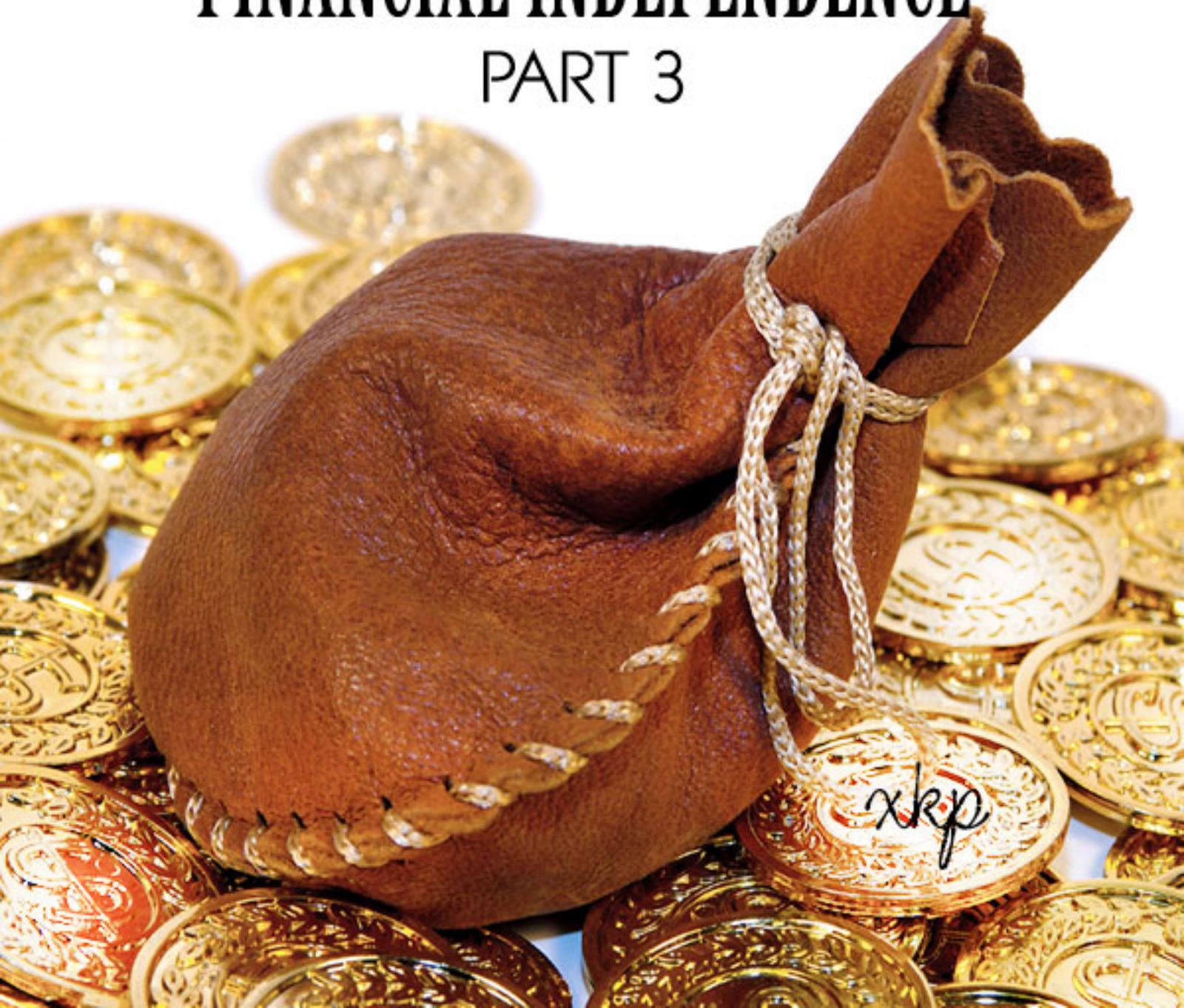


Ayatullah Nasir Makarem Shirazi

KHUAS

A SUPPORT FOR FINANCIAL INDEPENDENCE

PART 3



Chapter 1

ABSTRACT:

In Part I of this series, we used terminology, Qur'anic verses, Sunni and Shi'a hadiths, and exegetes' commentaries to described khums as more than merely defining war booties in the Qur'an and as something that has been collected by the Prophet (s) and Imams (a). Part II offered more hadiths khums and an account of its practice in early Islam. In this part, the ruling of khums during the occultation of Imam Mahdi (a) will be studied. A few writers who are not familiar with fiqh have suggested that the Shi'a are exempted from paying khums in this period. However, a glimpse of fiqh books, especially the books written in recent centuries, shows that this issue has been dealt with in a very detailed way by the some of the great jurists. In what follows, the hadiths that have been taken to suggest that khums has been forgiven will be studied, as well as the state of khums in the first centuries, and the basis for allocating khums for needy Sayyids.

It has been assumed that during the occultation of Imam Mahdi (a), the Shi'a have been exempted from paying khums. Jurists have argued against this by scrutinizing those hadiths that have been misinterpreted and concluding that the Shi'a are not entirely exempted from paying khums. These hadiths can be divided into five groups:

Group One: There are eight hadiths which are all related to the captives of war who eventually married the people with whom they stayed. These have nothing to do with general exemption from khums.¹

Group Two: This group consists of hadiths which indicate that khums was forgiven in a specific and certain time, because as we said in previous parts, the Prophet (s) and Imams (a) as

the governor of the Islamic government had the right to forgive this Islamic tax under special circumstances according to the conditions of Muslims. Just as it had sometimes been necessary to add some extraordinary taxes temporarily in hard conditions, one of the authorities of the Islamic government is to temporarily dispense with the khums tax according to the conditions of Muslims. Here are some examples of these types of hadiths:

I. Yunus ibn Ya'qub quotes:

I was with Imam Sadiq (a) when a man entered and said, "Your holiness, there are assets and benefits and merchandises that we gain and we know that your right is in them and we are guilty about this matter. Imam (a) replied: 'If we order you to pay these rights today this is unfair (because of pressure from the government or the living conditions you face).'²

¹ See *Wasa'il al-Shi'ah*, vol. 6, hadiths 3, 4, 6, 15, 16 & 18 Chapter 4 of the Chapters on *Anfal* and hadith 8 from Chapter 8 of "What Khums is obligatory in it."

² Hadith 6, Chapter 4 of the Chapters on *Anfal*.

II. Hakim ibn 'Isā quotes:

I asked Imam Sadiq (a) about the meaning of the Qur'anic phrase: "Know that whatever thing you may come by, a fifth of it is for God and the Apostle, for the relatives and the orphans, for the needy and the traveller... (8:41)." Imam (a) answered: "Any benefit one gains day by day; however, my father forgave Shi'as in order for them to be pure."¹

These hadiths are related to an exemption for a group of Muslims who were lived under special conditions from this Islamic tax and, therefore, there is no proof of general exemption that can stand against all the hadiths that indicate the generality of khums for all ages.

The clear proof and strong evidence about this matter is that some of the other Imams (a) such as Imam Baqir (a) and Imam Sadiq (a) had ordered Shi'as to pay khums and take this Islamic tax seriously in ordinary situations when they were capable of paying. Here are some examples:

a) Mohammad ibn Zayd Tabari quotes that one of the merchants from Fars who was a friend of Imam Ali ibn Musa al-

Rida (a) wrote a letter to his holiness and asked for forgiving khums, and his holiness replied:

In the Name of Allah the Compassionate, the Merciful. Allah is All-bounteous and Generous. He rewards for any good act and deprives rewards for those who abstain from good deeds. There is no halal asset unless Allah has made it halal. Know that khums helps us to organize religious tasks, family duties, and that which concerns our Shi'a and we save our honour by that against oppressors.

¹ *Ibid.*, Hadith 8. See also *ibid.*, Hadiths 1, 2, 7, 9, 14 & 19.

Therefore, do not ignore paying khums. A Muslim is a person who is loyal to the divine oath and pledge, not in the way his tongue says it yet his hearts denies.¹

b) The same person quotes that a group came to Imam Ali ibn Musa al-Rida (a) from Khurasan and asked him to exempt them from paying khums. Imam (a) replied:

I do not permit such a thing. You express your kindness to me by your words, but you withhold the right that Allah has legislated for us and has made us responsible for its expenditure from us. I do not exempt any of you, I do not exempt, I do not exempt.²

c) Abu Basir quotes from Imam Baqir (a):

Anyone who buys something from khums, Allah will not forgive him because he has bought something that is not halal for him.³

Moreover, hadiths 8, 9, and 10 of this chapter and also hadiths 1 through 6 of chapter eight of *What Khums Is Obligatory in It* say that some Imams (a) not only did not forgive khums, but also seriously criticised those who did not pay it.

Thus, it is clearly understood from these hadiths that the exemption was not meant to be permanent, but it was exclusive to specific conditions similar to some tax exemptions.

Group Three: These hadiths relate to cases, in which certain individuals faced difficulties and were exempted by the Imams (a) from paying khums. For example, Hakam ibn 'Ulya Asadi

¹ *Ibid.*, vol. 6, Chapter 3 from the Chapters on *Anf_1*, hadith 2.

2 *Ibid.*, Chapter 3, hadith 3.

3 *Ibid.*, Chapter 3, hadith 5.

approached Imam Baqir (a) with the khums of his assets; however, his holiness took that khums and then gave it back to him. The fact that Imam (a) took from him his khums and gave it back to him shows that khums was obligatory and therefore the Imam (a) took it and then for some reason (such as Hakam's financial hardship) gave it to him in order to meet his needs.¹

Group Four: This group includes hadiths which indicate exemption, but it is clear that they are not related to khums; rather, they are about *anf_l* (the spoils of wars which end without fighting, abandoned lands, mines, woods, the mountains, bedrocks of rivers, inheritance of someone who has no heir, etc.).

Hadiths 12 and 17 of Chapter Four of the Chapters on Anfal relate to this category and it is well understood from sentences following the hadiths that they relate to anfal lands and not khums.

Group Five: This group consists of hadiths that seem to indicate general exemption of khums and are not exclusive to a specific time or person. There are only three hadiths like this and we study all of them here. Here are three hadiths:

a) Salim ibn Mukram quotes that he was there when someone went to the Imam Baqir (a) and asked for permission to have sexual intercourse with women. The Imam (a) [behaved as if he] was shocked by his words. A person in attendance explained that he does not mean to rape women; rather, he wants to buy a maid (female slave) [from spoils and assets on which their khums has not been paid] or he wants a woman to marry him, using an inheritance which he receives, or the income of business or what was given to him as a gift. Imam (a) said:

These are all *hal_l* for all of our Shi'as, consisting of those who are present here or absent, those who

1 *Ibid.*, Chapter 1 of Anfal, hadith 13.

are dead or alive, or those who will be born until the end of days. These are halal for everyone.¹

Although nothing has been mentioned explicitly about the khums in the text of the hadith, what the Imam (a) has made halal for everyone consisting of merchandise and spoils of war and gifts should be an asset, to which khums has been applied.

Evaluation: First of all, this hadith is weak because Salim ibn Mukram is the subject of many debates among scholars of the Science of al-Rijal. Some people considered him reliable; others considered him weak, and yet other scholars stopped debating about him and expressed no comment. Thus, the hadiths which Salim ibn Mukran had quoted alone are not acceptable.

Secondly, if we pay a little attention to the question asked from the Imam (a), it is clear that the entire discussion in the hadith is about female servants to whom khums had been applied or women for whom their *mahr* (marital gift) had been paid from assets which their khums had not been paid, or a female servant or a women who has been given to a person with gifts and heritages on which khums had applied.

Overall, the content of the hadith is completely about women and wives who are given to a Muslim, and either their mahr or they themselves have been subject to khums. The answer of the Imam (a) is therefore exclusive to this part; otherwise, it does not make any sense for a person to ask about women and another person from attendance generalizes his words to encompass everything.

Therefore, what is understood from this hadith is that Imam (a) forgave any right which belongs to the khums of the mahr of women and spouses for anytime and anyone of the Shi'as in order to establish purity of birth which means legitimacy of children.

This is related to Group One and our faqihs have dealt with this thoroughly in their books as an exception. It could not be the

¹ *Ibid.*, Chapter 4 of Anf¹, hadith 4.

proof of forgiveness of khums forever, but forgiveness is exclusive to the issue of the wife and female servant.

Moreover, according to the hadiths of the Chapters on *Mahr* if a person has decided not to pay the mahr of a woman or pay

it from a haram asset, he is considered a fornicator.¹ Although some faqihs understood them as indicating such act to be forbidden and some others as indicating to be disliked, it shows that paying mahr from an asset that is not completely owned by a person is not without influence on the spiritual condition of their children and accordingly this part of khums has been forgiven in order to ensure the purity of the children.

b) Ma'adh ibn Kathir quotes Imam Sadiq (a) as saying:

There are many opportunities for our Shi'ites in order to spend their wealth in charity in the way of Allah, but when our Qu'im (he who arises; the 12th Imam) arises, any treasure which anyone has saved will become haram for him and he must give it to the Imam him so that he will be able to use it for his goals.²

Evaluation: Clearly, nothing has been mentioned about the issue of khums in this hadith; however, it refers to the fact that rich people of a nation can save wealth and also spend charity in the way of Allah until the day Imam Mahdi (a) arises. Then they should give all of their savings to him in order to use them to establish justice on earth. The best reason to show that this hadith has no relation with khums is that Imam Sadiq (a) says they should give all of their savings to Imam Mahdi (a) and not only its khums (one fifth); otherwise, Imam (a) would have just mentioned that khums must be given to Imam Mahdi (a).

1 Refer to *Ibid.*, vol. 15, pp. 21 - 23 (Chapter 11 from Chapters on Mahr).

2 Hadith 11, Chapter 4 of the Chapters on Anfal.

Also we should note that there is Mohammad ibn Sinan among tellers of this hadith whose reliability is not clear for the scholars of the Science of al-Rijal and they have arguments about him.

c. In a *mursal* (hurried) hadith which has been quoted in *Tafsir of Al-'Ayyashi*, Imam Sadiq (a) is quoted as saying:

The most difficult thing which people will be involved with on the Day of Judgment is that the owner of khums stands and says, 'My God! My khums has not been paid, but our Shi'as are exempted from it.'

Evaluation: Clearly, this hadith is *mursal*, that is, an unknown person has quoted it from Imam Sadiq (a) and, therefore, it cannot be verified.

CONCLUSION:

We conclude from all that we said that there is no acceptable proof for the *tahlil* (exemption) of khums in a general way, and those who claim this, in fact, had not studied these hadiths enough, and it is clear according to the above hadiths that there is no hadith available whose content shows the exemption of all people from khums in all situations.

Chapter 2

THE STATE OF KHUMS IN THE FIRST CENTURIES

Was khums collected at the beginning of Islam? To answer this question we should say that if the period of the beginning of Islam includes the time of the Imams (a), then the answer is positive, because as it is understood from the previous discussions, most of the Imams (a) not only took the khums of income during their time, but they also emphasized on the payment of this khums, and they had even chosen special deputies and agents for collecting this khums. For example, people like Ali ibn Mahzyar and Abu Ali ibn Rashid had been given this duty.¹

During the time of the Prophet (s) and Imam Ali (a), khums had been taken from the spoils of war and mines, treasures, and gems which were obtained by diving in the sea. For example, it is reported in Bayhaqi's *Al-Sunan* that during the time of Imam Ali (a) a person who had found a treasure approached the Imam with it. The Imam left four-fifth of that asset for the finder and took one fifth (khums) of that asset.² There is a similar which is again registered in the same book.³

Also in that same book which is considered to be one of the famous Sunni resources, it has been quoted that Imam Ali (a) said: "There is khums in rikaz." The people asked what *rikaz* was, to which he replied, 'Gold and silver which Allah has created since the day of beginning of the earth.'⁴

Moreover, a detailed hadith about this matter has been quoted in *Wasa'il al-Shi'ah* from the time of Imam Ali (a) that a person found a *rikaz* (a mine or treasure) during the time of Imam Ali (a), and when his holiness was informed about it, he told that man to hand its khums over to him.⁵

In previous parts, we have shown some hadith such that the Prophet (a) continuously ordered that there is khums in *suyab* and people should pay its khums. As we have said before, *suyab* is the plural form of *sayb* which refers to mines and treasures. Some people said that it can also consist of any kind of gift or bestowal; hence, we conclude that the order of khums for other than spoils ‘

1 Refer to *ibid.*, hadiths of Chapter 8 from the Chapters on *Obligatory Cases of Khums*, vol. 6 of *Wasa'il al-Shi'ah*.

2 *Sunan* of Bayhaqi, vol. 4, p. 156.

3 *Ibid.*, vol. 4, p. 157.

4 *Ibid.*, p. 152.

5 *Wasa'il al-Shi'ah*, vol. 6, The Section on Khums, Chapter Six, hadith 1.

of war had been issued in the time of the Prophet (s) and that the Prophet (s) had ordered people to give that in his letters.¹

But the question remains as to whether or not khums had been taken from all kinds of income during the time of Prophet (s) and Imam Ali (a). In response we say that we do not have clear historical evidence as to whether khums had been taken on all kinds of income during the time of Prophet (s) and Imam Ali (a); however, this does not present a problem regarding the ruling of khums. This is because as we have said before, the collection and forgiving of this Islamic tax is one of the authorities of a legitimate Islamic government. When the government finds itself needless or when people are in trouble, it can forgive the payment of khums, but when the government has needs and sees the ability of the people to pay, it can take khums, similar to the later Imams (a) who took khums or forgave it according to the conditions of the people or the Bayt al-Mal.

During the time of Prophet (s) and Imam Ali (a), there were lots of spoils from battles and also a lot of income from *kharaj* lands whose rents had been paid to the Bayt al-Mal. At times, the amount of these spoils was so high that their khums could easily solve most of the financial problems of the Islamic government.

Indeed, sometimes income from kharij lands was so much that the Bayt al-Mal had been overflowed by assets and in

these conditions there was no need to take khums on all types of income; therefore, they exempted people from paying khums.

At the beginning of Islam when the need of the Bayt al-Mal was so much compared to resources of income, the conditions of Muslims were so unsettled and weak that paying khums after zakat could be too difficult for them, and accordingly khums had not been taken. But in the time of other Imams (a) when the khums of spoils of war and also income of kharaj lands had been taken by the caliphs and not given to the Imams (a), and also

¹ Refer to *Makatib al-Rasul*, pp. 397 & 405 and *Usd al-Gh_bah*, Section 3, p.

38.

people had the ability of paying the khums on all of their income, Imams (a) had taken khums from them. Briefly, not taking khums on all types of income during the time of Prophet (s) and Imam Ali (a) is not the reason for the nonexistence of this ruling in Islam. It is also necessary to mention that it is understood from some letters of the Prophet (s) which we quoted before that he had taken khums from anfal. And we read in *Kanz al-'Ummal*, a well-known Sunni collection of hadith, that the Prophet (as) said:

Truly you can benefit from the plants and water of the lands, planes and valleys, provided that you pay khums.¹

ALLOCATING KHUMS FOR SAYYIDS

As we know, half of khums is spent under the supervision of maraji' on sayyids i.e. the progeny of Hashim, the grandfather of the Prophet (s). Some people who do not have proper understanding of philosophy behind legislation of khums take this to be a kind of discrimination.

First of all, half of khums which is for the sayyids of the Bani Hashim should be given exclusively to their poor people, for their living expenses for one year; therefore, it would apply only to people who are either retired or ill, children who are orphans, or any poverty-stricken person. Therefore, the sayyids who are able to work and potentially or practically can gain an income which covers their costs of living can never use this part of khums.

Secondly, the needy people of the Bani Hashim do not receive zakat while non-sayyids who are needy may receive zakat.

¹*Kanz al-'Ummal*, vol. 7, p. 65 & *Makatib al-Rasul*, p. 365, as well, it has been quoted from other resources.

Details can be learnt from the manuals on fiqh by Grand Ayatollahs.¹

Thirdly, if the share of sayyids is more than their need, then the excess amount should be paid to the Bayt al-Mal, and if the sayyids' needs are more than their share of khums, they should inevitably be paid from the Bayt al-Mal.²

Thus, the needy sayyids can cover their costs of living up to one year from khums and not zakat; on the other hand, the needy who are not sayyids can take from zakat and not khums. The only question that remains is that if there is no difference in the result between these two sources, what is the benefit of the program of khums? To answer this question, it is noteworthy to say there is an important difference between khums and zakat. Zakat is one of the taxes considered as public assets of the Islamic society; therefore, its usage should be in this same part, but khums is one of the taxes related to the Islamic government. Thus, the costs of

¹The proof that the Bani Hashim have been prevented from taking zakat is based on many hadiths which have been quoted in Shi'a and Sunni books, and there are so many hadiths that leave no room for doubts. Denying these hadiths is equal to denying self-evident matters. For further information about these hadiths in Shi'a resources, you can refer to *Wasa'i al-Shi'ah*, vol. 6, Chapter 29 from Chapters of "People Who Deserve Zakat," hadiths 1-4. Other references regarding this are Chapter 30, hadith no. 1; Chapter 31, hadith no. 3; Chapter 32, hadith numbers 3, 5, 6, 7 and 9. Also, in Chapter 33, refer to the first hadith; in Chapter 34, refer to hadith no. 4. For more information about hadiths of this issue in Sunni resources, you can refer to *Sunan* by Bayhaqi, vol. 7; *Al-Sadaqat*, p. 29, Chapter "The Household of the Prophet (s) Are Not Given from Obligatory charity" and p. 30, Chapter "Explanation of Who the Household of the Prophet (s) Who Cannot Receive Charity." Other references for this is *Majma' al-Zawa'id*, vol. 2, p. 89, Chapter "Charity for the Messenger of God and His Household" and *Makatib al-Ras_l*, pp. 216, 224, 230 and 432. Also, *Al-Musannaf* by Abd al-Razzaq, vol.4, p. 50, Chapter "Charity Is Prohibited for the Household of the Prophet (s)" contains many hadiths about this matter. One can also refer to *Al-Maghani* by Ibn Qudamah, Beirut Edition, vol. 2, p. 519, and *Sunan* of Ibn Dawod, Beirut Edition, vol. 2, p. 45.

²*Wasa'il al-Shi'ah*, Chapter 3 from Chapters on Share of Khums, haditha 1 and the Islamic government and its governor should be provided from this source.

Therefore, depriving sayyids from zakat is in fact for leaving no excuse for anybody to think that the Prophet (s) has dominated his relatives on zakat which is a public fund. But at the same time, the needy and poor sayyids should also be provided. This matter has been planned for in Islamic laws in the way that they receive from the money that belongs to the Islamic governor i.e. the Prophet (s) and Imams (a) and not the public budget.

Therefore, not only is the right of needy sayyids over half of the khums not an extra privilege or advantage for sayyids,¹ but it keeps them away from public benefits to avoid problems.

It should be noted that, according to both Shi'a and Sunni sources, some members of the Bani Hashim took it as a sign of

deprivation that there were not granted the right to benefit from zakat at all. For example, in a hadith from Imam Sadiq (a) a group of people from the Bani Hashim went to the Prophet (s)

and asked his holiness to assign them to the duty of collection of zakat of four-footed animals and they said we deserve to receive from the share which God has specified for collectors of zakat.

The Prophet (s) said:

O Bani Abd al-Muttalib! Zakat is not halaal neither for me nor you, but I promise my intercession in exchange of this deprivation... you should be satisfied with what God and your Prophet have specified for you (and do not deal with zakat)! They said they were satisfied.²

¹ In some Islamic hadiths, such as hadith 2 of Chapter 29 from the Chapter "Those Who Can Receive Zakat," vol. 6 of *Wasa'il al-Shi'ah*, zakat has been expressed as "*awsakh*" (dirt of people's hands), and the purpose of this expression is to illustrate that unless necessary no one should be willing to receive zakat and that people should provide their needs with their own efforts as much as they can and they should not impose themselves on Bayt al-Mal.

²*Wasa'il al-Shi'ah*, vol. 6, p. 186.

Thus, it becomes clear that Bani Hashim had viewed this matter as a deprivation for themselves and Prophet (s) promised them the intercession in change. According to a hadith in *Sahih* of Muslim, Abbas and Rabi'ah ibn Harith went to Prophet (s) and asked him to appoint their two young sons sons: Abd al-Muttalib ibn Rabi'ah and Fadl ibn Abbas as the collectors of zakat and take a share like others in order to provide the costs of their marriages. Prophet (s) denied that and ordered that their means of marriage to be provided from another way and mahr to be paid from khums.¹

It is clear that khums is not considered as an advantage for sayyids and it is legislated in order to offset a kind of deprivation in order to save public benefits.

CONCLUSION

Studying and evaluating different sets of hadiths that are taken by some people to indicate general removal of obligation of paying khums, we realized that under some specific circumstances, some Imams (a) had forgiven khums but that this did not invalidate the general ruling. We also saw that khums has been paid from the early centuries of Islam. Finally we explained the reason why half of the khums is paid to needy sayyids.

1 Sahih

ISLAMICMOBILITY.COM

IN THE AGE OF INFORMATION
IGNORANCE IS A CHOICE

*"Wisdom is the lost property of the Believer,
let him claim it wherever he finds it"*

Imam Ali (as)