

## Practical Examples On The Jurisprudential Methods Of The Two Trends

Earlier in this book, the recordation of the Hadith has been thoroughly demonstrated from the viewpoint of the school of through compliance with the sacred texts as well as from the viewpoint of the school of Ijtihad and Opinionism the founder of which had practically prohibited the reporting and recordation of the Hadith.

Let us now present active examples on the jurisprudential methods of both the schools aiming at proving that although the disagreement among the Muslims had been about the political leadership of the Muslim community, it unfortunately moved to the jurisprudence in general.

This fact sheds light on our previous supposition about the reason of the prohibition of reporting and recording the Hadith—a decision that was issued by Abu-Bakr and `Umar, and that the consequences of this decision have been reflected on the present actuality of the Muslims.

This is because disagreement in the jurisprudence was stemmed from the disagreement about the principles and narrations adopted by both the parties of the disagreement. To realize the actual history and the confusables of the Holy Sunnah is to know everything about this topic.

Hereinafter, four controversial questions from various fields of Muslim jurisprudence (namely, the laws of inheritance, food and drinks, doctrinal provisions, and blood money) will be presented for the purpose of demonstrating the discussion of this book in its best and most obvious picture and, also, in order to confirm that the decision of prohibiting the reporting and recording of the Hadith that was issued by Abu-Bakr and `Umar left sweeping influences on the majority, if not all, of the Muslim jurisprudential fields.

One of the consequences of that decision was the legality of multiplicity of the Sahabah's opinions appertained to the religious affairs. In other words, the prohibition of recording the Hadith opened wide the door of Ijtihad and personal views, because people needed their general issues to be solved, especially in the new-found questions; and since Ijtihad would meet this need, it was then practiced by

the Sahabah whether in accordance with the sacred texts or not.

However, it is well-known that one of the natural features of Ijtihad is that it does not bind the individuals to stop at a certain opinion. As a result, discrepancies occurred to the Sahabah's personal opinions and practices of Ijtihad and even to the opinions of a certain Sahabi. Because they had not agreed to depend upon the view of a certain individual among them, the Tabi'un who came after the Sahabah were badly influenced by such discrepancies.

Moreover, as the rulers recorded the sayings of the Sahabah alongside the Hadith of the Holy Prophet, they contributed largely in deepening such discrepancies. Although repeated, it seems appropriate to cite the following narration Salih ibn Kaysan:

"I, once, met with al-Zuhri for seeking religious knowledge and then we both decided to write down the traditions. We therefore wrote down whatever was reported from the Prophet. When he suggested that he would write down the traditions of the Sahabah considering them with the Sunnah, I objected and declared the Sahabah's traditions having not been within the Sunnah. Hence, al-Zuhri wrote down the traditions of the Sahabah while I did not and thus I lost."<sup>1</sup>

Shaykh Muhammad Abu-Zuhrah says,

"We found Malik ibn Anas depending upon the verdicts of the Sahabah as if they were part of the Sunnah."<sup>2</sup>

Thus, discrepancy crept into the fundamentals of the Muslim jurisprudence and became untouchable law. It is also noticed that discrepancy occurred even to the opinions of the same Sahabi;<sup>3</sup> therefore, one adopts the first opinion of that Sahabi and another adopts the second.

The aforesaid introduction has revealed the fact that the Holy Sunnah for the Sunnite Muslims passed through two stages;

(1) the prohibition of reporting and recording the Hadith, and

(2) the recordation of the Holy Sunnah. During the first stage of the prohibition, personal views were deemed legal and the Holy Sunnah was intentionally confused with the decisions of the Sahabah. During the second stage of the recordation, these different opinions and views were written down; therefore, they have become within the Islamic laws that must be obeyed.

On the other hand, the school of the through compliance with the sacred texts has passed through one stage only, which is the taking from the Holy Prophet and the adoption of his dictations that were handwritten by Imam `Ali ibn Abi-Talib. For this reason, no substantial disagreement can be noticed in the questions discussed by the jurisprudential method of this school. To prove it, let us present the following examples:

## (1) Laws Of Inheritance

It has been narrated that Muhammad ibn Muslim reported,

Abu-`Abdullah (i.e. Imam Ja`far al-Sadiq) opened before me a book (*Sahifah*), and the first sentence that caught my eyes was that “When a legator’s heirs are his nephew and his grandfather, the inheritance is divided between them equally.” I said to him, “May Allah accept me as ransom for you! Judges are not deciding anything of an inheritance to the nephew (of a legator) when the grandfather is existent.” He answered, “Verily, this book is written with the handwriting of `Ali according to the dictation of the Messenger of Allah.”[4](#)

According to another narration, Muhammad ibn Muslim is reported to have said,

I looked in the book that was read by Abu-Ja`far (i.e. Imam Muhammad al-Baqir) and found that it was written therein, “When a legator’s heirs are his nephew and his grandfather, the inheritance is divided between them equally.” I said to him, “May Allah accept me as ransom for you! Judges are not deciding anything of an inheritance to the nephew (of a legator) when the grandfather is existent.”

Imam Muhammad al-Baqir answered, “Verily, this book is written with the handwriting of `Ali according to the dictation of the Messenger of Allah; from the mouth of the Messenger of Allah to the hand of `Ali.”[5](#)

These two narrations deal with one of the fields of the Muslim jurisprudence about which discrepancies and disputes have occurred; it is the question of the laws of inheritance. Muhammad ibn Muslim told that the judges in his country had not issued verdicts corresponding to the Book of `Ali; and Imam Muhammad al-Baqir agreed with that information and declared that these judges had issued judgments opposing to the judgment of the Holy Imams of the Ahl al-Bayt.

To prove the accuracy of his judgment and the inaccuracy of these judges’ judgments, Imam Muhammad al-Baqir confirmed that his judgments were taken from the mouth of the Messenger of Allah to the hand of `Ali ibn Abi-Talib and that the book on which he depended in the issuance of these judgments were written by Imam `Ali according to the dictations of the the Holy Prophet.

Imam Muhammad al-Baqir thus confirmed on the most trustworthiness of his reference and on the significance of the recordation of the Hadith in general and that record in particular. These confirmations opposed the principles of the trend of Ijtihad and Opinionism.

A look into the Shi`ite reference books of Hadith shows that the Imamiyyah Shi`ite Muslims have unanimously agreed on the question that a nephew, replacing the brother, takes a half of the inheritance while the grandfather’s share is the other half.[6](#)

As for the Sunnite jurists, none of them has ever issued such a judgment although they knew for

certain that Imam `Ali and `Abdullah ibn `Abbas used to judge that the nephew and the grandfather share an inheritance equally.

In this regard, al-Tahawiy has recorded on the authority of Isma`il ibn Abi-Khalid on the authority of al-Shi`biy that it was narrated to him that `Ali ibn Abi-Talib used to judge that nephews replace their fathers in an inheritance with the existence of the grandfather. Save `Ali, none of the Sahabah used to decide such.<sup>7</sup> A similar narration has been reported by `Abd al-Razzaq on the authority of al-Shi`biy.<sup>8</sup>

On the face of it, the jurists who belong to the School of Ijtihad and Opinionism have not adopted the judgments of Imam `Ali and `Abdullah ibn `Abbas because the question of the grandfather's share of an inheritance is too dangerous from the viewpoint of the caliphs who had divergent opinions about this question.

Therefore, the Sunnite jurists blacked out and stopped any narration reporting the opposite of the caliphs' personal opinions about the question to the degree that Imam `Ali, having feared lest his judgment about this question would be wasted, ordered `Abdullah ibn `Abbas to erase what he had written to him in this respect.

Ibn Abi-Shaybah has recorded, through an authentic series of narrators, on the authority of al-Shi`biy that `Abdullah ibn `Abbas narrated that Imam `Ali wrote a letter to him asking him to erase his previous epistle about the matter.<sup>9</sup> According to another narration, Imam `Ali wrote to Ibn `Abbas, "Erase my epistle and keep it not."<sup>10</sup>

These narrations clearly reveal that Imam `Ali was cautious of elucidating his judgment about that jurisprudential question.

A similar matter was reported by `Abdullah ibn Mas`ud. Ibn Hazm has recorded through his series of narrators to Shu`bah ibn al-Taw'am al-Dabbiy that when the disagreement about the share of the grandfather from an inheritance was mentioned before `Abdullah ibn Mas`ud, he said, "We will only judge as exactly as the judgments of our imams (i.e. the caliphs)."<sup>11</sup>

In this narration, `Abdullah ibn Mas`ud indicated that he would not be able to express that which he had heard from the Holy Prophet or that which he believes as regards the questions after he had realized that `Umar ibn al-Khattab issued many different judgments. He only showed that he would accept the judgments of the caliphs.

To a great extent, this reply is similar to his saying, "Discrepancy is evil," when his opinion was sought about the question that he had followed the Holy Prophet when he offered the prayer in Mina in the shortened form (*qasr*) while `Uthman ibn `Affan violated such and offered the same prayer in the same place in the complete form (*Tamam*).

`Umar ibn al-Khattab had had different sayings about the grandfather's share from the inheritance, and

some of the Sahabah disagreed with each other on the same question—these two facts caused some of the Sunnite jurists to misapprehend the question; therefore, a group of them issued that there is no fixed share for the grandfather from an inheritance when the other heirs are the legator's brothers; rather his share is determined according to the caliph's judgment!"<sup>12</sup>

Verily, the ruling trend has aimed at nothing other than corroborating the personal opinions of the past rulers, as regards the religious laws, and persistently violating the trend of Imam `Ali and `Abdullah ibn `Abbas.

It has been narrated that al-Hajjaj ibn Yusuf al-Thaqafi, once, summoned al-Shi`biy to ask him for a judgment in a question one of whose affairs is the grandfather's share of inheritance. Al-Shi`biy said, "This question is subjected to controversy. About it `Abdullah ibn Mas`ud, `Ali, `Uthman, Ibn `Abbas,... etc."

Al-Hajjaj said, "Of course, the opinion of `Abdullah ibn `Abbas in this question is accurate... rather you should order the judge to issue the same judgment that was decided by `Uthman ibn `Affan."<sup>13</sup>

These narrations and their likes prove that the question was quite understandable for Imam `Ali and the Ahl al-Bayt since they took it from the same source, which is the Book of Imam `Ali, while it was very ambiguous for those who prohibited the recordation of the Hadith.

## (2) A Question About Game

It has been narrated on the authority of al-Halabi that Imam Ja`far al-Said said,

"My father used to issue verdicts about hunting with trained falcons and hawks out of fear and as practice of Taqiyyah (pious dissimulation). Now, we do not fear. It is illegal to hunt with falcons and hawks unless the games are legally slaughtered. According to the Book of `Ali, Almighty Allah's saying (in the Holy Qur'an),

***'...and what you have taught the beasts and birds of prey, training them to hunt-- you teach them of what Allah has taught you' (Holy Qur'an: 5:4)***

is exclusively dedicated to the dogs."<sup>14</sup>

This narration means that Imam Muhammad al-Baqir, because he lived under the pressures of the Umayyad rulers' intellectual terrorism, used to issue the legality of hunting with -trained- falcons and hawks for fear of their persecution since they were fond of hunting with trained falcons and hawks, as is well-known from Yazid and other Umayyad rulers.

But when fear vanished in the beginning of the `Abbasid dynasty, Imam Ja`far al-Sadiq explained the actual judgment of this question, saying, "Now, we do not fear. It is illegal to hunt with falcons and hawks

unless the games are legally slaughtered.”

To deeply investigate this jurisprudential issue displays that the proofs appertained to it are dedicated to the legality of eating the games that are hunted by the trained dogs, nothing else, according to the text of the holy verse. It has been narrated that Abu-Tha`labah al-Khushaniy and `Adiy ibn Hatam al-Ta`iy decided the legality of the game, especially that hunted by trained dogs. [15](#)

Similarly, `Abdullah ibn `Umar and Mujahid are reported to have issued the judgment that hunting by means of anything other than trained dogs are illegal, because Almighty Allah says,

***‘...and what you have taught the beasts and birds of prey, training them to hunt-- you teach them of what Allah has taught you’ (Holy Qur’an: 5:4)***

is exclusively dedicated to the dogs. [16](#) Further, Ibn Hazm has recorded that the Holy Sunnah mentioned exclusively the trained dogs and nothing else at all. [17](#)

Scholars have also doubted the authenticity of the narration ascribed to `Abdullah ibn `Abbas as having said that the trained dogs, falcons, and each and every bird that is trained for hunting are intended in the holy verse involved, [18](#) because the narration was reported on the authority of `Ali ibn Abi-Talhah who did not see `Abdullah ibn `Abbas and who was decided as doubted by the majority of biographers. [19](#)

In addition, the Holy Imams of the Ahl al-Bayt are reported to have decided that only the games that are hunted by trained dogs are legal while all games that are hunted by other trained animals are illegal.

From the previous, we conclude that the ruling was very clear, but the rulers and their desires instigated some Muslim jurists to decide what those rulers wanted out of fear causing the next generations to lose the genuine ruling.

Thus, the majority of the Sunnite jurists have violated this clear-cut ruling and decided the legality of the games hunted by trained falcons and hawks, [20](#) although I could not find even a single indication from the Holy Sunnah justifying such violation. Rather the Holy Sunnah has declared the opposite of their judgments.

However, they had decided such after they expanded the topic of the holy verse without any proof or point of evidence from the Holy Qur’an or Sunnah that, as a matter of fact, have comprised texts confirming that the meat of games is decided legal only when these games are hunted by trained dogs, not any other animal. Evidently, Ibn Hazm declared this fact [21](#) and, apparently, `Abdullah ibn Qudamah did, too. [22](#)

As a consequence, we conclude that liberal welfare would have covered the Muslims had they only adhered to the method of the recordation of the Hadith that was inaugurated by Imam `Ali ibn Abi-Talib.

Yet, political circumstances and confused affairs forced a certain jurisprudential issue to succumb to

individual desires, not to what has been openly mentioned in the Holy Qur'an and what was declared by the Holy Prophet.

### (3) The Penalty Of Drinking Intoxicants And Wines

It has been narrated on the authority of Burayd ibn Mu`awiyah that Imam Ja`far al-Sadiq said,

“In the Book of `Ali, it is recorded that he who drinks intoxicants and he who drinks wines should be sentenced to eighty lashes each.”<sup>23</sup>

This narration carries two subject; first, the provision of the drinkers of intoxicants is eighty lashes and, second, the matter of intoxicants include all intoxicated beverages, such as wines and the like.

With regard to the first, it has been authentically narrated that all the founders of the Four Schools of Sunnite jurisprudence have decided that a drunk must be whipped eighty lashes. An exception in this issue is that Muhammad ibn Idris al-Shafi`iy, the founder of the al-Shafi`iyyah School, in one of his two famous opinions is reported to have declared that a drunk is whipped forty lashes.<sup>24</sup> The evidence on the forty lashes is that it has been also narrated that the Holy Prophet beat a drunk with two slippers, or other thing that has two edges, forty times.<sup>25</sup>

The evidence on the eighty lashes has been extracted from the incident that `Umar ibn al-Khattab sought the counsel of the Sahabah concerning the penalty of the drunk. It has been authentically narrated that Imam `Ali, during that session of counsel, said, “One who is intoxicated will definitely rave; and when he raves, he will fabricate lies; therefore, you may apply the penalty of slanderers to the drunk.” In the same session, `Abd al-Rahman ibn `Awf said, “You may make it the lightest of the doctrinal provisions, which is eighty lashes.”<sup>26</sup> Accordingly, the Sahabah agreed to make it eighty lashes!

Strangely, some scholars have conjectured the untruth; they have thought the Islamic code of law having been empty of the ruling of lashing and the Holy Prophet having not decided certain penalties for certain crimes. Ibn Hazm has referred to some of these erroneous concepts.<sup>27</sup>

Although it is not the proper place to mention and refute these concepts, I only intend to state that such claims necessarily mean that the Islamic code of law (*Shari`ah*) has been imperfect and that the verse of the Holy Qur'an that reads,

***“We have revealed the Book to you explaining clearly all things.” (Holy Qur'an: 16/89)***

is meaningless. Of course, no single Muslim accepts these two claims.

Those who issue forty lashes as the penalty of the drunk have provided as evidence the narration that the Holy Prophet beat with a thing that had two edges or with a pair of slippers forty times.

Supposing this narration is authentic, its significance is very close to the judgment of the eighty-lash punishment, because customarily to beat with a pair of slippers is not considered one lash, but two. Accordingly, this can stand as evidence for those who issue eighty-lash, not forty-lash, punishment.

Umar ibn al-Khattab is notably reported to have sentenced drunks to forty and sixty-lash punishment before he sought the Sahabah's counsel according to which he decided the eighty-lash punishment. He is also reported to have exiled the drunks and then decided not to do it ever again.[28](#)

As for the followers of the School of Thorough Compliance, they undoubtedly believe that the judgment of eighty-lash punishment was not a personal view of Imam `Ali; rather it was decided by the Holy Prophet.

The proof on this fact is that he had beaten with a pair of slippers those who drank intoxicants forty times. The other proof is that this judgment is mentioned in the Book of `Ali that comprises the dictations of the Holy Prophet handwritten by Imam `Ali ibn Abi-Talib.

As a matter of fact, it is strange that al-Sarakhsiy, in his book of *al-Mabsut*, has claimed that the eighty-lash judgment was a personal opinion that was deduced by Imam `Ali![29](#) He has not realized the fact that Imam `Ali had originally received this judgment from the Holy Prophet, and all that he did was introducing an example-like justification in order to make the attendants understand the question and to fix the judgment of the Holy Prophet.

The second subject in this topic is the expansion of the matter of intoxicants so as to include any amount of liquor that causes intoxication. The School of Thorough Compliance with the Sacred Texts has unanimously agreed upon the ruling that reads, "It is illegal to drink any amount of liquor the much of which intoxicates."

The followers of the School of Ijtihad and Opinionism have largely disputed about this matter. Some of them, agreeing with the School of Compliance, decided the illegality of drinking any intoxicant, which contains any liquor that causes stupefaction including those the little amount of which does not stupefy.

The Shafi`iyah, Malikiyyah, and other schools of Sunnite jurisprudence can be listed under those who agreed with the School of the Ahl al-Bayt in this question. Al-Nawawiy, in his book of *al-Majmu`*, says,

"The Shafi`iyah, the Malikiyyah, and other schools of Sunnite jurisprudence have judged the illegality of drinking any intoxicating liquor, be it juice or wine, even if the amount of such liquor does not intoxicate so long as the nature of it causes intoxication."[30](#)

Other Sunnite jurisprudential schools have decided the legality of drinking the wine the little amount of which does not cause stupefaction. Consequently, they have decided that it is not forbidden to drink much amount of such liquor.

According to the apparent wording of al-Qurtubiy, among those who adopted this opinion were Ibrahim



al-Nakha`iy, Sufyan al-Thawriy, Ibn Abi-Layla, Shurayk, Abu-Hanifah, the other jurists of al-Kufah, and the majority of the jurists of al-Basrah.<sup>31</sup> Al-Qurtubiy then adds,

“What is deemed unlawful among the other wines is the intoxication itself, not the intoxicating liquor.”<sup>32</sup>

Ibn Qudamah says,

“Abu-Wa'il al-Nakha`iy, the majority of the jurists of al-Kufah, and the Opinionists are among those who claimed that only those who become intoxicated should be sentenced to the religious punishment of consuming intoxicants.”<sup>33</sup>

By saying such, these jurists have specified the actuality of intoxication as a stipulation of its materialization. This is of course opposite to the abovementioned opinion of the School of Thorough Compliance with the Sacred Texts and the Sunnite jurisprudential schools that complied with it in this regard, such as the Shafi'iyah and the Malikiyyah who believe in the illegality of drinking any liquor that can intoxicate; and since wine has this characteristic, it is forbidden to drink any amount of it, be it much or little.

Even their enemies have confessed of the appositeness of the Shi'ite jurists in this respect since it is congruent with sound nature and reason. Musa Jarullah says,

“I like the belief of the Shi`ah in the point of deeming illegal to drink any liquor the much of which causes intoxication. They thus decide that it is illegal to drink any amount of liquor the much of which stupefies. Even the compelled does not drink intoxicants in time of emergency, since it is fatal. The Shi`ah also deem illegal to sit to a table on which wine was, is, or will be served. I also thoroughly like the School of the Imamiyyah Shi`ah in questions of divorcement and some fundamental laws of inheritance.”<sup>34</sup>

In his book of *al-Muhalla*, Ibn Hazm takes offense at and bears down upon those who adopted the opinion that wine is illegal only when it intoxicates. He then refers to the opinion of the School of Thorough Compliance with the Sacred Texts, saying,

“These are collaborating traditions and uninterrupted authentic narrations that are reported from the Mother of Believers,<sup>35</sup> Abu-Musa al-Ash`ariy, `Abdullah ibn `Umar, Sa`d ibn Abi-Waqqas, Jabir ibn `Abdullah, and al-Nu`man ibn Bashir. All of these, unambiguously and unmistakably, have reported from the Holy Prophet the illegality of drinking intoxicants.

Moreover, there are traditions confirming the illegality of drinks when they cause stupefaction and the illegality of honey, barley juice, and wheat juice when they cause intoxication, the illegality of corn juice when it causes intoxication, and the illegality of drinking any little amount of any drink the much of which causes intoxication.

This is, of course, opposite to the claims of that one whom Almighty Allah may disappoint and deprive of success... Having gone beyond all limits, some people showed intolerable impudence against some of

the traditions of the Holy Prophet, who says that all intoxicating liquids are forbidden to drink, and said that he only meant the last cup of wine!”[36](#)

By the statement “This is, of course, opposite to the claims of that one whom Almighty Allah may disappoint and deprive of success,” Ibn Hazm meant Abu–Hanifah and his followers because they have deemed lawful to drink the dregs of wine, yet discommendably.

They have thus said, “One who drinks the dregs of wine should not be sentenced to the religious punishment of consuming intoxicants unless he becomes intoxicated. Such being the case, he should be punished.” Ibn Hazm himself, in his book of *al–Muhalla*, has reported this verdicts from the followers of Abu–Hanifah.[37](#)

The aforesaid statement, “he only meant the last cup of wine!” indicates the legality of drinking a little amount of intoxicants or wines because such an amount does not actually cause intoxication; rather intoxication occurs only when the last cup is drunk; therefore, one who consumes intoxicants is lashed for the last cup, not the ones preceding!

By a deep look into the incidents of the history of the Islamic legislation, one can find out that those who adopted such a claim must have betaken the deed of `Umar ibn al–Khattab, the second caliph, as their evidence on their claim. It has been narrated that he lashed a Bedouin because he had drunk from the caliph’s liquor.

When the Bedouin expressed that he had only drunk from `Umar’s drink, the latter ordered them to bring him that drink. When the drink was brought before him, he added water to it and drank. He then said, “One who doubts his drink should add water to it!”[38](#)

`Umar ibn al–Khattab is also reported to have said, “I am drinking this strong liquor in order to digest the meat of camels and to save our stomachs from its aches. So, one who doubts his drink should add water to it!”[39](#)

He is also reported as saying, “My stomach can hardly digest the food therein; therefore, I drink this strong wine in order to help my stomach work properly.”

Evidently supporting my conclusion, it has been narrated that Abu–Hanifah presented the conduct of `Umar ibn al–Khattab as his proof on deeming legal to consume a little amount of the wines the much of which causes intoxication. In this connection, it has been narrated that `Abdullah, one of the descendants of `Umar ibn al–Khattab, objected to Abu–Hanifah as regards deciding the wines as legal to drink.

Abu–Hanifah answered, “We have learnt this verdict from your forefather.”

`Abdullah said surprisingly, “Which one of my forefathers?”

Abu-Hanifah answered, “It is your forefather who said, ‘One who doubts his drink should add water to it!’”

‘Abdullah then asked, “What will you do if you are ascertained of it without doubt?”

Abu-Hanifah kept silent because he could not find an answer for that question.[40](#)

In order to reach any result in this secondary jurisprudential issue, they have adhered to the weakest indications. They therefore entrapped themselves in violent disputes and reached at contradictory conclusions because they have left behind them the authentic texts that are recorded in the Book of ‘Ali and reported from the Ahl al-Bayt.

In my conception, the rulers, both the Umayyad and the ‘Abbasid, made all possible endeavors to establish this ruling—that specifies actual intoxication as stipulation of the illegality of consuming wines—so as to save themselves from the people’s criticisms and to drink intoxicants and wines as they like without any barrier or deterrent.

They also misused the legal permission of drinking the “legal” wine, in the sense that they put some dates in the brackish water in order to remove its salinity. Then, they applied this ruling to the sizzling wine and thus specified actual intoxication as stipulation of the illegality of consuming wines. In the midst of all these unacceptable acts, they knew for sure that the Holy Prophet had said,

“A group of my community will deem legal the drinking of wines under another title that they invent.”[41](#)

He is also reported as saying,

“Soon shall a group of my community drink wine after they change its name.”[42](#)

To apply this Prophetic prediction to the reality signifies that the major Sahabah did not consume wines—except ‘Umar ibn al-Khattab who, having practiced his personal view, decided the legality of consuming wine which he did not give up until the last hour of his life—and the Holy Imams of the Ahl al-Bayt decided it absolutely forbidden; therefore, none remained except the Umayyad and ‘Abbasid rulers who did drink wines and exceeded it to consume even the pure intoxicants.

In any event, such confusion between the principles and the concepts would not have happened if the Muslims had kept records. Again, if the rulers had left the Muslims to take the features of their religion from the books that comprised the religious knowledge and Hadith, including the Book of Imam ‘Ali, it would have been better and more beneficial for the Muslims and the disagreement among the Muslim scholars would not have reached such an extent in the jurisprudential questions.

## (4) The Blood Money For Teeth

It has been narrated that al-Hakam ibn `Uyaynah said to Imam Muhammad al-Baqir, "Some people have thirty-two teeth while other have only twenty-eight; how is the blood money for the teeth divided?" The Imam answered,

"Naturally, a human being has twenty-eight teeth; twelve are in the front of the mouth and sixteen are in the back of it. According to this distribution, the blood money for the teeth has been divided. The blood money for each of the front teeth, when broken to vanishing, is five hundred dirhams.

Thus, the blood money for all these teeth becomes six thousand dirhams. As for the back teeth, when broken to vanishing, two hundred and fifty dirhams is the blood money for each of these sixteen teeth.

Thus, the blood money for all these teeth becomes four thousand dirhams. The total blood money for the front and back teeth is ten thousand dirhams. The blood money has been decided according to this division; therefore, no blood money is decided for any additional tooth or incomplete number. Thus have I found the ruling in the Book of `Ali."[43](#)

The same narration has been narrated by Shaykh al-Saduq, rather with another series of narrators on the authority of al-Hasan ibn Mahbub,[44](#) and by Muhammad ibn al-Hasan on the authority of al-Hasan ibn Mahbub, too.[45](#)

Because it has been mentioned in the Book of `Ali, all the Imamiyyah Shi`ite jurists have acted upon this ruling; therefore, they have not shown any disagreement in this division. Shaykh Muhammad Hasan al-Najafiy says,

"The blood money must be paid entirely when all the teeth are broken to vanishing. No disagreement can be found on this ruling; rather it is unanimous according to the apparent statements of *al-Mabsut* and the clear-cut statements of *al-Tahrir*.

The blood money is divided according to the twenty-eight teeth. As is written in *al-Khilaf*, the Shi`ite scholars and reporters have unanimously agreed upon this ruling... Six hundred dinars is the blood money for the front teeth. Hence, the blood money of each tooth is twenty-five... This is the whole blood money..."[46](#)

The Imamiyyah jurists have also unanimously agreed that no blood money is paid for the additional teeth; rather it is subjected to the one-third of the blood money, or the blood money for scratches, or conciliation, or...etc. In brief, no blood money for the teeth is paid for the additional ones. This is the meaning of the narration that confirms this ruling having been taken from the Book of `Ali.

Thus, the narration mentioned from the Book of `Ali has decided a complete blood money for the teeth being broken or damaged. The blood money for the front teeth, which are sixteen in number, is six

hundred dinars; fifty (i.e. five hundred dirhams) for each. The blood money for the back teeth is four hundred dinars; twenty-five (i.e. two hundred and fifty dirhams) for each. The total is thus one thousand dinars (i.e. ten thousand dirhams), which is the blood money for the teeth altogether.

Those who did not take from or did not know about the contents of the Book of `Ali have been engaged in big dispute as regards this question; they have therefore gone on various ways according to each party's reports and opinions. `Ata' is reported as saying, "The blood money for the front teeth and the incisors is five camels for each; and for the rest is two camels for each. This is the second narration from `Umar."<sup>47</sup> The first narration from `Umar, however, reads that the blood money for the rest of the teeth is one, not two, camel.<sup>48</sup>

On the other hand, the author of *al-Mughni* has written down that `Ata' decided equality of the blood money for each of the teeth without differentiation is five camels.<sup>49</sup> Accordingly, the blood money for all the teeth, which are twenty-eight, is one hundred and forty camels; and this means that the blood money for the teeth alone is bigger than the blood money for a human being.

`Abdullah ibn `Abbas and `Umar ibn al-Khattab are reported as having decided fifty dinars as the blood money for each of the incisors, forty dinars for each of the malors, and twenty-five for each of the grinders.<sup>50</sup> In view of this narration, `Umar ibn al-Khattab had a third opinion about the issue.

Still, he had a fourth opinion, recorded by the author of *al-Mughni*, which is that the blood money is the same for all the teeth,<sup>51</sup> though this opinion has been ascribed to `Abdullah ibn `Abbas and `Ata', too.<sup>52</sup>

It is thus noticeable that `Umar ibn al-Khattab had four different opinions about the blood money for the teeth; and there is more than one opinion, about the question, ascribed to `Abdullah ibn `Abbas and `Ata'. This indicates the confusion in the reporting from the Sahabah or the confusion of the reporters themselves.

It goes without saying that the blood money cannot be changed daily and cannot have a certain amount in a certain time since it is Almighty Allah Who has defined that amount. Such contradiction in reporting cannot be found with the other School (of Thorough Compliance with the Sacred Texts), because the followers of it have always depended upon the contents of the Book of `Ali, the ancient and the genuine, that comprises the dictations of the Holy Prophet.

Had the followers of the School of Ijtihad and Opinionism acted upon the contents of the Book of `Ali, such odd contradiction in the reporting from a certain Sahabiy about a certain question would not have existed.

Because the reporting from Imam `Ali and the other Holy Imams of the Ahl al-Bayt is unchangeable and authentic as regards the amount of the blood money for the teeth when broken or damaged, the followers of the other school (of the prohibition from reporting and recording the Hadith) took the authentic narrations and then interpreted their contents according to their personal opinions and views.

The majority of the followers of this school—who decided equality in the blood money for all the teeth—claimed that they depend upon the narration mentioned in the book of `Amr ibn Hazm that reads, “The blood money for the tooth is five camels.”[53](#)

Yet, this narration does not imply equality of the teeth, because other narrations have used the expressions ‘malors’ and ‘incisors’ to express the teeth. Thus, it is inaccurate to claim generality of teeth in the aforesaid narration. Only this amount of the blood money was reported from `Amr ibn Hazm whom the Holy Prophet sent to the people of the Yemen with a book comprising the shares of inheritances, the highly recommended acts, and the amounts of the blood money.[54](#)

Besides, this amount is supported by the reports from the Holy Imams, as will be later on discussed. Yet, this cut-off reporting that lacks details and explanation on one hand and the insertion of personal opinions and Ijtihad in the question on the other hand—these two matters caused the followers of Ijtihad and Opinionism to commit this mistake upon which they have acted and issued verdicts.

Imam Ja`far al-Sadiq is reported to have said,

“The blood money of teeth is five camels, for both the near and the far front teeth. This is half of one-tenth of the blood money. They can be paid as dinars, dirhams, cows, sheep, and camels.”[55](#)

This narration reveals that the blood money of all the front teeth, the near and the far, is five camels, which is half of one-tenth of the blood money. If it would be paid as camels, then five camels should be paid for each damaged tooth; and if it would be paid in dinar, then fifty dinars should be paid for each damaged tooth; and if it would be paid in dirham, then five hundred dirhams should be paid for each damaged tooth. In other narrations, the details of the blood money for the other teeth have been shown.

Consequently, the contents of the book of `Amr ibn Hazm correspond the narrations reported from the Ahl al-Bayt. This is one of the benefits of the recordation. However, the personal interpretation, the negligence of the points and details mentioned in the other narrations, and the inappropriate generalization—these matters caused the Ijtihadists and Opinionists to be engaged in such mistake and disagreement about the amount of the blood money for the teeth.

Other jurists have presented the following narration as their point of evidence:

It has been narrated on the authority of `Abdullah ibn `Abbas that the Holy Prophet said, “Fingers are equal in the amount of the blood money; and teeth, whether incisors or malors, are also equal in the amount of the blood money.”[56](#)

Even if we suppose the authenticity in reporting this narration, it still has not been recorded in a book. It is also contradictory to the aforesaid discussion about the variety in the reports of the Sahabah, Tabi`un, and jurists as regards this question.

It is worth mentioning that Ahmad ibn Hanbal—who is, as testified by all Muslims, Hadithist and narrator

more than being jurisprudent—adopted an opinion opposing all the Sunnite jurisprudents and narrations and corresponding with the Ahl al-Bayt and the School of Thorough Compliance with the Sacred Texts.

He decided that the blood money for the front teeth is six hundred dinars (i.e. six thousand dirhams) and for the back teeth is four hundred; and these two amounts are together the whole blood money of teeth. Both al-Nawawiy, in *al-Majmu`* 19:99, and `Abdullah ibn Qudamah, in *al-Mughni* 9:613, have written down this opinion.

Through the abovementioned, yet simple, examples, the significance of the recordation and the true value of the Book of Imam `Ali have been clearly understood. It is now also obvious that those who practiced and depended upon the recordation of the religious knowledge, as well as those who follow the School of Thorough Compliance with the Sacred Texts, have been always closer to the right and more trustworthy in reporting from the Holy Prophet.

On the other hand, the followers of the School of Ijtihad and Opinionism, who prohibited the recording of the Hadith, were entrapped in disputes, perplexity, and variety of personal opinions; all that because they deserted the recordation and the records.

Even if they received a portion of the contents of these records, they would receive it imperfect and confused with personal views and Ijtihad. All these matters have taken the Ijtihadists and Opinionists away from the right path and thus the Muslim jurisprudence with them has been dependent upon personal opinions.

Naturally, opinions are different; therefore, they are large in number. On the contrary, the jurisprudence of those who complied with the sacred texts, those who recorded the Hadith during the age of the Holy Prophet, and those who preserved depended upon these recorded have been kept as far as possible from mistake, distortion, or imperfection.

In addition, this jurisprudential method is characterized by precision in the details and connection in the reports taken from the records. As a result, those jurisprudents have deduced the same, spotless and undoubted, ruling.

I thus appeal to the gentle researchers to deeply investigate the materials of the Book of Imam `Ali in the field of Muslim jurisprudence in order to demonstrate the significance of the recordation in general and the contents of the Book in particular.

[1.](#) Ibn `Abd al-Rabb al-Qurtubiy: *Jami`u Bayan al-`Ilm wa-Fadlih(i)* 1:76-77; al-Khatib al-Baghdadiy: *Taqyid al-`Ilm* 106-107.

[2.](#) Musnad Ahmad ibn Hanbal 251; Malik ibn Anas: *al-Muwatta`* 290.

[3.](#) In my book of 'Wudu' al-Nabiy', I have investigated the features of the phenomenon of ascribing many reports to `Abdullah ibn `Abbas.

[4.](#) Shaykh al-Kulayniy: *al-Kafi* 7:112 H. 1; al-Hurr al-`Imiliy: *Wasa'il al-Shi`ah* 26:159.

[5.](#) Shaykh al-Kulayniy: *al-Kafi* 7:113 H. 5; Shaykh al-Tusiy: *Tahdhib al-Ahkam* 308 H. 1104/25; al-Hurr al-`Imiliy: *Wasa'il*

al-Shi`ah 26: 16.

- [6.](#) Shaykh al-Tusiy: al-Khilaf 4:90.
- [7.](#) Ibn Hajar al-`Asqalani: Fath al-Bari fi Sharh Sahih al-Bukhariy 12:17.
- [8.](#) `Abd al-Razzaq: al-Musannaf 10:269 H. 19066.
- [9.](#) Ibn Hajar al-`Asqalani: Fath al-Bari fi Sharh Sahih al-Bukhariy 12:17.
- [10.](#) Ibn Hajar al-`Asqalani: Fath al-Bari fi Sharh Sahih al-Bukhariy 12:17.
- [11.](#) Ibn Hazm: al-Muhalla 9:283. On 9 :285–286 of the book there is a more obvious indication.
- [12.](#) Ibn Hazm: al-Muhalla 9:283.
- [13.](#) Ibn Hazm: al-Muhalla 9:289.
- [14.](#) Shaykh al-Kulayniy: al-Kafi 6:207; Shaykh al-Tusiy: Tahdhib al-Ahkam 9:32; al-Istibsar 4:72.
- [15.](#) `Abdullah ibn Qudamah: al-Mughniy 11:43.
- [16.](#) `Abdullah ibn Qudamah: al-Mughniy 11:11.
- [17.](#) Ibn Hazm: al-Muhalla 7:472.
- [18.](#) Muhyi al-Din al-Nawawiy: al-Majmu` 9:93.
- [19.](#) Muhyi al-Din al-Nawawiy: al-Majmu` 9:93.
- [20.](#) `Abdullah ibn Qudamah: al-Mughniy 11:3.
- [21.](#) Ibn Hazm: al-Muhalla 7:472.
- [22.](#) `Abdullah ibn Qudamah: al-Mughni 11:3.
- [23.](#) Shaykh al-Tusiy: Tahdhib al-Ahkam 10:96; al-Istibsar 4:235.
- [24.](#) `Abd al-Rahman al-Jaziriy: al-Fiqh `Ala'l-Madhahib al-Arba`ah 31–32; `Abdullah ibn Qudamah: al-Mughni 10:325.
- [25.](#) `Abdullah ibn Qudamah: al-Mughni 10:325.
- [26.](#) `Abdullah ibn Qudamah: al-Mughni 10:325.
- [27.](#) Ibn Hazm: al-Muhalla 11:364.
- [28.](#) Ibn Hazm: al-Muhalla 11:365.
- [29.](#) Al-Sarakhsiy: al-Mabsut 24:32.
- [30.](#) Al-Nawawiy: al-Majmu` 20:120.
- [31.](#) Al-Qurtubiy: Bidayat al-Mujtahid 1:493.
- [32.](#) Al-Qurtubiy: Bidayat al-Mujtahid 1:493.
- [33.](#) `Abdullah ibn Qudamah: al-Mughni 10:324.
- [34.](#) Musa Jarullah: al-Washi`ah fi Naqd `Aqa'id al-Shi`ah 118–19, 140.
- [35.](#) Mother of Believers (Umm al-Mu'minin) is a title said to the Holy Prophet's wives and excerpted from the Holy Qur'an that reads, "The Prophet has a greater claim on the faithful than they have on themselves, and his wives are (as) their mothers. 33/6" This is thus an indication to one of the Holy Prophet's wives and, most likely, to `A'ishah, for she is famous of reporting from the Holy Prophet. (Translator)
- [36.](#) Ibn Hazm: al-Muhalla 7:500.
- [37.](#) Ibn Hazm: al-Muhalla 7:492.
- [38.](#) Al-Muttaqiy al-Hindiy: Kanz al-Ummal 5:514. The next narration in the book is worthy of reading.
- [39.](#) Al-Bayhaqiy: al-Sunan al-Kubra 8:299.
- [40.](#) Al-Bayhaqiy: al-Sunan al-Kubra 8:306.
- [41.](#) `Abd al-Rahman al-Jaziriy: al-Fiqh `Ala'l-Madhahib al-Arba`ah 5:21. This narration has been recorded by Ahmad ibn Hanbal and Ibn Majah.
- [42.](#) `Abd al-Rahman al-Jaziriy: al-Fiqh `Ala'l-Madhahib al-Arba`ah 5:21. This narration has been recorded by Ibn Majah.
- [43.](#) Al-Hurr al-`Ismiliy: Wasa'il al-Shi`ah 29:343; Shaykh al-Tusiy: Tahdhib al-Ahkam 10:254; al-Istibsar 4:288.
- [44.](#) Shaykh al-Saduq: Man-la-Yahduruhul-Faqih 4:104/351.
- [45.](#) Shaykh al-Tusy: Tahdhib al-Ahkam 10:254; al-Istibsar 4:288.
- [46.](#) Shaykh al-Jawahiriy: Jawahir al-Kalam 42:229.
- [47.](#) Al-Nawawiy: al-Majmu` 19:98.
- [48.](#) `Abdullah ibn Qudamah: al-Mughni 9:612.



[49.](#) `Abdullah ibn Qudamah: al-Mughni 9:612.

[50.](#) Al-Nawawiy: al-Majmu` 19:98.

[51.](#) `Abdullah ibn Qudamah: al-Mughni 9:612.

[52.](#) `Abdullah ibn Qudamah: al-Mughni 9:613.

[53.](#) Al-Nawawiy: al-Majmu` 19:98.

[54.](#) Jamal al-Din al-Muzziy: Tahdhib al-Kamal 21:585.

[55.](#) Al-Hurr al-`Imiliy: Wasa'il al-Shi`ah 29:344; Shaykh al-Tusiy: Tahdhib al-Ahkam 10:261; al-Istibsar 4:289.

[56.](#) `Abdullah ibn Qudamah: al-Mughni 9:614.

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