompense us, O Abu Sufyan." Abu Sufyan replied: "We did not obtain anything such that we should recompense you." So 'Umar extended his hand to the ring on Abu Sufyan's hand and took it from him. He then sent the ring with a messenger to Hind, Abu Sufyan's wife. He commanded the messenger to say to her quoting Abu Sufyan: "Look for the two saddlebags that I came with and send them." There was no delay before the messenger returned with the two saddlebags containing 10,000 *Dirhams*, so 'Umar placed them in the *Bait ul-Mal*.

Whatever has been mentioned of what is acquired by officials and civil servants using illegitimate methods is income for the *Bait ul-Mal*. Linked to this is every property acquired by individuals through any method of increasing wealth prohibited by *Shar'a*, as this is *Haram* acquisition which is not legally owned.

So whoever acquires anything through *Riba*, it is *Haram* and not owned legally because Allah prohibited *Riba* and prohibited increasing wealth by *Riba*.

Allah Ta'ala said:

الَّذِينَ يَأْكُلُونَ الرِّبَا لَا يَقُومُونَ إِلَّا كَمَا يَقُومُ الَّذِي يَتَخَبَّطُهُ الشَّيْطَانُ مِنَ الْمَسِّ ذَلِكَ بِأَنَّهُمْ قَالُوا إِنَّمَا الْبَيْعُ مِثْلُ الرِّبَا وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا فَمَنْ جَاءَهُ مَوْعِظَةٌ مِنْ رَبِّهِ فَانْتَهَى فَلَهُ مَا سَلَفَ وَأَمْرُهُ إِلَى اللَّهِ وَمَنْ عَادَ فَأُولَئِكَ أَصْحَابُ النَّارِ هُمْ فِيهَا خَالِدُونَ

"Those who eat *riba* will not stand save like those whom *Shaitan* struck with his touch. That is because they say: Verily trade is like *riba*. Whereas Allah permitted trade and prohibited *riba*. Whoever desisted after there reached him an admonition from his Lord then for him is what has passed and his matter is with Allah. But whoever reverts then they are of the companions of the Fire to dwell therein eternally" [Al-Baqarah: 275]

It is obligatory to return the property of *Riba* to those from whom it was taken if they are known. If they are not known, it is confiscated and placed in the *Bait ul-Mal*.

Allah Ta'ala said:

يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ وَذَرُوا مَا بَقِيَ مِنَ الرِّبَا إِن كُنْتُمْ مُؤْمِنِينَ (٢٧٨) فَإِنْ لَمْ تَفْعَلُوا فَأْذَنُوا بِحَرْبٍ مِنَ اللَّهِ وَرَسُولِهِ وَإِنْ تُبْتُمْ فَلَكُمْ رُءُوسُ أَمْوَالِكُمْ لَا تَظْلِمُونَ وَلَا تُظْلَمُونَ

"O you who believe, fear Allah and leave what remains of *riba* if you are truly believers. If you do not, then be warned of a war from Allah and His Messenger! If you repent then for you is your capital, neither wronging others, nor being wronged"

[Al-Baqarah: 278-9]

Whoever acquires property from gambling, his acquisition is *Haram* and not legally owned. It is returned to its owner. If its owner is not known, it is confiscated and placed in the *Bait ul-Mal*, for increasing wealth through gambling is not allowed by *Shar'a* and gambling is prohibited.

Allah Ta'ala says:

يَا أَيُّهَا الَّذِينَ آمَنُوا إِنَّمَا الْخَمْرُ وَالْمَيْسِرُ وَالْأَنْصَابُ وَالْأَزْلَامُ رَجْسٌ مِنْ عَمَلِ الشَّيْطَانِ
فَاجْتَنِبُوهُ لَعَلَّكُمْ تُفْلِحُونَ ﴿٩٠﴾ إِنَّمَا يُرِيدُ الشَّيْطَانُ أَنْ يُوقِعَ بَيْنَكُمُ الْعَدَاوَةَ وَالْبَغْضَاءَ
فِي الْخَمْرِ وَالْمَيْسِرِ وَيَصُدَّكُمْ عَنْ ذِكْرِ اللَّهِ وَعَنِ الصَّلَاةِ فَهَلْ أَنْتُمْ مُنْتَهُونَ

“O you who believe, verily alcohol, gambling, sacrificing to stone and divination by arrows are an abomination of Shaitan’s handiwork. Avoid them so that you may succeed! Shaitan’s only wish is to instigate enmity and hatred between you through alcohol and gambling, and to turn you away from the remembrance of Allah and prayers. Will you not then desist?” [Al-Mai’dah: 90-1]

Fines

Among the sources of income for the *Bait ul-Mal* are the fines imposed by the State upon those who commit offences or contravene laws, administrative systems or regulations. Fines are established by the *Sunnah*. Amru bin Shu’aib narrated from his father from his grandfather Abdullah bin Amru bin al ‘As that the Messenger of Allah ﷺ was asked about fruits hanging on a tree so he answered: **“Whoever eats out of need, without taking something with himself then there is nothing against him. But whoever leaves taking with him anything then a fine equal to double of its value is imposed as a punishment.”** It was also narrated that the Prophet ﷺ said: **“The one who causes a tethered camel to stray is fined its equivalent plus the same again.”** Similarly, a fine is taken from the abstainer of paying *Zakat* half of his wealth as chastisement above the *Zakat* obliged upon him due to the Prophet ﷺ saying: **“and whoever prevented it then I will take it plus half of his wealth.”** All this indicates the legality of imposing fines as a chastising punishment. It is for the *Khalifah* to determine the types of offences and contraventions for which fines are imposed, the amount of these fines including upper and lower limits, and he obliges the governors, officials, judges and civil servants to adhere to these. Alternatively the *Khalifah* may leave the responsibility of determining them to the *Ijtihad* of governors, officials, judges and civil servants. It is up to the *Khalifah* to choose which is best, in looking after the affairs of the Muslims according to his own *Ijtihad*.

13

The Fifth (Khums) of buried treasures and minerals

Al-rikaz is property buried underground whether gold, silver, jewels, pearls or weapons. These could be treasures of ancient peoples like the Egyptians, Babylonians, Assyrians, Sassanid (Persians), Romans or Greeks and include money, currency, jewelry and gems placed in the graves of their kings and leaders or even the remains of their ancient cities that have been destroyed. It also applies to their gold or silver currency placed in jugs and other vessels found hidden in the earth from the Days of Ignorance or past Islamic eras. These are also considered hidden treasures, just like the other things mentioned.

Al-Rikaz is derived from *Rakaz*, *Yarkazu* like *Gharazu*, *Yarghruzu* i.e. ‘when it is hidden’, so you can say: ‘*Rakazu*’ the lance when it is planted in the earth. From this is derived *ar-Rikaz*, which is a hidden voice.

Allah ta’ala said:

أَوْ تَسْمَعُ لَهُمْ رِكْزًا

“...or hear even a whisper (*rikaz*) from them?” [Maryam: 98]

As for minerals, they are what Allah ﷻ created in the earth on the Day He created the heavens and the earth or gold, silver, copper, lead and similar substances. *Al-m’adin* is derived from ‘*Adama* (in a place), *Ya’adanu* when he settles in it, and from it the term Garden of Eden is derived as it is a place of residence and eternity. Minerals are of Allah’s creation and not buried by man and are thus different from the treasure, as the latter has been buried by man.

The principle regarding treasure and mineral is what was narrated by Abu Hurayra that the Messenger of Allah ﷺ said: **“Regarding the wounded**

beast there is no indemnity nor punishment (Qisas) and in the treasure its fifth is due.” Also what was narrated by Abdullah bin Amru that the Prophet ﷺ was asked of property found in a very ancient ruined place and he said: **“In it and in buried treasure is the fifth.”** And also what was narrated from Ali bin Abi Talib that the Prophet ﷺ said: **“And in the Suyyub is the fifth. He said: The Suyyub are the veins of gold and silver that are buried underground.”**

Therefore, any property of gold, silver, jewellery, gems and the like buried and found in graves, ruins, cities of ancient peoples, uncultivated land, very ancient ruins, as ascribed to people of ‘Ad, whether from the treasures of the Days of Ignorance or those of Muslims in past Islamic eras, becomes the property of its finder of which he gives a fifth to the *Bait ul-Mal*.

Thus all small amounts of minerals, gold or silver whether in veins or as raw metal in uncultivated land not belonging to anyone, they belong to the finder who gives a fifth of them to the *Bait ul-Mal*.

The fifth taken from the finder of treasure and minerals is considered as booty (*Fa’*) and takes its rule. It is placed in the *Bait ul-Mal* in the department of *Fa’* and *Kharaj* and it is spent the same way as *Fa’* and *Kharaj*. Its matter is delegated to the *Khalifah* to spend in taking care of the *Ummah*’s affairs and fulfilling her interests according to his view and *Ijtihad* of what is good and beneficial.

From Mujalid from Sha’bi that: “A man found 1,000 *Dinars* buried in a place outside Madinah so he came with them to ‘Umar ibn Al-Khattab who took a fifth, 200 *Dinars* and returned the rest to that man. ‘Umar began dividing the 200 among the Muslims present before him until there remained a surplus. ‘Umar said: ‘Where is the owner of the *Dinars*?’ So he stood before him and ‘Umar said to him: “Take these *Dinars*. They are yours.”

From al-Harith bin Abi al-Harith al-Azdi that: “His father was among the most knowledgeable people regarding minerals. He met a man who had extracted some mineral so he bought it from him for 100 sheep with their baby lambs. He said: ‘He took it and melted it such that he extracted from it the value of 8,000 sheep.’ The seller said to him: ‘Revoke the trade’ and he said: ‘I will not.’ So he said: ‘I will go to Ali and disclose the matter to him (meaning Ali bin Abi Talib).’ He said: ‘Abu al-Harith has found minerals’ so

Ali came to him and said: ‘Where is the treasure that you found?’ He said: ‘I did not find any treasure, rather he is the one who found it and I bought it from him for 100 sheep with their baby lambs.’ So Ali said to him: ‘I don’t see the fifth to be paid except by you.’ He said: ‘So he took the fifth from the 100 sheep.’”

The *Hadith* of ash-Sha’bi and that of al-Harith clarify that the amount taken by ‘Umar from the finder of the treasure, and Ali from the finder of the mineral, is only one-fifth and the remaining four-fifths is returned to the finder of the treasure and the mineral. The fifth taken is not *Zakat* but a sort of *Fa’*. If it were *Zakat*, it would have been spent like the *Zakat* expenditure. ‘Umar would not have given the finder some of the treasure for he was rich and *Zakat* is not allowed for the rich person.

The fifth is taken from whoever finds a treasure or mineral, whether male or female, young or old, sane or insane, Muslim or *Kafir Zimmi*. The fifth is taken from any amount that is found, irrespective of whether it is small or large.

Whoever finds a treasure or minerals in his property, whether land or buildings, then he owns it, whether he inherited this land and building or bought it from someone else. Whoever finds a treasure or minerals in another person’s land or building, then the treasure or mineral found belongs to the owner of the land or building and not to its finder.

Whoever finds a treasure or minerals in *Dar ul-Harb* owns it and it becomes *Fa’*. He has to pay like the one who finds it in dead land or ancient ruins in *Dar ul-Islam*.

The fifth is obliged in the treasure or mineral the moment it is found. It is not allowed to delay giving it to the *Bait ul-Mal*.

The mineral owned by its finder is the mineral in limited quantities. As for great quantities, these are not owned by their finder as they are of the public properties that cannot be owned by individuals but are owned by the whole Muslims.

14

The Property that has no Inheritors

Any property, whether movable or immovable, whose owner has passed away without an inheritor by right or by paternal relations such as where a person dies without a wife, children, father, mother, sisters or paternal relations, is transferred to the *Bait ul-Mal* as inheritance. From Al-Miqdam al-Kindi that the Prophet ﷺ said: **“I am more entitled to (look after) every believer than himself. So whoever dies leaving a debt or children then their responsibility are upon me, and whoever leaves property it is for his heirs. And I am the protector (Mawla) of the one who has no relative to protect him. I inherit his wealth and release him of his misery”** (narrated by the two Shaikhs and At-Tirmizi). This *Hadith* indicates clearly and explicitly that the Messenger of Allah ﷺ is the inheritor of a person who dies without heirs as he ﷺ is the leader of all Muslims and the protector of those without a protector. After him ﷺ the guardianship was transferred to the *Khalifah*, who became the leader of all Muslims and the protector of those without a protector. The inheritance transferred to the *Khalifah* is not for his own personal use but for the *Bait ul-Mal* of the Muslims. The inheritance of those individual properties without heirs is thus placed in the *Bait ul-Mal* in the department of *Fai'* and *Kharaj*. The *Khalifah* will spend it according to what he sees as good and in the interest of the Muslims. He may sell, rent, gift or allocate it or make it a *Waqf* (Islamic trust) and spend it on anything that he considers beneficial for the Muslims.

Linked to the property of the Muslim without an inheritor is that of the *Zimmi* without an inheritor. If a *Zimmi* dies leaving behind movable or immovable property without any inheritor, his property becomes *fai'* for the Muslims. The same applies to any surplus wealth of the Muslim left after any inheritance has been distributed to the appropriate persons. An example of this is when someone dies leaving behind no inheritor except one of the two spouses. This is because surplus wealth does not revert to the

spouse after taking his or her obligatory share; so it becomes *Fai'* for the Muslims and is placed in the *Bait ul-Mal* of the Muslims. It is property that has no specified beneficiary, thereby becoming *Fai'* like the property of the Muslim without heirs.

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15

The Property of Apostates (Murtadeen)

The apostate is the one who turns away from the deen of Islam to *Kafir*.

Allah Ta'ala says:

وَمَنْ يَرْتَدِدْ مِنْكُمْ عَنْ دِينِهِ فَيَمُتْ وَهُوَ كَافِرٌ فَأُولَئِكَ حَبِطَتْ أَعْمَالُهُمْ فِي الدُّنْيَا
وَالْآخِرَةِ وَأُولَئِكَ أَصْحَابُ النَّارِ هُمْ فِيهَا خَالِدُونَ

“Whoever apostatises among you from his deen and dies while being a Kafir is of those whose deeds will bear no fruit in this life and the Hereafter. They will be of the companions of the Fire to dwell therein eternally” [Al-Baqarah: 217]

The person who apostatises from Islam whether male or female, to another *Deen* like Judaism, Christianity, Zoroastrianism, Buddhism or a non-religious belief such as Communism, becomes one whose blood is not protected and, consequently, one whose property is not protected. The protection of his property follows the protection of his blood and if the sanctity of his blood is removed then the loss of sanctity for his property is a natural consequence. The Prophet ﷺ said: **“I was commanded to fight the people until they say: ‘There is no god but Allah.’ Whoever says ‘There is no god but Allah, he has protected his life and property from me except by its right and his reckoning is with Allah.”** Shedding the blood of the apostates is not like shedding the blood of the highway robbers, the married adulterers or the murderers, because these do not make the Muslim a *Kafir*, neither is the sanctity of his property is lost. Rather the highway robber, married adulterer and murderer remain Muslim who can inherit and be inherited from. However, the person who apostatises becomes a *Kafir* and loses protection of his blood and property.

The mere apostasy of the apostate gives the Muslims the right to shed his blood and seize his property. Killing him and seizing his property are however, dependent upon asking him to repent. If he is asked to repent for three days, refuses to repent and does not return to Islam then it is obligatory to kill him immediately and seize his property and this becomes *Fai'* for Muslims. It is placed in the *Bait ul-Mal* in the department of *Fai'* and *Kharaj* and spent the way they are spent. His property is not inherited because if one spouse apostatises before consummation the contract, it is dissolved immediately and there would be no inheritance. Similarly apostasy after consummation dissolves the marriage such that whoever dies cannot leave inheritance to the other, as one is Muslim and the other is *Kafir*. So when a Muslim dies and leaves an inheritance to an apostate, the apostate cannot inherit from him because the apostate is a *Kafir* and the testator (deceased) is Muslim. The *Kafir* cannot inherit from the Muslim so his share is left for the remainder of the heirs if any. If there are no such heirs then the entire inheritance is *Fai'* for Muslims that is placed in the *Bait ul-Mal*. If the apostate has heirs who are Muslim sons, fathers, mothers or brothers, then they cannot inherit from him as the Muslim cannot inherit from the *Kafir*. All his property becomes *Fai'* for Muslims that is placed in the *Bait ul-Mal*. From Usama bin Zayd, he said that the Messenger of Allah ﷺ said: **“The Kafir does not inherit from a Muslim, nor can a Muslim inherit from a Kafir”** (agreed upon). Abdullah bin Amru narrated that the Messenger of Allah ﷺ said: **“People of two different beliefs cannot inherit from one another.”** Similarly, if the apostate apostatises together with all his heirs, then all of their property becomes free of any protection thereby becoming *fai'* for Muslims, and they cannot inherit from one another.

If a group apostatises, becoming powerful in a land, establishing their own ruler who rules between them, then they are considered as of *Dar ul-Harb*, thus losing the protection for their blood and property. It is obligatory to fight them as they become like *Kuffar* in origin, in fact, they are worse. It is of a greater priority to fight them for the *Kuffar* must accept Islam, peace or *Jizya*. As for apostates, nothing is accepted from them except Islam; peace and *Jizya* are not accepted from them. Abu Bakr and the *Sahabah* fought the apostates and would only accept from them either their complete return to Islam or war. The Prophet ﷺ said: **“You should kill whoever changes his Deen.”**

Any property acquired by the apostate during his apostasy takes the same

rule as the property he possessed before his apostasy i.e. it is *Faʾ* for Muslims. Any of the apostate's actions during his apostasy such as trade, donation or bequests are void if they occur after the seizure of his property. If they occur before the seizure of his property then they are deferred. If he returns to Islam, then his actions are considered valid, and if he does not return to Islam then his actions are considered void.

If the apostate returns to Islam, then his seized property is returned to him. If he returns after the death of his testator (from whom he could inherit) and before the division of the inheritance, then he can take his share. If he returns to Islam after the division of the inheritance, then he has no right to any part of it and is not given any share from it.

16

Taxes

This is the property obliged upon Muslims by Allah ﷻ which is necessary to meet the needs and interests obliged upon them in the situation where there are no funds in the *Bait ul-Mal* of the Muslims to spend upon these needs and interests.

In origin, the permanent sources of revenue for the *Bait ul-Mal* which Allah ﷻ ordained as obligatory upon Muslims, from the *Faʾ*, *Jizya*, *Kharaj*, *Usbr* and funds from the income of the public properties that have been protected by the State, should be sufficient to ensure the spending upon what the *Bait ul-Mal* is obliged to spend on. This applies to whether there are funds in it or not, and relates to taking care of the citizens' needs and fulfilling their interests, without the State needing to put taxes upon Muslims.

However, the Legislator (*Ash-Shariʿ*) has made the spending upon these needs and interests which the *Bait ul-Mal* is obliged to meet whether there are funds in it or not, as a duty upon the Muslims in the case where there are no funds in the *Bait ul-Mal* to spend on these needs.

However, the great burdens placed upon the *Khilafah* State today may make the permanent sources of revenue for the *Bait ul-Mal* insufficient to cover all the expenditure on the needs and interests obliged on it, whether there are funds in it or not. If these sources of revenue become insufficient, and there are no funds in *Bait ul-Mal* to spend on these needs and interests which are due on it whether there are funds in it or not, and Muslims are unable to voluntarily contribute enough of their own accord to cover expenditure on these needs and interests, then the obligation to spend on these needs and interests is transferred from the *Bait ul-Mal* to the Muslims. This is because Allah ﷻ has obliged them to spend on these needs and interests, and their failure to spend on these needs and areas will lead to harming Muslims, whereas Allah the Glorified obliged the State and the *Ummah* to remove any

harm from Muslims. The Prophet ﷺ said: **“It is not allowed to do harm nor to allow being harmed.”** So Allah has obliged the State to collect money from Muslims to cover expenditure on these needs and interests.

If this situation arises, then the State must impose taxes upon Muslims such that obligatory expenditure on these needs and interests is met without being exceeded. The State should collect them from what is surplus to the people's basic needs and luxuries according to the normal standards of living.

The following are the interests which are funded by the *Bait ul-Mal*, or by taxing the Muslims where there are no longer any funds in the *Bait ul-Mal*.

1. The expenditure upon *Jihad* and what is necessary for it. This includes building a strong army and giving it a high standard of training, preparing it with developed weapons such that their quantity and quality deter, subdue and frighten the enemy, liberate our lands and terminate the influence of *Kuffar* in the Muslim's lands and enable it also to convey Islam to the world. The right of expenditure on *Jihad* and what is necessary for it is of the rights due upon the *Bait ul-Mal* whether there are funds in the *Bait ul-Mal* or not. If there are funds in it, then they are spent on *Jihad* and its requirements. If there are no funds, then the duty of spending on it, as long as *Jihad* is obligatory and designated, transfers from the *Bait ul-Mal* to the Muslims, for *Jihad* is obligatory upon them by wealth and person.

Allah Ta'ala said:

انْفِرُوا خِفَافًا وَثِقَالًا وَجَاهِدُوا بِأَمْوَالِكُمْ وَأَنْفُسِكُمْ فِي سَبِيلِ اللَّهِ ذَلِكُمْ خَيْرٌ لَكُمْ إِنْ كُنْتُمْ تَعْلَمُونَ

“Go forth light or heavy and fight with your wealth and persons in the way of Allah. That is better for you if you but know!” [At-Tauba: 41]

Anas narrated he said that the Messenger of Allah ﷺ said: **“Fight the polytheists with your wealth, your hands and your tongues.”** In addition, there are tens of *Ayat* and *Abadith* that oblige *Jihad* by wealth and person upon Muslims.

In the situation where there are no funds in the *Bait ul-Mal* to spend on *Jihad* and its requirements, the State must hurry to encourage Muslims to

voluntarily contribute to *Jihad* as the Messenger of Allah ﷺ used to do. Ahmad extracted from Abdur Rahman bin Khabbab as-Salmi, he said: **“The Prophet ﷺ gave a Khutbah (speech) and exhorted regarding the army of difficulty, so Uthman bin Affan said: ‘Upon me are 100 camels with their saddle-blankets and saddle bags.’ He said: ‘Then he descended the steps of the pulpit (Mimbar) and exhorted again, so Uthman said: ‘Upon me are another 100 with their saddle-blankets and saddle bags.’”** Hudhayfa bin al-Yaman said: **“The Prophet ﷺ sent to Uthman seeking assistance from him for the army of difficulty, so Uthman sent to him 10,000 Dinars which were poured before him. The Prophet ﷺ began turning them before him while praying for him and he said: ‘May Allah forgive you, O Uthman, for what you have made secret, what you have revealed, what you have hidden, and all that will be until the Hour comes. Uthman should not mind of any action he does after this.’”**

If the contributions of the Muslims are insufficient to spend on the designated *Jihad*, then the State will impose taxes upon Muslims up to the amount necessary and no more, to spend on *Jihad* and its requirements. It is not allowed for her to obtain more than the required amount for this.

2. Expenditure on military industries together with what they require of other industries and factories to enable the manufacturing of required weapons. This is because *Jihad* requires an army, and the army inevitably requires weapons so that it can fight. Weapons, in order to be sufficient and of the highest standard, require manufacturing. The military weapons industry therefore, has an intimate relationship and tight link with *Jihad*. For the State to be in full control of her affairs and free from the influence and control of others over her, she must undertake the production and development of her weapons particularly the vital weapons. This is in order that she has the most modern and best weapons, irrespective of how much weapons develop and advance, and also to have under her control all of that she needs of weapons to scare every enemy whether open or hidden, according to the international position she is in.

The absence of these factories for the *Ummah* makes Muslims dependent upon *Kafir* states for armament, a matter which might make the Muslims' will and decisions subject to the will and decisions of *Kafir* states. These states would not sell weapons except with conditions that fulfil their interests, and

this would inflict the most terrible harm upon the *Ummah*.

Establishing of these factories is thus obligatory upon Muslims from the texts of the *Ayat* and *Ahadith* that oblige *Jihad* upon Muslims by wealth and person through the indispensable indication (*Dalalat al-Iltizam*). This is because *Jihad* depends upon weapons and weapons require industry.

This is also indicated by the saying of the Allah Ta'ala:

“Prepare for them as much as you can of power and tethered horses so as to frighten the

وَأَعِدُّوا لَهُمْ مَا اسْتَطَعْتُمْ مِنْ قُوَّةٍ وَمِنْ رِبَاطِ الْخَيْلِ تُرْهِبُونَ بِهِ عَدُوَّ اللَّهِ وَعَدُوَّكُمْ
وَأَخْرَيْنَ مِنْ دُونِهِمْ لَا تَعْلَمُونَهُمُ اللَّهُ يَعْلَمُهُمْ

enemy of Allah and your enemy, and others besides them whom you do not know but Allah knows.” [Al-Anfal: 60]

The preparation commanded by Allah is the preparation which achieves the terrorising of the enemies, whether they are open, hidden or potential. This terror depends upon acquiring vital and developed weapons of the highest level, and acquiring these weapons depends upon establishing factories. Therefore, this *Ayah* indicates the obligation upon the *Ummah* of establishing factories by the indispensable indication. Moreover, the absence of these factories inflicts a terrible harm upon the *Ummah*, and removing harm from the *Ummah* is obligatory. The removal of this harm will not be achieved except by establishing military manufacturing and other associated industries.

It is permissible for individuals from within the *Ummah* to establish all or some of these industries to manufacture the necessary weapons. If they do not establish them, or they establish only some of them, then it is obligatory upon the State to build factories necessary to produce all the obligatory weapons and equipment. Building these factories is of the obligatory rights, whether there are funds in the *Bait ul-Mal* or not. If funds are present, then they are spent to build these factories. If there are no funds in the *Bait ul-Mal* to spend on these factories, then the financial obligation transfers to the *Ummah*. In this case the state introduces a tax in order to raise the necessary funds, irrespective of the amount.

3. Spending on the poor, needy and wayfarers. This is an obligation

whether there are funds in the *Bait ul-Mal* or not. The expenditure is from the *Bait ul-Mal*, in the case where there is sufficient funding present. If there are no funds in the *Bait ul-Mal* then the obligation transfers to the Muslims. This is because spending upon the poor, needy and wayfarers has been obliged by Allah upon Muslims in the form of *Zakat* and *Sadaqah*. The Prophet of Allah has narrated from his Lord: **“The one who goes to sleep satisfied while he knows that his neighbour next to him is hungry does not believe in me.”** Therefore, if there are funds in the *Bait ul-Mal* to spend on the poor, needy and wayfarers then they are spent on them. If not, the obligation is transferred to Muslims and the State raises taxes for this purpose such that the required amount of funding is raised.

4. Expenses such as the salaries of soldiers, civil servants, judges, teachers and the like who provide services for the benefit of the *Ummah*. They deserve, in return for providing these services, wages from the *Bait ul-Mal*, and the right to spend upon them is an obligation whether or not there are funds in the *Bait ul-Mal*. If there are funds sufficient in the *Bait ul-Mal*, then they are spent upon them. If not, then the obligation is transferred to the Muslims. This is because Allah ﷻ has ordained the authority (*Sultan*) for the *Ummah* and He ﷻ obliged her to appoint a *Khalifah* to whom she pledges allegiance (*Bay'ah*) to hear and obey according to the Book of Allah ﷻ and the *Sunnah* of His Messenger ﷺ. The *Khalifah* undertakes this authority on her behalf and takes care of her affairs in accordance with the Book and *Sunnah*. Taking care of her affairs can only be accomplished by establishing the institutions of the State, including government institutions such as, judges, soldiers, teachers and civil servants. Appointing such people in the State requires the payment of compensation and wages. Since Allah has obliged the Muslims to appoint such people, then He ﷻ has also obliged them to pay their compensation and wages by indispensable indication. The Prophet of Allah ﷺ appointed governors, employees, secretaries and assigned awards (*‘Atiyyat*) for them. Similarly the *Khulafa’u* after him appointed governors, officials, judges, secretaries and soldiers, and they assigned awards for them from the *Bait ul-Mal*.

Funding for these people is thus taken either from the *Bait ul-Mal* or by imposing the required taxes on the Muslims where the *Bait ul-Mal* has insufficient funds for this purpose.

5. Expenses due in the form of service and caring of the *Ummah*.

These are spent on the utilities whose existence is considered necessary (*Dharura*) such that their absence results in harm to the *Ummah*. These could include public roads, schools, universities, hospitals, mosques, water supplies and similar services. The right of spending upon these matters is considered obligatory whether or not there are funds in the *Bait ul-Mal*. If there are funds in the *Bait ul-Mal* then they are used to establish these utilities. If not, then the obligation to spend upon them is transferred to the Muslims. This is because spending upon them is obligatory upon Muslims. Any failure to establish them will result in harm to the *Ummah*. Harm must be removed both by the State and the *Ummah* due to the saying of the Prophet ﷺ: **“It is not allowed to do harm nor to allow being harmed” and his saying: “Whoever harms (others) then Allah will harm him, and whoever overburdens them Allah will overburden him.”**

It is forbidden to impose taxes upon the *Ummah* to raise funds for expenditure which is obligatory when there are funds in the *Bait ul-Mal*, but not forbidden when there are no funds. This could be expenditure on services offered by the State and supplied to people in the form of caring utilities where no harm afflicts Muslims if they are not provided. An example is the opening of a second road or refurbishing it when there is another suitable road that can meet the need. Or like building a school, university or hospital where there are other suitable ones that can meet the need, or widening streets that need not necessarily be widened. Another example is the establishment of projects where failure to do so does not result in harm to the *Ummah*, like mining nickel, antimony or building a shipyard to build commercial ships. The State undertakes all these matters when there are surplus funds in the *Bait ul-Mal* in contrast to the expenditure on the interests where the failure to spend on them results in harm to the *Ummah*. If there are no funds in the *Bait ul-Mal*, then the State does not undertake them nor is it permitted to impose taxes for their sake. This is because Muslims are not harmed by failure to establish them, and thus establishing them is not obligatory.

If there are funds in the *Bait ul-Mal*, they are spent upon establishing and providing the necessary utilities, if not, the State imposes taxes to raise the necessary amount to establish or provide these utilities.

6. Expenditure upon emergencies like famines, earthquakes, floods and enemy attacks. The right of spending on these matters is not linked to

the presence of funds in the *Bait ul-Mal*. Such spending is obligatory irrespective of whether there are funds in the *Bait ul-Mal* or not. If there are funds in the *Bait ul-Mal*, then they must be spent immediately whenever these emergencies occur. If there are no funds, then it becomes obligatory upon the Muslims, and the funds have to be collected from them immediately and without delay. If harm is feared due to any delay, then the State borrows the amount necessary to spend upon these emergencies and then pay back what it borrowed from what it is collected from Muslims. The evidence for obliging this upon Muslims is the *Hadith*: **“The one who goes to sleep while knowing that his neighbour next to him is hungry does not believe in me”**: and the *Hadith*: **“The covenant of Allah is removed from the people of any locality in which there are people hungry.”** This is in relation to famine. As for earthquakes and floods, the evidences for the obligation of saving the unfortunate and removing harm from Muslims are the evidences for obliging such expenditure upon Muslims.

These are the interests upon which Muslims are obliged to spend when there are no funds in the *Bait ul-Mal*, and for which the State has to impose taxes upon Muslims in order to spend upon them when the permanent sources of revenues of the *Bait ul-Mal* and the revenues from the protected public properties (*Hima*), are insufficient.

Taxes are taken from the wealth of Muslims which is in excess of the basic needs and luxuries according to their standards of normal living. Taxes are collected from the Muslims who have wealth surplus to the satisfaction of their basic needs and luxuries. Nothing is taken from those who have no surplus wealth. This is due to the saying of the Prophet ﷺ: **“The best Sadaqah is that given out of richness.”** The richness here means that which the person can afford after satisfying his needs. It was narrated from Jabir that the Messenger of Allah ﷺ said: **“Start with yourself when giving Sadaqah. If there remains any excess, then to your family. If there remains any excess, then to your relatives. If there remains any excess, then do like this, give those in front of you and those to your right and those to your left.”** He ﷺ deferred the obligation to spend upon anyone else till after spending upon oneself. Similar to this are taxes as they are like financial maintenance and like *Sadaqah*.

Allah ﷻ says:

وَيَسْأَلُونَكَ مَاذَا يُنْفِقُونَ قُلِ الْعَفْوَ

“They ask you of what they should spend. Say: The excess (al-’afu)”

[Al-Baqarah: 219]

In other words, that which causes no hardship in spending and which is extra to one’s need. Taxes are taken from all wealth in excess of need, not from the income.

Taxes are collected to raise the amount required and necessary to cover the deficit in the obligatory expenditure in the previously mentioned interests. No consideration is given, while raising taxes, to the notion of preventing increase of wealth, or preventing richness or increasing the revenues of the *Bait ul-Mal*. Consideration is only given for their sufficiency to fulfil the required expenditure on these interests. Nothing extra should be taken as this is injustice, for it is not obligatory upon Muslims to pay more than this, and injustice is darkness on the Day of Judgement.

The State is not allowed to impose indirect taxes, nor to do so in the form of court fees, fees on petitions forwarded to the State, sale or registration of land, buildings or measurements or other types of taxes other than those already mentioned. This is because raising taxes is of the prohibited injustices and of the tax about which the Prophet ﷺ said: **“The tax-collector will not enter Paradise.”**



The Funds (Amwal) of Sadaqat

17 Zakat

The *Sadaqat* which represent a revenue for the *Bait ul-Mal* is the *Zakat*. *Sadaqah* when mentioned generally means *Zakat*, and *Zakat* when mentioned generally means *Sadaqah*. *Zakat* linguistically means the increase, and it also means the purification. It is present in the *Shar'a* with both meanings because giving *Zakat* is a cause of blessing for wealth due to the *Hadith*: “The property of a person (*‘Abd*) does not decrease because of *Sadaqah*,” or reward increases because of it. It also purifies the soul from stinginess and it is a purification of sins.

It is defined in the *Shar'a* as a determined right due from certain types of wealth. It is one of the worships (*‘Ibadat*) and a basic element (*Rukn*) of Islam like prayer, fasting and *Hajj*. *Zakat* is obliged upon Muslims only, and is not taken from others. It’s obligation is established by the Book and *Sunnah*. Allah ﷻ says:

وَأَتُوا الزَّكَاةَ

“Give the Zakat” [Al-Muzzammil: 20]

The Prophet ﷺ sent Mu’az to Yemen and said to him: “Inform them that Allah obliged *Sadaqah* upon their wealth that is taken from their rich and given to their poor.” Harsh punishments are promised to those who prevent and withhold the *Zakat*. Abu Hurayra narrated that the Prophet ﷺ said: “No owner of gold or silver who fails to give its due right except that he will have sheets of fire made for him on the Day of Judgement. They will be heated in the Hellfire then used to burn his sides, forehead and back. Whenever they cool, they are reheated to him in a Day which is 50,000 years long, until it is judged between the people and he is shown his path, either to Paradise or to the Fire.” It was said:

‘O Messenger of Allah, what of the camels?’ He said: “No owner of camels who fails to give their due right, and of their right is their milk the day they reach water, except that on the Day of Judgement a level plain will be extended for camels as most plentiful without one young camel been lost. They will trample him with their feet and bite him with their mouths. As soon as the first one passes him the last one will return in a Day which is 50,000 years long, until it is judged between the people and he is shown his path, either to Paradise or to the Fire.” It was said: ‘O Messenger of Allah, what of the cows and sheep?’ He said: “No owner of cows or sheep who fails to give their due right, except that on the Day of judgement a level plain will be extended for the cows and sheep, without anyone of them being lost whether a rebellious one, or of broken horn or of scanty hair on head. They will butt him with their horns and trample him with their cloven hoofs. As soon as the first one passes by the last one will return in a Day which is 50,000 years long, until it is judged between the people. Then he will be shown his path, either to Paradise or the Fire.” (narrated by the five except At-Tirmizi)

The *Zakat* is a personal duty (*Fardh ‘Ayn*) on every Muslim who possesses the minimum amount (*Nisab*) in excess of his debts for the duration of a year. Whenever it becomes obligatory upon the wealth of a Muslim, it cannot be abolished. Its collection is independent of the State’s needs or the *Ummah*’s interests unlike the tax funds, which might be collected from the *Ummah* only in cases where there are no funds in the *Bait ul-Mal* to meet the State’s needs and the *Ummah*’s interests. Rather it is the right of the eight categories that the State must deliver to the *Bait ul-Mal* whenever it becomes due, whether there is a need for it or not. *Zakat* is not of the rights of the *Bait ul-Mal* nor is it a beneficiary from it. It is a right of the eight categories specified by Allah ﷻ in the *Ayah*:

إِنَّمَا الصَّدَقَاتُ

“Verily the Sadaqah is only for...” [At-Tauba: 60]

The *Bait ul-Mal* is only a place of sanctuary for it, such that the *Imam* will spend from it to those specified by the *Ayah* according to his view and *Ijtihad*.

Zakat is obliged upon the man, woman, child and insane person due to the general form of the sound *Ahadith* that oblige *Zakat* without restriction. Amru bin Shu'aib narrated from his father from his grandfather he said: **“The Prophet ﷺ preached to the people and said: ‘Verily, whoever has charge over an orphan with wealth then let him invest it. He should not leave it to be eaten by Sadaqah.’”** From Anas (in a *Marfu'* narration): **“Trade in the orphans' wealth (so that) *Zakat* does not consume it.”** Qasim bin Muhammad said: “Aisha used to invest our wealth, as we were orphans, and give *Zakat* from it.” Malik bin Anas considered that there was *Zakat* on the lunatic's wealth, as did Az-Zuhri. From ibn Shihab: **“That he ﷺ was asked about the lunatic's wealth, is there *Zakat* upon it? He ﷺ said: ‘Yes.’”**

Zakat is obliged on the following properties:

1. Livestock including camels, cows and sheep,
2. Crops and fruits,
3. Currency,
4. Trading goods and merchandise.

Zakat is obliged on these properties if they reach the *Nisab* for the duration of one year except for crops and fruits whose *Zakat* is due the moment they are harvested.

Zakat of Livestock

Camels

The first *Nisab* for camels is five, due to the *Hadith* of Abu Said al-Khudri from the Prophet ﷺ: **“There is no Sadaqah on anything less than five camels.”** The camels must be from 5-9 camels as there is no *Zakat* on whoever owns less than five camels. Whoever owns five grazing camels, which graze for most of the year, then a female sheep is obliged upon him.

The *Nisab* of camels, and what is obliged upon them, is as follows:

1. For five camels, one sheep
2. For ten camels, two sheep
3. For fifteen camels, three sheep
4. For twenty camels, four sheep

Zakat is only due when the *Nisab* reaches the levels mentioned above. Any amount between any two *Nisabs* mentioned above is not counted. Thus, for example, twelve camels incur the same *Zakat* as ten, and seven camels the same as five. There is nothing imposed upon more than twenty camels until the number reaches twenty-five. When this happens, *Zakat* is no longer taken in sheep but in camels. Al-Laith bin S'ad said: “This is the book of Sadaqa: Upon twenty camels and what is below that, a sheep upon every five camels.” Al-Laith said: “Naf'i narrated to me that this is the transcription of 'Umar ibn Al-Khattab's book.” Malik bin Anas said: “I read the book of 'Umar ibn Al-Khattab on *Sadaqah* and it said within it: *In the name of Allah, Ar-Rahmaan, Ar-Rabeem*. This is the book of *Sadaqah*. Up to twenty four camels, a sheep in every five camels.” When they reach twenty-five camels, then the *Nisab* and what is obliged upon them is:

1. For twenty-five camels, a baby (*Makbadh*) of female camels which

has reached one year and entered into the second. *Al-Makhadh* is the pregnant one. In other words a female camel that has entered the time of being pregnant. If the owner of the camels does not have a baby (*Makadh*), then a male milk-bearing camel (*Labun*), which has reached two years and has entered into the third, is taken.

2. For thirty-six camels, a female milk-bearing camel (*Labunah*) which has reached two years and has entered into the third. It is given this name because her mother is about to give birth such that it becomes milk bearing.

3. For forty-six camels, a female (*Hiqqah*) on its way to a male animal (*Taruqat al-Fahl*) which has reached three years and has entered into the fourth. The meaning of (*Taruqat al-Fahl*) is that it is fit to be approached by a male.

4. For sixty-one camels, a *Jaza'a* which has reached four years. It is given this name because its front teeth have fallen.

5. For seventy-six camels, two female milk-bearing camels.

6. For ninety-one camels, two females (*Hiqqah*) which are on the way to be ing approached by a male.

There is no *Zakat* between any two previously mentioned numbers. If the number of camels increases over ninety-one, there is no extra *Zakat* upon them until they reach one hundred and twenty one camels. If they reach this number then the counting changes such that a female milk-bearing camel is taken for every forty and a *Hiqqah* for every fifty.

The *Nisab* and what is obliged becomes as follows:

The Nisab of Camels

What is Obligated

1. 121 camels	3 female milk-bearing camels (<i>Bint Labun</i>)
2. 130 camels	1 <i>Hiqqah</i> and a female milk-bearing camel
4. 150 camels	3 <i>Hiqqah</i>
5. 160 camels	4 female milk-bearing camels
6. 170 camels	1 <i>Hiqqah</i> and 2 female milk-bearing camels

7. 180 camels	2 <i>Hiqqah</i> and 2 female milk-bearing camels
8. 190 camels	3 <i>Hiqqah</i> and 1 female milk-bearing camel
9. 200 camels	4 <i>Hiqqah</i> or 5 female milk-bearing camels

There is no *Zakat* on an increase between two numbers. The evidence for all this is what was narrated by Anas, that Abu Bakr wrote to him in this book when he sent him to Bahrain: **“In the name of Allah, Ar-Rahmaan, Ar-Raheem. This is the obligation of Sadaqah which the Messenger of Allah ﷺ obliged upon the Muslims and which Allah commanded His Messenger with. Whoever requests it from the Muslims in the correct manner, then he should be given; but whoever asks for more should not be given. Up to twenty-four camels, it is taken as sheep, with a sheep taken in every five. When they reach twenty-five up to thirty-five, a female Bint Makhadh is taken. When they reach thirty-six to forty five, a female milk-bearing camel (Bint Labun) is taken. When they reach forty-six up to sixty, a Hiqqah on its way to a male is taken. When they reach sixty-one up to seventy-five, a Jaza’a is taken. When they reach seventy-six up to ninety, female milk-bearing camels are taken. When they reach ninety-one up to one hundred and twenty, two hiqqah on the way to a male are taken. When they increase beyond one hundred and twenty, a female milk-bearing camel in every forty and a hiqqah in every fifty is taken. Whoever does not own more than four camels then there is no Zakat upon him unless if the owner himself wishes. But a sheep is due when they reach five camels.”**

If there does not exist a camel of the age which is obliged among the camels and a lower-age (camel) is taken, then the camels’ owner must give a further two sheep on top of that or twenty *Dirhams*. If an older camel is taken, then the owner of the camels must be given two sheep or twenty *Dirhams*. Twenty *Dirhams* are equivalent to 59.5 grams of silver. An example of this is as follows: when the camels are forty-six then a *Hiqqah* is obliged. If the camels’ owner has no hiqqah but he has a female milk-bearing camel, then he must give two sheep, or twenty *Dirhams*, in addition to the milk-bearing camel. If he has no female milk-bearing camels but he has a *Jadh’a*, then he must be given either two sheep or twenty *Dirhams*. All this is due to what was narrated by Anas: **“That Abu Bakr wrote to him the obligation of Sadaqah that Allah commanded His Messenger ﷺ. Whoever must give a Jaza’a as Sadaqah for the camels yet doesn’t have a Jaza’a but**

instead has a *Hiqqah*, then the *Hiqqah* is accepted from him and he must give together with it two sheep if that is easy for him or twenty Dirhams. And whoever must give a *hiqqah* as *Sadaqah* for the camels yet doesn't have a *Hiqqah* but instead has a *Jaza'a*, then the *Jaza'a* is accepted from him and the *Zakat* collector should give him twenty Dirhams or two sheep."

The *Sadaqah* of camels is taken from their type and description. So the *Bukhti* camel is taken from the *Bukhti* camels, the *Irabi* camel from the *Irabi* camels, the noble camel from the noble camels, the fat camel from the fat camels, and the defected and skinny camel from defected and skinny camels. Neither the decrepit, one-eyed or sick camels are taken. It is narrated that the Prophet ﷺ said: "Whoever does these three things has enjoyed the taste of belief: whoever worships Allah alone, and that there is no god but Allah, and gives the *Zakat* on his wealth with delight every year it is due, and he does not give of the very old, filthy, the sick nor the defected, but of the average standard of your wealth. For Allah does not ask you of its best nor does He command you of its worst."

Cattle (Cows)

The *Zakat* of cattle is obliged by the *Sunnah* and *Ijma'a as-Sahabah*. As for the *Sunnah*, this is due to what was narrated by Abu Dharr that the Prophet ﷺ said: "No owner of camels, cattle or sheep will fail to give their due right except then will come bigger and fatter than they were on the Day of Judgement to butt him with their horns and trample him with their hoofs" (agreed upon). As for *Ijma'a as-Sahabah*, verily they agreed upon the obligation of *Zakat* upon cattle.

Zakat is obliged on grazing cattle that graze most of the year; these are the ones taken and reared for progeny and increase. As for working cattle, there is no *Zakat* upon them. From Ali who said: "There is no *Sadaqah* upon working cattle." Amru b. Dinar said that it reached him that the Messenger of Allah ﷺ said: "There is no *Sadaqah* on *Muthira* bulls which are used for ploughing the soil." Jabir b. Abdullah said: "There is no *Sadaqah* upon the *Muthira*." The *Muthira* is the cow that ploughs the soil.

The first *Nisab* of cattle upon which *Zakat* is obliged is thirty.

The *Nisab* and what is due upon them is as follows: -

1. A *Tabi'a* male or female in thirty cattle. The *Tabi'a* is the male cow of one year old who has entered into the second. It is given that name because it has become capable of following its mother.
2. A *Musinna* in forty cattle. The *Musinna* is the female of two years who has entered into the third.

The evidence for this is what was narrated by An-Nisai and At-Tirmizi: "That the Prophet ﷺ sent Muaz to Yemen and commanded him to take a *tabi'a* from every thirty and a *musina* from every forty."

3. Two *Tabi'a* or *Tabi'ab* (female) in sixty cattle.
4. A *Musinna* and a *Tabi'a* from seventy cattle.
5. Two *Musinna* from eighty cattle.
6. Three *Tabi'a* from ninety cattle.
7. A *Musinna* and two *Tabi'a* from one hundred cattle.
8. Two *Musinna* and one *Tabi'a* from one hundred and ten cattle.
9. Three *Musinna* or four *Tabi'a* from one hundred and twenty cattle.

There is no *Zakat* on any increase between two numbers due to what Yahya b. Al-Hakam narrated that Muaz said: "The Messenger of Allah ﷺ sent me to collect *Sadaqah* from the people of Yemen. He commanded me to take a *Tabi'a* from every thirty cattle and a *Musinna* from every forty." He said: "They offered me that I take from what is between forty and fifty, sixty and seventy, eighty and ninety but I refused and said to them: 'Until I ask the Messenger of Allah ﷺ about that.' So I came and informed the Prophet ﷺ. He commanded me to take a *Tabi'a* from every thirty and a *Musinna* from every forty, two *Tabi'a* from sixty, a *Musinna* and a *Tabi'a* from seventy, two *Musinna* from eighty, three *Tabi'a* from ninety, a *Musinna* and two *Tabi'a* from one hundred, two *Musinna* and a *Tabi'a* from one hundred and ten, and three *Musinna* or four *Tabi'a* from one hundred and twenty." He said: "The Messenger of Allah ﷺ commanded me not to take from what is between that." And Muaz b. Jabal said: "The Messenger of Allah ﷺ did not command me anything from *awqas* of cattle." The *Awqas* is the plural of *Waqas* which is the number is between two *Nisabs*.

The rule of buffalo is the same as that of cattle in *Zakat*, and if they are together with cattle they are counted together with them in number. Malik b. Anas said: “The buffaloes and cattle are the same, the *Bakhati* and the *‘Irabi* are the same, and the lamb and goat in the sheep are the same.” Ibn Shihab narrated that ‘Umar b. Abdul Aziz wrote to his officials: “That you take the *Sadaqah* of buffaloes just like you take the *Sadaqah* of cattle.”

Lamb, Sheep (al-Ghanam) and Goats

The *Zakat* of sheep and goats is obliged by *Sunnah* and *Ijma’a as-Sahabah*. As for the *Sunnah*, this is due to what Abu Dharr narrated from the Prophet ﷺ saying: “**No owner of camels, cattle or sheep/goats will fail to give their due right except they will come bigger and fatter than they were, on the Day of Judgement to butt him with their horns and trample him with their hoofs**” (agreed upon).

As for *Ijma’a as-Sahabah*, verily they had a collective consensus without anyone differing upon the obligation of *Zakat* upon sheep and goats. *Zakat* is obliged upon grazing sheep and goats that graze most of the year, once a full year passes after they have attained the *Nisab*. Abu Bakr narrated from the Prophet ﷺ in a long *Hadith* that he said: “...**and a female sheep (Shat) in grazing sheep and goats if they are forty...**” and also due to his ﷺ saying: “**There is no Zakat on property until a year has passed over it.**”

The minimum *Nisab* for sheep and goats is forty sheep. If they are less than forty, even by one sheep, there is no *Zakat* upon them. The *Nisab* of sheep and goats, and what is obliged upon them, is as follows: -

1. One female sheep (*Shat*) in a herd of forty .
2. Two female sheep (*Shat*) in a herd of one hundred and twenty one.
3. Three female sheep (*Shat*) in a herd of two hundred and one .
4. Four female sheep (*Shat*) in a herd of four hundred sheep.

There is no *Zakat* on any increase between the two *Nisabs*. Once the sheep and goats reach four hundred sheep, then one female sheep is taken from every one hundred sheep. There is nothing taken from any increase until another one hundred sheep are completed. So if the increase is less than one hundred sheep then there is no *Zakat* on them. The evidence for this is what is narrated from Muhammad b. Abdur Rahman: “Verily in the book of

Sadaqah of the Prophet ﷺ, and the book of ‘Umar ibn Al-Khattab, it is stated that as for sheep and goats (*al-Ghanam*) nothing is taken if they number less than forty. Once they reach forty then a female sheep is taken, until they reach one hundred and twenty sheep. Once they exceed one hundred and twenty, then two female sheep are taken until they reach two hundred. Once they exceed two hundred, then three female sheep are taken until they reach three hundred. He said: ‘Once the sheep and goats increase to three hundred in number, nothing is taken on anything less than a further one hundred, even if they reach ninety nine until the one hundred is completed in full. Then one female sheep is taken from every one hundred sheep. Thereafter the decrepit is not taken nor the male unless the payer of *Sadaqah* so wishes.’” And in the book of *Sadaqat* which is with the family of ‘Umar ibn Al-Khattab: “If they increase over three hundred and one there is nothing upon them until they reach four hundred upon which there are four sheep.”

What is Counted and Taken, and What is not Taken in the Zakat of Sheep and Goats

All that a Muslim owns of sheep and goats, young and old, including *as-Sikhal* which are the children of goats and *al-Buhum* which are the children of sheep, are counted on the condition that they were born before the passing of the year.

The *Jaza’a* (four-year old) of the lamb is taken in the *Zakat* of sheep which is six months old, as well as the *Thaniyy* of the goats which is one year old. There is no difference between the males and females. The male is taken as is the female. The average is taken, not the best or the worst.

The children of the goats are not taken, nor are the young sheep as they are not fit for *Zakat*. Similarly the sheep that has given birth or the one on the way to giving birth is not taken; nor is the sheep being reared for milk or meat, nor is the male sheep or goat taken, except if their owner volunteers and offers them for *Zakat*. In this case they are accepted and there is an extra reward for him as it is more than what it is obliged. The evidence for all this is what Beshr b. Asim narrates from his father that ‘Umar ibn Al-Khattab appointed Abu Sufyan b. Abdullah over Taif and its districts. So he went as a collector of *Zakat* and counted against them the *Ghazi* (young goat) but did not take them from them. They said to him: “If you count the

Ghazi against us then you should take them, but he held back until he met ‘Umar and said: “I know that they claim we are oppressing them. We counted the *Ghazi* against them but did not take them.” So ‘Umar said to him: “Count against them the *Ghazi*, the male, and even the *Sakhlal*, the female that the shepherd carries on his hand. Say to them: ‘I will not take the *Rubiyi*, that is the one that gave birth, the one in labour, the one for milk, nor the sheep for eating. Nor will I take the one being fattened for slaughter or the male sheep goat. Instead take the *Inaq*, the one that has not reached the year of goats, the *Jaza’a* (four-year old) and the *Thaniyya* as that is the average between of the property i.e. the *Sikhal* and the best of it.” Also the saying of the Prophet ﷺ: **“Verily our right is only in the Jaza’a and the Thaniyya.”**

The very old is not taken for *Zakat* nor is the one with a defect due to the saying of the Glorified:

وَلَا تَيَّمُّوا الْخَبِيثَ مِنْهُ تُنْفِقُونَ

“Do not aim at getting anything bad in order that you may give away something of it”
[Al-Baqarah: 267]

Also the Prophet ﷺ’s saying: **“The very old is not taken for Zakat nor the one with one eye or the male goat unless the one giving Sadaqah wishes to do so.”** If the collector of the *Sadaqah* accepts to take these types because all the sheep and goats are very old or with defect(s), then it is allowed for him to take them.

The Rule on Partners in Sheep (al-Ghanam)

The partnership or mixing in grazing sheep makes the property of the partners or two associates like the property of one man in *Zakat*. This is the case whether the livestock is shared jointly between them such that each one has a common unspecified share, for example if they inherit a portion, purchase them in partnership or they are gifts given to both of them so they retain them in this situation without separation or division. This may be whether they were given to them together or they were separate shares and they mixed them later on, i.e. the property of each one is distinct but they mixed them and became partners together; whether they were of equal shares or not, with regards to shepherding, pasture, male sheep (*al-Fahl*) or

drinking place. The sheep of a partnership or mixing, irrespective of the number of partners or associates or their shares, are counted like the sheep and goats of one man in taking *Zakat*. They are counted as one and remain in their situation without separation or combination. If they reach forty then the collector of *Sadaqah* takes one sheep, if they reach one hundred and twenty one, two sheep are taken. Three sheep are taken if they reach two hundred and one, and four sheep are taken if they reach four hundred.

The collector of *Sadaqah* divides what he takes as *Zakat* from the partners or associates according to their shares in the sheep such that the least among them returns to the higher in his share due to the Prophet ﷺ’s saying: **“Whatever is taken from two associates they return to each other in equality.”**

The collector of *Sadaqah* leaves the sheep and goats as they are and counts them. It is not allowed to separate them in order to take more, eg. when there are three partners with one hundred twenty sheep with each person owning forty sheep and the *Sadaqah* collector aims to separate them in order to take three sheep, one from each person. This is not allowed for him rather he must leave them as they are and take only one sheep. Similarly it is not allowed for the owners of the sheep to separate them once the *Sadaqah* collector came to collect *Zakat*, in order to reduce, or eliminate, the *Zakat* upon them. This is when two partners or associates have 201 sheep which they divide (between them) so as to pay two sheep instead of the three if the sheep were to remain undivided due to their partnership. Similarly, they may have together forty sheep but they divide them so as not to pay anything after the division.

Just as it is not allowed to divide a group of sheep, it is also not allowed to gather them when they are separated with the intention to reduce what is to be paid from them. This is seen for example where two men have eighty sheep, each having forty sheep separately and not in partnership. However when the *Sadaqah* collector comes they mix them together so as not to pay from them except one sheep instead of each paying one sheep. The evidence for the illegality of dividing a collected cattle or collecting the divided one is what Sa’ad b. Abi Waqqas narrated when he said: “The Messenger of Allah ﷺ said: **‘Do not divide between a collected group, nor gather together those which are divided, for Sadaqa. And the two associators are those who gather together in male sheep, pasture, and water.’**” And in another

narration: “and (al-Ra’iy) shepherd.”

The *Zakat* of livestock is taken from what it is obliged of camels, cattle and sheep and goats. It is not allowed to take its value instead as the *Abadith* texts have specified the exact thing, and the ages, to be taken of camels, cattle and sheep and goats.

If livestock such as camels, cattle, buffaloes and sheep/goats are taken for trade then their *Zakat* becomes the *Zakat* of trading merchandise not the *Zakat* of livestock, so their number and ages are not considered. They are assessed like trading goods in silver *Dirhams* or golden *Dinars*. If their value reaches 200 silver *Dirhams*-which is the *Nisab* of silver, i.e. 595 grams of silver on the basis that a silver dirham is equivalent to 2.975 grams of silver, or it reaches 20 golden *Dinars*, which is the *Nisab* of gold i.e. 85 grams of gold on the basis that a *Dinar* is equivalent to 4.25 grams of gold, then quarter-tithe (2.5%) is obliged upon it as the amount obliged on trading merchandise.

The Zakat of Crops and Fruits

The *Zakat* of crops and fruits is obliged by the Book and the *Sunnah*. As for the Book, there is the saying of the Allah ﷻ:

وَأْتُوا حَقَّهُ يَوْمَ حَصَادِهِ

“And give its right the day of its harvesting” [Al-Anam: 141]

As for the *Sunnah*, there is the saying of the Prophet ﷺ: “**There is no Sadaqah on anything less than five (Awsuq)**” (agreed upon). *Awsuq* is plural of *Wasq* which is a measure of 60 sa’a and the *Sa’a* is 2.176 kg. Also ibn ‘Umar narrated from the Prophet ﷺ who said: “**There is tithe (‘Ushr) on land which receives its water from the sky, a river or was ‘Athariyya (trees or plants watered by rain). There is half-tithe on land which was irrigated by a bucket from rivers or wells**” (collected by Bukhari).

The types of Crops and Fruits upon which Zakat is obliged

Zakat is obliged upon wheat, barley, dates and raisins due to what Musa b. Talha narrated from ‘Umar who said: “**Verily the Prophet ﷺ only decreed the sunnah Zakat in these four: wheat, barley, dates and raisins.**” Musa b. Talha also said: “**The Messenger of Allah ﷺ also commanded Muaz b. Jabal-when he sent him to Yemen-that he should take Sadaqah from wheat, barley, dates and grapes.**” These *Abadith* clarify that the *Zakat* in crops and fruits is only taken from these four types, namely wheat, barley, dates and raisins. It is not taken from other types of crops and fruits. This is because the first *Hadith* begins with the word “*Innama*” which indicates restriction. What also emphasises the limiting of *Zakat* in these four types is what was collected by Al-Hakim, Al-Bayhaqi and At-Tabarani from the

Hadith of Abu Musa and Muaz when the Prophet ﷺ sent them to Yemen to teach people the matters of their deen; so he said: **“Don’t take Sadaqah except from these four: Barley, wheat, raisins and dates.”** Al-Bayhaqi said of this *Hadith*: Its narrators are trustworthy and it has a continuous transmission. This *Hadith* is explicit in limiting the taking of *Zakat* in crops and fruits in these four types, because the word “*Illa*” (except) if preceded by the article of negation or prohibition would mean restricting what is before it to what is after it i.e. restricting the taking of *Sadaqah* to the four types mentioned after it. These are barley, wheat, raisins and dates.

Also as the words wheat, barley, dates and raisins which came in the *Hadith* are defective nouns (not derived), then these words do not cover others whether through their direct meaning (*Mantuq*), their indirect meaning (*Majbuh*) or by indispensable indication (*Illizām*). This is because they are not descriptive nouns (*Asma Sifaat*) or nouns of meanings (*Asma Ma’ani*); rather they are limited to the specific assets (*‘Ayaan*) that are named or mentioned. Therefore one could not derive from their wording the meaning of nourishment (i.e. food) or dryness or storage as their wording does not indicate these meanings or descriptions. These *Abadith* that restrict the obligation of *Zakat* to these four types of crops and fruits specify the general wording present in the *Abadith*: **“There is tithe on that land which gets water from the sky, and half-tithe on that land irrigated by a pot or Daliya (a sort of bucket).”** So it means that tithe is due on whatever was watered by the sky of wheat, barley, dates and raisins and what was irrigated by a pot, *Gharab* or buckets.

Zakat is not obliged on other than these four types of crops and fruits. Therefore, no *Zakat* is taken from maize, rice, beans, chickpeas, lentils or other types of grains and legumes. Similarly, it is not taken from apples, pears, peaches, apricots, promenade, oranges, banana or other types of fruits because these types of grains and fruits are not included by the words wheat, barley, dates or raisins. Also there is no authentic and genuine text, *Ijma’u* or analogy (*Qiyas*) covering them. This is because *Zakat* is of the worships (*Ibadat*) and analogy (*Qiyas*) does not function in worships which are strictly limited to the text. Likewise *Zakat* is not taken from vegetables such as cucumber, squash, aubergine, turnip, carrots etc. It has been narrated from ‘Umar, Ali, Mujahid and others that there is no *Sadaqah* on vegetables as narrated by Abu Ubaid, Al-Bayhaqi and others.

The Nisab of Crops and Fruits

The lowest *Nisab* of crops and fruits upon which *Zakat* is obliged is five *Ansuh*. So if wheat, barley, dates and raisins do not reach five *Ansuh* there is no *Zakat* upon them, due to what was narrated from Abu Said al-Khudri who said: “The Messenger of Allah ﷺ said: **“Nothing is taken until it reaches five *Ansuh*.”** Also from Jabir who said: “*Sadaqah* is not obliged except on five *Ansuh*” (collected by Muslim). The *Wasq* is sixty *Sa’a* as Abu Said and Jabir narrated from the Prophet ﷺ who said: **“The *Wasq* is sixty *sa’a*.”** The *Sa’a* is four *amdad* and the mudd is 1 1/3 *Baghdadi* ounces. The *Sa’a* is equivalent to 2.176 kilograms and the *wasq* is equivalent to 130.56 kilograms of wheat. So the weight of five *Ansuh* - which is the *Nisab* of *Zakat*-of wheat is 652 kilograms. This weight differs from the weight of barley, dates and raisins as these are not of equal weight for the same volume measure, and the *Nisab* depends upon the volume not the weight, because *Zakat* is related to it as was stated in the relevant *Abadith*.

The time of collecting the Zakat in Grains and Fruits

If the grains and fruits produced by the land reach five *Ansuh*, the *Zakat* on grains is taken after it is harvested, ground and cleaned. While in fruits it is taken after they dry such that the fresh dates (*Rutab*) become dates and grapes become raisins. The passing of a year is not a condition, instead it is the harvesting, cleaning and drying due to the saying of Allah ta’ala:

وَأْتُوا حَقَّهُ يَوْمَ حَصَادِهِ

“And give its right the day of its harvesting” [Al-Anam: 141]

Also the *Sunnah* indicated that *Zakat* is taken after fresh dates and grapes dry such that they change into dates and raisins and after grains are harvested, ground and cleaned.

Estimation of Fruits

It is obligatory upon the State to send evaluators (*Khurraas*) to estimate the fruits that people have from their palm trees (*an-Nakhl*) and grapes after their ripeness becomes apparent. This is due to what Attab b. Usayd narrated:

“The Prophet ﷺ used to send persons to the people to evaluate their grapes and fruits” (narrated by Abu Dawud, ibn Majah and At-Tirmizi). Using different wording, Attab said: **“The Prophet ﷺ commanded that grapes be estimated just like palm trees and its Zakat taken as raisins just like the Zakat of palm trees is taken as dates. The Prophet ﷺ used to do that, so he estimated a garden of a woman living in Wadi Al-Qura.”** (narrated by Imam Ahmad in his Musnad). Abu Bakr acted according to this as did the *Khulafa'a* after him.

The estimators should leave a third or a fourth of their estimation as a dispensation to fruit owners as they require this for eating and feeding their guests, neighbours, families, friends, passers by, those who ask them and for the food of birds that feed upon them. Sahl b. Abu Huthma narrated that the Messenger of Allah ﷺ used to say: **“When you estimate, take and leave behind a third. If not a third, then leave behind a fourth”** (narrated by Abu Dawud, At-Tirmizi and An-Nisai). Makhul said: “When the Messenger of Allah ﷺ sent evaluators he would say: **‘Be lenient, for there are fruits that are lost due to bad weather, fruits that fall down and those that are used by the eaters.’**” Wheat and barley are not estimated as that was not done by the Messenger of Allah ﷺ; also their estimation is not easy as is the situation with palm trees and grapes. Also the fruits of palm trees and grapes are eaten fresh so they are estimated upon their owners as a dispensation for them so as to enable them to eat of the fruits and dispose of through sale, food, gifts etc... after which they pay *Zakat* upon what was estimated. Dates and grapes are estimated in all their types collectively, whether good or bad, and are then collected together. However dates are not gathered together with grapes just as wheat is not gathered together with barley.

If the fruits suffer damage after estimation and before drying, or are damaged without deliberate negligence or are stolen before and after drying, the owner is not responsible for the estimated amount nor is *Zakat* obliged upon them unless what remains is equivalent to the *Nisab*.

The Amount of Zakat taken on Crops and Fruits

If the wheat, barley, dates or raisins produced from the land reach five *Amṣuq* then one-tenth (tithe) is obliged on them if they are watered without personal effort i.e. manually. This includes being watered by rainwater from the sky, rivers or they drink water by extraction of water by its roots, without

being watered similar to trees that are planted in land where water is near to the surface or close to a river or irrigation canal such that their tree-roots reach to water without any need for irrigation. Half-tithe is obliged in what is irrigated with effort, like drawing from wells by watering cans and rivers by water wheels. From ‘Ali who said: **“The tithe in what was watered by the sky and half-tithe in what was irrigated by drawing from wells and rivers.”** Bisr b. Said said: “The Messenger of Allah ﷺ obliged *Zakat* of the tithe in what is watered by the sky, that which is not watered or watered by springs, and half-tithe in what was irrigated by water scoops.” Hakam b. Utayba said: “The Messenger of Allah ﷺ wrote to Muaz when he was in Yemen: **‘The tithe in what was watered by the sky or river (Ghayla), and half-tithe in what was irrigated by bucket (Gharb).’**” The majority of the year is what is relevant in relation to irrigation. If it is watered most of the year without effort, then the tithe is taken, whereas if it is irrigated by effort most of the year, then half-tithe is taken. If it is watered for half of the year without effort, and irrigated with effort in the second half, then three-quarter tithe is taken.

How to collect Sadaqat in Crops and Fruits

The principle in the *Zakat* of crops and fruits is to be taken from the same crop or fruit in which *Zakat* is obliged. Its average is taken, not the best nor the worst. It is not allowed for the *Sadaqah* collector to aim to take the best of the crops and fruits in *Sadaqah* due to the Prophet ﷺ’s statement: **“Avoid the best of their wealth.”** Similarly it is not allowed for the crops or fruits owner to intend to give the worst crops and fruits for *Sadaqah*, due to the saying of Allah ﷻ:

وَلَا تَيْمَمُوا الْخَيْثَ مِنْهُ تُنْفِقُونَ

“Do not aim at getting anything bad in order that you may give away something of it” [Al-Baqarah: 267]

Also the Prophet ﷺ prohibited taking the *Ja’arur* and *Lawn al-Hubayq* in the *Sadaqah* (narrated by An-Nisai). These are two types of bad dates; the first becomes shell around a seed, and the latter becomes bad dates (*Hashaf*) when it dries.

It is permissible in the *Zakat* of crops and fruits to take their equivalent in currency or otherwise instead of taking the exact amount of crop or fruit. This is due to what Amru b. Dinar narrated from Tawus: **“The Prophet ﷺ sent Muaz to Yemen and he used to take clothes for the Sadaqah of wheat and barley.”** Also because there is a type of palm tree whose fresh dates do not become dates, as one finds a type of vine tree grape which does not become raisins, so their value is taken instead. It has been narrated from Muadh in the same subject of *Sadaqah* that he would take goods instead; this is in his statement: “Give me a fifth or dress which I take from you instead of *Sadaqah*. It is easier for you and more beneficial for the *Muhajirin* in Madinah.” It is also found in the *Sunnah* that the Messenger of Allah ﷺ and his companions would oblige a right in money then change it to something else easier for its giver to give than the original money. Of this is the book of the Prophet ﷺ to Muaz in Yemen on *Jizya*: “Upon each mature person is a *Dinar* or its equivalent in clothes (*Mu’afir*).” So the Prophet ﷺ took goods instead of taking the specific thing itself i.e. he took clothes instead of gold. Of this also is what he wrote to the people of Najran: “Upon them two thousand garments every year or its equivalent in ounces of gold and silver.” ‘Umar (RA) used to take camels in *Jizya* instead of gold and silver, as Ali used to take needles, ropes and large needles in *Jizya* instead of gold and silver.

The Zakat of Silver and Gold

The *Zakat* of silver and gold, whether in currency or not, is obliged by the *Sunnah* and *Ijma’a as-Sahabah*. As for the *Sunnah*, this is due to what Abu Hurayra narrated: The Messenger of Allah ﷺ said: **“No owner of gold or silver who fails to give their due right except that he will have sheets of fire made for him on the Day of Judgement. They will be heated in the Hellfire then used to burn his sides, forehead and back. Whenever they cool they are reheated to him in a Day whose length is 50,000 years long until it is judged between the people and he is shown his path, either to Paradise or to the Fire”** (narrated by the five except At-Tirmizi). Also he ﷺ said: **“Whoever is given wealth by Allah and fails to pay its *Zakat* then his wealth will be presented to him on the day of judgement as a bald snake with two spots above its eyes and it surrounds him on the Day of Judgement. Then it will hold him by two sides of his jaw and it will say: I am your wealth, I am your hoarded treasure.”** Then he recited:

وَلَا يَحْسِبَنَّ الَّذِينَ يَبْخُلُونَ بِمَا آتَاهُمُ اللَّهُ مِنْ فَضْلِهِ هُوَ خَيْرًا لَّهُمْ بَلْ هُوَ شَرٌّ لَّهُمْ
سَيُطَوَّقُونَ مَا بَخُلُوا بِهِ يَوْمَ الْقِيَامَةِ

“Let not those who covetously withhold of the bounties which Allah has given them of His grace think that it is good for them. Soon shall what they covetously withhold be tied to their necks like a twisted collar on the Day of Judgement.” [Al-Imran: 180] (narrated by the five except Abu Dawud).

As for *Ijma’a*, the companions had a consensus without anyone disagreeing upon the obligation of *Zakat* on silver and gold.

The Nisab Amount of Silver

The least amount of silver upon which *Zakat* is obliged is five ounces due to his ﷺ saying: **“There is no Sadaqah on anything less than five ounces”** (agreed upon). Its amount is counted as 200 *Dirhams* because each ounce is 40 *Dirhams*. From Ali b. Abi Talib who said: “Five *Dirhams* (are due) in every 200 *Dirhams*.” Muhammad b. Abdur Rahman al-Ansari narrated that in the book of the Messenger of Allah ﷺ, and the book of ‘Umar ibn Al-Khattab, on *Sadaqah* (there was stated): **“Nothing is taken from silver until it reaches 200 Dirhams.”** Thus if silver is less than 200 *Dirhams*, even by just one *Dirham*, then no *Zakat* is obliged upon it, due to its being less than five ounces. The Messenger of Allah ﷺ did not oblige *Zakat* in what is less than five ounces.

The *Dirhams* against which the *Nisab* is considered are the *Shari’ah Dirhams*. Every ten of them are equivalent to the weight of seven *Mithqal* of gold. Each *Dirham* is equivalent to seven-tenths of a *mithqal*. This is the *Shari’ah Dirham* against which is measured the *Nisabs* of *Zakat*, the value of *Jizya*, blood-monies, the *Nisab* of cutting for stealing etc.

The dirham’s weight in grams utilised today is 2.975 grams, so the weight of the *Nisab* of *Zakat* in silver-which is 200 *Dirhams*-becomes 595 grams. It includes the minted silver as currency as well as the dust (*Tibr*) or ingots (*Sabaik*). If the silver is mixed with lead, copper or other types of minerals such that its pure content reaches the *Nisab* of silver, then *Zakat* is obliged and taken from the amount of pure silver in it.

The Amount of Zakat Obligated on the Nisab of Silver

If silver reaches the *Nisab* of *Zakat* and a full year passes over it, then quarter-tithe is obliged in it i.e. five *Dirhams* are obliged in the *Nisab* which is 200 *Dirhams*. This has been established by the *Sunnah*. On the authority of Abu Bakr As-Siddiq it is narrated that the Prophet ﷺ said: **“Quarter-tithe in the Riqqa.”** *Ar-riqqa* is the minted silver. Bukhari narrated the Prophet ﷺ’s saying: **“Bring the Sadaqah of the Riqqa as a Dirham for every forty, and there is nothing due on one hundred and ninety.”** From Muhammad b. Abdur Rahman *al-Ansari* who said that in the book of the Messenger of Allah ﷺ, and the book of ‘Umar, on *Sadaqah* there is the following: “Nothing is taken from silver until it reaches 200 *Dirhams*.” The

five *Dirhams* obliged in the *Nisab* of *Zakat* are equivalent to 14.875 grams, as the dirham’s weight is 2.975 grams.

The Nisab amount of Gold and what Zakat is Obligated in it

The least amount of gold in which *Zakat* is obliged is 20 *Dinars*. If it is less than 20 *Dinars*, even by only one (*Qirat*), then no *Zakat* is obliged in it. Ali b. Abi Talib was reported to have said: “One-half *Dinar* in every 20 *Dinars*, and one *Dinar* (is due) in every forty *Dinars*.” From Amru b. Shuaib from his father from his grandfather from the Prophet ﷺ who said: **“There is no Sadaqah on whatever is less than 20 Mithqal of gold.”** Gold is counted together in all its parts, from the unbroken to the broken, the coined (*Madhruba*), to the dust (*Tibr*) or ingots (*Sabaik*), all is counted as one with regards to the amount.

As for what is obliged in the *Nisab* of gold as *Zakat*, this is quarter-tithe (2.5%) i.e. one-half *Dinar* in the *Nisab*, which is 20 *Dinars*, and one *Dinar* in forty *Dinars* due to the above-mentioned *Hadith*.

Whatever is more than the *Nisab* of gold and silver is subject to the same assessment, i.e. quarter-tithe, whatever the increase, whether small or large. This is different from the rule of livestock where what is between two *Nisab* amounts is forgiven such that there is no *Zakat* in it. As for gold and silver, there is *Zakat* in every increase upon the *Nisab*, and there is only one *Nisab*. Whatever is more than the *Nisab* takes the rule of the *Nisab* and its *Zakat* is collected i.e. quarter-tithe is taken from it.

The weight of the *Nisab* of gold of 20 *Dinars* is 85 grams of gold. The weight of the half-*Dinar* obliged in the *Nisab* of *Zakat* is 2.125 grams gold as the *Dinar*’s weight is 4.25 grams of gold.

No *Zakat* is obliged on the *Nisab* of gold and silver except if a full year passes over it, where the *Nisab* is complete from the beginning to the end of the year. On the authority of Aisha, she said: ‘I heard the Messenger of Allah ﷺ say: **“There is no Zakat in property until a year passes over it.”**’ As for a person who owns less than the *Nisab* of gold or silver at the beginning of the year then he gains wealth so that he completes the *Nisab* before the end of the year, his year begins from the time the *Nisab* is completed, such that when a full year passes, only then is *Zakat* obliged on

it.

However if the *Nisab* of gold and silver is complete from the beginning of the year and it increase during the year then if the increase emanated from trade it is added to the original amount (*Asl*). This is because the year of the increase is considered the same as the year of the original amount, for the increase is of the growth of the original money, and is of its own type, so it has the same rule.

However, if the increase was of the *Nisab*'s type but it did not come through the means of growth such as if it came from inheritance or donation, then a full year must pass upon this increase. It is not added to the original amount nor does it take the rule of its year. Similar to this is when the increase comes from a different type of wealth like an increase in livestock. This is not added to gold and silver and a full year must pass over it before *Zakat* is obliged when it reaches the *Nisab*. The *Nisab* of gold is not completed by silver, nor is the *Nisab* of silver completed by gold, as they are two different types. This is similar to the fact that the *Nisab* of dates is not completed by raisins nor is the *Nisab* of camels completed by cattle, because the *Hadith* says: "There is no *Sadaqah* in what is less than five ounces." Moreover, the Messenger ﷺ made them two different types and allowed quantitative differences between them in exchange transactions.

21

Zakat of Paper Currency

Paper currency is the financial papers which the State issues and makes as its currency and money by which prices of goods and payments for services are assessed. The *Zakat* on this paper currency is the *Zakat* of gold and silver. The rules of *Zakat* apply to it according to its reality. This reality appears in three forms:

1. Representative paper currency which is currency issued by the State that proceeds according to the system of metallic currency. It represents a specified quantity of gold or silver and acts as its representative in circulation and is exchanged for it upon demand. This representative paper is considered gold or silver as it can be exchanged for them at any time, and its *Zakat* becomes the *Zakat* of gold and silver. If it is a substitute for gold and its quantity reaches the equivalent of 20 gold *Dinars* i.e. 85 grams which is the *Nisab* of gold, the *Zakat* of quarter-tithe is obliged once a year passes over it. If it is a substitute for silver and its quantity reaches the equivalent of 200 silver *Dirhams* i.e. 595 grams which is the *Nisab* of *Zakat*, the *Zakat* of quarter tithe is obliged on it. The evidence for the obligation of *Zakat* in this paper currency is the same as the previously mentioned *Ahadith* indicating the obligation of *Zakat* in gold and silver. This is because it is a representative and substitute for gold and silver, and the representative or substitute takes the rule of the original (*Asl*).

2. Reliable (*Watheeqa*) paper currency which is currency issued by the State or a trustworthy bank in which the State is vested with the right to issue such papers. It has a specific cover of gold and silver according to a specific proportion which is less than the nominal value of currency. This cover of gold and silver is retained by the State or the issuing bank as a guarantee for it. Its issuer commits itself to give its cover value of gold or silver to its bearer upon demand. Its cover is not complete but a specific proportion of its value, such as three-quarters, two-thirds, one-half or any other percentage.

The covered ratio or portion of the reliable paper currency (*Watheeqa*) is considered representative paper currency, whether covered by gold or silver, because it can be substituted for it at any time. So its *Zakat* becomes the *Zakat* of gold and silver. If for example, it is covered with gold at half of its nominal value, then *Zakat* is obliged in it when it reaches 40 *Dinars* and a year passes, with its *Zakat* being in *Dinars* of its type. If it doesn't reach 40 *Dinars*, no *Zakat* is obliged upon it as it is less than the *Nisab*.

If it is covered by silver at a one-half nominal value, for example, then *Zakat* is obliged in it once it reaches 400 *Dirhams* and a year has passed, with its *Zakat* being 10 *Dirhams* of its type. If it is less than 400 *Dirhams*, there is no *Zakat* on it because it is less than the *Nisab* of silver.

The evidence for the obligation of *Zakat* on this reliable paper currency is the same *Abadith* indicating the obligation of *Zakat* in gold and silver. This is because it acts as a representative and substitute for gold and silver within the amount of the nominal value covered, so *Zakat* is obliged on it since the representative or substitute takes the rule of the origin (*Asl*).

3. Compulsory (*Ilzamiyya*) paper currency which is paper currency issued by the State through statute. It is issued for dealings and deemed as prices for commodities and payment for services and benefits. However, it is not exchangeable for gold or silver, or covered by gold or silver, nor is it guaranteed by reserves of gold or silver or backed paper money. There is no value to this paper currency save statutory value.

However, since this compulsory currency has been adopted as money, payments for benefits and services and gold and silver as well as all other merchandise and goods are bought by it. Therefore, it has fulfilled the currency and price characteristics verified in gold and silver. Such two characteristics are indicated in the *Abadith* that obliged *Zakat* in gold and silver, such as the *Hadith*: **“There is quarter-tithe in (Riqqa)”** and: **“there is no Zakat in (property of) less than five ounces”** and: **“Give the Sadaqah of (Riqqa)”** and: **“Nothing is taken from silver until it reaches 200 Dirhams. Once it reaches 200 Dirhams then five Dirhams are taken from it”** and: **“If you have 20 Dinars over which a year has passed then a half-Dinar is due from it.”** All these *Abadith* indicate the currency and price characteristics should be stated using it, for the words *Riqqa*, *Wariq* and ounces are used in the Arabic language to indicate coined

and minted *Dirhams*. Similarly the term *Dinars* is not used except to mean coined and minted gold, i.e. currency and prices. The use of these terms instead of using the words silver or gold indicates that it is the currency and the price are meant in the *Abadith*. Thus the rules of *Zakat*, blood-monies, atonements (*Kaffarat*), cutting for theft and other rules are linked to these two characteristics.

Since compulsory currency verifies these currency and price characteristics, then it is included by the *Abadith* obliging *Zakat* in the two currencies, gold and silver. So *Zakat* is obliged on it as it is obliged on gold and silver and it is valued in gold and silver. Whoever owns compulsory currency equivalent to the value of 20 *Dinars* of gold-i.e. 85 grams of gold-which is the *Nisab* of gold, or 200 *Dirhams* of silver-i.e. 595 grams of silver-over which a year passes, then *Zakat* is obliged upon it and he must give quarter-tithe.

Zakat on gold is paid in gold, representative currency and reliable currency. *Zakat* on silver is paid in silver, representative currency and reliable currency. Similarly, *Zakat* on gold can be paid in silver and compulsory currency while *Zakat* on silver can be paid in gold and compulsory currency, as they are all currencies and prices. So some of them can take the place of others and some of them can be paid in the place of others for the objective is verified in this. It has been mentioned in the chapter of *Zakat* on crops and fruits the evidences for taking the value as a substitute for the property upon which *Zakat* is obliged.

22

Zakat on Trading merchandise

Trade merchandise is everything other than currency which is used for trading, buying and selling, for the sake of profit e.g. foodstuffs, clothing, furniture, manufactured goods, animals, minerals, land, buildings and other goods that are bought and sold.

Zakat is obliged on merchandise taken for trade by the agreement of the early and latter scholars. From Samura b. Jundub who said: **“See! Verily the Messenger of Allah ﷺ used to command us to give Sadaqah on what we prepared for sale”** (narrated by Abu Dawud). Abu Dharr narrated from the Prophet ﷺ who said: **“There is Sadaqah in Bazz.”** *Al-Bazz* are clothes and woven material used for trading. Abu ‘Amra b. Hamas narrated from his father who said: “‘Umar ibn Al-Khattab passed by and said: ‘O Hamas, pay the *Zakat* on your property’. I said: ‘I don’t have any property except for *Ji’b* (quivers) and leather’. He said: ‘Estimate them, then pay their *Zakat*.”” AbdurRahman b. Abdul-Qari said: “I was appointed over *Bait ul-Mal* in the time of ‘Umar ibn Al-Khattab. When the gifts were given out, the wealth of the traders was collected and counted, of what was present or absent. *Zakat* was then taken from the present wealth for what was present and absent.” From ibn ‘Umar who said: “There is *Zakat* on *Raqeeq* (slaves) and *Bazz* suits upon which trade is intended.” The obligation of *Zakat* on trade has been narrated from ‘Umar and his son, ibn Abbas, the seven jurists, Al-Hassan, Jabir, Tawus, Al-Nakhai, Ath-Thawri, Al-Awzai, Ashl-Shafii, Ahmad, Abu Ubaid, the people of the opinion (*Ashab ar-Rai*), Abu Hanifah and others.

Zakat on trading merchandise is obliged when it reaches the *Nisab* value of gold and silver, and a year has passed over it.

If the trader begins his trade with property less than the *Nisab* then it reaches the *Nisab* at the end of the year, there is no *Zakat* upon it because a year has not passed over it. *Zakat* will be obliged on its *Nisab* after a full year has passed over it.

If the trader begins his trade with property above the *Nisab* such that he begins his trade with 1,000 *Dinars* then his trade grows and profits by the end of the year so that its value becomes 3,000 *Dinars*, it is obligatory upon him to pay *Zakat* on 3,000 *Dinars* not the 1,000 *Dinars* he started with. This is because its profit follows it i.e. the origin, and the period of one year of generated profit is the same as the period of one year of the origin. This is like, the goats’ offspring (*Sikhal*), and offspring of sheep (*Baham*), that are counted together with them, because their period of one year (*Hawl*) is that of their mothers. Similar to this is the profit on wealth so its time (*Hawl*) is the period of one year of the origin from which profits were derived. When the year finishes the trader estimates his trading merchandise whether *Zakat* is obliged upon it because of itself such as camels, cattle, and sheep, or not, such as clothes, manufactured products, land and buildings. He estimates them collectively in gold or silver units. He then gives quarter-tithe if it reaches the *Nisab* value of gold or silver, giving the obligatory *Zakat* in the used currency. It is allowed for him to give its *Zakat* from the merchandise itself if that is easier for him, e.g. where he is trading with sheep/goats, cattle or clothes and the value of the *Zakat* obliged upon him is estimated in sheep, cattle or clothes, he may give its *Zakat* in currency or he may give it in sheep, cattle or clothes i.e. he may give whichever he wishes.

Zakat on trading merchandise, on whose assets *Zakat* is due like camels, cattle and sheep/goats, is paid as *Zakat* of trading merchandise, not as *Zakat* of livestock. This is because trade is intended in their ownership, not mere possession.

23

Zakat on Debts

Whoever has wealth which has reached the *Nisab* and a year has passed over it, and also has a debt which engrosses the *Nisab* or renders the remaining wealth after repaying the debt, less than the *Nisab*, does not pay any *Zakat*. This is for example if one who possesses 1,000 *Dinars* and owes 1,000 *Dinars*, or one who possesses 40 gold *Dinars* and indebted by 30 gold *Dinars*, there is no *Zakat* upon him in these two cases as he does not own the *Nisab*. From Nafi from ibn ‘Umar who said: The Messenger of Allah ﷺ said: **“If a person has 1,000 Dirhams and is in debt of 1,000 Dirhams, then there is no Zakat upon him.”**

When the wealth after paying the debt reaches the *Nisab*, then *Zakat* is obligatory upon him due to what was narrated by As-Saib b. Yazid who said: I heard Uthman b. Affan saying: “This is the month of your *Zakat*. Whoever has a debt should pay it so that you give the *Zakat* on your wealth.” In another narration: “Whoever has a debt should pay it off and pay *Zakat* on his remaining wealth.” He said this in the presence of the *Sahabah* who did not deny it, thus indicating their consensus (*Ijma’a*).

Where a person is a creditor of a debt to a non-deferring rich person who is able to repay it at any time, it is obliged upon him to pay *Zakat* on that debt when a year passes over it. ‘Umar ibn Al-Khattab said: “When *Sadaqah* becomes due, count your debts and what you have as one whole then pay its *Zakat*.” Uthman b. Affan said: “*Sadaqah* is obliged upon the debt which you could collect from the debtor if you want, and that debt which is on someone who delays repayment and you leave it due to shyness or as a favour; in it is *Sadaqah*.” Ibn ‘Umar said: “On each of your debts in which you expect repayment you must pay *Zakat* whenever the year passes over it.”

However, where the debt is owed by a poor person in hard circumstances, or a deferring rich person, it is not obliged upon the creditor to pay its *Zakat*

until it has been repaid. After it has been repaid he gives all that was obliged upon him over the years. Regarding a doubtful debt i.e. one in which the creditor is not sure if it will be resolved or not. Ali said: “If he is honest let him pay the *Zakat* once it has been restored for the period.” Ibn Abbas said regarding debts: “If you don’t expect to receive it, don’t pay its *Zakat* until you get it. When you receive it, pay all that is upon it.”

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24 Jewellery (Al-Huliyy)

Jewellery is that of which a woman adorns and beautifies herself with, of gold or silver, on her wrists, neck, ears or other parts of her body.

There is no *Zakat* upon jewellery, whether gold, silver or other types of gems like pearls, rubies, chrysolites/peridots, carnelians (*Aqiq*) and other types of precious stones, whether the jewellery is of a small or large quantity or has reached the *Nisab* or exceeded it. There is no *Zakat* on all this for it is owned for use and women take it for adornment and beauty, and not for hoarding and trade. If the jewellery is for hoarding or trading, then there is *Zakat* on it. Al-Laith b. S'ad narrated from Abu Zubayr from Jabir from the Prophet ﷺ who said: **“There is no Zakat upon jewellery.”** Amru b. Dinar said: “Jabir b. Abdullah was asked: ‘Is there *Zakat* upon jewellery?’ He said: ‘No’. It was said: ‘Even if they reach 10,000?’ He said: ‘Yes.’” Nafi'a narrated from ibn 'Umar “that he used to marry off all his daughters for 10,000 and made 4,000 of that as jewellery. He said: ‘He did not give *Zakat* upon that.”” Abdur Rahman b. al-Qasim narrated from his father “that Aisha, the Prophet ﷺ's wife, used to look after the orphan daughters of her brother in her house. They had jewellery and she did not give *Zakat* of their jewellery.” As for the *Abadith* which are used as evidences by those who oblige *Zakat* upon jewellery, the terms *Riqqa*, ounces, silver and golden *Dinars* which came in the *Abadith* obliging *Zakat* on gold and silver do not include jewellery. This is because these words are used in the Arabic language for *Dirhams* and *Dinars* of gold and silver that are engraved and circulated among the people; this is the currency which is taken as prices for things and payments for services and benefits unlike jewellery. If the wording of the *Abadith* used the expression “if silver reaches such amount then it is due in it is so much”, then jewellery would have been covered by the word silver. However, the *Abadith* used the words *Riqqa*, ounces, silver and golden *Dinars*, all of which are used for minted and coined gold and silver currency, so jewellery is not

included. These *Abadith* specify the general *Hadith*, **“No owner of gold and silver will fail to render its due *Zakat* except that he will be struck with metal sheets on the Day of Judgement.”**

As for the *Hadith* of Amru b. Shuaib which mentions: **“A woman came to the Prophet ﷺ along with her child with two gold bracelets in her hand. He said: ‘Do you give the *Zakat* upon these?’ She said: ‘No.’ He said: ‘Would you like that Allah makes them into bracelets of Fire?’”** Abu Ubaid said of this *Hadith*: “We only know of it having been narrated in one way through a chain of narrators which people have criticised in the past and present. If the matter is like what is narrated, and it is reported from the Prophet ﷺ, then it is likely to mean of the *Zakat*, the loan ‘*Ariyya*, as was interpreted by the scholars of whom we mention: Said b. al-Musayyib, Ash-Sh'abi, Al-Hassan and Qatada in their statement: “Its *Zakat* is its loan.” If *Zakat* on jewellery was obligatory like that on the *Riqqa*, it would have been like the rest of the *Sadaqat* that are common and known from the Prophet ﷺ in the world through his letters and *Sunnah*. At-Tirmizi said: “There is nothing authentic in this chapter.”

As for what came from Aisha of her saying: “There is nothing wrong in wearing jewellery if its *Zakat* is paid” and the Prophet ﷺ's saying when he saw her wearing bracelets of silver i.e. large rings: **“This is sufficient for you of Hellfire”**, these can be explained like the *Hadith* of Amru b. Shuaib. This is especially because something came from Aisha that contradicts this. The son of her brother (i.e. nephew), Al-Qasim b. Muhammad, narrated: “I never saw Aisha commanding this of her women slaves nor her brother's daughters (nieces).” She used to adorn her brother's daughters with gold and silver and did not pay *Zakat* on it. The *Hadith* of Aisha regarding the rings of silver is narrated by Yahya b. Ayyub and he is weak. Furthermore, it is not possible for the weight of the rings to be the weight of silver's *Nisab* such that the *Zakat* is obliged in it and a year had not passed on it. All of these emphasise the weakness of this *Hadith*. As for the *Hadith* of the *Andhab* (anklets) narrated from Umm Salamah, it is narrated by way of Utah who is unknown.

As for the *Hadith* of Abdullah b. Amru mentioning that he used to give *Zakat* on his daughter's jewellery, in its chain is the same criticism as the chain of the previously mentioned *Hadith* of Amru b. Shuaib.

Ibn ‘Umar, Jabir, Anas, Aisha and Asma all considered that there is no *Zakat* upon jewellery. The same was said by al-Qasim, Ash-Sh’abi, Qatada, Muhammad b. Ali, Malik, Ash-Shafii, Ahmad, Abu Ubaid, Ishaq and Abu Thawr.

This is all regarding jewellery used by a woman. If it is taken by a man for his own use, this is prohibited for him and he is obliged to pay *Zakat*. Whereas, if he takes them not for his own use but rather to give or lend to his wives, daughters or others then there is no *Zakat* upon them. This is because they are for a permitted use so there is no *Zakat* against him. If he takes them for business, then *Zakat* is obliged on them.

25

Paying Zakat to the Khalifah

Zakat is paid, whether it is livestock, crops and fruits, currency or trading merchandise to the *Khalifah* or his representative such as governors (*Wulat*) or workers (*‘Amileen*) or whoever he appoints as collectors (*Su’at*) and employees (*‘Amileen*) over the *Sadaqah*.

Allah ﷻ said:

خُذْ مِنْ أَمْوَالِهِمْ صَدَقَةً تُطَهِّرُهُمْ وَتُزَكِّيهِمْ بِهَا وَصَلِّ عَلَيْهِمْ
إِنَّ صَلَاتَكَ سَكَنٌ لَهُمْ

“Take *Sadaqah* from their wealth in order to purify them and sanctify them with it, and pray for them. Verily your prayer is peace for them” [At-Tauba: 103]

Allah ﷻ obliged His Messenger ﷺ in this *Ayah* to take *Sadaqah* from the owners of wealth, and the Messenger ﷺ used to appoint governors, workers and collectors to take the *Sadaqah* from the owners of wealth just as he would appoint estimators (*Kburraas*) to estimate the harvest of the palm and grape trees. People at the time of the Prophet ﷺ used to pay the *Zakat* to him or those governors, workers and collectors whom he appointed over the *Sadaqah*. The situation continued like this after him in the time of Abu Bakr, ‘Umar, Uthman and Ali. Ibn Sireen narrated: “*Sadaqah* used to be paid to the Prophet ﷺ or whoever he had ordered, to Abu Bakr or whoever he ordered, to ‘Umar and whoever he ordered, to Uthman and whoever he ordered. When ‘Umar was killed they differed, some of them would pay it to them while others would themselves divide their *Sadaqah*. Among those who paid to them was ibn ‘Umar.”

Zakat is paid to the *Khalifah* or whoever he appoints as rulers, governors, workers and collectors, even if they were oppressors so long as the Islamic

ruling is implemented. This applies even if there are shortcomings in the implementation. Suhayl b. Abi Salih narrated from his father who said: “I asked Sa’ad b. Abi Waqqas, Abu Hurayra, Abu Saïd al-Khudry and ibn ‘Umar: “This ruler is doing what you can see (of evil). Should I pay my *Zakat* to them?” He said: They all said; ‘Pay it to them.’” Ibn ‘Umar said: “Give it to whoever Allah put in charge of your affairs. Whoever is good, it is for his own self and whoever is evil, it is against himself.”

There have come some narration from the *Sahabab* and followers (*Tabi’in*) allowing a person to distribute *Zakat* personally and to put it in its place in case of hard money i.e. currency. It was narrated that Kaysan came to ‘Umar with 200 *Dirhams* as *Sadaqah*, saying to him: “O *Amir al-Mu’mineen*, this is the *Zakat* of my wealth.” So ‘Umar said to him: “You go and distribute it yourself.” It has also been narrated from ibn Abbas that he said: “There is no problem if you put it in its place and don’t give anything of it to anyone whom you support.” It was also narrated the statement of Ibrahim and Al-Hassan said: “Put it in its place and conceal it.” This is in relation to the hard money i.e. currency. As for livestock, crops and fruits. these must be paid to the *Khalifah* or whoever he appoints, for Abu Bakr fought those who denied the *Zakat*, when they refused to pay it to the governors and collectors, saying: “By Allah, if they deny me one baby goat (*‘Unaq*) that they used to give to the Messenger of Allah I will fight them for it.”

It is recommended for the taker to pray for the giver by saying: “Allah reward you in what you have given, bless you in what you have spent and make it a purification for you.” If it is paid to the *Khalifah* or one he has appointed, the giver of *Zakat* should be prayed for.

Allah ﷻ said:

خُذْ مِنْ أَمْوَالِهِمْ صَدَقَةً تُطَهِّرُهُمْ وَتُزَكِّيهِمْ بِهَا وَصَلِّ عَلَيْهِمْ
إِنَّ صَلَاتَكَ سَكَنٌ لَهُمْ

“Take *Sadaqah* from their wealth in order to purify them and sanctify them with it, and pray for them. Verily your prayer is peace for them” [At-Tauba: 103]

Abdullah bin Abi Awfa narrated: “My father was among the owners of trees, and the Prophet ﷺ used to pray for those who came to him with their

Sadaqah saying: ‘O Allah, forgive the family of so and so.’ My father came to him with his *Sadaqah*, so he said: ‘O Allah, forgive the family of Abu Awfa’” (agreed upon).

The Rule of the Withholder of Zakat

If the Muslim possesses the *Nisab* of wealth in which *Zakat* is obligatory, it is obligatory upon him to pay its *Zakat*. If he refuses to give its due right, it is a grave sin as was mentioned in the *Ahadith* which came regarding the subject of *Sadaqah* properties in terms of severely condemning those who don’t pay the *Zakat* on their wealth.

The reality of the one who refuses to pay *Zakat* is examined. If he denied paying it due to his ignorance of its obligation, such as the people who are usually ignorant of the same rule, then he is informed of its obligation. He is neither declared a *Kafir* nor is he punished, due to his excuse, and the *Zakat* is taken from him.

If he refuses, and denies its obligation, he is an apostate and is treated like an apostate. He is asked to repent thrice; if he repents and is remorseful, it is taken from him and he is left free. If not, he is killed because the obligation of *Zakat* is known from the deen by necessity. The evidences for obliging *Zakat* are clear in the Book, *Sunnah* and *Ijma’a*, such that they can scarcely be hidden from any Muslim.

If he denies paying it while believing in its obligation, it is taken from him by force. If a group refuses to pay *Zakat* to the State, and reject the obligation of obedience in paying *Zakat* to it and became strong and entrenched in an area, the State will fight them as rebels like Abu Bakr and the *Sahabab* did with those who denied the *Zakat*.

26

The Expenditure of Zakat

Allah ﷻ restricted the expenditure of *Zakat* in His saying:

إِنَّمَا الصَّدَقَاتُ لِلْفُقَرَاءِ وَالْمَسْكِينِ وَالْعَامِلِينَ عَلَيْهَا وَالْمُؤَلَّفَةِ قُلُوبُهُمْ وَفِي الرِّقَابِ
وَالْغَارِمِينَ وَفِي سَبِيلِ اللَّهِ وَابْنِ السَّبِيلِ

“Verily the Sadaqat are (only) for the poor, needy, those employed upon it, those whose hearts are to be reconciled, slaves, debtors, those in the way of Allah and the wayfarers” [At-Tauba: 60]

This *Ayah* restricts the expenditures of *Zakat* to these eight categories, limiting and specifying it for them. It is not allowed to give from it to any category other than these, because the *Ayah* begins with the term “*Innamā*” which is an article of limitation and restriction, followed by the letter “*lam*” of ownership. This indicates the limitation of *Sadaqah* beneficiaries and ownership to these eight categories which are:

1. The Poor (*Al-Fuqaraa*): These are those who don’t receive enough money to suffice them to fulfil their basic needs that are food, clothing and shelter. Whoever receives less than what he needs to fulfil his basic needs is considered poor, so *Sadaqah* is *Halal* for him. He may take from it and he can be given enough *Sadaqah* to the limit that removes his need and poverty.

Allah has prohibited the rich from taking *Sadaqah*. Abdullah b. Amru said: The Messenger of Allah ﷺ said: “**Sadaqah is not Halal for the rich (person) nor the one of sound and strong body (Zu Mirra).**” The *Zu Mirra* is the person of strength and acquiring ability. If he doesn’t have the

strength and ability, then he is considered poor. The rich person is the one who is independent of others such that he receives more than is required to fulfil his needs. There have come *Abadiith* clarifying who the rich person is. Abdullah b. Masud said: The Messenger of Allah ﷺ said: “**No person will ask for something while he is rich except he will come on the Day of Judgement with his face bitten, scratched or wounded.**” It was said: “O Messenger of Allah, what is his richness?” He said: “**50 Dirhams or its equivalent in gold**” (narrated by the five). Whoever owns 50 silver *Dirhams* equal to 148.75 grams of silver, or its equivalent in gold, in excess of his food, clothing, shelter and the expenses of his family, children and servant is considered rich and it is not allowed for him to take from the *Sadaqah*.

2. The Paupers (*Al-Masakeen*): They are the ones who don’t have anything so they want abated them and they do not beg people. The Messenger of Allah ﷺ said: “**The pauper is not the one who goes about the people, content with a morsel or two or a date or two. The pauper is the one who doesn’t find any wealth to suffice him nor do people notice him so that they give him charity. Nor does he stand to beg people**” (agreed upon). The pauper is lesser than the poor person due to the saying of Allah ﷻ:

أَوْ مَسْكِينًا ذَا مَتْرَبَةٍ

“Or a pauper with dust” [Al-Balad: 16]

i.e. covered with dust due to his nakedness and hunger. The *Sadaqah* is allowed for the pauper and he can take from it. He can be given from *Sadaqah* to the limit that his misery is removed and he is enabled to satisfy his basic needs.

3. Those employed over collecting it (*Al-'Amileen 'alayha*): These are the messengers and *Sadaqah* collectors appointed to collect *Sadaqah* from those whom it is obliged upon them, or they distribute it to its beneficiaries. They are given of the *Sadaqat*, even if they are wealthy, in exchange for collecting or distributing it. Ata’a b. Yasar said: The Messenger of Allah ﷺ said: “**Sadaqah is not allowed for the rich except for five: The one employed to collect it, a man who buys it with his wealth, a man who was given a Sadaqah and he donated it to his neighbour, the fighter or the debtor.**” And from Busr b. Said that ibn Asa’di al-Maliki said: “Umar

appointed me over the Sadaqa. When I finished and gave it to him, he ordered some wage for me'. I said: 'I did it for the sake of Allah.' He said: 'Take what I give you for I was employed at the time of the Messenger of Allah ﷺ. He employed me and I told him what you told me. The Messenger of Allah ﷺ said: **'If you are given something without begging, eat (of it) and give charity'**" (agreed upon).

4. Those whose hearts are to be reconciled (*Al-muallafatu qulubuhum*): These are types of leaders, chiefs, influential people or heroes whose beliefs are not yet settled, where the *Khalifah* or his governors see it fit to give them from the *Zakat* as reconciliation for their hearts, settling their beliefs, utilising them for the benefit of Islam and Muslims or to influence their communities. This is similar to what the Messenger ﷺ gave to Abu Sufyan, Umayna b. Hisn, Al-Aqr'a b. Habis, Abbas b. Mirdas and others. Amru b. Taghlib said "that some money or captives reached the Messenger of Allah ﷺ and he distributed them. He gave to some men and left some others. He got the knowledge that those who were not given were full of blame. So he praised Allah and extolled Him, then he said: **'See! By Allah I give to a man and leave another. The one I leave is more beloved (to me) than the one I give. Rather, I give people whom I see in their hearts some fear and impatience, and I entrust some people with what Allah ﷻ placed in their hearts of affluence and good.'**"

Those to be reconciled are not given *Zakat* except if they are Muslims. If they are *Kuffar*, they are not given any *Sadaqat* as it is not given to the *Kafir*. This is due to the saying of the Messenger of Allah ﷺ to Mu'az when he sent him to Yemen: **"Inform them that Allah obliged Sadaqah upon their wealth to be taken from their rich and given to their poor."**

Similarly they are not given from *Zakat* except if the reason (*'illa*) for which they are given is present. If the reason is not present, they are not given *Sadaqah* as Abu Bakr and 'Umar stopped paying it after Islam was strengthened and widespread.

5. Slaves "*Ar-riqab*": They are the slaves who are given of *Zakat* if they are contracted to free themselves, or they are purchased by *Zakat* funds and set free if they are not contracted. There are no slaves today.

6. Debtors "*Al-Gharimeen*": These are those who are indebted and

bear debts upon themselves so they are paid to resolve disputes between people, pay blood-monies or to discharge their personal interests.

As for those who bear debts to resolve disputes or to pay blood-monies, they are paid from the *Zakat*, whether they are poor or rich, the exact amount that they bear of debt without any excess. Anas narrated that the Prophet ﷺ said: **"Begging is not allowed except for three (persons): The person of abject poverty, odious debt or painful blood."** Qabeesa bin Mukhariq al-Hilali said: "I bore a burden so I went to the Messenger of Allah ﷺ to beg for it. He said: 'Wait with us until a *Sadaqah* comes to us so that I give you of it.' Then he said: **'O Qabeesa, begging is not allowed except for one out of three: A man bearing a burden so he is allowed to ask for a Sadaqah till he gets it then he holds from taking more; a man whose wealth suffered a calamity so he is allowed to beg until he attains what is enough of livelihood or he said what meets his livelihood; and a man who was struck by a poverty of which three wise men of his fold say that so and so person has been struck by a poverty so he is allowed to beg until he attains what is enough of livelihood, or he said what meets livelihood. Whoever begs other than these, O Qabeesa, he would eat illicit money (Suht).'**"

As for those who bear debt to meet their personal interests, they are given of *Zakat* to repay their debts if they are poor, or not poor but unable to fulfil their debts. If they are rich and able to pay their debts, they are not given anything as it is not allowed for them.

7. In the way of Allah (*Fi Sabeelillah*): i.e. *Jihad*, whatever is necessary for it and what it depends upon, such as forming an army, establishing factories and manufacturing weapons. Whenever "*Fi Sabeelillah*" is mentioned in the Qur'an, it means nothing other than *Jihad*. *Zakat* is spent for *Jihad* and its essentials, and it is not limited to any amount. So it is allowed to spend all of the *Zakat*, or some of it, for *Jihad* according to what the *Khalifah* sees as beneficial for the *Zakat* beneficiaries. Abu Said narrated: The Messenger of Allah ﷺ said: **"Sadaqah is not allowed for the rich person except in the way of Allah..."** and in another narration: **"...or the fighter in the way of Allah."**

8. The wayfarer (*Ibn us-Sabeel*): This is the one whose travel has been cut off such that he does not have enough money to allow him to reach his home. He is given from the *Zakat* the amount that will allow him to reach

his destination, whether a little or a lot. Similarly, he is given the necessary expenses to allow him reach his destination, even if he is in fact rich where he lives, due to the Messenger ﷺ's saying: **“Sadaqah is not allowed for the rich person except in the way of Allah or a wayfarer or....”**

Zakat cannot be given to any other than these eight mentioned categories. It is not spent for building mosques, hospitals, charity facilities or any State or *Ummah* utility, because *Zakat* is the private property of the eight categories such that no one else shares it with them.

The *Khalifah* is the one who is responsible to give it to these categories according to how he views achieving the benefit of these categories, as the Messenger of Allah ﷺ and the *Khulafa'a* after him would supervise its payment. It is allowed for the *Khalifah* to distribute it among these eight categories as he may restrict its spending to some of these categories as he sees beneficial to these categories. If these categories are not found, the *Zakat* is preserved in *Bait ul-Mal* in the department of *Sadaqat* to spend it when there is a need for it by those who are entitled of it. Ibn Abbas said about *Sadaqah*: “If you spend it for one of these eight categories, it would be valid.” Ata'a and Al-Hassan said the same. Malik said: The matter of dividing *Sadaqah* in our view is that it is a matter of *Ijtihad* left to the governor so any category that has need and the number (of people) it is preferred (over others), according to how the governor views fit.”



Currencies (An Nuqud)

27 Currencies (An-Nuqud) in Islam

An-naqd is used in the language to mean the distinguishing of *Dirhams* and removing the counterfeit from them. It is also used for giving and taking *Dirhams*. An example for the latter meaning is the *Hadith* of Jabir regarding his camel which the Messenger of Allah ﷺ purchased from him and he said: **“He (Naqada) paid me its price”** i.e. gave to me as *Naqd* immediately. It is also used for currency itself.

Currencies are known as that thing which people traditionally agreed to use as prices for goods and wages for labour and services, whether metallic or not, such that all goods, labour and services are measured with it.

People used to trade and exchange goods and services by barter before they knew currencies. However, because exchanging goods and services by barter is surrounded by many difficulties resulting in restrictions in trading transactions, societies thought of choosing a principal good with an intrinsic value that is easily exchanged to become a standard (*Miqyas*) to measure all goods and services. So they initiated currencies which became the sole measurement. As gold and silver are valuable minerals with intrinsic value from ancient times for human beings, they were taken as currency, and *Dinars* and *Dirhams* were coined from them. This was because they are especially characterised by relative scarcity just like gold is distinguished by durability over time.

The Roman State and the countries subordinate to it adopted gold as the basis of their currency such that they coined from it Heraclian *Dinars* that has a specific shape and weight. The Persian State and countries subordinate to it adopted silver as the basis of its currency such that it coined *Dirhams* of a specific shape and weight. Roman *Dinars* were of only one shape and weight, whereas Persian *Dirhams* had numerous shapes and weights.

Pre-Islamic Arabs, particularly the Quraysh, used to trade with neighbouring countries and regions.

Allah ﷻ says:

لِإِيلَافِ قُرَيْشٍ (١) إِيلَافِهِمْ رِحْلَةَ الشِّتَاءِ وَالصَّيْفِ

“For the taming of Quraysh such that the (Quraysh) caravans set forth safe in winter and in summer” [At-Takathur: 1-2]

They would return from Ash-Sham bearing golden Caesarean *Dinars*, and silver Chosroes *Dirhams* from Iraq, and, less often Humayri *Dirhams* from Yemen. They would bring Heraclian gold and Sassanid silver to the Hijaz. However, they did not deal with these *Dinars* and *Dirhams* by number but by weight considering them as ore (*Tibr*) i.e. (pure) material of gold and silver not coined money. They ignored taking them as coined currency due to the various types of *Dirhams* and their different weights, and the probability of *Dinars* being reduced (in weight) due to their frequent exchange even though they had a fixed weight at that time. They depended on weight to prevent fraud and they had specific weights used for weighing which were the pound, ounce, *Nush*, seed (*Numat*), *Mithqal*, *Dirham*, *Daniq*, carat and grain (*Hubbat*). The *Mithqal* the basis of weight-had a known weight. Its weight was 22 carats less one grain, and their ten *Dirhams* weighed seven *Mithqal*.

When Islam came, the Messenger of Allah ﷻ consented to dealing with these *Dinars* and *Dirhams*. He also consented to considering them as currency, as he consented to the weight with which the Quraysh weighed these *Dinars* and *Dirhams*. Tawus narrated from Ibn ‘Umar who said: “The Messenger of Allah ﷻ said: **“The weight is the weight of the people of Makka, and the measure is the measure of the people of Madinah.”**” Al-Baladhri narrated from Abdullah bin Th’alaba bin Sa’eer who said: “Heraclian *Dinars* came to the people of Makkah in *Jabiliyyah* as came *Dirhams* of *al-Furs al-Bughliyya* (Persians), and when they traded with them they considered them only as ore. The *Mithqal* had a well-known weight for them, a weight of 22 carats less a fraction. Ten *Dirhams* weighed seven *Mithqal* and the pound was 12 ounces with each ounce being 40 *Dirhams*. The Messenger of Allah ﷻ consented to this, as did Abu Bakr, ‘Umar, Uthman and Ali.”

The Muslims continued using Heraclian *Dinars* and Chosroes *Dirhams* in

their shape, coinage and pictures throughout the life of the Messenger of Allah ﷺ, the *Khilafah* of Abu Bakr as-Siddiq and the first years of ‘Umar’s *Khilafah*. In the 20th year of the *Hijra*, which was the 8th year of ‘Umar’s *Khilafah*, ‘Umar coined new *Dirhams* in the Sassanid style and retained the Pahlavi faces and writing while adding some words in Kufic Arabic letters such as “In the name of Allah” and “In the name of Allah, my Lord.” Muslims continued using *Dinars* in Byzantine style and *Dirhams* in Sassanid style together with writing certain Islamic words in Arabic letters until the time of Abdul Malik bin Marwan. In the 75th year, or possibly in the 76th year, Abdul Malik coined *Dirhams* in specific Islamic style carrying Islamic texts engraved upon the *Dirhams* in Kufic script after abandoning the Sassanid style. In the 77th year, he coined *Dinars* in a specific Islamic style and engraved upon them Islamic texts with Kufic Arabic script while abandoning the previous Byzantine style. After Abdul Malik had coined *Dirhams* and *Dinars* in a specific Islamic style, Muslims had their distinct currency in a unique Islamic style and they abandoned other people’s currency.

The Weight of Dinars and Dirhams

The weight of the *Dinar* did not differ either in *Jabilyyyah* or Islam; it has a fixed weight. Byzantine *Dinars* were used in the time of *Jabilyyyah*, the time of the Messenger of Allah ﷺ and the *Khulafa’a* after him. Then Abdul Malik coined Islamic *Dinars* of the same weight. The Byzantine *Dinar* weighed a *Mithqal*, where the *Mithqal* was 8 *Dawaniq* which weighed 20 carats or a fraction less than 22 carats, both weights being the same as there is a difference in the weight of the two types of carats. The *Mithqal* is measured as 72 grains of an average barley seed whose two tiny edges are cut off, and it is also estimated as 6,000 grains of average-sized wild mustard.

The Messenger of Allah ﷺ consented to this *Dinar* weight and linked with it the rules of *Zakat*, blood-money and the cutting for theft. So it became the *Shari’ah* weight for *Dinars*, and it is the same weight that Abdul Malik depended upon when he coined the Islamic *Dinar* and made it a *Mithqal*.

As for *Dirhams*, they had different weights because the Persians had three types of *Dirhams*; the large one whose weight was a *Mithqal*’s weight, that is 20 carats, the little one whose weight is one half *Mithqal*’s weight i.e. 10 carats, and the middle one ten of which weighed 6 *Mithqal* i.e. 12 carats. Al-Balathari narrated from Al-Hassan bin Salih who said: “*Dirhams* coined by

non-Arabs had different weights, both heavy and light. They would coin a *Mithqal* from it which is 20 carats, another of 12 carats, and another of 10 carats which is of the median *Mithqal*.” He narrated from other than Al-Hassan bin Salih who said: “*Dirhams* of the non-Arabs were such that 10 of them weigh 10 *Mithqal*, 10 of them weigh 6 *Mithqal* and 10 of them weigh 5 *Mithqal*.” They used the term *mulish* (*Bughliyya*) *Dirhams* for large *Dirhams* or the full black (*Sood Wafiya*) for assessing the basic weight of the *Dirham* which is the weight of the *Mithqal* in gold i.e. 8 *Dawaniq* where a *Daniq* is two and a half carats, so it becomes 20 carats. This weight was coined at the time of the Sassanids, the righteous *Khulafa’a* and the Umayyads.

The small *Dirham*, which is half *Mithqal*, was called the Tabari *Dirham* being ascribed to Tabaristan where it was coined. It weighed 4 *Dawaniq* equivalent to 10 carats. The middle *Dirham* was called the *Juwariqiyya Dirham*, being ascribed to Jurqan, the land in which it was coined and it weighed 4.8 *Dawaniq* i.e. 12 carats. When Islam came and obliged *Zakat* on silver such that 5 *Dirhams* are due on every 200 *Dirhams*, it deemed *Dirhams* to be those of which every 10 of them weighed 7 *Mithqal*. They were called “the weight of seven” and they were the middle *Dirhams* in relation to other *Dirhams*. This is because they collected the carats of the large, small and average *Dirhams* and divided them into three, resulting in 14 carats or 6 *Dawaniq* which are equivalent to 50 and 2/5 grains of the average barley seed whose two tiny edges are cut off. It is also equivalent to 4,200 mustard grains and this is the *Shari’ah Dirham* considered in the rules of *Zakat* and blood-monies. This is the weight known and was considered in the days of the Messenger of Allah ﷺ, and its amount was measured in *Dawaniq* and carats and also in the days of ‘Umar based on the *Hadith* of the Messenger of Allah ﷺ. **“The weight is the weight of the people of Makkah.”** So the amount and proportions were limited to what the Quraysh agreed upon of weights which was consented upon by the Messenger ﷺ. This weight was the *Shari’ah Dirham*, and the *Shari’ah* rules of *Zakat* and blood-monies etc were linked to it. This is the same weight of the Islamic *Dirham* coined by Abdul Malik bin Marwan after abandoning the Persian *Dirhams*. Waqidi quoted that Wahb bin Kaysan said: “I saw the *Dinars* and *Dirhams*, before Abdul Malik bin Marwan engraved and abraded them and they were the *Dinar*’s weight coined by Abdul Malik.” It is also narrated from AbdulMalik bin As-Saib from Abu Wada’a as-Sahmi that he showed him the weight of the *Mithqal* saying: “I weighed it and found it the weight of AbdulMalik bin Marwan’s *Mithqal*. He said: This was owned by Abu Wada’a bin Dhabira as-Sahmi in *Jabilyyyah*.” Al-

Balathri narrated from Uthman bin Abdullah who said: “My father said: “The *Dinars* of Abdul Malik bin Marwan came to Madinah where there were some of the *Sababah* of the Messenger of Allah ﷺ and others from the *Tabi’in*. No one rejected them.” Muhammad bin S’ad said: “The weight of these *Dirhams* is 14 carats of the 20 carats of our *Mithqal* which was 20 carats and it weighs 15 carats out from 21 and three-sevenths carats.”

These are the weights of the golden *Dinars* and silver *Dirhams* and the specific differences between their types. To facilitate our knowledge of these weights, we must know their specific amounts in today’s weights.

It was made possible to know these weights exactly after the archaeological discoveries, and the discovery of the Byzantine *Dinars*, Chosroes *Dirhams*, Islamic *Dinars* and *Dirhams* specifically those coined at the days of Abdul Malik bin Marwan and based upon the weights of the *Shari’ah Dinars* and *Dirhams*. Numerous coins from the Islamic era are preserved in museums to this day. The keepers of those currencies in the museums, after they had estimated and differentiated between them, recorded it in an accurate way their exact weights. They found that the weight of the *Shari’ah Dinar* that was coined by AbdulMalik bin Marwan was 4.25 grams. This is the same weight as that of the *sulidus* which was the golden currency widely used in Byzantine. This was the same weight of the Greek *drachma* upon which the *Sulidus*, the Byzantine *Dinar*, depended. The Byzantian *Dinar* was circulating during the times of *Jabilyyyah* and Islam.

Since the *Dinar* was one *Mithqal* and the *Mithqal* is the basis of the weight, then as a result of knowing this, it is easier to know the weights of *Dirhams*, *Dawaniq*, carats and grains in relation to it.

Since the *Mithqal* is equivalent to 4.25 grams and also 8 *Dawaniq*, then the weight in grams of a *Daniq* of gold is 4.25 divided by 8 = 0.53125 gram.

Since the *Mithqal* is equivalent to 20 carats, the weight in grams of a carat is 4.25 grams divided by 20 = 0.2125 grams.

Since the *Mithqal* is equivalent to 72 grains of barley, the weight of a grain of barley is 4.25 grams divided by 72 = 0.059 grams = 83.3 grains of mustard.

Since the *Dirham* is equivalent to seven-tenths of a *Mithqal* and each 10

Dirhams are equal to 7 *Mithqals*, the weight, in grams, of the *Dirham* is 4.25 grams x 7/10=2.975 grams.

Or we can say each 10 *Dirhams*=7 *Mithqals*, so 10 x 2.975=29.75 grams as the weight of 10 *Dirhams*.

Or we can say each 7 *Mithqals*=10 *Dirhams* so 7 x 4.25=29.75 grams, as the weight of 7 *Mithqals*.

As the *Dirham* is equivalent to 6 *Dawaniq*, the (*Daniq*) weight in grams is: 2.975 divided by 6=0.495 grams as the silver (*Daniq*) weight.

As the ounce with which *Dirhams* were weighed is equivalent to 40 *Dirhams*, its weight in grams is: 2.975 grams weight of the *Dirham* x 40 *Dirhams* weight of the ounce=119 grams weight of the silver ounce.

This is the currency that was used in the days of *Jabilyyyah* and its weights. Islam consented to this currency as it was, and accepted its use, and of being the measure of all goods and labour. It also consented to the weight of the people of Makkah regarding currency.

Despite all this, Islam did not oblige it as the only tool of exchange when it established the rules of business, purchase and hiring but left it to human beings to exchange goods, benefits and labour by anything that they have a mutual agreement on, without obliging a specific thing upon which exchange is based. It allowed people to buy a sword with dates, sheep with wheat, clothes with *Dinars*, meat with *Dirhams*, to work a day for a *Sa’a* (cubic measure) of raisins, build a cupboard for 5 *Dinars* or build a specific house in return of the cultivation of a specific land. In this way, Islam left men to exchange with what they wish and with whatever they have a mutual consent on between them whether in goods, labour or currency.

Despite Islam allowing people to exchange with whatever they wish, it specified the currency by which exchange takes place to be gold and silver. It made them the measuring currency, which it reverted to for measuring goods and labour, and the basis for all transactions. It determined for them a specific weight which is the weight of the people of Makkah: **“The weight is the weight of the people of Makkah.”**

Islam linked some *Shari’ah* rules with gold and silver in their capacity as

gold and silver, and their capacity as currency, money and prices for things and wages for labour. Among these rules:

1. Prohibiting their hoarding (*Kanz*). Allah ﷻ said:

وَالَّذِينَ يَكْنِزُونَ الذَّهَبَ وَالْفِضَّةَ وَلَا يَنْفِقُونَهَا فِي سَبِيلِ اللَّهِ فَبَشِّرْهُمْ بِعَذَابٍ أَلِيمٍ

“Those who hoard gold and silver and do not spend them in the way of Allah, give them tidings of a painful punishment” [At-Tauba: 34]

It made the prohibition of hoarding gold and silver in their capacity as gold and silver and as currency and the tools of exchange, by which trade and employment are fulfilled.

2. It linked specific, constant and permanent rules with both of them

- a) Obliging *Zakat* on them by considering them currency, prices for purchases and wages for labour. It determined for them a specific *Nisab* for golden *Dinars* and silver *Dirhams*: **“One half Dinar in every 20, and 5 Dirhams in every 200.”**

- b) It allowed them (Gold and Silver) to be used for payment when it obliged blood-money, determining a specific amount of gold, which is 1,000 *Dinars* and silver which is 12,000 *Dirhams*. Narrated by ibn Abbas **“that a man from Bani ‘Adiyy was killed so the Prophet ﷺ made his blood-money 12,000”** i.e. of *Dirhams* (narrated by the compilers of the *Hadith* books). It was narrated by Abu Bakr bin Muhammad bin Amru bin Hazm from his father from his grandfather **“that the Messenger of Allah ﷺ wrote a book to the people of Yemen containing within it ‘the blood-money for a soul is 100 camels or 1,000 Dinars from the users of gold.’”** narrated by an-Nasa’i

- c) When it obliged cutting for stealing, it specified the amount for which a hand is cut as one-quarter *Dinar* or 3 *Dirhams* of silver. It made this the measurement for all that is stolen. From Aisha from the Prophet ﷺ who said: **“The hand of the thief is not cut except for one-quarter of a Dinar or more”** (narrated by the five). From ibn ‘Umar “that the Messenger

of Allah ﷻ cut the thief for a *Majann* (sword) of 3 *Dirhams*.”

3. When it established the rules of currency exchange (*sarf*) in money transactions, it made them in gold and silver. Currency exchange is exchanging currency for currency and trading money for money, either in its own type like gold for gold and silver for silver, or for different types like buying gold with silver or silver with gold. From Abu Bakra he said: **“The Prophet ﷺ prohibited silver for silver or gold for gold except equally. He commanded us to purchase silver with gold or gold with silver, however we wished.”** (collected by Bukhari and Muslim).

Islam linked these *Shari’ah* rules with gold and silver in their description as monies and currencies for exchange and prices for sales. This is consent from the Messenger of Allah ﷺ to use gold and silver as the sole measuring currency unit upon which sale prices are assessed and wages for labour are measured.

This indicates that currency in Islam is gold and silver because all rules linked to currency are linked to gold and silver in their capacity as prices for all goods and labour and currencies for exchange, whether they are coined or in ore form i.e. not coined.

However, does this mean that it is not permitted for Muslims or the Islamic State to take anything else as currency or to deal with anything else?

As for dealing with other things, this is definitely allowed without any dispute because buying and selling took place in the days of the Messenger of Allah ﷺ through barter by exchanging goods for each other just as it took place with currencies of gold and silver. The Messenger of Allah ﷺ consented to all of this without preventing or denying it. Rather he permitted such transaction. Muslim narrated from Ubada bin as-Samit from the Prophet ﷺ who said: **“Gold for gold, silver for silver, wheat for wheat, barley for barley, dates for dates, salt for salt in the same type (mithl) and equal amounts and hand to hand (immediately). If these categories differ, buy as you wish as long as it is hand to hand (immediately).”** And An-Nasa’i narrated from Ubada who said: **“and he commanded us to buy gold for silver, silver for gold, wheat for barley, barley for wheat hand to hand, however we wished.”**

As for the issue of whether Muslims or the *Khilafah* State are allowed to take other than gold and silver as currency, this inevitably requires one to understand the reality of currency that was present at the time of the Messenger of Allah ﷺ and to return to the *Shari'ah* rules linked to gold and silver.

As for the reality of currency present in the days of the Messenger of Allah ﷺ, there was no money at that time exchanged in its capacity as currency to measure the prices of goods and wages of labour, except gold and silver. There was no other currency at that time, whether metallic or non-metallic. There was no copper or lead coins just like there was no leather or paper currency. Gold and silver were the only accepted money and currency circulated among Muslims. Buying and selling was accomplished by them in weight, not units, in their capacity as ore even if they were coined. The trader who sold his goods for *Dinars* he would weigh the *Dinars* to verify that they were a complete *Mithqal* that had not been decreased due to exchange transactions, and whoever sold his goods for *Dirhams* he would weigh them to verify they were the required weight to complete the sale with them. Whoever possessed 20 *Dinars* over which a year passed, weighed them and found that they were less a number of carats he would not pay the *Zakat* as they were less than the *Nisab* of *Zakat*. Whoever possessed 200 *Dirhams*, weighed them and found them one carat less than the *Nisab* of silver he would not give *Zakat* because they were less than the *Nisab*.

This clarifies that gold and silver, in their essence, are considered currency and priced without considering whether they were coined or not. This is because they were traditionally accepted as currency with which goods, labour and services were measured. The Messenger of Allah ﷺ consented to this tradition and this consideration. They remained the utilised currency throughout the life of the Messenger of Allah ﷺ, the righteous *Khulafa'a* after him and the times of the Umayyads and Abbasids. The Muslims never knew of any other currency throughout this period. The Messenger ﷺ's acceptance the currency and prices was consent to an existing reality and he did not order adopting other than them, as currency.

Examining the *Shari'ah* rules related to gold and silver, shows that the prohibition of hoarding is linked only to them and not to other types of properties. As for other types of properties, it is possible that they become subject to monopoly but not hoarding. Foodstuffs do not remain viable for

long periods, and hoarding is not possible with animals, livestock and birds as they constantly increase. Since hoarding does not appear except in currencies, the rules prohibiting hoarding came related to gold and silver as there was no currency among Muslims apart from them.

However, despite the Legislator (*Asb-Shar'i*) relating permanent rules with gold and silver such as the rules of blood-money and *Zakat*, He ﷺ did not restrict them only to gold and silver but linked blood-money and *Zakat* with other types of properties (*Ammwal*). *Shar'a* linked blood-money with camels, cattle, sheep/goats and clothes. It obliged *Zakat* in livestock of camels, cattle and sheep/goats, crops and fruits, and trading merchandise just like it obliged it in gold and silver.

Thus these rules that are linked to gold and silver are not restricted to them but are linked with other types of properties. However it did not turn attention to currency other than them because there was no other type of currency. As for the rules of interest (*Riba*) and currency exchange related to them, interest is related to them and other types of usurious wealth that are determined by the *Ahadith*. As for currency exchange, it can only be in currency and utilised money.

From this review of the reality of currency that was used at the time of the Messenger ﷺ and of the gold and silver system, it can be deduced that the currency of the *Khilafah* State should principally be gold and silver for both measuring the prices of goods and the wages of labour. However it is allowed to use other metals, together with gold and silver, when the small pieces of gold and silver are coined.

28

The Currency Standard

Currencies are of two types, metallic and paper. Metallic currency is taken from metals like gold, silver, copper, lead and nickel. Paper currencies are taken from paper as a substitute for gold or silver, or backed by gold or silver or both whether backed in full or partially, or it can neither have a substitute nor be backed by either of them.

The world proceeded in adopting gold and silver as the basis of currency and money until little before World War I when it stopped dealing with them. After World War I it returned to using gold and silver partially then began to decrease this dealing. In 1971, dealing with gold and silver was abolished completely when Nixon, the American President, officially announced on 15/7/71 the abolition of the Bretton Woods system of covering dollars with gold and linking the two at a fixed price.

The currency system is the host of principles upon whose basis manufacturing of currency and managing them are carried out in any State. The principal role for each currency system is to specify the principal currency unit to which relates the value of other types of currencies. So if, for example, the sole principal currency is limited to a specific value of gold, this unit is the principal currency for this system. The currency system's name usually depends upon the nature of the principal currency that it adopts. So if the principal currency is gold this system is called the gold standard. If the principal currency is silver, it is called the silver standard. If the principal currency is composed of two units gold and silver it is called the bi-metallic standard. If the value of the principal currency unit is not linked in a fixed relationship with gold or silver, it is called a compulsory currency standard, whether it is taken from metals like copper currency or paper currency (bank notes).

The Metallic Standard

The metallic standard is the standard whose principal currency unit is composed of metals. Either the principal currency unit is composed of one metal or two metals.

Uni- Metallic Standard

This is the metallic currency standard depending upon one metal, gold or silver. This standard could appear in three forms which are:

1. The gold or silver coinage standard.
2. The gold or silver ingots *Sabaik* standard.
3. The gold or silver currency exchange *Sarf* standard.

The Gold or Silver Coinage Standard

This is the standard in which gold or silver coin pieces circulate in a specific, established value or weight which is the circulating tool itself. There could also circulate, together with gold or silver pieces, paper as substitute for gold or silver representing it completely such that it can be exchanged at any time without any restriction or barrier.

The Gold or Silver Ingot Standard

This is the standard in which gold or silver pieces are withdrawn from circulation. The State or central banks preserve gold or silver ingots in their treasuries and issue paper currency as substitute for gold or silver which is submitted for circulation with the ability of being exchanged for gold or silver.

However, when the State designs this ingot standard it limits the absolute potential for exchanging gold or silver with compulsory currency. It limits this to within narrow limits and designs coin ingots in large quantities such that not everyone can purchase them, in order to preserve the reserves of gold or silver, allowing payment of them in case of deficit in payments balance and to prevent any smuggling of gold or silver abroad. Thus a State

that adopts this standard as its currency standard creates a type of currency supervision and some control over the movement of gold or silver.

The Gold or Silver Currency Exchange Standard

This system is distinct in that the currency unit adopted by the country is not directly defined according to gold or silver. Rather, it is defined in relation to the currency of another country that is linked to gold or silver like what occurred in linking the currency of a satellite country with the colonising state's currency which followed the gold or silver principle. As an example to that is that Syrian and Lebanese currency were linked to French currency during the "Mandate" period, and Egyptian and Iraqi currency were linked to English currency during the period they were under British dominion.

The Bi-Metallic Standard

This is the standard whose principal currency is composed of two units, gold and silver. It is inevitable for this standard to define a specific proportion in weight and measure between the gold and silver units, such that one can measure against the other and knows its exchange value it. In this system, gold unit pieces circulate together with silver unit pieces. Some States define a specific statutory range for exchanging gold units with silver units so that the currency exchange price is fixed between them.

Adopting the gold and silver standard requires defining the principal currency units of gold and silver in specific and fixed values and allowing people to buy, sell, import and export gold and silver without restriction. Also it enables them to change their currencies into gold and silver and vice versa, to facilitate foreign trade and allow people to change gold and silver ingots into coins and vice versa, for a simple cost taken by the coining house in the State.

The Paper Standard

The paper standard takes paper currency as the tool of circulation. Paper currency is an expression for circulated vouchers issued for the benefit of its bearer, which represent specific debt secured by the State or currency authority that issued it if this paper is a substitute for gold or silver, or secured paper backed by gold or silver.

Paper currency can be a substitute for gold or silver possessed by the State such that it represents it completely i.e. the gold or silver backing this circulating paper represents 100% of this value. So the bearer of this representative paper currency has the right to exchange it into gold or silver, according to this cover, whenever he wants without any restriction or limit. This representative currency is considered, in reality, to be of the metallic system. All that happens is that instead of circulating gold or silver themselves, this representative currency takes their place in circulation in its capacity as their representative.

Also, this paper currency can be covered for a part of its value in gold or silver, in a specific and limited proportion. Such paper currency is known as "secured currency." Despite this it is not covered completely by gold and silver, its trustworthiness results from the trustworthiness in the authority that issues it. The portion within it covered by gold or silver is currency representative of gold or silver, whereas the remaining not covered portion is secured paper currency whose circulation strength depends upon people's confidence in the authority that issued it.

The third type of paper currency is paper currency without any gold or silver backing at all, nor is it representative of gold or silver. This is known as "compulsory paper currency" that is not exchangeable for gold or silver. Its value depends upon the strength of the public remission of debt which the law grants to it. It has no intrinsic value in itself; rather its value depends

upon the law that obliges it, as compulsory currency. If the law were to abolish transactions involving it or people lost confidence in it, then it would become worthless.

Issuing Currencies

Each State adopts a specific unit of something, making it the basis to which goods and labour are related and by which they are measured. It coins the unit in a specific form and fashion which are specific to it along with a fixed weight and value. Societies have, from the earliest times, made this measuring unit from things with intrinsic value. They adopted gold and silver as a measure to which all goods and labour are related, because gold and silver have intrinsic value in the whole world. They coined currency pieces from them with a specific form and fashion as well as a specific and fixed weight and value.

The State which adopts gold or silver units as the basis for its currency follows the metallic system. If it makes the gold unit the basis for its currency which it coins as currency for itself, then it follows the gold principle or gold Standard. If it makes the silver unit the basis of its currency which it coins as its currency, then it follows the silver standard. If it makes the gold unit and silver unit-beside each other-as the basis for its currency which it coins as its currency, then it follows the gold and silver principle or the bi-metallic standard.

As for the State which adopts paper currency as its currency such that goods and labour are exchanged with it, it follows the paper currency standard. If the paper it prints, as money and currency is representative of gold or silver, the State follows the representative paper currency standard. If the paper it prints and makes as its currency has gold or silver backing equal to a specific proportion of its value, it follows the paper currency standard of the secured type.

If the currency it prints, issues and makes as its money and currency is not a substitute for gold or silver, nor backed by gold or silver, the State is considered to be following the compulsory paper currency standard.

The Roman State adopted the fixed unit of gold with defined weight and value as the basis of its currency. It coined on this basis a unit piece of gold currency in a specific form and fashion, engraved with a specific inscription. It made this gold coined piece its money and currency, and submitted it for circulation, thereby adopting the gold principle in issuing its currency. It thus followed the golden ingots standard.

As for the Sassanid State, it adopted the silver unit as the basis of its currency. It made it of three weights, coining upon the basis of these weights silver *Dirhams* of specific form and fashion engraved with specific inscriptions. It made these silver coined pieces its money and currency, submitted them for circulation, thereby adopting the silver principle. It thus followed the silver ingots standard.

As for Muslims, they adopted the gold unit and silver unit as the basis for their money and currency. They utilised them together, except that they took Byzantine *Dinars* and Chosroes *Dirhams* as their money without coining their own specific money from the time of the Messenger ﷺ and the *Khulafa'a* after him until the period of Abdul Malik bin Marwan. In his time, Abdul Malik bin Marwan minted specific Islamic currency, making it in specific form and fashion. He engraved it with a specific inscription and established it upon the gold and silver unit according to the weights of the *Shari'ah Dinar* and *Dirham*. The Muslims thereby proceeded on the gold and silver standard i.e. the bi-metallic principle. In the last days of the Abbassids, and the period of the Attabika in Egypt, Muslims coined, beside the gold and silver, copper currency to buy trivial things because copper's intrinsic value is low. It was not representative of gold and silver; rather it stood on its own depending upon its value as copper. Since gold and silver became scarce in the Attabika period, they began buying all goods, whether expensive or cheap, with copper currency.

The world continued following the gold and silver principle based on the standard of ingots until the beginning of the 20th century. Each State would coin its own gold or silver currency in its own specific form and fashion, with specific fixed value or weight, until the major colonialist States abandoned the gold and silver principle just before World War I and adopted the compulsory paper money as their currency.

This is the reality of issuing currency, the reality of what Muslims followed

in adopting and issuing currency and the reality of the *Shari'ah* rule regarding its issuing.

Therefore, Muslims must have gold and silver as their currency and the *Khilafah* State must make its currency of gold and silver. It must follow the gold and silver principle i.e. bi-metallic standard, as was the case in the days of the Messenger of Allah ﷺ and the *Khulafa'a* after him. It must coin golden *Dinars* and silver *Dirhams* from the pure gold and silver material and with high value. It must make *Dinars* and *Dirhams* in a specific form and Islamic fashion unique to the *Khilafah* State, making the gold *Dinar's* weight as that of the *Shari'ah* i.e. the *Mithqal's* weight. Hence it should coin the *Dinar* as 4.25 grams for one *Dinar* which is the *Dinar's* weight. It should make the silver *Dirham's* weight the weight of the *Shari'ah Dirham* which is known as the weight of seven, i.e. 10 *Dirhams* weigh 7 *Mithqals*, and so it coins *Dirhams* as 2.975 grams for one *Dirham*.

It is possible for the State to coin gold *Dinars*, its parts and multiples in the following form:

<u>Coins</u>	<u>Weight in Grams</u>
1. One-quarter <i>Dinar</i>	1.0625 g, the weight for which the thief's hand is cut.
2. One-half <i>Dinar</i>	2.125 g, the obligatory amount taken from the <i>Nisab</i> of <i>Zakat</i> .
3. <i>Dinar</i>	4.25 g
4. 5 <i>Dinars</i>	21.25 g, a quarter of the <i>Nisab</i> of <i>Zakat</i>
5. 10 <i>Dinars</i>	42.5 g, half of the <i>Nisab</i> of <i>Zakat</i>
6. 20 <i>Dinars</i>	85 g, the <i>Nisab</i> of <i>Zakat</i>

Using this form, it can coin pieces in the weight of the *Nisab* of *Zakat*, the *Dinar's* weight which is the basis of weight in gold, the weight of one-half *Dinar* which is the obligatory amount taken from the *Nisab* of *Zakat*, and a quarter-*Dinar* piece which is the amount for which the thief's hand is cut.

The State can also coin silver *Dirhams*, its parts and multiples in the following form:

<u>Coins</u>	<u>Weight in Grams</u>
1. One-half <i>Dirham</i>	1.4875 g
2. <i>Dirham</i>	2.975 g
3. 5 <i>Dirhams</i>	14.675 g, the obligatory amount taken from the <i>Nisab</i> of silver
4. 10 <i>Dirhams</i>	29.75 g
5. 20 <i>Dirhams</i>	59.5 g

The State can also coin units smaller than that of silver to help obtaining trivial things. Since the silver contained in these silver units is little and it is difficult to deal with them as they are pure coins, specific portions of different valueless metals can be added to them. However, the proportion of silver in weight used in these coined units must be clarified in a manner preventing any confusion over it.

The *Khilafah* State must endeavour to bring the world back to deal with gold and silver to prevent a state like America from dominating world currency such that she plays with it according to her specific interests.

The Standard Measure of Gold and Silver

The Islamic State throughout its years preserved the standard measure of gold and silver so that they remained free of any impurity. It ensured it was kept completely pure so that they were of high standard measure. It used to prevent adulteration of gold and silver, implementing punishment on all who adulterated *Dinars* and *Dirhams*.

Therefore, gold *Dinars* and silver *Dirhams* must be pure without mixing them with any other metal and its adulteration must be prevented. Punishment must befall all who mix it with any other metals as this is fraud and fraud is prohibited. The Messenger of Allah ﷺ said: **“He is not one of us who deceives”** and in another narration: **“He who deceives us is not one of us.”**

The Ratio of Gold to Silver

The *Khilafah* State must leave the exchange ratio between gold and silver without any restriction. Gold should be exchanged with silver, and silver with gold at the current market price according to supply and demand as was

the case at the time of the Messenger of Allah ﷺ and the *Khulafa'a* after him. The Messenger of Allah ﷺ did not determine a specific ratio between gold and silver nor obliged a specific exchange price between them. He ﷺ left Muslims to buy silver with gold and gold with silver as they wished, hand to hand, without imposing a specific ratio between them. He ﷺ said: **“Trade gold with silver as you wish, hand to hand.”** Ibn ‘Umar said: “I used to sell camels in Baqi’. I sold with *Dinars* and took *Dirhams* and I sold with *Dirhams* and took *Dinars*, taking this for that and giving this for that. I came to the Prophet ﷺ when he was at Hafsa’s house and said: ‘O Messenger of Allah, Will you please wait so that I ask you. I trade camels in Baqi’, I trade with *Dinars* and take *Dirhams* and I trade with *Dirhams* and take *Dinars*, taking this for that and giving this for that.’ The Messenger of Allah ﷺ said: **“There is nothing wrong if you take its price of the day as long as you do not depart from each other where something is still left between you.”**

This is not buying gold for gold and silver for silver, a trade in which equivalence is obliged. “like for like” and “hand to hand.” He ﷺ said: **“Gold for gold, silver for silver, wheat for wheat, barley for barley, dates for dates and salt for salt, like for like and hand to hand. Whoever increases or asks for increase has taken riba in which the taker and giver are the same (in sin)”** narrated by Muslim.

The ratio between gold and silver changes and is not fixed, depending upon the abundance or scarcity of gold and silver metals and upon supply and demand. The ratio in the days of the Messenger ﷺ was around 10:1, in the days of ‘Umar 12:1 then 14:1, and in 1971 it reached 45:1 then, a few months afterwards, 16:1. So the ratio between them is not fixed. Therefore restricting the exchange between gold and silver with a specific and fixed ratio is harmful because if the exchange price between gold and silver is fixed by a restricted statutory proportion, then it will be subject to difference between the statutory value and market value. If this difference occurs, within the State or in foreign markets, it will lead to hiding the currency whose price has risen and smuggling it overseas in case the external market value is higher than the internal statutory value.

The Benefits of the Gold and Silver Standard

When gold and silver were the currency circulating in the world, there were no currency problems at all. Currency problems did not arise except

after the world abandoned the gold and silver system when the colonialist states invented colonialist economic and financial styles to consolidate their dominance over the world. They took currency as a means of colonisation and abandoned the gold and silver standard. They changed currency to other standards in which they gave consideration to bank deposits and compulsory currency that does not depend on gold and silver as currencies. They started to play with world currency according to their interests thus creating currency crises and economic problems. They increased the issuing of compulsory currency which created great inflation in currency, thus leading to decline in the purchasing power of currency. All this is due to abandoning the gold and silver standard.

The gold and silver is the only standard principle of eliminating this currency problems and the severe inflation which has spread throughout the world. It would create currency stability and steadiness in the currency exchange prices and advance of international trade. This is because the gold and silver standard bears numerous economic advantages such as:

1. The world production of gold and silver as commodities depends on the costs of exploration and mining, and the demand for them against the demand for other goods and services. This does not make the providing of currency to the world at the mercy of the colonialist states as is the case in the paper (currency) standard, a matter which enables states to place currency in the markets as they wish through the method of printing more (currency) whenever they wished to improve the currency and payments balance with other states.

2. The gold and silver does not expose the world to unexpected increase in the circulating currency as it happens with paper currency, thereby giving currency the attributes of steadiness and stability, and increasing confidence in it.

3. The gold and silver standard includes a measure for adjusting the imbalance in the payments between countries spontaneously without intervention by the central banks, as happens today whenever an imbalance occurs in the exchange price between world currencies. Increase of imports over exports in a State will increase the other State's receipt of the state's currencies and the outflow of gold and silver abroad. This will lead to a decrease in prices domestically, making domestic goods cheaper than the

imported ones and resulting in decreasing imports ultimately. Furthermore, the state will fear the loss of its reserves of gold and silver if the imbalance of payments continued. Whereas, in the paper system, the State would resort to the printing of paper currency whenever its payments balance is disturbed, for there is no restriction on such issuing, thereby leading to an increase in inflation and a reduction of the purchasing power of currency. As for the gold and silver standard, the State does not have the ability to increase the volume of currency paper as long as this currency paper can be transformed into gold and silver at a particular price. This is because the State fears that increase in its issuing can lead to increase in demand for gold such that it becomes unable to meet this demand, or gold flows abroad, thus the State loses its reserves.

4. Since gold is a currency unit that States can't dominate, this gives it a great advantage in that any quantity of currency in the state is sufficient for what the market needs of currency exchange whether it is a little or a lot, since all goods are priced in exchange with it. So the production of other goods will increase and prices will decrease. Whereas, in the paper standard the increase in currency does not result in this. Rather it leads to reducing the purchasing power of currency, thus leading to inflation. This demonstrates that the gold and silver standard is the one that will put an end to inflation, whereas the paper standard makes it worse.

5. The gold and silver standard is characterised by the fact that the exchange price between different national currencies is fixed since each currency is valued by specific units of gold and silver. Hence the world will eventually have one currency in reality, of gold and silver, even though the currencies differ. The world will then enjoy free trade and movement of goods and wealth between different world States, eliminating the problems of hard currency and coins, thereby advancing international trade, as traders will not fear expanding into international trade as the exchange price is fixed.

6. The gold and silver standard will preserve for each country its gold and silver wealth. Thus the smuggling of gold and silver from one country to another will not arise. The State would not need to supervise the protection of its gold and silver as they will not move out except as prices for goods or wages paid to employees.

All these benefits are realised in a uni-metallic standard, whether gold or

silver, or a bi-metallic standard of gold and silver. Moreover, the bi-metallic standard increases the size of the metallic principle which will result in greater total supply of currency, thus enabling the State to easily meet people's need for currency. This generates greater flexibility and makes the purchasing power of the currency unit and the level of prices favourably disposed to an even greater degree of stability.

These are the merits and benefits of the gold and silver standard. It is not free of problems resulting from world monopoly, customs duty obstacles, concentration of the greater quantity of gold and silver in the treasuries of the super powers and the States which have high production capability and competition in international trade, intelligent scientists, experts and engineers, and because they adopt, at the same time, compulsory paper currency system instead of the gold and silver standard.

In order that the States adopting the gold and silver standard be able to overcome these obstacles and problems, particularly if the world super powers and the States with influence on international trade continued to follow other than the gold and silver principle, they must proceed along the policy of self-sufficiency. Thus they have to reduce their imports and work to exchange the goods they import with their own goods they have rather than with gold and silver. They must also endeavour to sell their goods for the goods they need, or with gold and silver, or the currency they require to import their goods and services.

Moreover, the country following the bi-metallic principle gold and silver should avoid fixing a constant exchange rate between the gold and silver units. They have rather to leave the exchange rate, proceed with the change of prices, because fixing a constant exchange rate between the two units will result in the disappearance from circulation of the currency unit whose market value exceeds its statutory value. This will leave only the cheaper currency unit, because the cheaper currency drives away the valuable currency from circulation.

The Sufficiency of Gold Present in the World

The gold standard is the correct standard preventing governments from issuing quantities of paper currency which has no reserves, thus leading to inflation. The gold system provides a fixed unit for international trade

relations which encourage international trade.

Is, however, the gold existing in the world sufficient to bring the world back to following the gold standard as in the past? Is it sufficient to provide the money required for trade dealings? Is there enough gold in the *Khilafah* State to enable it to return to the gold standard?

In response to these questions, we say, Yes. The gold existing in the world is enough to return the world to the gold standard and it has sufficient flexibility to produce the money required to cover trade transactions and economic needs in the world, for the following reasons:

1. Throughout human history, no metal has ever enjoyed an interest similar to gold. All that man has mined of gold is being used until today despite having been mined thousands of years ago, since it does not perish leading to its disappearance. Rather, all that occurs is its exchange in the form of currency or jewellery, or using it into some form of manufacturing or re-melting it.

2. Gold in all previous times, up to the end of the 19th century, was sufficient for all trade activities and covering all world economic needs throughout all eras without the occurrence of economic or financial problems. Throughout the 19th century, in which economic growth increased to a great level, the world witnessed a great economic increase and a great reduction of prices and increase in wages without shortage in the quantity of gold currency displayed for use, despite the increased goods and services.

3. That which concerns people is not the real increase in currencies, but rather their purchasing ability. The purchasing ability of gold unit was great, creating steadiness and stability and causing prosperity and bloom. Whereas, the expansion in printing non-representative paper currency was a cause of huge economic and financial problems and the inflation increased resulting in decrease of the purchasing power of paper currency.

4. The economic system in which there are no restrictions like *Tas'eer* (fixing of prices) or monopoly does not concern itself with the quantity of currency existing in it, since any quantity of currency circulating is good enough to buy the goods and services in the market. Whenever the goods

and services existing in the market increase while the quantity of circulating currency remains steady, this leads to making the currency unit capable of buying a greater quantity of goods and services. The opposite is also true i.e. if the quantity of goods and services decreases while the quantity of a currency remains steady, the currency unit's purchasing ability i.e. its ability to buy goods and services, decreases. Whatever the case, the circulating currency may be sufficient for currency exchange, no matter how much of it is in circulation.

5. What appears of visible shortage of gold is only due to the prevailing global inflation. If the world were to return to the gold standard then stability would return to currency prices, thus reducing the avid interest in gold, for gold would no longer be used in trading speculation. It would all be directed to trading transactions and economic needs, for the transactions of trading with gold and speculation with it will stop, as currency price stability will be achieved. This is because currency prices and their relation to each other will be determined by gold, thus making all currencies in the world virtually one currency which will lead to the inability of speculation with it and reduce the profits of trading with gold. This will lead to abundance in gold and its shortage will disappear.

These reasons in general demonstrate how the world can return to the gold standard, and how the gold existing in the world can fulfil currency need, cover the trading transactions and provide the required funds for economic needs.

As for the *Khilafah State*, whatever applies to other States also applies to it. So the above mentioned reasons demonstrate its ability to return to the gold standard. There are abundant quantities of gold present in the Islamic countries, accumulated in their banks and treasuries, completely sufficient to enable the *Khilafah State* to return to the gold standard. This is without even mentioning the quantities of silver in the Islamic countries, which will be a principal unit of currency in the *Khilafah State's* together with the gold unit. This is because the *Khilafah State* currency is based upon the standard of gold and silver and upon the bi-metallic standard in relation to currency. All this will make it easy for the *Khilafah State* to return to the gold and silver standard.

Moreover, the Islamic countries possess abundant quantities of all raw

materials necessary for the *Ummah* and the *Khilafah state*, thus making them in no need for other countries regarding the basic and essential goods. Thus the *Khilafah State* will be, through its reliance on domestic goods, in no need for importing foreign goods. This will hold back the moving of gold abroad and, instead, keep it in the country.

The *Khilafah State* also possesses important goods like oil which the whole world needs, enabling the *Khilafah State* to sell it for gold, goods which it needs or for currencies it requires to import goods and services. It can also prevent selling it to any country unless it gives its price in gold. Selling of such goods for gold will make the gold move into the country in abundance, thus increasing the reserves of gold in the *Khilafah State*.

The State's self-sufficiency with domestic goods and its ownership of goods needed by all peoples who are ready to pay their price in gold, will hold back the transfer of gold abroad for a profitable return and increase the flow of gold into the country. This will enable it, to become influential, dominating world currency markets and preventing anyone from dominating its currency.

This demonstrates with absolute clarity the capability of the *Khilafah State* in returning to the gold and silver standard and illustrates that the gold existing in the Islamic countries is sufficient for achieving this and for providing the necessary currency.

How to Achieve the Return to the Gold Standard

The return to the gold standard requires the removal of the reasons that lead to abandoning it and the removal of the factors that lead to its decline. This requires the following:

1. Stopping the printing of paper currency.
2. Restoring the dealings with gold currency.
3. Removing custom duties in front of gold and all restrictions against its import and export.
4. Removing restrictions against owning, possessing, buying and selling of gold, and dealing with it in contracts.

5. Removing restrictions against the possession of the major world currencies and making competition free between them such that they take a fixed price in relation to each other and in relation to gold, without State intervention by reducing or floating their currencies.

Whenever gold is left free, it will have an open market in a short period, and accordingly all international currencies will take a steady exchange price in relation to gold. The international dealings with gold will develop where the payment of the prices of goods contracts estimated by gold, takes place.

If these steps are carried out by one strong State, then its success will encourage other countries to follow it, which will lead to advancing towards returning the world to the gold standard once again.

No State is more worthy to do this than the *Khilafah* State, since returning to the gold and silver standard in her view is a *Shari'ah* rule, and also because the *Khilafah* State is responsible for the world in terms of guidance and looking after the affairs.

By the help of Allah ﷻ it was completed on Wednesday 19 Rajab 1402 AH
12 March 1982

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