

## ‘USHR

The Hadyah Author has contended that the issue of ‘Ushr [tithe] too was a new *Shari’at* and that it was comparatively harder than the *zakat* that is an Islamic *Farz* [obligation]. The **Hadyah Author has further written**, “This ‘Ushr is not that ‘Ushr, which is fixed for the acquired produce from the earth in the *Shari’at*. On the contrary, this is a new *Shari’at*.”<sup>1</sup>

**We say:** Even a person who has very ordinary knowledge of the Traditions and Islamic Jurisprudence also knows that ‘ushr is a well-known Islamic issue, which is accepted by all the imams and *mujtahidin*. If there is a controversy, it is about which of the things are subject to this tax and which are not. For instance, Imam Malik<sup>RA</sup> and Imam Shafe’i<sup>RA</sup> hold that things, which grow from earth, that is, commodities like wheat, barley, millet, etc., and fruits like dates, grapes, etc., or things, which are nourishing and can be stored are subject to payment of ‘ushr. However, Hazrat Imam Ahmad Ibn Hambal<sup>RA</sup> holds that the things that can be stored and weighed or measured are subject to ‘ushr. Based on the principles laid down by these imams, the payment of ‘ushr is obligatory on some of the things as some of the imams have laid down, while other imams hold that it is not at all obligatory. The things that fall under the latter category are sesamum, almonds, linseed, mustard, etc. However, Imam Ahmad<sup>RA</sup> holds that payment of ‘ushr is obligatory. Nevertheless, Imam Malik<sup>RA</sup> and Imam Shafe’i<sup>RA</sup> hold that it is not obligatory.<sup>2</sup>

Contrary to the contentions of these imams, Hazrat Imam Azam<sup>RA</sup> contends that everything that grows from soil is subject to the payment of the ‘ushr except things like wild grass, reed and firewood, whether it is nourishing, measurable or capable of being stored.<sup>3</sup> On the other hand, if wild grass, reed and firewood are acquired with effort and are protected, they are liable to payment of ‘ushr, according to Hazrat Imam Azam<sup>RA</sup>.<sup>4</sup> According to Hazrat Imam Azam<sup>RA</sup> and some other imams, the payment of ‘ushr on cotton is not obligatory. However, Imam Abu Yusuf<sup>RA</sup> holds that payment of ‘ushr is obligatory on cotton also.<sup>5</sup> Although honey does not grow out of soil, most of the imams hold that payment of ‘ushr is obligatory on it. However, Imam Abu Hanifa<sup>RA</sup> holds that if honey is obtained from the ‘ushri *zamin*, payment of ‘ushr is obligatory on it, otherwise not. However, Imam Ahmad<sup>RA</sup> holds that whether the land is ‘ushri or *khiraji* (revenue) from which the honey is obtained, the payment of ‘ushr is obligatory. Hazrat Umar bin Abdul Aziz<sup>RZ</sup> narrates that payment of ‘ushr is not at all obligatory.

The well-known historian Ibn Khaldun writes in his history that Hazrat Umar<sup>RZ</sup><sup>6</sup> had issued orders that the ‘ushr should be collected on pearls and ambergris, although they are not of the nature of things that grow from the soil.

The same historian says that Hazrat Umar<sup>RZ</sup> had commanded that ‘ushr be imposed and collected on all merchandise that was imported in the *Dar-al-Islam* [Abode of Peace—Muslim country]. The rate

<sup>1</sup> *Hadyah-e-Mahdaviah*, Abu Raja Muhammad, 1293 AH Edition, p.28.

<sup>2</sup> See *Mizan She’rani*.

<sup>3</sup> See *Fatawa-e-Hindiah*, and other books on the *Fiqh-e-Hanafi*.

<sup>4</sup> See *Hedaya Fiqh Hanafi*.

<sup>5</sup> See *Mizan She’rani*.

<sup>6</sup> Second Caliph of Islam.

of this tax was ten percent. The well-known Companion of Prophet<sup>SLM</sup>, Shu'bi<sup>RZ</sup> says that the first ruler who imposed the tax, 'ushr, was Hazrat Umar<sup>RZ</sup>.<sup>7</sup>

There is controversy over the issue of choosing of the things on which the 'ushr is imposed. Similarly, there is controversy over the quantity of things on which the 'ushr is imposed. The Three Imams [Imam Malik<sup>RA</sup>, Imam Ahmad Hambal<sup>RA</sup> and Imam Shafe'i<sup>RA</sup>] contend that the quantity of the thing on which the 'ushr is imposed should be five *wasq* [load] or about 2,400 *rat'l*.<sup>8</sup> However, according to Hazrat Imam Ghazali<sup>RA</sup>, the 'ushr becomes obligatory if the quantity of the thing taxed is 800 maunds.<sup>9</sup> 'Ushr will not be obligatory on a quantity lesser than this.<sup>10</sup> On the contrary, Hazrat Imam Abu Hanifa<sup>RA</sup> holds that the quantity is not the condition. Whatever the quantity, large or small, is received, the payment of *ushr* [or 1/10<sup>th</sup> or ten percent] is obligatory.<sup>11</sup> Similarly, there is difference of opinion on the quantity of honey, on which the payment of 'ushr becomes obligatory. Hazrat Imam Abu Yusuf<sup>RA</sup> contends that if the quantity is five *wasq* [load] or ten *mush'k* [water-skin] or more, the payment of 'ushr becomes obligatory; otherwise, no 'ushr is obligatory. According to Imam Ahmad<sup>RA</sup>, if the quantity of honey received or obtained is 360 *rat'l* [pound] or more, the 'ushr becomes obligatory; otherwise, it is not obligatory.<sup>12</sup> However, according to Hazrat Imam Abu Hanifa<sup>RA</sup>, no particular quantity is fixed. Whether the quantity of honey is large or small, the payment of its 'ushr [ten percent of it] is obligatory.

The differences of opinion and contention we have briefly described above go to prove that some of the Imams<sup>RA</sup> have particularized the command of 'ushr with certain things and certain quantities thereof, and have exempted other things from its payment. On the contrary, some other Imams<sup>RA</sup> concede that it is obligatory to pay the 'ushr on the same things in the same quantities that the Imams<sup>RA</sup> of the first category have exempted its payment. Surely, no Muslim—and certainly not the Muslim of the *Ahl-e-Sunnat-o-Jama'at*—can deduce from this particularization that the Imams<sup>RA</sup> have abrogated the *Shari'at-e-Muhammadiyah* by exempting some of the things from the payment of 'ushr, or, that the Imams<sup>RA</sup> who have made the command of the 'ushr general, have abrogated the *Shari'at-e-Muhammadiyah* or invented a new *Shari'at*.

Keeping the commands that Hazrat Umar<sup>RZ</sup> promulgated and brought into force in view, 'ushr is not levied only on the things that grow from the soil. On the contrary, it was levied on things that do not grow from the soil, the merchandise, which can possibly include all kinds of things, also was subject to the payment of 'ushr. Despite this generalization, no Muslim can be arrogant enough to say that the 'ushr Hazrat Umar<sup>RZ</sup> promulgated is a new *Shari'at* because "This 'Ushr is not that 'Ushr, which is fixed for the acquired produce from the earth in the *Shari'at*. On the contrary, this is a new *Shari'at*,"<sup>13</sup> as the Hadyah Author has said erroneously.

When one ponders over the reasons and arguments on which the Imams<sup>RA</sup> have based their differences of opinion, it is proved that some of the Imams<sup>RA</sup> have relied on the application and

<sup>7</sup> Hazrat Amir Khusro<sup>RA</sup> has written in his travelogue under the events of the year 438 AH in Tripoly [in Libya] that at the time of his visit, this city was in the occupation of the Sultan of Egypt. 'Ushr was collected from all the ships that came from Rome, Spain and western countries with merchandise and the expenditure on the armed forces that guarded the frontiers were met from the taxes collected on this merchandise.—Shehab bin Nusrat<sup>RA</sup>.

<sup>8</sup> A *rat'l* is about a pound in weight.

<sup>9</sup> A maund is of forty seers and a seer is of eighty tolas. A kilogram is equal to 84 tolas.

<sup>10</sup> *Mizan She'rani; Ahya al-Uloom.*

<sup>11</sup> *Fatawa-e-Qazi Khan* and other books of Fiqh Hanafi.

<sup>12</sup> *Mizan She'rani.*

<sup>13</sup> *Hadyah-e-Mahdaviyah*, Abu Raja Muhammad, 1293 AH Edition, p.28

generality of the Quranic Verses, while others have relied on the narratives to specify the things and their quantities to levy the ‘ushr. Hence, the jurists and exegetes have extracted the command about ‘ushr from the following Quranic Verse:

*“O ye who believe! Give to others in charity of only the good things which you have earned and also of that which We have brought forth for you out of the earth, and do not think of selecting only the useless things that you would not yourselves accept with closed eyes. And know that God is above all needs, the Praiseworthy.”*<sup>14</sup>

It is written in *Tafsir-e-Ahmadi*:

“Imam Zahid writes that the command of Allah Most High ‘that which We bring forth out of the earth’ is the *dalil* [argument; proof] for making obligatory the ‘ushr’.”

It is written in the *Tafsir-Ma’alim*:

“This Verse is the command for paying the ‘ushr from fruits and commodities.”

Allamah Burhanuddin Mahmood writes in his book, *Muhit-e-Burhani* Vol 3, Kitab al-‘Ushr:

“It is necessary to know that the basis for making the ‘ushr obligatory is the command of Allah Most High. ‘Give to others in charity of only the good things which you have earned and also of that which We have brought forth for you out of the earth....’” The exegetes say that the purport of the Divine command, ‘which you have earned’ is the *zakat* of the merchandise, and the purport of the command, ‘that which We have brought forth for you out of the earth’ is the ‘ushr. The command, ‘...render the dues that are proper on the day that the harvest is gathered...’<sup>15</sup> purports the payment of the ‘ushr.’”

It is written in the book, *Muhit al-Sarkhasi*, Chapter, *Ma Yajib fih al-‘Ushr*,

“Hazrat Imam Abu Hanifa<sup>RA</sup> says that the payment of ‘ushr is obligatory on everything that grows from the soil, which is cultivated with the objective of earning, irrespective of whether its fruit survives or not. However, according to the Sahibin, the ‘ushr is obligatory on the fruits of the grown plants that survive and that are consumed by human beings or animals, like sugarcane, fodder or millets and such other things. The argument of the Sahibin is the saying of Hazrat Prophet Muhammad<sup>SLM</sup> that there is no charity in vegetables and greens. Hazrat Abu Hanifa<sup>RA</sup> bases his argument on the Quranic command, ‘... Give to others in charity of only the good things which you have earned and also of that which We have brought forth for you out of the earth....’<sup>16</sup>

It is written in the *Tafsir-e-Kabir*:

“The exoteric context of the Quranic Verse, ‘...That which We have brought forth for you out of the earth...’<sup>17</sup> indicates that the payment of the *zakat*<sup>18</sup> on all the vegetables that are

<sup>14</sup> Quran, S. 2: 267 SAL.

<sup>15</sup> Quran, S. 6: 141 AYA.

<sup>16</sup> Quran, S. 2: 267 SAL.

<sup>17</sup> Ibid.

<sup>18</sup> ‘Ushr is exoterically interpreted as the *zakat-as-samar* or *habub* [the religious tax in Islam on fruits or grains, usually called the poor-due]. However, all the Imams<sup>RA</sup> hold that the ‘Ushr is obligatory on things that grow out of earth like dates, grapes and commodities, depending on their quantity. Hence, here the term *zakat* purports to mean ‘Ushr. If one were to take the known *zakat* as the purport, it would not conform in view of the obligatory minimum wealth,

planted is obligatory. But the consensus of the eminent *'ulama* [scholars] has turned this generalization into particularization and the fruits like dates and grapes and commodities that are capable of nourishment and storage are made subject to the payment of *zakat*.

“And Hazrat Abu Hanifa<sup>RA</sup> has made the *zakat* obligatory for all those vegetables that are intentionally cultivated like fruits, commodities, greens, melon, cucumber, and such other things.”

“The exoteric meaning of the said Quranic Verse argues that the payment of the *zakat* of all those things that are acquired or earned is obligatory. Hence, this includes the *zakat* on merchandise, gold, silver, and chattels as all these are acquired or earned things. The manifest aspect of the Verse argues in favour of the payment of *zakat* on all those things that grow out of the soil as Hazrat Abu Hanifa<sup>RA</sup> has said. His argument from this Verse is very clear. However, his opponents have particularized this generalization on the basis of the Tradition of Hazrat Prophet Muhammad<sup>SLM</sup> that there is no *sadaqa* [charity].”<sup>19</sup>

Similarly, the difference of opinion on the generalization or particularization about the quantity of the things, which attract the payment of *'Ushr* also depends on the various reasons of argumentation. Hence, it is written in the *Tafsir-e-Kabir*:

“The contention of Hazrat Abu Hanifa<sup>RA</sup> is that the payment of *zakat* on the quantity, large or small, of things grown out of the soil is obligatory. The exoteric aspect of the Verse argues in favour of Hazrat Abu Hanifa<sup>RA</sup>. However, his opponents have relied upon a Tradition of Hazrat Prophet Muhammad<sup>SLM</sup> that there is no *sadaqa* [charity] on quantity less than five *wasaq* [loads], and particularized it.”

This shows that the real reason for the difference of opinion on the issue of *'Ushr* is based on the contradictions in extracting the issue from the Quranic Verses and the Traditions.

The philosophers who examine the principles of *Shari'at* with perspicacity hold that there can be a debate about the strength or weakness of the argument in such cases as to which argument is strong or which argument is not. However, despite the possibility of strength or weakness, the followers concede and follow the explanations of their own Imam<sup>RA</sup>. The question that arises here is when some of the Imams<sup>RA</sup> have exempted the payment of *'Ushr* on the basis of certain Quranic Verses and Traditions; why did the other Imams<sup>RA</sup> not consider the same Verses and Traditions? On the other hand, the latter group of Imams<sup>RA</sup> took into consideration certain Verses and Traditions for the applications and generalizations about the command of *'Ushr*. Why did the former group of the Imams<sup>RA</sup> ignore them [the Verses and Traditions]? This helps us settle the issue of the abrogation easily: whether the generalization or particularization leads to the abrogation of the *Shari'at-e-Muhammadiyah*, when the source of both the schools of thought is the Quranic Verses and the Traditions? Will the philosophers, or, for that matter, an ordinary Muslim who has the most elementary knowledge of the religious studies, can say that Hazrat Imam Malik<sup>RA</sup> and Imam Shafe'i<sup>RA</sup> or other Imams<sup>RA</sup> of *Hadis* or *Fiqh* holding that the issue of the *'Ushr* is specific to certain things on the basis of some Tradition is the abrogation of *Shari'at*? Or, Hazrat Imam Azam<sup>RA</sup> has by decreeing that the payment of *'Ushr* was obligatory on all things, whether their quantity was large or

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because the *zakat* of the wealth is 40<sup>th</sup> part and the *zakat* of the fruits and commodities is 10<sup>th</sup> part. When it is one-tenth part, it is *'Ushr*. Hence, the *zakat-as-Samar* or *zakat-al-habub* purports to mean *'Ushr*.—Shehab bin Nusrat<sup>RA</sup>.

<sup>19</sup> *Tafsir-e-Kabir*.

small, on the basis of an absolute and general command of the Holy Quran, abrogated the *Shari'at-e-Muhammadiyah*? Perhaps, none other than the Hadyah Author will say that this is the abrogation!

The nature of the issue under discussion [that is, the 'Ushr] is nothing other than the same particularization and generalization and the contradictions in the reasons of argumentation. The details about this are that the divine command, "... *That which We have brought forth for you out of the earth...*"<sup>20</sup> is absolute and general and by virtue of this application and generalization, everything that grows out of soil and any quantity thereof is included in the command of 'Ushr. Similarly, the command, "... *Give to others in charity of only the good things which you have earned...*"<sup>21</sup> also is absolute and general. It includes all those things and their every quantity to which the term 'earned' applies. Hence, the manifest aspect of the Verse argues in favour of this. Hazrat Imam Fakhruddin Razi<sup>RA</sup> has explained this generalization thus:

"The manifest aspect of the Quranic Verse argues in favour of the payment of *zakat* on everything that is earned by human being."

### OBLIGATION OF 'USHR

After having discussed the subject of generalization and the particularization, it is necessary to discuss the issue of whether the payment of 'Ushr is obligatory and recommended. There is disagreement between *ulama* of the *ummat* about the term *infaq* [spending] in this Quranic Verse and in many of the Verses where the command of *infaq* occurs. What is its purport? Is it the *sadaqa-e-nafil* [supererogatory charity] or the *sadaqa-e-Wajib* [obligatory charity]? In case it is obligatory charity, is it confined to the *zakat-e-Wajiba* [the obligatory poor-due], which is known in *Shari'at* or some other obligatory charity? The first *maslak* [school of thought] holds that it is the supererogatory spending and not the obligatory spending, as some of them have said. The term *infaq* has been used in many Verses. In case it is used without a hint of a command to spend, it can be discussed here in all its aspects whether it can be the reason for its being obligatory. Apart from this, in this particular Verse, under the term '*anfiqoo* two kinds of things have been specified for spending: one the earned things and, two, the things that grow out of the soil. When the command of spending has been specified for the second kind of things, that is, the things that grow out of the soil, it should also apply to the first kind of things, that is, the things earned. Nothing in the Verse specifies that the command to spend (in charity) applies to one kind of things and it does not apply to the other kind of things. Without such a specification, it is not correct to differentiate between the two. Many of such examples are available in the Quran. For instance, the command, "...*wash your faces and your hands...*"<sup>22</sup> the washing of the faces and the hands is obligatory. One cannot say that the washing of one is obligatory and the washing of the other is *Mustahab* [desirable].

Some of the scholars have adopted the other *maslak* [school of thought]. In other words, they have treated this *infaq* [spending] too as obligatory, that is, they have treated this too as the *zakat*. Hence, Imam Fakhruddin Razi<sup>RA</sup> has said while discussing the controversy under the Verse, "...*Give to others in charity of only the good things which you have earned...*"<sup>23</sup> as under:

<sup>20</sup> Quran, S. 2: 267 SAL,

<sup>21</sup> Ibid.

<sup>22</sup> Quran, S. 5: 6 SAL.

<sup>23</sup> Quran, S. 2: 267 SAL.

“The argument of the people who have thought that this purports to mean the obligatory *zakat* is that the term *anfiquu* [spend] is in the imperative mood. The verb in the imperative mood proves that the command is obligatory. [It means that] no obligatory spending is intended other than the obligatory *zakat* and other obligatory charity.

The part of this argument that says, every spending purports only the obligatory *zakat* and there is no obligatory spending other than the *zakat* is debatable for many reasons:

► Firstly, in this Verse, “...Give to others in charity of only the good things which you have earned...” the verb in the imperative mood *anfiquu* [give to others in charity] applies both of the two related matters. This leads to using the connotation of *zakat* for one set of things, and the same verb in the same imperative mood for the connotation of ‘Ushr for the other set of things. The commands about *zakat* are not the same as those of ‘Ushr. Under the circumstances, the important question arises as to whether the ‘Ushr is the same as *zakat*? Alternatively, the commands about the two are different. Sometimes ‘Ushr is interpreted as *zakat*, for instance, it is called *zakat-as-samar* or *zakat-al-habub*. Sometimes the term ‘Ushr is used for *zakat*, as, for instance one that collects the *zakat* is called ‘*ashir*. However, not all the commands, which are applicable to the known term *zakat*, as a religious tax on money or the chattel, apply to the ‘Ushr. For instance, it is necessary for the *zakat* coming into force that the wealth, which attracts the payment of *zakat*, should remain in the possession of the owner for a whole year. If the wealth, money or chattel, are in the possession of the owner for less than a year, the *zakat* will not become obligatory on the owner. However, any such restriction or the condition of *Haulan-al-Houl*<sup>24</sup> does not apply to ‘Ushr. In other words, the things subject to the payment of ‘Ushr need not remain in the possession of the owner for a whole year. It becomes obligatory and liable to be paid immediately on the receipt of the concerned things.

The obligatory quantum of the *zakat* and the ‘Ushr too is different; the rate of *zakat* is two and a half percent, while that of the ‘Ushr is ten percent.

The *nisab* [minimum taxable amount] of *zakat* is different from that of the ‘Ushr. For the *zakat* of wealth, the minimum taxable amount is two hundred *dirham*<sup>25</sup> for silver or 20 *misqal*.<sup>26</sup> The taxable quantity of fruit or commodity is 2,400 *rat'l*<sup>27</sup> according to the three Imams<sup>RA</sup>. Alternatively, according to Imam Hanifa<sup>RA</sup>, it could be any quantity, large or small. Obviously, it is quite different from that of the *zakat*.

If a person has wealth equal to the taxable quantity for *zakat*, but is indebted to the same extent or more, he is exempt from payment of *zakat*. However, the payment of ‘Ushr is obligatory on the indebted person also.

For the *zakat* becoming obligatory, the ownership is the condition. Nevertheless, ownership is not necessary in case of ‘Ushr as the slave to whom his owner has permitted to do business or other slave [*makatib ghulam*]. On them too the ‘Ushr is obligatory even though they are not the real owners. In such circumstances, *zakat* does not become obligatory.

<sup>24</sup> *Haulan-al-Houl* is the condition that the wealth, money or chattel, should be in the possession of the owner for a whole [Islamic Calendar] year [356 days]. If it is in the possession for a period of less than a year, the *zakat* does not become obligatory and payable.

<sup>25</sup> A *dirham* is equal to 3.12 grams in weight.

<sup>26</sup> A *misqal* is a gold coin prevalent in Arabia.—*Fairoz al-Lughat*; its weight is equal to 4.68 grams—AED.

<sup>27</sup> A *rat'l* is equal to a pound approximately. In Egypt, it is equal to 449.28 grams, in Syria, it is equal to 3.202 kg. And in Beirut and Aleppo, it is equal to 2.566 kg.—AED.

In case of *zakat*, the expenditure on the monthly maintenance of the servants is deducted and after the deduction, if the balance amount is equal to or more than the *nisab* of the *zakat*, the *zakat* becomes obligatory. The ‘Ushr becomes obligatory on the whole amount at the time it is received without deducting the expenditure.

In case the things on which the ‘Ushr becomes obligatory are present, but before the payment of the ‘Ushr, the owner dies, the ‘Ushr is collected. In such a situation, the *zakat* is not collected.

After the payment of the ‘Ushr once, the remaining amount does not become liable to the payment of ‘Ushr again even if you keep it for any number of years. However, the *zakat* will have to be paid every year on the remainder of the amount if it is equal to or more than the *nisab*.

In short, in these and many other issues, the commands about the ‘Ushr and *zakat* are different. The Verse says, “... Give to others in charity of only the good things which you have earned and also of that which We have brought forth for you out of the earth...” The command is in the imperative mood. The word *anfiqū* [give to others in charity] covers both the things earned and those that Allah has brought forth from the earth [for you]. If the *zakat* is collected from the things earned, and ‘Ushr is collected from the things Allah has brought forth from the earth, taking advantage of the same verb in the imperative mood to formulate one set of rules and conditions for the *zakat* and another set of rules and conditions for the ‘Ushr becomes necessary. However, there is no hint of such a split in the Verse itself. There is neither any *hadis* nor any Quranic Verse, which explains that only *zakat* is obligatory on the things earned.

► Secondly, in the Quran and *hadis* at places the command is to pay the *zakat*, as in the Quranic Verse, “Establish worship, pay the poor-due...”<sup>28</sup> or the words give in charity, pay the poor-due, *sadaqa* [charity] etc. have been used. Since the different words purport to clarify the differences in meanings, the words *infaq*, *ieeta*’ and *sadaqa*, which are common, would be understood in their general meaning. However, the *zakat* is a particular kind [of charity]; it would give its specific technical meaning. Since it is a principled rule that the general connotation is found without the specific connotation, the general meaning of the *sadaqa* and *anfaq* is in addition to the *zakat*. It is not necessary that everywhere these words should mean *zakat*. Otherwise, the benefit of using various words would become extinct.

► Thirdly, in addition to this plausible reason, there are many situations where the *zakat* is not intended by the use of the words *infaq*, *ieeta*’ etc. have been used on spending for sins and this cannot be taken to mean that it is *zakat*. Allah Most High has said about the infidels:

“The Unbelievers spend their wealth to hinder (men) from the path of Allah, and so will they continue to spend; but in the end they will have (only) regrets and sighs; at length they will be overcome: and the Unbelievers will be gathered together to Hell...”<sup>29</sup>

## NO ZAKAT FOR PARENTS

At some places, spending wealth relates to the parents and near relatives, as Allah Most High has commanded:

<sup>28</sup> Quran, S. 2: 43 MMP; S. 2:110 MMP and many other places. In a footnote, MMP says, *Az-Zakat* [poor-due] is “A tax at a fixed rate in proportion to the worth of property collected from the well-to-do and distributed among the poor Muslims.”

<sup>29</sup> Quran, S. 8: 36 AYA.

“...And giveth his wealth, for love of Him, to kinsfolk and to orphans and the needy and the wayfarer and to those who ask, and to set slaves free; and observeth proper worship and payeth the poor-due. And those who keep their treaty when they make one, and the patient in tribulation and adversity and time of stress. Such are they who are sincere. Such are the God-fearing.”<sup>30</sup>

“They ask thee, (O Muhammad), what shall they spend. Say: That which ye spend for good (must go) to parents and near kindred and orphans and the needy and the wayfarer. And whatsoever good ye do, lo! Allah is Aware of it.”<sup>31</sup>

It is obvious from the Verse that this spending does not purport to mean the *zakat* as it is about the parents and the near relatives. *Zakat* cannot be given to the parents and the near kindred. In the first of the above Verses, the payment of *zakat* [poor-due] has been specifically stated as a conjunction, which proves that the spending of wealth is not the *zakat* precisely. Otherwise, the conjunction will not be correct. If one were to take the expression, ‘*wa ‘aatal-maala*, [giveth of his wealth] to mean *zakat*, the meaning of the Verse would become like this:

“In the love of Allah give *zakat* to the near kindred, orphans, poor, wayfarers, and to set slaves free and say *namaz* and give *zakat*....”

Hence, the useless repetition of give *zakat* will become necessary which is a defect in the speech and the Speech of God is free from fault and defect. Hence, it would be better if the said ‘giving of wealth’ to be understood as something other than or in addition to *zakat* as this repetition does not become necessary.

► Fourthly, there are various Verses in Quran that instruct both the wealthy and the poor, in prosperity and poverty, to spend their money or things, in large or small quantity, in the way of Allah out of what Almighty Allah has given them. Or He has expressed its excellence in them (Verses). He has counted such spending among the worship and other attributes and qualities of *iman* [Faith]. For instance, He says:

“And vie one with another for forgiveness from your Lord, and for a Paradise as wide as the heavens and the earth, prepared for those who ward off (evil); Those who spend (of that which Allah hath given them) in ease and adversity, those who control their wrath and are forgiving towards mankind; Allah loveth the good.”<sup>32</sup>

“Let him who hath abundance spend of his abundance, and he whose provision is measured, let him spend of that which Allah hath given him. Allah asketh naught of any soul save that which he hath given it. Allah will vouchsafe, after hardship, ease.”<sup>33</sup>

<sup>30</sup> Quran, S. 2: 177 MMP.

<sup>31</sup> Quran, S. 2: 215 MMP.

<sup>32</sup> Quran, S. 3: 133-134 MMP.

<sup>33</sup> Quran, S. 65: 7 MMP. The Verses preceding this Verse deal with the rights of wives. Hence, it is usually presumed that the spending mentioned in this Verse is specifically the maintenance of the wives. However, in the text of the Verse there is no specification. Instead, a general rule and law, the principle of spending has been shown. It includes the maintenance of wives also. Besides, there is no hint that this general rule is specific to the maintenance of wives. Hence, the principle that has been laid down here is applicable to the maintenance of all the children and slaves, which is the responsibility of the person concerned, although the preceding Verses do not mention them. Hence, this Verse is general in its application to all spending related to the rights of the people. Similarly, its application is general to the rights of God also. Hence, a *hadis* of Hazrat Ali<sup>RZ</sup> mentions that some people had paid the ‘*Ushr*’ of their wealth and, hearing about this, Hazrat Prophet Muhammad<sup>SLM</sup> had given the glad tidings of equal divine

“Nor could they spend anything (for the cause)—small or great—nor cut across a valley, but the deed is inscribed to their credit; that Allah may requite their deed with the best (possible reward).”<sup>34</sup>

“O ye who believe! Spend out of (the bounties) We have provided for you, before the Day comes when no bargaining (will avail), nor friendship nor intercession. Those who reject Faith—they are the wrong-doers.”<sup>35</sup>

“Alif. Lam. Mim. This is the Book; in its guidance, sure, without doubt, to those who fear Allah; Who believe in the Unseen, are steadfast in prayer, and spend out of what We have provided for them,”<sup>36</sup>

“They only are the (true) believers whose hearts feel fear when Allah is mentioned, and when the revelations of Allah are recited unto them they increase their faith, and who trust in their Lord; Who establish worship and spend of that which We have bestowed on them. Those are they who are in truth believers. For them are grades (of honour) with their Lord, and a bountiful provision.”<sup>37</sup>

Through these and many other Verses, the command of spending that has been given is general like the Verse, “... Give to others in charity of only the good things which you have earned...”<sup>38</sup> to all things and commodities and their quantity, large and small. The command of *zakat*, however, is specific to the commodities and their specific quantity as *nisab* [taxable quantity]. These Verses include all people, poor or rich, able or disabled. However, the command is applicable only to the people who are wealthy enough under the *Shari’at* rules to pay the *zakat* and are the owners of the wealth, which is subject to the payment of *zakat*. These Verses prove that the command of spending is associated with divine bestowal. However, the *zakat* becomes obligatory both on the divine bestowal and on the required quantum of wealth under the *Shari’at* if it remains with the owner for a whole year after disbursing wages and other expenses. Hence, to hold that the general Verses of Quran to mean only the known *zakat* would be specification without the thing specified because there is no Quranic Verse or Tradition that specifies that the Quranic command, “Give to others in charity...”<sup>39</sup> purports to mean only the *zakat*.

One may argue that the Tradition of A’rabi particularizes all the Quranic Verses, which prove that not all the expenses in charity other than *zakat* are obligatory. This gives rise to many points of discussion according to the sayings of the ‘*ulama* of the *Ahl-e-Sunnat-o-Jama’at*.

■ Firstly, This Tradition is *khobar-e-wahid*<sup>40</sup> and the rule of the principles of *Fiqh* is that a *khobar-e-wahid* cannot particularize a general command of the Holy Quran. Hence, it is written in the well-known book of *Fiqh*, *Bazuvi*, as under:

“Many of our *fuqaha* [jurists] say that a general [command], which has not been particularized, cannot be particularized by a *khobar-e-wahid* or presumption. This is the

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rewards to them and recited this Verse to prove the glad tidings. This proves that this Verse is common to the rights of Allah.—Shehab bin Nusrat<sup>RA</sup>. [The details of this *hadis* may be seen on page 272 of this book.—SZY]

<sup>34</sup> Quran, S. 9: 121 AYA

<sup>35</sup> Quran, S. 2: 254 AYA.

<sup>36</sup> Quran, S. 2: 1-3 AYA.

<sup>37</sup> Quran, S. 8: 2-4 MMP.

<sup>38</sup> Quran, S. 2: 267 SAL.

<sup>39</sup> Quran, S. 2: 254 AYA.

<sup>40</sup> Literally, *khobar-e-wahid* is the Tradition of Prophet<sup>SLM</sup> that is narrated by one person. Technically, it is the Tradition that does not fulfill the conditions of constancy [*tawatur*]. The meaning of such Traditions is not definite. However, the word and deed of Hazrat Imam Mahdi Al-Mau’ood<sup>AS</sup> is certain and definite. Hence, the word and deed of the Imam<sup>AS</sup> should be adopted and the *khobar-e-wahid* should be ignored...—Allamah Shamsi<sup>RA</sup>, *Al-Aqaid*, (Urdu) Volume 2, Hyderabad Deccan, 2003AD, p.64.

known *mazhab* [school of thought]. Qazi Shaheed has adopted this *mazhab* in his book, *Gharrar*.”

It is written in the commentary of the book, *Bazuvi*, the *Kashf Bazuvi*, as under:

“In other words, the general command of the Quran and Traditions of Constancy cannot be particularized, that is, to particularize it by a *khabar-e-wahid* or presumption is not lawful, because both are conjectural. Hence, the particularization of a definite or final command is a contention and the particularization of a definite command by a contention is not lawful. This is the well-known saying of our ‘*ulama*. Abu Bakr Jasas and Esa ibn Aban have narrated this. Further, a majority of the Hanafi jurists and some Shafa’iah jurists too have said this. Among the Companions<sup>RZ</sup> of Hazrat Prophet<sup>SLM</sup>, Abu Bakr<sup>RZ</sup>, Umar<sup>RZ</sup>, Abdullah bin Abbas<sup>RZ</sup> and Ayesha<sup>RZ</sup> also have said this.”

■ Secondly, the way in which the Tradition of A’rabi has been narrated is controversial and none of its versions recites all the obligations [*faraiẓ-o-Wajibat*]. For instance, there is no mention of the Haj pilgrimage in it. It is for this reason that the commentators of Traditions found it necessary to explain it. Nowawi<sup>RA</sup> has explained it in his book, *Sharah-e-Muslim*, as under:

“There is no mention of Haj pilgrimage in this Tradition. It is not there in the Tradition that Abu Huraira<sup>RZ</sup> has narrated. Similarly, there is no mention of fasting in some and of *zakat* in some other versions of the same Tradition. Some versions mention of *silā-e-rahimi* [kindness towards one’s (especially, uterine) relations] and payment *khums* [a fifth part of war booty that is distributed among the poor and heirless]. Some other versions do not mention *iman* [Faith]. Hence, these Traditions are dissimilar in showing the number, quantity (large and small), and mention and omission of the *khasail* [characters; habits] of Faith.”<sup>41</sup>

This shows that one cannot depend on this Tradition for the obligations; otherwise, excessive voluntary performance of supererogatory deeds may become necessary.

■ Thirdly, there are rights related to the wealth that are *Farz* and *Wajib* [obligatory] in addition to *zakat*. All the ‘*ulama* approve it. The issue in point is the maintenance of wives, children and the slaves. This is in addition to the *zakat*. The maintenance of parents and close (uterine) relatives is also obligatory. And this is not precisely *zakat*.

The Verses, “...*Strive with all your possessions and with your lives in the way of God...*”<sup>42</sup> and “...*Strive in the cause of their faith, with their possessions and their very lives...*”<sup>43</sup> command the faithful to spend their wealth in *jihad* in the way of Allah. This expenditure is in addition to *zakat*. These ways of spending are entirely different from the *zakat* in the obligatory quantity and many other aspects. For instance, the amount of *zakat* that is obligatory is fixed. However, these expenses are not fixed. They are obligatory on each person in accordance with his capacity and means. *Zakat* is not obligatory on poor people who do not possess the *nisab* [minimum taxable wealth for fixing *zakat*]. But the other expenses are obligatory on the poorest of the poor in accordance with his capacity and means. *Zakat* cannot be disbursed to the children, wives, parents, near relatives, slaves and slave girls. These monies are bound to be given to them. This payment is so necessary that if it is done out of the *zakat* monies, one is not absolved of the responsibility of paying them. The burden of not meeting their rights will remain with the defaulter.

<sup>41</sup> Nowawi, Chapter on *Salat* and Pillars of Islam.

<sup>42</sup> Quran, S. 9: 41 SAL.

<sup>43</sup> Quran, S. 9: 88 SAL.

### OTHER OBLIGATORY SPENDING

Hence, it is proved without any argument that there are many other obligatory forms of spending monies other than *zakat*. *Zakat* does not cover all those expenses that one is obliged to incur. Apart from these narrated and reported reasons, if one looks at the issue from a critical point of view, the Quranic Verses, "...Give to those in need out of what We have bestowed on you...",<sup>44</sup> "Give to others in charity...things you have earned...",<sup>45</sup> "Let him who hath abundance spend out of abundance..."<sup>46</sup> and others, prove that no other right is recognized in the wealth of a Muslim, if one thinks that the various modes of spending are understood only to be *zakat*. Further, if all the threats held out for non-paying in the way of Allah are confined only to the defaulters in payment of *zakat*, the comprehensiveness of the Islamic commands will not cover all the social and moral needs of the Muslim *Ummat*. For instance, a poor person has kept forty rupees in his kitty for a whole year and does not pay one rupee as *zakat* he would be the target of all the threats held out for non-payment of *zakat*. He would also be understood as the defaulter in all those social and moral benefits to the community that are implied in making it [*zakat*] obligatory. On the contrary, there is a wealthy person who earns a thousand rupees a month and spends it. He does not save and keep any monies for the whole year to attract the obligation of paying the *zakat*. He does not spend a paisa in the way of Allah throughout the year. Despite his earning twelve thousand rupees over the year and spending the whole amount on his personal purposes, he does not pay a single paisa for the needs of the religion and community. He escapes all the threats held out for non-payment of the *zakat* as it would not become obligatory on him, since he has not kept the money in store for a whole year. If it is assumed that only paying the *zakat* is obligatory and he is not subject to any other payment in the way of Allah, the result would be the wrong conclusion that the religious commands of Islam are so incomprehensive that a poor person is subjected to the responsibility while a wealthy man goes scot free of all responsibilities of the rights of Allah and fellow human beings. He also escapes from his obligations under the principles of morality. This is the result of making all the commands of the said Quranic Verses *zakat*-specific and assuming that a Muslim is not subject to any rights of Allah Most High.

Looked at from the point of view of the expenditure, the field of the expenditure of the *zakat* is limited and specific. Many heads of welfare and many people are outside the pale of the *zakat* expenses. If it were assumed that there is no obligatory right in the wealth of a Muslim, it would be understood that the divine Lawgiver [that is, Hazrat Prophet Muhammad<sup>SLM</sup>] has appointed no Muslim to take care of such heads of expenditure on welfare and the deserving people who are not entitled to receive *zakat*. The result would be that no *zakat* would be given to such heads of welfare and people, and that no spending on charity is obligatory. There is thus no provision for many of the good works and good expenses and many deserving people would go without any help. Obviously, this goes against the comprehensiveness of the Islamic commands.

The third *maslak* [school of thought] is that there are many other rights in the wealth of a Muslim. Hence, Darimi<sup>RA</sup> has quoted Fatima bint Qais as narrating the Tradition:

<sup>44</sup> Quran, S. 2: 254 SAL.

<sup>45</sup> Quran, S. 2: 267 SAL.

<sup>46</sup> Quran, S, 65: 7 SAL.

“Muhammad bin Al-Tufail has narrated from Shareek, and he from Abu Hamza, and he from ‘Amir, and he from Fatima bint Qais that she had heard Hazrat Prophet Muhammad<sup>SLM</sup> saying, ‘There are rights [of other people] in your wealth, besides *zakat*.’”<sup>47</sup>

Hazrat Ibn Umar<sup>RZ</sup> too has narrated the same Tradition:

“Ibn Umar<sup>RZ</sup> has narrated from Ma’az, and he has narrated from Hatim bin Abi Sa’eera, and he from Rubah bin ‘Ubaida and he from Qaz’ah, ‘I told Ibn Umar that I have wealth. And I asked him what you would command me to do? To whom should I pay its *zakat*?’ Ibn Umar<sup>RZ</sup> said, ‘Pay its *zakat* to the *va’li* [friend] of the community or the nobles of the community. However, there are other rights in your wealth.’”

Hasan too has narrated the same Tradition:

“Abdul A’la has narrated this Tradition from Hisham, and he has narrated from Hasan that there is other *sadaqa* [charity] in the wealth than the *zakat*”.

A group of the illustrious successors of the Companions<sup>RZ</sup> of Hazrat Prophet<sup>SLM</sup> too subscribe to this *mazhab* [school of thought] that there are rights in the wealth other than the *zakat*. This group includes ‘Ataa, Mujahid, and other exegetes from the successors of the Prophet<sup>SLM</sup>,s Companions<sup>RZ</sup>. Their argument is based on the same Quranic Verses, which we have quoted earlier. Hence, Hazrat Imam Ghazali<sup>RA</sup> has written in his book, *Ahya al-‘Uloom* as under:

“A group of the successors of the Prophet<sup>SLM</sup>,s Companions<sup>RZ</sup>, including Nakh’ie, Shu’bie, ‘Ataa and Mujahid contend that there are rights other than *zakat* in [one’s] wealth. Someone asked Shu’bie, ‘Are there rights other than *zakat* in the wealth?’ He replied, ‘Yes. Have you not heard the command of Allah, ... *But righteous is he who... giveth his wealth, for the love of Him, to kinsfolk and to orphans and the needy and the wayfarer and to those who ask, and to set slaves free....*’<sup>48</sup> Further, he argued in favour of his contention on the basis of the following Verses: ...*And spend of that We have bestowed on them,*<sup>49</sup> and *Spend of that wherewith We have provided....*<sup>50</sup> He says that this command has not been abrogated by the Verse that makes *zakat* obligatory. Instead, it is included in the principle that a Muslim has a right over [other] Muslim.”

The saying of Hazrat Imam Fakhruddin Razi<sup>RA</sup>, which we have quoted earlier, also proves that there are other expenses in charity that are apart from *zakat*. The saying is:

“The argument of the people who have contended the *infaq* [spending in charity] purports to mean the obligatory *zakat* is that the command of Allah Most High *anfiquu* is imperative, and that it is a command to perform. It is obvious that a command means that it is obligatory. There is no spending which is obligatory other than the *zakat* and other obligatory spending.”

This proves that the spending other than *zakat* are also obligatory. In short, the summary of all the foregoing discussion is that there is an insistent command of spending in the way of Allah Most High in various Quranic Verses. Further, its excellences have been emphasized and threats of retribution have been held out for those who are in default. Some of the scholars of the *ummat* have contended that it is desirable. Others have treated it as a voluntary service in doing supererogatory

<sup>47</sup> Darimi, an Imam of *Hadis* [Traditions].

<sup>48</sup> Quran, S. 2: 177 MMP.

<sup>49</sup> Quran, S. 8: 3 MMP.

<sup>50</sup> Quran, S. 2: 254 MMP.

work in obligatory and mandatory obedience. Some others have understood it as the known *zakat* [poor-due]. Some others have conceded that these very Verses from Quran make obligatory other charitable spending besides *zakat*. We have already dealt with the reasons and arguments earlier in brief. However, it is not necessary to discuss at this juncture as to which of these schools of thought is stronger and more reasonable. Nevertheless, in view of the contention of the Hadyah Author about his charge of abrogation of *Shari'at*, the issue to be determined is whether accepting all charitable spending other than *zakat* as supererogatory is abrogation of *Shari'at* on the basis of the principles of the *Ahl-e-Sunnat-o-Jama'at*? Or, is it abrogation of *Shari'at* if one accepts that there are some obligatory rights other than *zakat* on the basis of the Quranic Verses? Who among the *Ahl-e-Sunnat-o-Jama'at* has declared it to be abrogation of *Shari'at*? Besides, are the eminent Companions<sup>RZ</sup>, like Ibn Umar<sup>RZ</sup> and Hasan, and the eminent exegetes of the subsequent generation like Nakh'ie, Shu'bie, A'taa<sup>RA</sup>, guilty of abrogating the *Shari'at* because they have conceded that there are obligatory rights in the wealth other than *zakat* and because they have contended that the Verse about *zakat* does not revoke it [the charitable expenditure other than *zakat*]?

After these principled discussions, let us look at the *maslak* [path]. You will find that the Mahdavis believe and are subject to the *Farziat* [the essence of obligation] and all its basic principles, conditions and its quantity, as fixed by the *Shari'at*. They also concede that there are other obligatory rights in addition to *zakat* in their wealth. Their *maslak* is that in their gratitude for what Allah Most High has bestowed on them and in obedience to the Divine commands, "...Give to those in need out of what We have bestowed on you..."<sup>51</sup> and "...Let him spend of that Allah hath given him..."<sup>52</sup>, etc., they consider that it is their duty to spend one-tenth of what Allah has given them in the way of Allah, so much so that even if Allah gives them a handful of flour, they give a pinch of flour to the ants. Further, if they are the owners of the minimum quantity of wealth liable to *zakat*, they pay the *zakat* at the end of the year in obedience to the Divine command, "...Pay the poor-due..."<sup>53</sup>

### INTENTION OF DIVINE LAW-GIVER

There are many benefits of this act. Consider some of them. You will find that if a person is not the *sahib-e-nisab* [one who has the minimum taxable wealth under *zakat* rules] or does not become one for a whole of the year, or he is the *sahib-e-nisab* but is not alive till the end of the year, or, in short, for some reason or the other, he does not become liable to its payment, he will not be deprived of the merit of spending in the way of Allah according to his capacity. On the other hand, he acts according to the intention of the Divine Lawgiver<sup>SLM</sup> and wins all those benefits that are implied in making obligatory the *zakat*. Besides, in addition to the expenses of the *zakat*, which are limited, he spends on other laudable heads of altruistic and benevolent matters and helps monetarily those who deserve his help. If for some reason, he could not pay the *zakat*, he would win the divine rewards on both counts. "... That will be the grace of God which He bestoweth on whomsoever He willeth..."<sup>54</sup>

Now the issue that remains to be addressed is that there is the command of spending the money in charity in these Quranic Verses. However, no quantity is fixed. How can the tenth part be fixed for the said spending? Two general principles of ascertaining and extracting the commands are in vogue:

<sup>51</sup> Quran, S. 2: 254 SAL.

<sup>52</sup> Quran, S. 65: 7 MMP.

<sup>53</sup> Quran, S. 2: 43 SAL.

<sup>54</sup> Quran, S. 5: 54 SAL.

exegesis of Quran by Quran and that of Quran by Traditions. According to these principles, if a Quranic Verse is abstract or applicable, another Verse is resorted to elucidate or explain it. Many examples of this can be found in the issues of Fiqh.<sup>55</sup> Similarly, the general and absolute commands of the Quranic Verses can be explained through the known restrictions or the traditions with constancy [*tavatur*] and the consensus of the imams. Alternatively, this can be done through other Traditions, according to some others. Hence, in case of the general and absolute Quranic command, *observe prayers and pay poor-due*,<sup>56</sup> all the relevant details about the sequence of the movements of *namaz*, the number of *rak'aat* [cycles] and others and the details about quantum of *zakat* and its other concomitants have been extracted and proved from the Traditions. The Quranic command under discussion, that is, *Give others in charity...things which you have earned and also of that which We have brought forth from the earth*,<sup>57</sup> was absolute. The quantum of 'Ushr in the things brought forth from earth was fixed from the Traditions. Similarly, the quantity of 'Ushr [as one-tenth] of the total quantity too has been extracted and fixed under other Quranic Verses and the Traditions. In the relevant Quranic Verses, the Arabic word *min* (or its derivatives) is present. This proves that it ['Ushr] should be given out of the commodity taxed. It indicates that it is a part of it. The command that a part of the commodity taxed should be given is obvious. The things are manifestly earned by us but in reality they have been bestowed [on us] by Allah Most High. Keeping in view these two modes, the words 'earned' and 'bestowed by us' have been used (in the Quranic Verses). Hence, this ambiguous word, *ba'z*, needed to be explained. Therefore, in the Verse, "*He that doth good shall have ten times as much to his credit...*"<sup>58</sup> the word, 'ten', became the explanation of the ambiguous word, *ba'z*. Herein the rule of minimum quantum of the divine reward for the good deed has been explained. Some of the Traditions too support this contention. The explanation of this being the quantum of the divine reward of the special *sadaqa* [charity] too has come in the Traditions. A tradition says that the divine reward of the charity would be ten times the charity. Hence, it is on the basis of the principle of the exegesis of the Quran by Quran and the exegesis of the Quran by Tradition it is deemed that by giving a tenth part of the wealth in charity one gets the divine reward and the excellence of having given the entire wealth. Besides, giving less

<sup>55</sup> As the learned scholar who is rebutting the criticisms of the *Hadyah-e-Mahdaviyah* [Allamah Syed Nusrat<sup>RA</sup>] has stated, the exegesis of Quran by Quran and by Traditions are the two accepted principles. Many of the religious issues are extracted from these sources. The learned scholar has given some examples of the exegesis of Quran by Traditions. The examples of the exegesis of Quran by Quran are found in the religious commands. For instance, the need for evidence has been stressed in many matters. But the *nisab* [quorum] has not been mentioned. However, the details for evidence required in case of taking loans is described in Surah 2 *The Cow*, Verse 282, "...And call to witness, from among your men, two witnesses. And if two men be not (at hand) then a man and two women, of such as ye approve as witnesses, so that if one erreth (through forgetfulness) the other will remember..." [Quran, S. 2: 282 MMP] Hence, where absolute evidence is mentioned in the Quranic Verses, the above Verse is taken to explain it. In all transactions, this *nisab* [quorum and quantum] is accepted.

Similarly, in Surah 4 *Women*, it is stated that the foster-mothers who have made you drink their breast milk and your foster-sisters are prohibited for you. Marriage with them is unlawful. But here, fosterage is absolute. The duration, in which one drinks breast milk, is not specified. However, in Surah 2 *The Cow*, a command is given that the mothers should suckle their infants for two years when the father intends to complete the duration. Most of the Imams of Fiqh have taken the latter command as an explanation to fix the duration in which the suckling should drink breast milk of the foster mother as two years. If the person concerned drinks the breast milk of the foster mother till the age of two years, the fosterage prevents marriage between the foster siblings becomes prohibited. Apart from this, there are many religious issues in which the principle of exegesis of Quran by Quran is implemented.—Shehab bin Nusrath<sup>RA</sup>.

<sup>56</sup> Quran, S. 2: 43 SAL.

<sup>57</sup> Quran, S. 2: 267 SAL.

<sup>58</sup> Quran, S. 6: 160 AYA.

than the tenth does not help in achieving this object. This indicates that the Verse clearly states that at least this quantity must be given in charity and this can easily be comprehended. According to this rule, every person, rich or poor, high or low, can give in charity according to his capacity, and get the divine rewards of having spent in charity all his wealth.

“Hazrat Ali<sup>RZ</sup> narrates that a person came to Hazrat Prophet Muhammad<sup>SLM</sup> and said, ‘O Messenger of Allah! I had 100 *uqiyas*.<sup>59</sup> I gave 10 *uqiyas* as *sadaqa* [charity].’ Another person said, ‘O Messenger of Allah! I had 100 *dinars*.<sup>60</sup> I gave ten *dinars* in *sadaqa*.’ A third person said, ‘I had ten *dinars*. I gave one *dinar* as charity.’ Hazrat Prophet Muhammad<sup>SLM</sup> said, ‘All of you have done good. All of you are equal in (divine) rewards as you have given the ‘*Ushr* [tenth] of your wealth.’ Then, he recited the Quranic Verse, ‘*Let him who hath abundance spend of his abundance, and he whose provision is measured, let him spend of that which Allah hath given him. Allah asketh naught of any soul save that which He has given it. Allah will vouchsafe, after hardship, ease.*’<sup>61</sup>”

Hazrat Imam Ahmad<sup>RA</sup> has also quoted this narrative in his *Musnad* with a slight difference. He has also clarified that another person told the Prophet<sup>SLM</sup> that he had only one *dinar* and that he had given in charity one-tenth of it. Further, he has quoted Hazrat Prophet<sup>SLM</sup> as saying that all were equal in getting the divine reward.

In this Tradition, the giving in charity of the ‘*Ushr* [one-tenth] of the *mal* [goods] is mentioned. The Prophet<sup>SLM</sup> has praised it as *ah’san* [the best]. Further, he has given the glad tidings of equal divine rewards to all those who have paid the ‘*Ushr* of their goods. This shows that the payment of ‘*Ushr* is not confined to the things that grow out of the soil but also its payment in respect of cash too has been praised as *ah’san*. The Tradition of Hazrat Umar<sup>RZ</sup> wherein orders are issued to collect the ‘*Ushr* on the merchandise conforms to this Tradition. This proves that the command of collecting ‘*Ushr* on all kinds of goods is general.

We find some events in the lives of the Companions<sup>RZ</sup> of the Prophet<sup>SLM</sup>, which show that in addition to the Divine rewards in the Hereafter, the person spending in the way of Allah Most High will be entitled to more rewards from Him in this world too. The Verse, “*He that doth good shall have ten times as much to his credit...*”<sup>62</sup> is a promise from Allah Most High. People who love the world and its wealth may think it to be more difficult than the *zakat*. That is their own thinking. However, the servants of Allah Most High who have perfect faith will continue to pose full faith in the promise of Allah Most High and think it to be correct and true. Hence, Hazrat Ali<sup>RZ</sup> narrates:

“A beggar asked for something from Hazrat Ali<sup>RZ</sup>. Hazrat<sup>RZ</sup> asked his son Hasan<sup>RZ</sup> or Husain<sup>RZ</sup> to go to his mother (Hazrat Bibi Fathima<sup>RZ</sup>), saying, ‘I had kept six *dirham* with her. Bring one *dirham* from her.’ He went and came back and said, ‘She says that you had kept these six *dirhams* to purchase flour.’ Hazrat Ali<sup>RZ</sup> said, ‘No person of faith will be true in his Faith unless he has more trust in the bestowal of Allah Most High than what is in his own hands. Hence, tell her to send all the six *dirhams*.’ Hazrat Bibi Fathima<sup>RZ</sup> sent all the six *dirhams*. He gave them to the beggar. The narrator says that around the same time a person came with a camel to sell. Hazrat Ali<sup>RZ</sup> asked, ‘How much do you want for the camel?’ The seller said, ‘One hundred and forty *dirhams*.’ Hazrat Ali<sup>RZ</sup> said, ‘I have bought the camel. Tie

<sup>59</sup> *Uqiya* is a weight. Ounce. A weight of various quantities. (Egypt: 37.44 g. Aleppo: 320 g. Jerusalem: 240 g. Beirut 213.3 g.)—*AED*. A weight of forty *dirhams*.—*Fairoz al-Lughat*.

<sup>60</sup> *Dinar* is a monetary unit.

<sup>61</sup> Quran, S. 65: 7 MMP. Please also see page 264.

<sup>62</sup> Quran, S. 6: 160 AYA.

it there. We will send the money later.’ The seller tied the camel and went away. Another person came and asked who owned the camel. Hazrat Ali<sup>RZ</sup> said, ‘It is mine.’ he asked, ‘Will you sell it to me?’ Hazrat Ali<sup>RZ</sup> said, ‘Yes.’ He asked, ‘How much?’ Hazrat Ali<sup>RZ</sup> said, ‘Two hundred *dirhams*.’ He paid the 200 *dirhams* and went away with the camel. Hazrat Ali<sup>RZ</sup> paid 140 *dirhams* to the person who had sold the camel to Hazrat Ali<sup>RZ</sup>. Then he came to Bibi Fathima<sup>RZ</sup> with the remaining 60 *dirhams*. The Bibi<sup>RZ</sup> asked, ‘How is this?’ Hazrat Ali<sup>RZ</sup> said, ‘This is the proof of the promise Allah Most High has made through His Prophet<sup>SLM</sup> that if a person does one good deed We give him the reward ten times that good. [In other words, we had given six *dirhams* to the beggar, and Allah has given us sixty *dirhams*.]’<sup>63</sup>

“It is narrated in the excellences of Hazrat Usman bin ‘Afaan<sup>RZ</sup> <sup>64</sup> that there was famine in Madina. About the same time a caravan of Hazrat Usman<sup>RZ</sup> arrived in Madina from Syria with a thousand bags of cereals. The local tradesmen came to him to ask about its price. Hazrat Prophet Muhammad<sup>SLM</sup> was accompanying them. They entered the building where these bags of cereals were stored. Hazrat Usman<sup>RZ</sup> asked, ‘What profit will you give me?’ The traders said, ‘Twelve for every ten.’ Hazrat Usman<sup>RZ</sup> said, ‘This is too little. Increase it some more.’ They said, ‘We will give you fifteen for the ten.’ Hazrat Usman<sup>RZ</sup> said, ‘This too is very little. It should be increased.’ They said, ‘We too are traders. None can purchase it at a cost more than this.’ Then Hazrat Usman<sup>RZ</sup> asked, ‘Will you give me ten for one [ten times the cost]? They said, ‘We cannot give that much of profit.’ Hazrat Usman<sup>RZ</sup> said, ‘I will sell the stock to One [Allah] who gives me ten times the cost.’ Then he made a public announcement that he had given all the cereals in charity to the *fuqara* [mendicants].”

### SHARE OF ALLAH

If we look at the issue from a different point of view, it becomes obvious that every person has the right to spend his wealth in any manner he likes. Hence, he can make obligatory on himself any quantity of his wealth or stock as the share of Allah Most High in proportion to his patronizing courage to do good to His servants. That is his privilege and option. *Shari’at* neither prevents it nor does doing so abrogate the *Shari’at*. Under this principle of law and the *Shari’at*, if the Mahdavis make it obligatory on themselves to give one-tenth of their wealth in charity in the way of Allah Most High—and give it—they have a right and authority to do so under the Islamic Code of Law. Neither this opposes the *Shari’at*, nor abrogates it. Further, the *Shari’at* does not give the cowardly and spineless people like the Hadyah Author any authority to object to it on the ground that it is being harder than the *zakat*. This is so because the wealth from which they are spending in charity in the way of Allah on His servants is their own wealth. Not that of others. Examples of such spending can be seen in the lives of the saints, the truthful and the virtuous people of the *Ummat* and in their sayings and deeds. The following incidents will clarify as to how much share of the wealth and stocks, these virtuous people made obligatory on themselves to spend in the way of Allah Most High.

In a letter to Hazrat Khwaja Qutbuddin<sup>RA</sup>, Hazrat Moinuddin Chishti<sup>RA</sup> writes:

<sup>63</sup> *Kanz al-Amaal*, Vol. 3.

<sup>64</sup> Later to be the third Caliph of Islam.

“The gist of it is that if a person has two hundred *tinkas*<sup>65</sup> in his possession for a whole year, it is obligatory on every adult in possession of his senses to pay five *tinkas* as *zakat* under the *Shari’at*. However, in *Tariqat* [religious order; Dervish Order] the real *zakat* that is obligatory is to retain five *tinkas* and to spend in charity the rest of the [195] *tinkas*.”

It is written in the book, *Sharah-at-Ta’aruf*, as under:

“People asked Hazrat Shibli<sup>RA</sup>, ‘How much should be paid as *zakat* in how many *dirhams*?’ Hazrat Shibli<sup>RA</sup> asked, ‘Are you asking about the *zakat* in the religion of the *fuqaha* [jurists] or that of the *Sufis*?’ The people said, ‘How about it?’ Hazrat Shibli<sup>RA</sup> said, ‘In the religion of the jurists, you have to pay five in two hundred. In the religion of the Sufis, you have to pay all the two hundred in two hundred as *zakat*.’ The people asked, ‘Is there any basis of this in *Shari’at*?’ Hazrat Shibli<sup>RA</sup> said, ‘Hazrat Abu Bakr<sup>RZ</sup> gave all his wealth and belongings [in the way of Allah]. Hazrat Prophet<sup>SLM</sup> asked him, ‘What have you left [at home] for your family?’ Hazrat Abu Bakr<sup>RZ</sup> said, ‘I have left them in Trust on Allah and His Messenger<sup>SLM</sup>.’

The readers may kindly ponder over this: If every Verse urging the spending of one’s wealth in charity is assumed to purport to be the known *zakat* and if any spending in charity other than *zakat* is not obligatory, which are the Quranic Verses and the Traditions that form the sources and bases to prove the principle the Sufis have adopted to fix the quantum of *zakat* and to make them obligatory? Further, if one were to ignore this principle of law and *Shari’at*, what would be the norm and rationale of the sayings of the Saints of Allah, which are valid in case of them [the saints], and invalid in the case of the Mahdavis?

In particular, we would like to ask the Hadyah Author that in view of his self-propounded principle, which he has made the basis of his criticism against the Mahdavis in the matter of making obligatory the payment of the ‘*Ushr*, what would be his comments about Hazrat Khwaja Moinuddin Chishti<sup>RA</sup>, who has said that the obligatory *zakat* of *Shari’at* was 2.5 percent and, as against it, a real *zakat* was 97.5 percent, and Hazrat Shibli<sup>RA</sup> who has said that giving away all the wealth [as *zakat*] was obligatory? Will the Hadyah Author go forward with his criticism of this *zakat* being extremely harsher than the *zakat* imposed by the *Shari’at* or not?

More important than this is the question: This stated *zakat* is obviously larger than the *zakat* imposed by the *Shari’at*. Does this clear change and nullification necessitate a new *Shari’at* or the abrogation of the *Shari’at-e-Muhammadiyah* or not? If it does, will it necessitate these esteemed and cherished Saints becoming Prophets and Apostles or not? Besides, what about their followers who concede that the sayings of their mentors are correct? Will it necessitate the followers to know that their mentors are Prophets and Apostles and bearers of a new *Shari’at* or not?

If all this does not become necessary, why does it not become necessary? The Hadyah Author contends that all this becomes necessary for the Mahdavis as they concede that the ‘*Ushr* is obligatory. However, the difference between the Mahdavis and the followers of these two illustrious saints is obvious. The Mahdavis concede the essence of *zakat* and all its quantities. Making any allegations against the Mahdavis of changing or annulling the *zakat* will not be correct. Further, the authentic sources on the issue of ‘*Ushr* are the Quranic Verses and the Traditions. Besides, the principles and sayings of Companions<sup>RZ</sup>, their followers, the followers of the followers, the imams of exegesis of the *Ahl-e-Sunnat-o-Jama’at*—all concede the principle of the ‘*Ushr*. Contrary to this,

<sup>65</sup> *Tinka* is an old local coin.

on the basis of the principles of the *Ahl-e-Zahir*, there is no clear source of the great Sufis' tenets, which applies to them and does not apply to the Mahdavis.

No wonder that the Hadyah Author may, on the basis of his hidden *Wahabi* mentality, not hesitate to attack these illustrious saints. However, Hazrat Shibli<sup>RA</sup> has narrated an event of Hazrat Abu Bakr<sup>RZ</sup>, which no Muslim of the *Ahl-e-Sunnat-o-Jama'at* can disavow. Hence, we would like to ask the Hadyah Author if Hazrat Abu Bakr<sup>RZ</sup>'s giving away all his belongings in the way of Allah Most High was extremely harsher or not? Further, Hazrat Abu Bakr<sup>RZ</sup>'s giving away all his wealth and belongings in the way of Allah Most High is lawful under the principles of *Shari'at* in view of the Hadyah Author's self-propounded principles of criticism? If the answer is yes, what is the principle? Surely, no Muslim, worth his salt, can call the act of Hazrat Abu Bakr<sup>RZ</sup> as unlawful, since Hazrat Prophet<sup>SLM</sup> has held it to be lawful. He has not objected to it. Instead, if this act of Hazrat Abu Bakr<sup>RZ</sup> is lawful, none can object to a person thinking that the paying the '*Ushr* of his wealth, [i.e., one-tenth of it] in the way of Allah Most High is obligatory. This is so because, Hazrat Prophet Muhammad<sup>SLM</sup> has held that the act of spending the '*Ushr* as lawful and has not objected to it. He has praised it as excellent. If this one time act of Hazrat Abu Bakr<sup>RZ</sup> proves that giving away of the whole of one's wealth can become obligatory in the *mash'rab* [school of philosophy] of the Sufis, the perpetual commands of Hazrat 'Umar<sup>RZ</sup> about collecting '*Ushr* [tithe or tenth part as the tax] on the stocks other than the commodities growing out of soil also should become obligatory. Alternatively, at least there should be no criticism against the people who hold that such spending of one's wealth in its entirety in the way of Allah is obligatory, as the principle of the Saints of Allah who believe in spending their entire wealth in charity in the way of Allah cannot be criticized under the principles of the *Ahl-e-Sunnat-o-Jama'at*. In short, from all these discussions and reasons, a part of which has been presented here for the information of the readers, it has become obvious like the brightly lit day that the Hadyah Author's presenting the issue of the '*Ushr* as proof of his contention that it abrogates the *Shari'at* is an indecent mistake.

In short, the issues, which the Hadyah Author had conceitedly presumed to be a new *Shari'at* or the abrogation of the *Shari'at-e-Muhammadiyah*—and had tried to make the people believe his distortion to be correct—are extracted from the sources like the Quran and the Traditions and are based on one or the other religious principle, as we have proved in the foregoing discussion. The readers have seen that. Further, the Hadyah Author has himself admitted that the source of the *Shari'at-e-Muhammadiyah* is the Quran and the word of mouth of Hazrat Prophet Muhammad<sup>SLM</sup>.<sup>66</sup> This proves that all these commands too are precisely the commands of the *Shari'at-e-Muhammadiyah*. All his contentions about the abrogation are the result of his short-sightedness and *kam fah'mi* [stupidity].

Concluding this discussion, apart from all the foregoing research and ascertainments, we would like to deal with another self-evident aspect of the issue that such applications of the terms, prohibited, undesirable, obligatory [*Farz* and *Wajib*] and others are related to gradable prohibitions and intentions [or objectives]. To interpret them on the basis of manifest *Shari'at* at every occasion and place is the basis of all the mischief. Hence, closing the eyes from these minute distinctions has entangled the Hadyah Author in the quagmire of the so-called abrogation precepts. He is bound to get entangled at every step.

<sup>66</sup> *Hadyah-e-Mahdavia*, Abu Raja Muhammad, 1293 AH Edition, p.27.

*Excerpt from the book:*

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**LI ARBAB AL-BASA'IR**

**[KOHL OF PEARLS FOR LORDS OF INSIGHTS]**

**VOLUME 1**

**PART 1**

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**BELIEFS**

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