CHAPTER SIX

The One-Fifth Tax (*Khums*)

Ruling 1768. *Khums* becomes obligatory (*wājib*) on seven things:

1. profit from earnings;
2. minerals;
3. treasure troves;
4. lawful (*ḥalāl*) property that has become mixed with unlawful (*ḥarām*) property;
5. precious stones that are acquired by underwater diving;
6. spoils of war;
7. land that a *dhimmī*[1] purchases from a Muslim, based on the well-known (*mashhūr*) juristic opinion.

The laws (*aḥkām*) of these will now be mentioned in detail.

1. PROFIT FROM EARNINGS

Ruling 1769. Whenever a person acquires property by means of trade, industry, or any other form of earning – even if, for example, he performs prayers (*ṣalāh*) and keeps fasts (*ṣawm*) of a deceased person and with the wages he receives from that he acquires some property – then, in the event that it exceeds his and his family's annual living expenses, he must pay *khums* – i.e. one-fifth – of it in accordance with the instructions that will be mentioned later.

Ruling 1770. If a person acquires property without earning it – for example, he is gifted something – then, with the exception of the cases mentioned in the next ruling, he must pay *khums* on it provided that it exceeds his living expenses for one year.

Ruling 1771. *Khums* is not liable on the dowry (*mahr*) that a wife receives, nor on the property that a husband receives in exchange for a *khul*ʿ[2] divorce, nor on blood money (*diyah*) that one receives. The same applies to the inheritance that one receives in accordance

[1] *Dhimmī*s are People of the Book (*ahl al-kitāb*) – i.e. Jews, Christians, and Zoroastrians – who have entered into a *dhimmah* treaty, i.e. an agreement that gives them rights as protected subjects in an Islamic state.

[2] This is a divorce that takes place at the insistence of a wife and in which she pays an agreed sum to her husband.

with those laws of inheritance that are considered valid. Therefore, if a Shia Muslim inherits property in another way, such as by *taʿṣīb*,[3] then that property is considered to be a gain and *khums* must be paid on it. Similarly, if a person inherits from an unexpected source that is neither from his father nor his son, then based on obligatory precaution (*al-iḥtiyāṭ al-wājib*), he must pay *khums* on the inheritance if it exceeds his living expenses for one year.

Ruling 1772. If a person inherits some property and knows that the person from whom he inherited it did not pay *khums* on it, he must pay *khums* on it. Similarly, if that property itself is not liable for *khums* but the heir knows that the person from whom he inherited it owed some *khums*, he must pay *khums* on it from the deceased's estate. However, in both cases, if the person from whom he inherited it did not believe in paying *khums* or never paid it, then it is not necessary for the heir to pay the *khums* owed by the deceased.

Ruling 1773. If a person saves money on his living expenses for the year by being frugal, he must still pay *khums* on it.

Ruling 1774. If a person's entire living expenses are paid by someone else, he must pay *khums* on his entire earnings.

Ruling 1775. If someone gives some property to particular persons – for example, he gives his children some property as a charitable endowment (*waqf*) – in the event that the property is farmed or trees are planted on it, and something is earned from it, and the earnings exceed their living expenses for one year, then those persons must pay *khums* on the extra earnings. Similarly, if they profit from the property in some other way – for example, they hire it out (*ijārah*) – they must pay *khums* on the amount that exceeds their living expenses for one year.

Ruling 1776. If the property that a poor person (*faqīr*) has received from obligatory charitable payments (*ṣadaqah*) – such as recompense (*kaffārah*) and *radd al-maẓālim*[4] – or, if he has received it from recom-

[3] This is a matter of inheritance that is common among Sunni Muslims but invalid from a Shia perspective. [Author]

[4] *Radd al-maẓālim* refers to giving back property – which has been unrightfully

mended (*mustaḥabb*) *ṣadaqah*, and if that property exceeds his living expenses for one year or he acquires profit from it – for example, he acquires fruit from a tree that was given to him – and that profit exceeds his living expenses for one year, then based on obligatory precaution, he must pay *khums* on it. However, if he receives some property as *khums* or alms tax (zakat), being someone entitled (*mustaḥiqq*) to receive it, then it is not necessary for him to pay *khums* on the property itself; but if the profit that accrues from it exceeds his living expenses for one year, then the profit is liable for *khums*.

Ruling 1777. If a person purchases something with the actual money on which *khums* has not been paid, i.e. he tells the seller that he is purchasing the item with that money,[5] then, in the event that the seller is a Twelver (Ithnā ʿAsharī) Shia, the entire transaction is valid (*ṣaḥīḥ*), and the item that has been purchased with the money is liable for *khums*; and there is no need to obtain permission or authorisation from a fully qualified jurist (*al-ḥākim al-sharʿī*).

Ruling 1778. If a person purchases something and after agreeing the transaction he pays for it with money on which *khums* has not been paid,[6] the transaction is valid but he will be indebted to those entitled (*mustaḥiqqūn*) to receive *khums* for the *khums* on the money he paid to the seller.

Ruling 1779. If a Twelver Shia Muslim purchases something on which *khums* has not been paid, the seller is liable for its *khums*, not the buyer.

Ruling 1780. If a person gifts something to a Twelver Shia Muslim on which *khums* has not been paid, the benefactor is liable for its *khums*, not the beneficiary.

Ruling 1781. If a person acquires some property from a disbeliever

or unknowingly taken – to its rightful owner, or if that is not possible, to the poor as *ṣadaqah* on behalf of the rightful owner.

[5] This is known as a 'specified' (*shakhṣī*) purchase. See the second footnote pertaining to Ruling 807.

[6] This is referring to a type of purchase that is known as a 'non-specified undertaking'. See the first footnote pertaining to Ruling 807.

(*kāfir*), or from someone who does not believe in paying *khums*, or from someone who does not pay *khums*, it is not obligatory on him to pay *khums* on it.

Ruling 1782. If a businessman, merchant, craftsman, clerk etc. starts trading or working, then after the passing of one year, he must pay *khums* on the amount that exceeds his living expenses for the year. The same applies to a preacher etc., even if his income is earned at certain times of the year, provided that the income is sufficient to meet most of his living expenses for the year. As for someone who does not have an occupation by which he can earn a living and who receives help from the government or from people, or someone who incidentally acquires some profit, such persons must pay *khums* on the amount that exceeds their living expenses for the year after one year has passed from the time they acquired the profit. Therefore, [for the purposes of *khums*] they can calculate a different year for each amount.

Ruling 1783. During the year, a person can pay *khums* on his profit whenever he acquires it, and it is also permitted (*jā'iz*) for him to delay paying *khums* until the end of the year. However, if he knows that he will not need it until the end of the year, then based on obligatory precaution, he must pay *khums* on it immediately. Furthermore, there is no problem if one adopts the solar year for the payment of *khums*.

Ruling 1784. If a person makes a profit and he dies during the year, his living expenses until the time of his death must be deducted from the profit, and thereafter *khums* must be paid immediately on the balance.

Ruling 1785. If the price of a commodity that a person has purchased for the purposes of business rises, and if the person does not sell it and its price falls during the same year, then *khums* on the amount of increase in the price is not obligatory on him.

Ruling 1786. If the price of a commodity that a person has purchased for the purposes of business rises, and if the person does not sell it until after the year finishes in the hope that the price will rise, and if in actual fact the price falls, then based on obligatory precaution, it is obligatory on him to pay *khums* on the amount of increase in the price.

Ruling 1787. If a person has purchased property that was not for business and he has paid *khums* on it, in the event that its price rises and he sells it, he must pay *khums* on the amount that has increased in price and which exceeds his living expenses for one year. Similarly, if, for example, a tree bears fruit, or a sheep that is kept for its meat becomes fat, one must pay *khums* on the excess gain.

Ruling 1788. If a person creates a garden with money on which he has paid *khums* or which is not liable for *khums*, and if he wants to sell it after its price appreciates, he must pay *khums* on the fruits, and on the growth of the trees and shrubs that were already growing or that he planted, and on the dry branches that can be pruned and used, and on the increase in the price of the garden. However, if his intention is to sell the fruit of the trees and to benefit from their value, then *khums* is not obligatory on the increase in price and the rest is liable for *khums*.

Ruling 1789. If a person plants willows, planes, or similar trees, he must pay *khums* every year on their growth. Similarly, the branches of trees that are usually pruned every year, if [they are sold and the income] exceeds his living expenses for one year, he must pay *khums* on them.

Ruling 1790. A person who has a number of lines of business – for example, with his capital he has bought [and trades in] sugar and rice – in the event that all the lines of his business are the same in business matters such as income and outcome, book keeping, and profit and loss, he must pay *khums* on the amount that exceeds his living expenses for one year. In the event that he gains profit from one line and a loss from another, he can offset the loss from that line with the profit from the other. However, if he has two different lines of business – for example, he trades as well as farms – or, if he has one line of business but the profit and loss are calculated separately from each other, then in these two cases, he cannot, based on obligatory precaution, offset the loss of one with the profit of the other.

Ruling 1791. A person can deduct from his profit the living expenses he incurs in making profit – such as brokerage and transportation costs – and the same applies to any damage done to his tools and

equipment, and it is not necessary for him to pay *khums* on that amount.

Ruling 1792. The amount a person spends from his profit during the year on food, clothing, furniture, the purchase of a house, the wedding of his son, the trousseau of his daughter, *ziyārah*,[7] and suchlike, is not liable for *khums* provided that the amount spent is not beyond his status.

Ruling 1793. The amount one spends on a vow (*nadhr*) and *kaffārah* is considered to be part of his annual living expenses. Similarly, property that one gives to someone as a gift or prize is also considered to be part of his annual living expenses provided that it is not beyond his status.

Ruling 1794. If it is common practice [where the person lives] for a person to acquire the trousseau for his daughter gradually over a number of years, and if he does not acquire the trousseau it would be unbefitting of his status – albeit because he was unable to acquire it all at the required time – and if during the year he purchases some of the trousseau from the profit of that year and his purchases do not exceed his status, and if gathering that amount in one year would be commonly considered to be part of his normal annual expenditure, in such a case, it is not obligatory on him to pay *khums* on it. However, if his purchases exceed his status or he acquires the trousseau next year from the profit of the current year, then he must pay *khums* on it.

Ruling 1795. The expenses incurred for hajj and other *ziyārah*s are considered to be part of one's living expenses for the year; and if his journey is prolonged until part of the following year, he must pay *khums* on what he spends [from the previous year's profits] in the second year.

Ruling 1796. With regard to someone who has earned profit from trade, business, or other means, if he owns some other property on which *khums* is not obligatory, he can calculate his living expenses for the year only from the profit he has earned.

[7] *Ziyārah* is a visitation to the place of burial of a holy personality or to a holy place.

Ruling 1797. If the provisions that a person purchases from his profit of the year are surplus to his needs at the end of the year, he must pay *khums* on them. And in the event that he wants to pay its monetary value instead, then, if it has increased since the time he bought the provisions, he must calculate the *khums* based on the price at the end of the year.

Ruling 1798. If before paying *khums* a person purchases household furniture with the profit earned by him, it is not necessary for him to pay *khums* on the items if they are no longer needed after the year end. Similarly, the items are not liable for *khums* if they are not needed during the year provided that they are items that are usually kept for succeeding years, such as winter and summer clothes. Apart from these types of items, if they are not needed during the year, the obligatory precaution is that one must pay *khums* on them. As for the jewellery of a woman who no longer uses them for adornment, it is not liable for *khums*.

Ruling 1799. If a person does not make any profit in a year, he cannot deduct his expenses for that year from the profit he makes in the following year.

Ruling 1800. If a person does not make any profit at the beginning of a year and spends out of his capital, but then makes some profit before the year's end, he can deduct the amount he had taken from his capital from the profit he earned.

Ruling 1801. If part of one's capital is lost in business and similar activities, he can deduct the lost amount from the profit made in the same year.

Ruling 1802. If some property other than one's capital is lost and he needs that item in the same year, he can acquire it during the year from his profit and it is not liable for *khums*.

Ruling 1803. If a person does not make a profit at the end of a year and borrows money in order to meet his living expenses, he cannot deduct the borrowed amount from the profit made by him in succeeding years and thereby not pay *khums* on the profit. However, if he borrows

money during the year in order to meet his living expenses and he makes a profit before the year's end, he can deduct the borrowed amount from his profit. Similarly, in the first case, he can repay the borrowed amount from gains made during the year and that amount is not liable for *khums*.

Ruling 1804. If a person borrows money in order to increase his wealth or to purchase something that he does not need, and if he repays the loan from the profit he acquires in that year without paying *khums*, he must pay *khums* on the property after the *khums* year end unless the money that he borrowed or the item that he purchased from the loan money perishes during the year.

Ruling 1805. A person can pay the *khums* of an item that is liable for *khums* from the item itself, or he can pay the monetary value of the *khums* that has become obligatory. However, if he wants to give something else on which *khums* has not become obligatory, then this is problematic (*maḥall al-ishkāl*) [i.e. based on obligatory precaution, he cannot do this],[8] unless he does so with the permission of a fully qualified jurist.

Ruling 1806. If a person's property becomes liable for *khums* and a year has passed, he cannot have disposal over that property until he pays *khums* on it.

Ruling 1807. A person who owes khums cannot take responsibility for it – meaning that he cannot regard himself as being indebted to those entitled to receive it – yet still have disposal over his entire wealth. And in the event that he uses the wealth and it is lost, [not only will he have committed a sin but he will still be deemed responsible and] he must pay *khums* on it.

Ruling 1808. If a person who owes *khums* makes an interchange settlement[9] with a fully qualified jurist and takes responsibility for

[8] As mentioned in Ruling 6, the term 'problematic' (*maḥall al-ishkāl*) amounts to saying the ruling is based on obligatory precaution.

[9] Here, the fully qualified jurist takes the *khums* from the person who owes it and then returns it to him as a loan. In this way, the person who owes *khums* can have disposal over his property.

it, he can have disposal over his entire property; and the profit he earns from it afterwards belongs to him; he must, however, gradually repay the debt in a manner that is not careless.

Ruling 1809. If a person who is a partner with someone else pays *khums* on his profit but his partner does not, and in the following year his partner offers his property on which *khums* has not been paid as capital for the partnership, the first partner – supposing he is a Twelver Shia – can have disposal over the joint property.

Ruling 1810. If a child who is a minor (*ṣaghīr*) acquires some profit, albeit from gifts, and if during the year the profit is not used for the child's living expenses, it becomes liable for *khums* and it is obligatory on the guardian (*walī*) of the child to pay *khums* on it. In the event that the guardian does not pay it, it is obligatory on the child to pay *khums* on it after he reaches the age of legal responsibility (becomes *bāligh*).

Ruling 1811. If a person who acquires property doubts (i.e. has a *shakk*) whether the former owner has paid *khums* on it or not, he can still have disposal over the property. In fact, even if the new owner is certain (i.e. he has *yaqīn*) that the former owner has not paid *khums* on it, then, if the former owner is someone who does not pay *khums* and the new owner is a Twelver Shia, he can have disposal over it.

Ruling 1812. If a person purchases something with the profit earned by him during the year, and if that item cannot be considered to be necessary and part of his living expenses for a year, it is obligatory on him to pay *khums* on it at the end of the year. In the event that he does not pay *khums* on it and the value of the property increases, he must pay *khums* on its current value.

Ruling 1813. If a person purchases something with money on which *khums* has not been paid for a year [as a non-specified undertaking, which is explained in the first footnote pertaining to Ruling 807], and if its price increases, then, in the event that he did not intend to buy the item as an investment and to sell it when its price increases – for example, he purchases land for farming [and not to sell once its price increases] – he must pay *khums* on the purchase price. However, if, for example, he gives the seller the actual money on which *khums* has

not been paid and tells him that he is purchasing the item with that money,[10] then he must pay *khums* on the current value of the item.

Ruling 1814. If someone has not paid *khums* from the time he became legally obliged to fulfil religious duties, or if he has not paid *khums* for a period of time – for example, a number of years – then, if during the year he purchases something that he does not need from profit made by trading and one year passes from the time he started trading – or, if he is not a trader and one year passes from the time he made the profit – he must pay *khums* on the item. However, if he purchases household furniture and other items that he needs in accordance with his status, it is not necessary for him to pay *khums* on them provided that he knows that he purchased them during the year in which he made a profit, and he purchased them with the same year's profit, and he used them in the same year. And if he does not know this, then based on obligatory precaution, he must arrive at a settlement (*muṣālaḥah*) with a fully qualified jurist on an amount that is proportionate to the probability; for example, if he deems it 50% probable that *khums* on the items is obligatory, then he must pay *khums* on that 50%.

2. MINERALS

Ruling 1815. Minerals such as gold, silver, lead, copper, iron, oil, coal, turquoise (*fīrūzah*), agate (*ʿaqīq*), alum, salt, and others, are considered to be *anfāl*, i.e. they belong to the Imam (ʿA). However, if someone extracts them and there is no legal obstacle, he can own them; and in the event that the mineral's value reaches the taxable limit (*niṣāb*), he must pay *khums* on it.

Ruling 1816. The *niṣāb* for minerals is fifteen common (*ṣayrafī*) *mithqāl*s[11] of coined gold, i.e. if the value of a mineral that is extracted from a mine reaches fifteen common *mithqāl*s of coined gold after

[10] This is known as a 'specified' (*shakhṣī*) purchase. See the second footnote pertaining to Ruling 807.

[11] Based on the definitions in Ruling 1912, one common *mithqāl* is equal to approximately 4.68 grams; therefore, fifteen common *mithqāl*s is equal to approximately 70.2 grams.

deducting the costs for extracting it, then the subsequent expenses – such as the costs for purifying it – are subtracted and *khums* must be paid on the remainder.

Ruling 1817. When the value of a mineral that has been extracted from a mine does not reach fifteen common *mithqāl*s of coined gold, *khums* on it becomes necessary only when it – either on its own or in combination with one's other profits – exceeds his living expenses for one year.

Ruling 1818. Based on obligatory precaution, the rules (*aḥkām*) of minerals also apply to chalk and lime. Therefore, if their value reaches the *niṣāb*, one must pay *khums* on them without deducting his living expenses for a year from their value.

Ruling 1819. A person who acquires something from a mine must pay *khums* on it, irrespective of whether the mine is over the ground or under it, or whether it is located on land owned by him or in a place that does not have an owner.

Ruling 1820. If a person does not know whether or not the value of the mineral he has extracted from a mine reaches fifteen common *mithqāl*s of coined gold, the obligatory precaution is that if it is possible, he must ascertain its value by weighing it or by some other way; and if this is not possible, then *khums* is not obligatory on him.

Ruling 1821. If a few persons extract something, in the event that its total value reaches fifteen common *mithqāl*s of coined gold but the share of each person does not reach that value, it is not liable for *khums*.

Ruling 1822. If by digging, a person extracts a mineral from under some land that belongs to someone whose permission he did not obtain, the well-known (*mashhūr*) juristic opinion is that whatever is acquired from that belongs to the owner of the land. However, this is problematic and the obligatory precaution is that they arrive at a settlement. And in the event that they are not willing to arrive at a settlement, they must refer to a fully qualified jurist (*al-ḥākim al-sharʿī*) to settle the dispute.

3. TREASURE TROVES

Ruling 1823. A treasure trove is moveable property that has been concealed and is not within the reach of people; and it is hidden underground, or in a tree, mountain, or wall; and its being there is not normal.

Ruling 1824. If a person finds a treasure trove on land that does not belong to anyone or which is barren, and he becomes the owner of it by making it fertile, he can take the treasure trove for himself but he must pay *khums* on it.

Ruling 1825. The *niṣāb* for treasure troves is 105 *mithqāl*s of coined silver or fifteen *mithqāl*s of coined gold; i.e. if the value of the treasure trove is equal to either of these two amounts, then *khums* becomes obligatory on it.

Ruling 1826. If a person finds a treasure trove on land that he has purchased from someone or on land over which he has disposal on account of renting it and suchlike, and if that treasure trove does not legally (*sharʿan*) belong to a Muslim or to a *dhimmī*,[12] or if it does then it was such a long time ago that he is unable to ascertain whether or not there is an heir for it, in such a case, he can take the treasure trove for himself but he must pay *khums* on it. And if he deems it rationally probable that the treasure belongs to the previous owner, then in case the previous owner had disposal over the land, the treasure trove, or its location as a result of owning the land, he must inform him. Thereafter, if the previous owner makes a claim over the treasure trove, he must return it to him, and if he does not make a claim over it, he must inform the person who owned the land before the previous owner and who had disposal over it, and so on with regard to all the previous owners who had such disposal. And if none of them makes a claim over the treasure trove and the present owner does not know whether or not it once (not so long ago in the distant past) belonged to a Muslim or to a *dhimmī*, he can take it for himself but he must pay *khums* on it.

[12] *Dhimmī*s are People of the Book (*ahl al-kitāb*) – i.e. Jews, Christians, and Zoroastrians – who have entered into a *dhimmah* treaty, i.e. an agreement that gives them rights as protected subjects in an Islamic state.

Ruling 1827. If a person finds treasure troves in a number of places and their total value is 105 *mithqāl*s of silver or fifteen *mithqāl*s of gold, he must pay *khums* on them. However, if he finds the treasure troves at different times, then if there was not a long interval between finding them, the value of all of them together must be calculated; but if there was a long interval, then each one must be calculated separately.

Ruling 1828. If two people find a treasure trove which has a total value that reaches 105 *mithqāl*s of silver or fifteen *mithqāl*s of gold but their individual shares do not come to that amount, it is not necessary for them to pay *khums* on it.

Ruling 1829. If a person purchases an animal and finds some property in its stomach, in the event that he deems it probable that it belongs to the seller or to the previous owner, and they had disposal over the animal and over the object that was found in the animal's stomach, he must inform them about it. Thereafter, if he does not find an owner for it, in the event that its value reaches the *niṣāb* of a treasure trove, he must pay *khums* on it. In fact, based on obligatory precaution, he must pay *khums* on it even if its value is less than the *niṣāb* and the rest is his property. This rule also applies to fish etc., provided that it was looked after in a particular place and somebody undertook to feed it. However, if the fish was caught from the sea or from a river, it is not necessary to inform anyone.

4. LAWFUL PROPERTY THAT HAS BECOME MIXED WITH UNLAWFUL PROPERTY

Ruling 1830. If lawful property has become mixed with unlawful property in a way that a person cannot distinguish one from the other, and if the owner and the quantity of the unlawful property are not known, and if one does not know whether the quantity of the unlawful property is less or more than one-fifth of the entire property, then by paying *khums* on it, it becomes lawful; and based on obligatory precaution, the *khums* must be given to someone who is entitled to receive both *khums* and *radd al-maẓālim*.

Ruling 1831. If lawful property becomes mixed with unlawful property and one knows the quantity of unlawful property – irrespective of whether it is more or less than *khums* – but he does not know who its owner is, he must give away that quantity with the intention of *ṣadaqah* on behalf of its owner; and the obligatory precaution is that he must first obtain permission from a fully qualified jurist.

Ruling 1832. If lawful property becomes mixed with unlawful property and one does not know the quantity of the unlawful property but does know who its owner is, in the event that the person and the owner cannot come to a mutual agreement [as to the quantity of the unlawful property], the person must give the owner a quantity that he is certain is his. In fact, if the person himself was at fault in the two properties – i.e. the lawful and the unlawful – becoming mixed, then as an obligatory precaution, he must give him more than what he deems probable is his property.

Ruling 1833. If a person pays *khums* on lawful property that has become mixed with unlawful property and later realises that the quantity of unlawful property was more than the *khums*, he must give the extra quantity that he knows was more than *khums* as *ṣadaqah* on behalf of its owner.

Ruling 1834. If a person pays *khums* on lawful property that has become mixed with unlawful property, or, if he gives some property as *ṣadaqah* on behalf of the owner who is unknown to him and later the owner is found, in the event that the owner does not agree [to the action taken], then based on obligatory precaution, the person must reimburse him his share.

Ruling 1835. If lawful property is mixed with unlawful property and the quantity of the unlawful property is known, and if a person knows that the owner can only be one of a group of people but he does not know which one, then in such a case, he must inform all of them. Thereafter, in the event that one of them says it belongs to him and the others say it is not theirs or they confirm that it belongs to him, the person must give it to him. However, if two or more persons say it belongs to them, in the event that the dispute is not resolved by way of settlement and suchlike, they must refer to a fully qualified jurist

to settle the dispute. And if all of them claim they did not know or are not ready to settle, then what is apparent (*ẓāhir*)[13] is that ownership of the property must be determined by drawing lots (*qurʿah*); and as an obligatory precaution, the lots must be drawn by a fully qualified jurist or his representative (*wakīl*).

5. GEMS ACQUIRED BY UNDERWATER DIVING

Ruling 1836. If by means of underwater diving a person acquires pearls, corals, or other gems, whether it is organic or mineral, in the event that their value reaches eighteen *nukhud*s[14] of gold, he must pay *khums* on them – irrespective of whether they were brought up in a single dive or in multiple dives – provided there is not a long interval between them; and if there is – for example, he dives in two different seasons – then, in the event that [the gems found in] each dive do not reach the value of eighteen *nukhud*s of gold, it is not obligatory to pay *khums* on them. Similarly, if the share of each diver taking part in the dive does not reach the value of eighteen *nukhud*s of gold, it is not obligatory to pay *khums* on it.

Ruling 1837. If a person acquires gems from the sea by means other than diving, then based on obligatory precaution, it is obligatory on him to pay *khums* on them. However, if he acquires them from the surface of the sea or from the sea shore, then he must pay *khums* on them only if what he has acquired on its own, or in combination with other profits made by him, exceeds his living expenses for one year.

Ruling 1838. *Khums* on fish and other animals that a person catches without diving into the sea is only obligatory if on its own, or in combination with other profits made by him, exceeds his living expenses for one year.

Ruling 1839. If a person dives into the sea without the intention of bringing anything out of it, and if he incidentally finds a gem and

[13] For practical purposes in jurisprudential rulings, expressing an apparent ruling equates to giving a fatwa.

[14] A *nukhud* is a measure of weight. One *nukhud* is equivalent to approximately 0.195 grams; therefore, eighteen *nukhud*s is equal to approximately 3.51 grams.

intends to keep it, he must pay *khums* on it. In fact, the obligatory precaution is that he must pay *khums* on it in any situation.

Ruling 1840. If a person dives into the sea and brings out a creature and finds a gem in its stomach, in the event that the creature is like an oyster that by its nature can contain a gem, he must pay *khums* on it provided that its value reaches the *niṣāb*. And if the creature has incidentally swallowed the gem, then the obligatory precaution is that one must pay *khums* on it even if its value does not reach the *niṣāb*.

Ruling 1841. If a person dives into big rivers like the Tigris and Euphrates and brings out a gem, he must pay *khums* on it.

Ruling 1842. If a person dives into water and brings out some ambergris with a value that is equal to eighteen *nukhud*s of gold or more, he must pay *khums* on it. In fact, the same rule applies even if it is obtained from the surface of the sea or from the sea shore.

Ruling 1843. If a person whose profession is diving or extracting minerals pays *khums* on what he finds and his income exceeds his living expenses for the year, it is not necessary for him to pay *khums* on them again.

Ruling 1844. If a child extracts a mineral, or finds a treasure trove, or brings out gems from the sea by diving, his guardian (*walī*) must pay *khums* on them. And in the event that he does not, the child must pay the *khums* after he becomes *bāligh*. Similarly, if the child has lawful property that is mixed with unlawful property, the guardian must act according to the rules mentioned in the section on mixed property.

6. SPOILS OF WAR

Ruling 1845. If Muslims fight a war against disbelievers (*kuffār*) in compliance with the command of the Imam (ʿA) and they acquire things from the war, those things are called *ghanāʾim* (spoils of war). The things that are exclusively for the Imam (ʿA) from the spoils of war must be put aside and *khums* must be paid on the rest. With regard to the liability of *khums*, there is no difference between movable

and immovable things. Land that is not *anfāl* belongs to the general Muslim public even if the war was not fought with the permission of the Imam (ʿA).

Ruling 1846. If Muslims fight in a war against disbelievers without the permission of the Imam (ʿA) and acquire spoils of war from them, then everything that they acquire as spoils of the war belongs to the Imam (ʿA) and the fighters have no right over them.

Ruling 1847. The rules on spoils of war do not apply to things that are in the hands of disbelievers in the event that the owner is someone whose property is inviolable (*muḥtaram al-māl*), i.e. a Muslim, or a *dhimmī* disbeliever, or a cosignatory with Muslims to a peace or security treaty (*muʿāhid*).

Ruling 1848. Stealing etc. from a *ḥarbī* disbeliever[15] in the event that it is considered treachery and a breach of security is unlawful. And based on obligatory precaution, whatever is taken from them in this way must be returned.

Ruling 1849. The well-known (*mashhūr*) juristic opinion is that a believer can appropriate the property of a *nāṣibī*[16] and pay *khums* on it. However, this rule is problematic [i.e. based on obligatory precaution, one must avoid doing this].[17]

7. LAND THAT A *DHIMMĪ* PURCHASES FROM A MUSLIM

Ruling 1850. If a *dhimmī* disbeliever purchases land from a Muslim, then based on the well-known (*mashhūr*) juristic opinion, he must pay *khums* on it from the land itself or from his other property. However,

[15] This refers to a disbeliever who is not a *dhimmī* and has not entered into any peace or security treaty with Muslims.

[16] In Ruling 103, *nawāṣib* (pl. of *nāṣibī*) are defined as 'those who show enmity towards the Imams (ʿA)'.

[17] See *Minhāj al-Ṣāliḥīn*, vol. 1, p. 358, Ruling 1190; *Tawḍīḥ al-Masāʾil-i Jāmiʿ*, vol. 1, p. 700, Ruling 2436.

the obligation to pay *khums* – as it is commonly understood – in this case is problematic [i.e. the obligation to pay *khums* is based on obligatory precaution, and observing precaution here must not be abandoned].[18]

DISTRIBUTION OF *KHUMS*

Ruling 1851. *Khums* must be divided into two parts: one part is the portion for *sayyids*[19] (*sahm al-sādāt*), which must be given to a *sayyid* who is poor, or who is an orphan, or who is stranded on a journey. The second part is the portion for the Imam (ʿA) (*sahm al-imām*), which at the present time [i.e. during the time of the Imam's (ʿA) occultation] must either be given to a fully qualified jurist or spent for purposes that he permits. And the obligatory precaution is that the fully qualified jurist must be the most learned (*aʿlam*) *marjaʿ*[20] and be well aware of public affairs.

Ruling 1852. An orphan *sayyid* to whom *khums* is given must be poor. However, a *sayyid* who is stranded on a journey can be given *khums* even if he is not a poor person in his home town (*waṭan*).

Ruling 1853. If the journey of a *sayyid* who is stranded was for a sinful purpose, then based on obligatory precaution, he must not be given *khums*.

Ruling 1854. A *sayyid* who is not a just person (*ʿādil*) can be given *khums*. However, *khums* must not be given to a *sayyid* who is not a Twelver Shia.

Ruling 1855. A *sayyid* who uses *khums* for sinful purposes cannot be given *khums*. In fact, the obligatory precaution is that *khums* must not be given to him if it assists him to commit sins even if he does not spend it directly for sinful purposes. Similarly, the obligatory

[18] See *Minhāj al-Ṣāliḥīn*, vol. 1, p. 362.

[19] A *sayyid* is a male descendant of Hashim, the great grandfather of Prophet Muḥammad (Ṣ).

[20] A *marjaʿ* is a jurist who has the necessary qualifications to be followed in matters of Islamic jurisprudence (*fiqh*). See Ruling 2.

precaution is that a *sayyid* who consumes alcohol, or does not perform prayers, or publicly commits sins, must not be given *khums*.

Ruling 1856. If a person claims that he is a *sayyid*, *khums* cannot be given to him unless two just persons confirm it, or one attains certainty or confidence (*iṭmi'nān*) by some other way that he is a *sayyid*.

Ruling 1857. *Khums* can be given to a person who is known to be a *sayyid* in his home town, provided that one is not certain or confident that he is not a *sayyid*.

Ruling 1858. If a person's wife is a *sayyidah*,[21] then based on obligatory precaution, he must not give his *khums* to her to spend it on her living expenses. However, if it is obligatory on her to meet the living expenses of others but she cannot do so, it is permitted (*jā'iz*) for him to give his *khums* to her to spend it on them. The same applies with regard to giving *khums* to her to spend on her maintenance (*nafaqah*) that is not obligatory on him to provide [i.e. he must not give his *khums* to her to spend it on what is obligatory on him to provide].

Ruling 1859. If it is obligatory on a person to meet the living expenses of a *sayyid* or of a *sayyidah* who is not his wife, then based on obligatory precaution, he cannot provide for her food, clothing, and other obligatory maintenance from *khums*. However, there is no problem if he gives some *khums* to her to spend on things that are not obligatory on him to provide.

Ruling 1860. *Khums* can be given to a poor *sayyid* whose living expenses are obligatory on another person who cannot, or does not, meet the living expenses of the *sayyid*.

Ruling 1861. The obligatory precaution is that one must not give a *sayyid* an amount of *khums* that is more than his living expenses for one year.

Ruling 1862. If there is no one entitled to receive *khums* in a person's town, he can take it to another town. In fact, he can take it to

[21] A *sayyidah* is a female descendant of Hashim, the great grandfather of Prophet Muḥammad (Ṣ).

another town even if there is someone entitled to receive it in his town provided that this act is not considered to be nonchalance in paying *khums*. In either case, if the *khums* perishes, he is responsible (*ḍāmin*) for it [and he must reimburse it] even if he was not negligent in looking after it. Furthermore, he cannot deduct the costs for taking it [to the other town] from the *khums*.

Ruling 1863. If a person keeps hold of his own *khums* by way of agency (*wikālah*) of a fully qualified jurist or his representative, he [is still deemed to have paid his *khums* and] is absolved of his responsibility. Furthermore, if he transfers it to another town in compliance with the direction of a fully qualified jurist or his representative, and in the process it perishes without him being negligent, he is not responsible for it.

Ruling 1864. It is not permitted for one to calculate an item as having a higher price than it actually does and then give it in lieu of *khums*. And as stated in Ruling 1805, it is problematic [i.e. based on obligatory precaution, he must not] give something else in lieu of *khums* – apart from money – except with the permission of a fully qualified jurist or his agent.

Ruling 1865. If a person who is owed money by someone entitled to receive *khums* wants to calculate the amount he is owed in lieu of the *khums* that is payable by him, he must, based on obligatory precaution, either first obtain permission from a fully qualified jurist or give the *khums* to the person entitled to receive it who thereafter returns it to him in lieu of the money he owes him. Alternatively, the person who is owed the money can become an agent for the person entitled to receive *khums* and keep hold of it on his behalf as payment in lieu of what he is owed.

Ruling 1866. A person who must pay *khums* cannot make it a condition on someone entitled to receive it that he must return the amount to him.