

For this reason, he would spend on himself and his family from what was sufficient for a year and he would designate the remainder for fighting and weapons in Allâh, the Almighty, the All-Powerful's Cause. And it is regarding this matter that disagreement has occurred up to this day.

As for *Zakah* and inheritance, they have not caused difficulties or doubts for those in authority who came after him ﷺ, as the matter of *Al-Fai'* has done. Were there no doubts or difficulties in it, Fatimah ؑ would not have requested her inheritance; and Allâh, Most High has said:

﴿مَا آفَاءَ اللَّهِ عَلَى رَسُولِهِ مِنْ أَهْلِ الْقُرَىٰ فَلِلَّهِ وَالرَّسُولِ وَلِذِي الْقُرْبَىٰ وَالْيَتَامَىٰ
وَالْمَسْكِينِ وَابْنِ السَّبِيلِ كَيْ لَا يَكُونَ دُولَةً بَيْنَ الْأَغْنِيَاءِ مِنْكُمْ﴾

“What Allâh gave as booty (*Fai'*) to His Messenger (Muhammad ﷺ) from the people of the townships — it is for Allâh, His Messenger (Muhammad ﷺ), the kindred (of Messenger Muhammad ﷺ), the orphans, *Al-Masâkin* (the poor), and the wayfarer, in order that it may not become a fortune used by the rich among you.”

Up to His Words:

﴿فَأُولَٰئِكَ هُمُ الْمُفْلِحُونَ﴾

“... such are they who will be the successful.”^[1]

So Allâh, Most Glorified has informed us that what Allâh has given as spoils (*Al-Fai'*) to His Messenger is all for those who were mentioned in these Verses and he did not bestow the *Khumus* of it only upon those mentioned; instead, he distributed it generally, freely and to all. So he would distribute it among those with a specific right to it, i.e. those who were permitted to receive *Al-Khumus*, then those with a general right and they were the *Muhajirûn*, the *Ansar* and those who followed them until the Day of Resurrection.

So what he and his Caliphs did is what was intended by the Verses, which is why 'Umar ؓ said: “There is none who has a greater right to this money than another and I do not have a greater right to it than

^[1] *Sûrah Al-Hashr* 59:7-9

another; and by Allâh, there is no one among the Muslims who does not have a share of it except a bonded slave, but we are obliged to distribute it in accordance with the Book of Allâh and the shares fixed for us by the Messenger of Allâh, so a man is given in accordance with his striving in Islam and according to how early was his acceptance of Islam and how wealthy he is and how great is his need. By Allâh, if I remained for them, the shepherd would be brought a share as great as the mountain of San'a' while he is still in his place.”^[1] So those people named in the Verse of *Al-Fai'* are the ones named in the Verse of *Al-Khumus*; and the *Muhajirûn* and the *Ansar* and those who follow them are not included in the Verse of *Al-Khumus*, because they are entitled to the whole of *Al-Fai'* and those who are entitled to *Al-Khumus* have two special rights: A special right to *Al-Khumus* and a general right to *Al-Fai'*, because they are included in both shares. And just as the division of *Al-Fai'* between those to whom he gave it is not the division of complete ownership, but rather according to what is needed and beneficial, likewise, *Al-Khumus* is shared between those who have a right to it and we derive from the stipulation of its being confined to the five categories^[2] that they are included in it. and that they are not excluded from those who have a right to *Al-Fai'* and that *Al-Khumus* does not bypass them and go to others. This is why the Imams of Islam, such as Malik, Ahmad and others ruled that *Ar-Rafidah*^[3] do not have any right to *Al-Fai'*. And Allâh, Most Glorified has determined that those who are entitled to receive *Al-Khumus* are entitled to receive *Al-Fai'* and He has specified them out of concern for their situation and in order to show preference to them and because the spoils are only for those who have a right to them, He has stipulated that the *Khumus* from them is only for those who have a right to it and because *Al-Fai'* is not especially designated for anyone, He has made it for them, for the *Muhajirûn*, the *Ansar* and those who follow them.

^[1] Narrated by Ahmad, on the authority of Aws Ibn Al-Hadathan, it contains in its *Sanad* one Muhammad Ibn Muyassar and he is weak, according to Yahya Ibn Ma'een, An-Nasa'i, Ibn 'Adi and others.

^[2] See *Sûrah Al-Anfal* 8:41.

^[3] *Ar-Rafidah*: The Rejecters, i.e. the Shiites.

Chapter

Regarding the Wisdom Behind not Killing or Imprisoning the Enemies' Messengers and in Repudiating the Treaties of Those With Whom He Had Made Them in Equality, if He Feared That They Would Invalidate Them

It has been authentically reported that he said to the two messengers from Musailamah, when they said: "We say that he is the Messenger of Allâh," –

«لَوْلَا أَنَّ الرُّسُلَ لَا تُقْتَلُ لَقَتَلْتُكُمَا»

"Were it not that messengers may not be killed, I would have killed you both."^[1]

And it has been authentically reported from him that he said to Abu Rafi' ﷺ when Quraish had sent him to the Prophet and he desired not to return:

«إِنِّي لَا أَخْبِسُ بِالْعَهْدِ، وَلَا أَحْبِسُ الْبُرْدَ، وَلَكِنْ أَرْجِعُ، فَإِنْ كَانَ فِي نَفْسِكَ الَّذِي فِيهَا الْآنَ فَارْجِعْ»

"I do not break agreements, nor do I detain messengers, but if you return and still find within yourself that which you feel now, you may return."^[2]

^[1] Narrated by Abu Dawûd and Ahmad, on the authority of Na'eem Ibn Mas'ûd ﷺ.

^[2] Narrated by Abu Dawûd, on the authority of Abu Rafi' ﷺ.

And it has been authentically reported from him that he returned Abu Jandal ﷺ to them (i.e. Quraish) and Subai'ah Al-Aslamiyyah ﷺ came to Al-Madinah and her husband set out in search of her, then Allâh, Most High revealed:

﴿يَا أَيُّهَا الَّذِينَ ءَامَنُوا إِذَا جَاءَكُمُ الْمُؤْمِنَاتُ مِهْجِرَاتٍ فَامْتَحِنُوهُنَّ ۗ إِنَّهُ أَكْبَرُ بِمَا تَعْلَمُونَ ۗ فَإِنْ عَلِمْتُمُوهُنَّ مُؤْمِنَاتٍ فَلَا تَرْجِعُوهُنَّ إِلَى الْكُفَّارِ...﴾

"O you who believe! When believing women come to you as emigrants, examine them; Allâh knows best as to their Faith, then if you ascertain that they are true believers send them not back to the disbelievers..."^[1]

So he made her swear an oath that nothing had caused her to leave except her desire for Islam and that she had not left because of something which she had done among her people, nor because she was angry with her husband and she swore to that, and so he gave her husband his dowry and he did not return her to him.

And Allâh, Most High says:

﴿وَإِمَّا تَخَافُ مِنْ قَوْمٍ خِيَانَةً فَانْبِذْ إِلَيْهِمْ عَلَى سَوَاءٍ ۗ إِنَّ اللَّهَ لَا يُحِبُّ الْخَائِبِينَ﴾

"If you (O Muhammad ﷺ) fear treachery from any people throw back (their covenant) to them (so as to be) on equal terms (that there will be no more covenant between you and them). Certainly Allâh likes not the treacherous."^[2]

And the Prophet said:

«مَنْ كَانَ بَيْنَهُ وَبَيْنَ قَوْمٍ عَهْدٌ، فَلَا يَحُلِّنْ عَقْدًا، وَلَا يَشُدَّنَّهُ، حَتَّى يَمْضِيَ أَمْدُهُ، أَوْ يَنْبِذُ إِلَيْهِمْ عَلَى سَوَاءٍ»

"Whoever has an agreement between him and a people, he should not dissolve it, nor should he change it until it expires."^[3]

^[1] *Sûrah Al-Mumtahanah* 60:10

^[2] *Sûrah Al-Anfal* 8:59

^[3] Narrated by At-Tirmidhi, Abu Dawûd and Ahmad, on the authority of 'Amr Ibn 'Abasah.

And it has been authentically reported from him that he said:

«الْمُسْلِمُونَ تَتَكَافَأُ دِمَاؤُهُمْ وَيَسْعَى بِذِمَّتِهِمْ أَذْنَاهُمْ»

“Muslims are equal in respect of blood. The humblest and weakest of them is entitled to give protection on behalf of them.”^[1]

And in another *Hadeeth*, he said:

«يُجْبَرُ عَلَى الْمُسْلِمِينَ أَذْنَاهُمْ، وَيُرَدُّ عَلَيْهِمْ أَفْصَاهُمْ»

“The humblest of the Muslims may give protection on their behalf and the farthest of them must return to them (i.e. if an expedition goes out from the main force and obtains booty in a far off place, it is to be shared by them and the main force).”^[2]

These are four cases, in which it is mentioned that they are a united hand (of authority) over others, which means that it is not permitted to appoint the disbelievers to positions of authority. And his words: “The farthest of them must return to them” necessitates that if a military expedition acquires booty through force of arms, the booty is distributed among them and whatever comes to the treasury from *Al-Fai'* is for the farthest of them and the humblest of them, even if the cause of its being taken was the humblest of them.

He took the *Jizyah* from the Christian Arabs of Najran and Ailah and from the people of Dûmah, most of whom were Arabs and he took it from the People of the Scripture in Yemen, they being Jews and he took it from the Magians, but he did not take it from pagan Arabs. Ahmad and Ash-Shafi'i said that it may not be taken except from the People of the Scripture and the Magians.

A number of scholars said that it may be taken from all people: The People of the Scripture, according to the Qur'ân, the Magians according to the *Sunnah* and from others following on from that, because the Magians are polytheists who do not have a Scripture and that the only reason he did not take it from the pagan Arabs was that

^[1] Narrated by Abu Dawûd, on the authority of 'Abdullah Ibn 'Amr Ibn Al-'As ؓ.

^[2] This explanation was given by Ibn 'Abdil Barr in '*Al-Istizkar*'.

they had all embraced Islam before the Qur'anic injunction was revealed and they did not accept that the disbelief of the idol worshippers was any worse than that of the Magians; rather, they said, the disbelief of the Magians was worse, because the idol worshippers acknowledged the Oneness of Allâh in matters of Lordship (*Tawheed Ar-Rubûbiyyah*) and they only worshipped their idols (according to their claim) in order to bring them closer to Allâh and they did not claim that they were creators, nor did they make lawful the marrying of mothers, daughters or sisters, for they were upon the remnants of the Religion of Abraham (Ibraheem ؑ) and he had Scriptures and a Divine Law, whereas regarding the Magians, it is not known that they adhere to anything of the Laws of the Prophets ؑ. And he wrote to the people of Hajar and the kings, calling upon them to embrace Islam or pay the *Jizyah* and he did not distinguish between Arabs and non-Arabs. And he ordered Mu'adh ؓ to take from every adult male one *Deenar* or its equivalent in *Ma'afiri*, which is the clothing of Yemen and 'Umar ؓ made it four *Deenars*; this was because during the time of the Messenger of Allâh ﷺ, he knew the weakness of the people of Yemen, whereas during the time of 'Umar ؓ, he knew of the wealth of the people of Ash-Sham.

And it has been confirmed from him ﷺ that he deemed it lawful to make war on Quraish without repudiating the treaty, when their allies committed aggression against his allies, thus betraying them, which Quraish accepted and he considered their compliance with this deed to be tantamount to them having done it themselves.



Chapter

Regarding His ﷺ Rulings on Marriage and Matters Relating to it

It has been authentically reported from him ﷺ that he rejected the marriage of a matron who had been given in marriage by her father against her will.

And in the 'Sunan', it is reported from him ﷺ that he allowed a virgin whose father had given her in marriage against her will to choose (whether or not she accepted the marriage).

And it has been authentically reported from him ﷺ that he said:

«لَا تُنْكَحُ الْبِكْرُ حَتَّى تُسْتَأْذَنَ وَإِذْنُهَا أَنْ تَسْكُتَ»

“A virgin should not be married until her permission is sought and her permission is her silence.”^[1]

And he ruled that the orphan girl may be consulted and he said:

«وَلَا يُتِمُّ بَعْدَ احْتِلَامٍ»

“There is no orphanhood after puberty.”^[2]

This proves the permissibility of marrying an orphan and it is proven by the Qur'ân.^[3]

^[1] Narrated by Ahmad, on the authority of 'Abdullah Ibn 'Amr ؓ

^[2] Narrated by Abu Dawûd, on the authority of Abu Hurairah ؓ

^[3] Narrated by Al-Bukhari, Muslim, At-Tirmidhi, An-Nasa'i, Ahmad and Ad-Darimi, on the authority of Abu Hurairah ؓ

And also in the 'Sunan', it is reported from him ﷺ that he said:

«لَا نِكَاحَ إِلَّا بِوَلِيِّ»

“There is no marriage without (the consent of) a legal guardian.”^[1]

Also in the 'Sunan', it is reported that he said:

«لَا تُزَوِّجُ الْمَرْأَةَ نَفْسَهَا، فَإِنَّ الزَّانِيَةَ هِيَ الَّتِي تُزَوِّجُ نَفْسَهَا»

“A woman may not give herself in marriage, for it is the adulteress who gives herself in marriage.”^[2]

And he ruled that if a woman is given in marriage by two guardians, she is for the first (suitor).^[3]

And he ﷺ ruled regarding a man who had married a woman without fixing a dowry for her and who did not have sexual intercourse with her before he died, that she should have the same dowry as other women of her status, no less and no more, that she should have a share of his inheritance and that she must observe a waiting period ('Iddah) of four months and ten days.^[4]

In 'Sunan At-Tirmidhi', it is reported that he said to a man:

«إِذَا أَزَوَّجَكَ فَلَانَّةٌ»

“Do you accept that I should marry you to so-and-so?”

He said: “Yes.” Then he said to the woman:

«أَتَرْضَيْنِ أَنْ أَزَوَّجَكَ فَلَانًا؟»

“Do you accept that I should marry you to so-and-so?”

She replied: “Yes.” So he married them and the man consummated the marriage, but he had not fixed a dowry for her and he had not

^[1] Narrated by Al-Bukhari, At-Tirmidhi, Abu Dawûd, Ibn Majah, Ahmad and Ad-Darimi.

^[2] Narrated by Ibn Majah, on the authority of Abu Hurairah ؓ

^[3] Narrated by At-Tirmidhi, An-Nasa'i, Abu Dawûd, Ahmad and Ad-Darimi, on the authority of Samurah Ibn Jundub ؓ

^[4] Narrated by Muslim, At-Tirmidhi, An-Nasa'i, Abu Dawûd and Ahmad.

given her anything, so when death approached him, he compensated her with his share of the booty from Khaibar.^[1]

These rulings imply the permissibility of marrying without naming a dowry, the permissibility of consummating the marriage before naming the dowry, the fixing of a dowry equal to that which other women of similar status receive, if the husband should die, even if he has not consummated the marriage, that she is obliged to observe the waiting period of death, even though he had not consummated the marriage; this was the view taken by Ibn Mas'ûd ؓ and the scholars of 'Iraq.

These rulings also imply the permissibility of taking the responsibility of giving both parties in marriage and that it is sufficient to say: "I have married so-and-so to so-and-so," restricting oneself to this.

And he ؓ commanded those who embraced Islam and had more than four wives to choose four of them. And he ؓ ordered those who embraced Islam and had as wives two sisters to choose one of them. This implies the validity of the marriage of the disbelievers and that he should choose whom he wishes from the among those whom he married before embracing Islam and (if he retained less than four) from others after embracing Islam and that is the opinion of the majority of scholars. At-Tirmidhi has reported in a *Hadeeth* which he declared to be *Hasan*, that the Prophet ؓ said:

«إِذَا تَزَوَّجَ الْعَبْدُ بِغَيْرِ إِذْنِ مَوْلِيهِ فَهُوَ عَاهِرٌ»

"If a slave marries without the permission of his masters, he is an adulterer."^[2]

THE END

And Allâh knows better and is Wiser, and all praise and thanks be to Allâh, the Lord of the worlds.

^[1] Narrated by Abu Dawûd, on the authority of 'Uqbah Ibn 'Amir ؓ.

^[2] Narrated by At-Tirmidhi, Abu Dawûd, Ahmad and Ad-Darimi, on the authority of Jabir Ibn 'Abdillah ؓ.