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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ صَلَّى اللَّهُ عَلَي سَيِّدِنَا مُحَمَّدٍ وَعَلَى آلِهِ وَصَحْبِهِ وَسَلَّمَ تَسْلِيمًا

Kitaab'z-Zakaat (The Book of Obligatory Alms)¹

On What Has Been Related Regarding the Obligation of the Zakaat

It has been related in the Saheeh of al-Bukhari on the authority of Ibn Abbas that the Prophet, may Allah bless him and grant him peace dispatched Mu'adh to Yemen and said to him: "Invite them to bear witness to **Laa ilaha illa Allah** and that I am the Messenger of Allah. If they are obedient to that, then teach them that Allah has obligated upon them the five prayers every day and night. If they are obedient in that, then teach them that Allah has obligated upon them charity from their wealth to be taken from the wealthy from among them to be given to the poor among them."²

¹ The alms tax (*zakaat*) is the alms on one's wealth which is well known and means the purification of one's wealth. The verb from which it originates is 'to purify', 'to increase' and the verbal noun from it is 'purification', which occurs when one gives the alms tax from one's wealth to another. For the alms tax is what you take from your wealth in order to purify it by means of dispensing it. When it is taken from the wealth and given over to the indigent to fulfill their rights it becomes a form of increased purification because it cleanses the remainder of the wealth, distinguishes it, rectifies it and augments it. Thus, the etymological root of the expression 'alms' linguistically is from the meaning of the expressions: purification, augmentation, blessing, and praise. Allah ta'ala says: "And pay the alms tax"; means the obligatory alms tax on one's wealth. Abu Ja'afar said: "It is to be given from the goodness of one's soul based upon what has been made incumbent and obligatory." Or it means give the alms tax to the people whom Allah made a right over your wealth in order to purify your bodies and wealth." *The Shehu*, may Allah be merciful to him said in his Umdat'l-Bayaan: "The obligations of alms tax are three: [1] intention; [2] not delaying it; and [3] the lack of transfer. Its *adab* are three: [1] the soul being cheerful about it; [2] it being the best property; and [3] concealing it from the sight of others." The Erudite authority of the Land of the Blacks Abdullahi ibn Fuduye, may Allah be merciful to him` said in his Diya`Uluum'd-Deen in the section of the alms tax and its secrets: "It is one of the fundamental principles of Islam and is the sister to the prayer, and is an obligation to be paid upon every free Muslim, even the infant and the insane."

² The meaning of his words: "...the Prophet, may Allah bless him and grant him peace dispatched Mu'adh to Yemen"; is that Mu'adh was sent to Yemen in the year 10 A.H. before the Farewell Pilgrimage of the Prophet, may Allah bless him and grant him peace. It is said that it happened in the latter part of the 9th year A.H. when the Messenger of Allah, may Allah bless him and grant him peace departed from the military campaign of Tabuk, as al-Waqidi cited with his chain of authority going back to Ka'b ibn Malik. However, Ibn Sa'd narrated that it occurred in the month of *Rabi'l-Awwal* in the 10th year A.H. It is also said that he was sent there in the year of the Opening of Mecca in the 8th year A.H. However, there is unanimous agreement that he remained in Yemen until the time of Abu Bakr, who then sent him to Syria where he eventually died. There is some disagreement whether Mu'adh was sent as a governor or a judge. Ibn Abd'l-Barr was determined that he was sent as a judge, while al-Ghasaani said that he was sent as a governor. The meaning of his words, upon him be blessings and peace: "Invite them to bear witness to **Laa ilaha illa Allah** and that I am the Messenger of Allah"; is that he begins with mentioning these two because they are the foundation of the religion, without which the religion is not valid. Thus, whoever among them who were not monotheists, it was then desired that he encounter each and present them individually with the two testimonies. Whoever among them were monotheists then what was desired from them was to join the acknowledgment of the oneness of Allah with the acknowledgement of the messengership of Muhammad, may Allah bless him and grant him peace. If they, however, believed in that which could be considered polytheism or in

that which necessitated it, like those who believed in the finality of the prophethood of Uzayr, or they held to beliefs of resembling Allah to His creation, then what was desired for them was to learn an understanding of the Divine Unity which negated what they held to in their beliefs. This is evidence for those among the scholars who say that it is not a prerequisite to discard every element of a religion which conflicts with the religion of Islam; in contrast to those scholars who say that whoever disbelieves in some element of that religion but believes in the remainder, that he does not really enter into Islam except by leaving in total what he is required to disbelieve in. The answer to this controversy is that the belief of the two testimonies necessitates abandoning any beliefs of resemblance of Allah to His creation, claims of the finality of prophethood of `Uzayr, or anyone else. This kind of belief should suffice him. This gives evidence that it is not sufficient in Islam to limit the testimony to: 'There is no deity except Allah', until the testimony of the messengership of Muhammad is accompanied with it. This is the view of the majority of the scholars. Some of the scholars say that by making the testimony of the Oneness and deity of Allah alone, he becomes a Muslim by that, and what is sought from him after that is the second testimony of the finality of the messengership of Muhammad. The meaning of his words, upon him be blessings and peace: "If they are obedient to that"; is that if they bear witness to the two testimonies and are in compliance with them. This is evidence that it is not possible for the People of the Book to know Allah, even though they may claim to worship Him and manifest what they think is knowledge of Him. However, some of the adepts of the science of scholastic theology say: "Those who designate that Allah resembles His creation or who append to Him physical hands, or affix to Him a son can never have gnosis of Him. For the one that they worship in that context is not Allah, even though they may name it with that Name." This also gives evidence that the first of the obligations to put forward is the knowledge of what is obligatory from beliefs, and the verification of faith. Then he should investigate the knowledge of his worship in everything which Allah has made obligatory for him to act upon. The meaning of his words, upon him be blessings and peace: "...then teach them that Allah has obligated upon them the five prayers every day and night"; is that this statement first proves that the *witr* prayer is not obligatory; and that the prescribed prayers which are obligatory upon every responsible person are five: the prayers of *dhuhr*, *asr*, *maghrib*, *isha* and *subh*. The research into the five prayers and the *witr* prayer was discussed previously in their own sections. The meaning of his words, upon him be blessings and peace: "If they are obedient in that"; is as Ibn Daqeeq al-'Eid said: "It is conceivable that this statement has two interpolations. The first one is that what is meant is to get them to acknowledge the obligations upon them and encourage them to adhere to them. The second interpolation is that what is meant is that they are obedient by actually performing the acts. What gives the first interpolation preponderance is that what is mentioned in the expression is informing the people of the obligations, thus the indications refer back to the apparent meaning of the words. What gives the second interpolation preponderance is that when they inform the people of the obligations, they then immediately set out to obey them with their actions. Thus, it is their actions which will suffice them, even though they were not conditioned to express them, unlike the expression of the two testimonies." The meaning of his words, upon him be blessings and peace: "...then teach them that Allah has obligated upon them charity from their wealth to be taken from the wealthy from among them"; is evidence that it is the *Imam* who has been appointed to take the obligatory alms and to expend it, either by himself or by means of one of his representatives. Whoever refuses to give over the obligatory alms, then the *Imam* has the right to take it by force. The meaning of his words, upon him be blessings and peace: "...to be given to the poor among them"; is evidence for the teachings of *Imam* Malik and others, who say that it is sufficient to disperse the obligatory alms in a singular category of wealth. In this however, there has been some legal discussion regarding this, as Ibn Daqeeq al-'Eid said: "It is probable that the poor were singled out for mentioning because they are the majority of the people to whom alms is given, and due to the social stratifications that exist between them and the wealthy." Al-Khataabi said: "This statement is proof for those who consider that it is not obligatory for the person indebted to give the obligatory alms from his wealth, if he does not have surplus wealth equal to that which there is a quorum to be paid over and above his debt. This is because he is not considered wealthy, since all of his wealth is expended in order to pay off his creditors." Furthermore, from this prophetic tradition can be extracted the right to invite people to the knowledge of the Divine Unity before fighting them; the *Imam* advising his officials about what is required of them from legal judgments and the like; the dispatching of a troop of officials to take the obligatory alms from the people; the acceptance of the news from a single narrator as well as the obligation of acting in accordance with his words; and the obligation of giving alms on the wealth of an infant and insane person, taken from the general meaning of his words: "...from the wealthy from among them"; as `Iyad said. What can be extracted from this prophetic tradition, as well, is that the obligatory alms collected from the wealthy Muslims is not to be given out to the disbeliever, because the pronoun in the

On What Has Been Related Regarding the Extent of the Minimum Amount to Be Paid On Cereals and Fruits³

It has been related in the Saheeh of al-Bukhari on the authority of Abu Sa`id al-Khudri may Allah be pleased with him that the Messenger of Allah, may Allah bless him and⁴ grant him peace, said: “Upon anything less than five *awsuq* there is no *sadaqa*.”⁵

statement: “...the poor among them...” refers to Muslims regardless if we say it is a reference to a particular land or to all lands. Also extracted from this prophetic tradition is that there is no obligatory alms upon the poor; that whoever possesses the amount of wealth which it obligatory to pay alms on it, then he is considered wealthy; and that the wealthy are prevented from being given alms, except when there is an exception. In this prophetic tradition no mention was made of fasting and pilgrimage although these two are among the pillars of Islam. The secret in this is that the prayer and the obligatory alms, since they are two obligations upon the responsible person they can never be repealed, which is in contrasts to fasting which can be repealed by paying compensation; as well as the pilgrimage because other acts of worship can take its place. It is also conceivable that when this prophetic tradition was originally transmitted that fasting and pilgrimage had not yet been made lawful by the *shari`a*. Thus, in inviting people to Islam it was sufficient to mention the three principles, which include the verbal testimony, the prayer and the obligatory alms, even after the existence of the obligation of fasting and pilgrimage, based upon the words of Allah ta`ala in two places in the chapter *Bara`* (Repentance): “*If they repent and establish the prayer and give the obligatory alms...*”; and this is in spite of the fact that this chapter was categorically revealed after the obligation of fasting and pilgrimage. There is also the evidence provided in the prophetic tradition of Ibn Umar, where the Messenger of Allah, may Allah bless him and grant him peace said: “I have been commanded to fight the people until they bear witness that there is no deity except Allah, establish the prayer and give over the obligatory alms”; as well as many other prophetic traditions. The jurists say: “The wisdom in this is that the five principles are those which are doctrinal and it is the verbal testimony, those which are corporal and it is the prayer, and those which are fiscal and it is the obligatory alms. Thus, inviting people to Islam was limited to these because the other two principles branch from them. This is because fasting is a purely corporal principle and pilgrimage is a fiscal principle.” Further, the verbal pronouncement of Islam is the foundation and is difficult for the one who disbelievers. The prayer is difficult for them because it has to be done repeatedly. The obligatory alms is difficult for them because most humans have a natural disposition for the love of wealth. Thus, when a person willfully complies with these three obligations, then those beside them are easier in comparison.

³ The meaning of the expression *nisaab* (quorum) from wealth is the amount which is obligatory to pay the *zakaat* when it is reached, like what is to be paid on every two hundred silver coins and on every fifth camel. The expression *hubuub* (cereals) is the plural of *habb*. Allah ta`ala says: “*And We have sent down from the heavens blessed water, and We then cause to vegetate with it gardens and the grain of harvesting.*” This means the grain of agricultural farming such as wheat, barley, rice, oats and the remainder of cereals. It is said that it refers to the seeds of sprouts, flowers; or what germinates from small herbs; or the seeds of herbage and vegetation. The expression *thimaar* (fruits) is the plural of *thamar*, which is what germinates from trees. It is a kind of wealth such as dates, grapes and other than these. Allah ta`ala says: “*He sends down from the heaven water, and draws out by means of it fruits as a provision for you.*” Allah ta`ala says: “*And He is the One who produces gardens trellised and untrellised, and the date palm, and crops of divers flavors, and the olive, and the pomegranate, like and unlike. Consume of its fruits when it ripens and pay the due on it on the day of harvesting. And do not be wasteful for Allah does not love those who are wasteful.*” Thus, the quorum on grains and fruits is the designated amount which is obligatory to pay on them from *zakaat* when that amount is reached.

⁴ Here ends facsimile 33 of the Arabic manuscript.

⁵ The meaning of his words upon him be blessings and peace: “Upon anything less than five *awsuq* there is no...” , where the letter *alif* in the expression *awsuq* is inflected with *fat`ha* and the letter *seen* is inflected with *damma*. It is the plural of *wasuq* or *wisuq*. A *wasuq* is equal to sixty dry measures. A single dry measure is equal to four half bushels. A single half bushel is equal to one and a third pound. (Thus five *awsuq* is equal to approximately 1600 pounds.). The meaning of his words upon him be blessings and peace: “...*sadaqa*”; is that when a person extracts from the earth what is less than that in measure then there is no obligatory alms to be paid on it. This is the expressed opinion of the majority of the jurists, although Abu Hanifa differs and follows the explicit statement of the prophetic tradition: “Upon anything upon which the heavens rain upon, there should be paid a tenth.”

On What Has Been Related Regarding the Extent of the Minimum Amount to Be Paid for Camels, Cows, and Sheep

It has been related in the Saheeh of al-Bukhari on the authority of Thumaama ibn Abdallah ibn Anas⁶ that Anas related that Abu Bakr, may Allah be pleased with him wrote for him this letter when he sent him to Bahrain: “In the name of Allah the Beneficent the Merciful this is the obligations of the charity (*sadaqa*) which the Messenger of Allah, may Allah bless him and grant him peace, obligated upon the Muslims which Allah ordered His Messenger to take. For whoever it is requested from among the Muslims on its face value should give it over. Whoever is requested for what is above that amount, he should not give it. On twenty-four camels or less, *zakaat* is paid with sheep, one ewe for every five camels. On twenty-five to thirty - five camels *zakaat* is paid with a she-camel in its second year. On thirty-six up to forty-five camels *zakaat* is paid with a she-camel in its third year. On forty-six up to sixty camels *zakaat* is paid with a she -camel in its fourth year that is ready to be sired. On sixty-one up to seventy-five camels *zakaat* is paid with a she-camel in her fifth year. On seventy-six up to ninety camels *zakaat* is paid with two she-camels in their third year. On ninety-one up to one-hundred and twenty camels, *zakaat* is paid with two she-camels in their⁷ year ready to be sired. On any addition to one-hundred and twenty camels *zakaat* is paid with a she-camel in its third year for every forty camels and for every fifty camels a she-camel in its fourth year. Whoever has only four camels, then there is no alms to be paid except if he desires to do so, perhaps believing that the number will reach five. In that case *zakaat* is paid with one ewe. On grazing sheep and goats, if they come to forty or more, up to one-hundred and twenty head, the *zakaat* is one ewe. If there is an addition to one-hundred and twenty up to two-hundred of them, the *zakaat* is two ewes. On any addition to that up to three-hundred camels, then for every hundred, one ewe is to be paid. If the sheep are deficient and less than forty in number, then there are no alms to be paid upon them except if the owner wills to.”⁸

⁶ He was Tumaama ibn Abdallah ibn Anas ibn Malik al-Ansari. He was from among the veracious scholars and was appointed as the chief judge of Basra. He kept company with his grandfather Anas ibn Malik for thirty years.

⁷ Here ends facsimile 34 of the Arabic manuscript.

⁸ The meaning of his words: “...that Abu Bakr may Allah be pleased with him wrote for him this book when he sent him to Bahrain”; is that he dispatched him there as the governor over that region. Bahrain is the name given to the well known region which includes many famous cities whose capital was Hajar. Sometimes it is pronounced Hajara in the feminine form and is always associated with Bahrain. The meaning of his words: “In the name of Allah the Beneficent the Merciful” is evidence that the *basmalla* was well established and was utilized in the beginning of letters and books, and that commencing them with ‘All praises are due to Allah’ was not an established requirement. The meaning of his words: “...these are the obligations of charity (*sadaqa*)”; where in some copies of this letter the expression ‘the obligations’ is written with the omission of the ensuing grammatical governed phrase since it was implied. In this letter the idiom ‘charity’ is used instead of ‘obligatory alms’ (*zakaat*), contrary to those who inhibit the obligation of charity among those who follow Abu Hanifa. The meaning of his words: “...which the Messenger of Allah, may Allah bless him and grant him peace, obligated”; is that the obligation here is what had been made incumbent or enacted as law. This means that it was what Allah ta`ala had commanded. It is said that the expression ‘obligation’ means the amount that has been decreed because its obligation had already been established in the Book. Thus, the obligation established by Prophet, may Allah bless him and grant him peace was made to further clarify what was generalized in the Book, by clearly determining the exact amount of the different types and categories. The etymological root of obligation is to separate a rigid portion of a thing. Then it came to be utilized to indicate an amount, since it was what was separated from a thing in order to determine its amount. Thus, the expression obligation was transmitted to mean explanation or clarification based upon the words of Allah ta`ala: “Allah has necessitated (*farada*) for you the

absolution from your oaths.” It also has the meaning of revelation based on the words of Allah ta`ala: “*Verily the One who has made incumbent (farada) upon you the Qur’an...*”. Finally, the expression obligation also had the meaning of permissibility based upon the words of the Allah ta`ala: “*There is no harm on the Prophet in what Allah has made lawful (farada) for him.*” In none of the above diverse meanings of the expression ‘obligation’ does it exclude it from meaning an amount or estimation (*taqdeer*). And although the predominate occurrence of the utilization of this expression came to mean something necessary or incumbent, this did not preclude it from embracing the meaning of amount or estimation. Ar-Raaghīb said: “Everything which has been transmitted in the *Qur’an* as being made obligatory upon (*farada`ala*) a person it carries the meaning of necessity or incumbency; while everything transmitted in It as being made obligatory to (*farada lahu*) a person, it carries the meaning of not being forbidden.” The meaning of his words: “...upon the Muslims” is evidence that the disbelievers were not the ones addressed in this obligation; and what can be deduced from this is that the acceptance of the obligatory alms from the disbeliever is not valid. The meaning of his words: “...which Allah ordered His Messenger to take. For whoever it is requested from among the Muslims on its face value should give it over.” This means that they should hand it over based upon clear methodology outlined in the prophetic tradition. In this is apparent evidence that the wealth should be handed over to the *Imam* of the Muslims. The meaning of his words: “Whoever is requested for what is above that amount, he should not give it”; is that whoever is asked to give anything in addition to the stipulated amount, whether in terms of time or actual quantity, then he has the right to refuse to give that additional amount. Ar-Raafi` transmitted that the jurists are unanimous regarding the prevailing right for the person to refuse in that case. The meaning of his words: “On twenty-four camels or less”; is where ‘less’ means down to five. The meaning of his words: “...*zakaat* is paid with a sheep”; is in accordance with what `Iyad said: “This means that the obligatory alms of camels should be paid in sheep.” This gives evidence that the discharge of the obligatory alms has been designated to be done with sheep in a similar number. This is the established view of Malik and Ahmad. Thus, in their view if the obligatory alms on twenty-four camels is discarded with a camel, then it is not valid. However, as-Shafi` and the majority of the jurists say: “It is valid because it is normally permissible to disperse a single camel on twenty-five camels, then on what is less than that amount is foremost.” This view is established because originally it is incumbent to discharge the obligatory alms using the same genus as the wealth being paid upon. Those who depart from this norm do so out of leniency for their wealth, but if of their own choice they return to dispersing the original category stipulated, it is permissible. If for example the cost of the camel is less than the cost of four sheep, then there is disagreement among those who follow as-Shafi` and others. The majority of them holding the view that it is not permissible taking as their evidence for this the apparent meaning of his words: ‘On twenty-four camels’; The meaning of his words: “...one ewe for every five camels when they reach the number of twenty-five”; is that this designated amount includes a she-camel in its second year. This is the expressed view of the majority of the jurists, except for what has come to us from Ali ibn Abi Talib, that on every twenty-five camels one ewe should be paid; and when it becomes twenty-six, then it includes a she-camel in its second year. The meaning of his words: “...to thirty -five camels”; is evidence that in an amount which is between the two designated amounts it is only obligatory to pay a she-camel in its second year. This, however, is contrary to what some like those who follow Abu Hanifa say giving preference to the first obligation where it is incumbent to pay a sheep on every five camels. Thus, in their opinion the sheep is subjoined to the she-camel in its second year. The meaning of his words: “...*zakaat* is paid with a she-camel in its second year; is that the ‘*bint`l-makhaad*’ (the she camel in its second year), is the she camel which the owner has had for a complete year, that is entering into its second year and its mother is pregnant. This is because the expression ‘*maakhud*’ means pregnant; and refers to a camel which has entered into the time of pregnancy even when it is not actually pregnant. The meaning of his words: “On thirty-six up to forty-five camels *zakaat* is paid with a she-camel in its third year”; is that the expression ‘*bint labuun*’ (she-camel in its third year), means a female camel which has entered into its third year, while its mother has given birth to another camel. The meaning of his words: “On forty-six up to sixty camels *zakaat* is paid with a she -camel in its fourth year that is ready to be sired”; is that what is meant here is that the she camel has reached the age where she is pursued by male camels. This is normally a she camel which has reached the third year and has entered into its fourth year. The meaning of his words: “On sixty-one up to seventy-five camels *zakaat* is paid with a she-camel in her fifth year”; is that the expression ‘*jadha`at*’ (she-camel in its fifth year) applies to the one which is in its fourth year and has entered into the fifth year. The meaning of his words: “On seventy-six up to ninety camels *zakaat* is paid with two she-camels in their third year. On ninety-one up to one-hundred and twenty camels *zakaat* is paid with two she-camels in their year ready to be sired”; this is the expressed opinion of the majority of the jurists, and implies that what is in addition to that, then the

I have not come across the amount to be paid for cow in the two Saheeh collections. Al-Qastalani said in his commentary upon al-Bukhari:⁹ “The author did not mention anything which is related to the amount to be paid on cows, because nothing had occurred to him conceding its conditions.” He then said: “It has been related by at-Tirmidhi¹⁰ in a good tradition and which is considered sound by al-Haakim on the authority of Mu’adh, who said: “The Prophet, may Allah bless him and grant him peace, dispatched me to Yemen and ordered me to take from every thirty cows a male or female cow in its first or second year; and to take from every forty cows a cow in its third or fourth year.”¹¹

zakaat on it should be a camel specifically. It has been related on the authority of Abu Hanifa: “When the amount exceeds one-hundred and twenty, then it returns back to the obligation of a sheep. Thus, on one-hundred and twenty five camels the *zakaat* to be paid is three she-camels in their third year and a sheep.” The meaning of his words: “On any addition to one-hundred and twenty camels *zakaat* is paid with a she-camel in its third year for every forty camels and for every fifty camels a male camel in its fourth year”; the expression ‘*hiqqa*’ (male camel in its fourth year) where the letter *haa* is inflected with *kasra* is the male offspring of camels which has reached the age where it can be ridden and carry burden. It refers to a male camel which has completed its third year. The meaning of his words: “Whoever has only four camels, then there is no alms to be paid except if he desires to do so”; is that he does so as a voluntary act. The meaning of his words: “...perhaps believing that the number will reach five. In that case *zakaat* is paid with one ewe. On grazing sheep and goats, if they come to forty or more, up to one-hundred and twenty head, the *zakaat* is one ewe. If there is an addition to one-hundred and twenty up to two-hundred of them, the *zakaat* is two ewes. On any addition to that up to three-hundred sheep, then for every one-hundred, one ewe is to be paid”; this implies that it is not obligatory to pay the fourth sheep until the number reaches four hundred. This is the expressed opinion of the majority of the jurists, who say that the advantage here in mentioning three hundred is to make clear that the quorum to be paid on what exceeds it, is that there is disagreement regarding what is to be paid before that amount. It has been transmitted from some of the jurists of Kufa, like al-Hassan ibn Saalih, as well as in a narration from Ahmad that when the number exceeds three hundred by one sheep, then it is obligatory to pay four sheep. The meaning of his words: “If the sheep are deficient and less than forty in number, then there are no alms to be paid upon them except if the owner wills to”; is that he does so as voluntary act.

⁹ He was the *Shaykh'l-Islam* Abu'l-Fadl Ahmad ibn Ali ibn Hajr al-`Asqalani who died in the year 852 A.H. His commentary upon the Saheeh of al-Bukhari is considered the greatest of the commentaries upon this text and is called Fat'h'l-Baari. The meaning of his words: “I have not come across the amount to be paid for cows in the two Saheeh collections”; is from the words of the *Shehu* may Allah be merciful to him. Everything cited in this book as we mentioned was cited from the two Saheeh collections except two evidences. The first one being in the prophetic tradition from the narration of an-Nisaai` which he mentioned before in the chapter regarding the superogatory acts of worship; and the second being this prophetic tradition from the narrations of at-Tirmidhi; as the *Shehu*, may the mercy of Allah be upon him cited from the words of al-Qastalani.

¹⁰ He was Abu `Isa Muhammad ibn `Isa ibn Sura ibn Musa ibn ad-Duhaak, the blind. He was an erudite traditionist, and proficient *Imam*. He composed the al-Jaami`, the al-`Illal, and the as-Shamaa`il ‘l-Muhammada'iyya. He was born in the beginning of 210 A.H. and journeyed in search of knowledge. He listened to prophetic narrations in Khurasaan, `Iraq, the Two Sacred Places, but did not travel to Egypt or Syria. Al-Hakim said: “I heard Umar ibn `Alak say: ‘When al-Bukhari died, he did not leave anyone in Khurasaan of the like of Abu `Isa in knowledge, memorization, piety and asceticism’. He wept for the sake of Allah until he became blind, and remained so, for the remaining two years of his life.” He died on the 13th of *Rajab* in the year 279 A.H. in the town of Tirmidh.

¹¹ The meaning of his words: “The Prophet, may Allah bless him and grant him peace, dispatched me to Yemen”; is that he sent him there as the *Amir* or judge. The meaning of his words: “...and ordered me to take from every thirty cows”; is that the origin of the expression *al-baqqara* (cow) is from the word ‘to split open’ (*baqqara*) when something is ripped apart. It is called that because the cow rips open the land when it grazes, thus it is a cognomen referring to the entire genus. The feminine letter *taa* in the word *baqqara* is for a single cow and refers to both male and female cows; as Ibn al-Himaam pointed out. The meaning of his words: “...a male or female cow in its first or second year”; is that the expression *tabee`* is a male cow which has completed its first year and has entered into its second year. It is called *tabee`* (the follower) because it still follows behind its mother. The female cow like this is

On What Has Been Related Regarding Gathering Together Livestock and Separating Them Fearing to Pay the Charity on Them

It has been related in the Saheeh of al-Bukhari in the above-mentioned letter of Abu Bakr: “Those separated should not be gathered together nor should those gathered together be separated in fearing to pay the charity on them.”¹²

called *tabee`a*. The meaning of his words: “...and to take from every forty cows a cow in its third or fourth year”; is a cow which has completed its second year and has entered into its third year. The expression ‘*musinna*’ (yearling) is an active participle from the expression ‘it has taken on years’ when its years become apparent. This usually applies after the second year, but not like the years of a human. When it becomes mature it is called ‘*jadh`at*’ (young in years). It is said it refers to a sheep which has completed a year. It is said it refers to a sheep which has not yet completed a year; and it is said that it refers to other specific years. Al-Azhari said: “Indeed cows and sheep when the name ‘yearling’ (*musin*) is applied to them is when they are in their second year.” The prophetic tradition was confined to mentioning the female yearling as evidence that it is not permissible to expend a male yearling as obligatory alms. However at-Tabarani related on the authority of Ibn Abass in a tradition *marfuu`an*: “...and to take from every forty cows a female (*musinna*) or male yearling (*musin*) in its third or fourth year.” This prophetic tradition is proof of the obligation *zakaat* on cows and that its quorum or amount which should be paid on them is as it was mentioned in the prophetic tradition. Ibn Abd’l-Barr said: “There is no disagreement among the scholars that the *Sunna* regarding the *zakaat* on cows is based upon what was mentioned in the prophetic traditions of Mu`adh.”

¹² The fear referred to here is the fear the owner of the wealth of having to pay too much charity; or it means the fear that the authorities have that too little charity will be paid on it. Since it is conceivable to include both fears in this issue, one interpolation cannot be given over another. They are both conceivable. However, what is apparent is that the fear which the owner of the wealth has is more apparent, and Allah knows best. Malik said in his *al-Muwatta`a*: “The meaning of this prophetic tradition is that three people, each who owned forty sheep for which *zakaat* is obligatory. They then gather together all their sheep until there is only one sheep obligatory to give on all their collective sheep. Or in the case of two people who jointly owned two hundred and two sheep, for which there is normally three sheep to be given in *zakaat*. They then divide these sheep between them until each person only has to pay one sheep as *zakaat* on what they owned.” As-Shafi` said: “This prophetic tradition is actually addressing the owner of the wealth from one perspective and those who collect it from another. Thus, the issue for each is that none of them contrive anything for gathering or dividing the wealth out of fear of increasing or decreasing charity. Perhaps the owner of the wealth fears paying too much charity so he collects or divided it in order to make his dispensation decreased. Or perhaps the authorities fear that the wealth dispensed for charity will be too little so they collect or divide it in order to make the dispensation of the charity increased.” This prophetic tradition is proof that the person who possesses less than the quorum for which it is obligatory to pay the *zakaat* on silver and gold, for example, then it is not obligatory for him to join the gold with the silver in order for the quorum to be complete which would then make the *zakaat* on it obligatory. This is in contrast to those who say it is permissible to join the two categories of coins, like those who follow Malik; or the joining of the cost of the two categories like the followers of Abu Hanifa. Ahmad takes this prophetic tradition as proof for a person who possesses sheep in one land which has not reached the quorum of twenty sheep for which it is obligatory to pay *zakaat* in for example Kufa, and he possesses the same amount in Basra; that these two possessions cannot be joined together due to the fact that they are owned by a single individual, and then the *zakaat* be taken from them because jointly they equal the obligatory quorum as Ibn al-Mundhir said. However, the majority of the jurists conflict with this saying: “The wealth of the owner should be joined together, even if in two distinct lands he owns sheep. These should be counted as one and the *zakaat* taken from them.” This prophetic tradition also gives evidence of the invalidity of fraud; the illegality of acting in accordance with the objective of circumstantial evidence, as well as that stipulated *zakaat* cannot be cancelled by giving it as a gift to someone else.

On What Has Been Related Regarding Settling Proportionately Between Two Associates

It has been related in the Saheeh of al-Bukhari in the above-mentioned letter of Abu Bakr, “Whatever belongs to two associates is to¹³ be settled between them proportionately.”¹⁴

¹³ Here ends facsimile 35 of the Arabic manuscript.

¹⁴ The meaning of his words, may Allah be pleased with him: “Whatever belongs to two associates”; are two associates who have a partnership in ownership. The meaning of his words, may Allah be pleased with him: “...is to be settled between them proportionately”; is that the two partners in the joint ownership of camels, upon which the obligation is to give a sheep; and if the camels are in the hands of one of the partners, then the sheep should be taken from him. He should then return to his partner and they should allot the dividend between them equally. In this prophetic tradition is evidence that when a person is treated unjustly by taking more than what is an obligation upon him, that he should not return to his partner with that injustice. He should forfeit to him the value which is specific to him from what is obligatory and not the addition which was taken unjustly. This is the meaning of his words: “...between them proportionately.” Another interpolation of joint owners returning to settle their obligatory alms between one another is when two men jointly own forty sheep between one another, where each owns twenty sheep equally and each of the men knows the exact allocation of his wealth; then the obligatory alms of one sheep should be taken from the portion of one of them. He should then return to his partner and take from him the money equal to have the value of the one sheep. In this prophetic tradition is also proof for the validity of joint commercial interest in specific assets of wealth. It has been related on the authority of `Ataa and Tawuus that they both said: “If two people who jointly share property on which alms has to be paid, and each knows their specific property, then they cannot be considered joint partners.” Further Malik and as-Shafi` differed regarding the prerequisites of intermixture. Malik said: “If the two partners who intermix their property know every single unit of their wealth, then their wealth cannot be considered as intermixed. This is in accordance with what al-Awzai` said.” Malik also said: “If property is separated in night shelters where one is kept overnight in one village and the other in another village; then the property has to be considered as intermixed.” As-Shafi` said: “If the property are not allowed to frolic together, then it cannot be considered to be intermixed. Thus, the prerequisite for property being intermixed is their frolicking, grazing and taking water together, and also the intermixing of their bulls.” If anyone of the previously cited prerequisites are lacking then, their owners cannot be considered partners; with the exception that Malik held the view that they cannot be considered partners until each of them have the quorum which necessitates the obligatory alms being given. While as-Shafi` maintained that if their joint property reaches the quorum, and they are partners in it, then one of them is obligated to pay a single sheep as alms.

On What Has Been Related Regarding the Prohibition of Taken Alms On Old or Defective Ewes, and Rams

It has been related in the Saheeh of al-Bukhari in the above-mentioned letter of Abu Bakr, “Alms should not be given with an old or a defective ewe, or a ram, except when the alms collector sees fit.”¹⁵

¹⁵ The meaning of his words, may Allah be pleased with him: “Alms should not be given with an old ewe”; is a senile female sheep whose teeth have fallen out. The meaning of his words, may Allah be pleased with him: “...or a defective ewe”; is a female sheep that is flawed, which is one that can normally be rejected in transaction. It is said that it is one which is not acceptable in a sacrifice. Including in the meaning of defective are sheep which are ill, male sheep with respect to females, and one young with respect to one older than it. The meaning of his words, may Allah be pleased with him: “...nor a ram, except if the one giving the alms sees fit”; where the letter *daal* in the phrase ‘the one giving the alms’ (*muṣaddiq*) is accentuated with the *shadda*. There is disagreement among the jurists regarding the exact inflection of the word, however, the majority holds the opinion that it is accentuated with the *shadda*; and means the actual owner of the property to be given (*maalik*). This opinion is the particular legal choice of Abu `Ubayd. Thus, the estimation of the prophetic tradition is that fundamentally an old and defective ewe should not be taken as alms; and that a ram, which is the stud of the sheep, should not be taken except with the acceptance of the proprietor because he may be in need of it. This is because taken a ram without his full consent could cause harm to his property, and Allah knows best. It is based upon this opinion that exclusion is specified only for the third. There are some jurists, however, who hold that the word is articulated with the extenuation (*takhfeef*) of the letter *saad*, where ‘*masduq*’ (the one who hands over the alms) is the actual shepherd. It is as if he indicates by this that the property is left in the hands of the shepherd and he is given the right to make his own independent judgment regarding the property because he has become its actual guardian and will not dispose of it except in the interest of the proprietor and the advantage of the flock. Thus, he acts in compliance with judgment of the legal principles. This is the view of as-Shafi` articulated in the renown al-Buwaytti and its exact wording is: “...and defective ewes, rams and old ewes should not be taken as alms, except when the one giving the alms sees that doing so will be better for the destitute; then it can be taken based upon consideration.” This most resembles the principles of the as-Shafi` in interpolating the exception to include all three types of sheep. For example, if all of the sheep are defective or are old, then it is permissible to extract the alms from them. However, the followers of Malik, in this case, requires that the proprietor buy the sheep which can be given in alms, holding to the apparent meaning of the prophetic tradition, as Ibn Hajr mentioned in his commentary.

On What Has Been Related Regarding the *Zakaat'l-Fitr*

It has been related in the Saheeh of al-Bukhari on the authority of Ibn Umar, may Allah be pleased with both of them, who said: “The Messenger of Allah, may Allah bless him and grant him peace, made the *zakaat'l-fitr* obligatory. It was either a *saa`an* (four double-hand scoops) of dates or a *saa`an* of barley obligatory upon the captive, the freeman, male, female, the young or old among the Muslims; and he ordered it to be given before the people went to the prayer.”¹⁶

¹⁶ The meaning of his words, may Allah be pleased with both of them: “The Messenger of Allah, may Allah bless him and grant him peace, made the *zakaat'l-fitr* obligatory”; is further qualified by the additional wording of Muslim from the narration of Malik on the authority of Naafi` : “...in the month of *Ramadan*.” This is evidence that the time of its obligation begins from the setting of the sun on the night of the *`Eid'l-Fitr*, because it is the time for the breaking of the fast of *Ramadan*. It is said that the time of its obligation is at the appearance of dawn on the actual day of the *`Eid*, because the night is not the place of fasting, and clarifies the actual breaking of the fast with eating after the appearance of the dawn. The first interpolation of the time is held by at-Thawri, Ahmad, Is`haq, as-Shafi` in his latter opinion and in one of the two narrations on the authority of Malik. The second interpolation of the time is held by Abu Hanifa, al-Layth, as-Shafi` in his older opinion, and in the second of the two narrations on the authority of Malik. Ibn Daqeeq al-`Eid said: “Utilizing this as evidence to arrive at this judgment is weak because the attribution to the *al-`eid* cannot be taken as evidence for the time of the obligation of giving the alms. Rather, the judgment related to this *zakat* is attributed to the breaking of the fast of *Ramadan*. As for the time of its obligation, then this is taken from another affair.” The meaning of his words, may Allah be pleased with both of them: “It was either a *saa`an* (four double-hand scoops) of dates or a *saa`an* of barley”; is that there is no disagreement in the path of transmission on the authority of Ibn Umar in restricting to these two things, except in what was related by Abu Dawud, an-Nisaa'i and others by way of Abd'l-`Aziz ibn Abu Dawud on the authority of Naafi` in whose narration was added rye and raisins. As for rye, it is a type of barley. The meaning of his words, may Allah be pleased with both of them: “...obligatory upon the captive, the freeman”; is that its apparent meaning is that the captive is to discharge the *zakaat'l-fitr* himself; however, none of the jurists hold this view except Dawud, who said: “It is obligatory upon for the owner of the captive to consolidate the captive with what will allow him to earn a living for which he would then be obligated to pay alms, in the same way that it is obligatory upon him to consolidate the captive with what will help him to perform the obligatory prayer.” This view, however, is at variance with the companions of Dawud and the others who adhere to the prophetic tradition of Abu Hurayra narrated by Muslim: “Alms is not obligatory upon the captive, except the alms of *al-fitr*.” In another narration: “Alms of *al-fitr* in chattel is not obligatory upon a Muslim regarding his captive, nor his horse.” The meaning of his words, may Allah be pleased with both of them: “...male, female”; is that its apparent meaning is that it is obligatory upon the woman regardless if she has a spouse or not. This is the expressed opinion of at-Thawri, Abu Hanifa and Ibn al-Mundhir. Malik, as-Shafi`, al-Layth, Ahmad, and Is`haq held the view that the discharging of the *zakaat'l-fitr* is obligatory upon her spouse, and is connected to financial maintenance. However, in this there is some debate because they say that if this is difficult, and if the wife is a captive, then discharging the *zakaat'l-fitr* is obligatory upon her owner, with exception to financial maintenance. The jurists do agree, however, that it is not obligatory for a Muslim to discharge the *zakaat'l-fitr* on a wife who is disbeliever, although he is required to financially maintain her. As-Shafi` takes for his evidence what he transmitted *mursal* by way of Muhammad ibn Ali al-Baaqir, which was similar to the prophetic tradition of Ibn Umar, but added the words: “...from those you are entrusted with.” The meaning of his words, may Allah be pleased with both of them: “...the young or old”; is that its apparent meaning is that the *zakaat'l-fitr* is obligatory upon the young. However, the one being actually addressed is the guardian. It is this obligatory for the guardian of the child to dispatch the alms from its wealth, if not then it is obligatory upon the one responsible for the financial maintenance of the child. This is the view held by the majority of the jurists. Muhammad ibn al-Hassan said: “It is obligatory upon the father, absolutely. If the child does not have a father, then there is no obligation upon it.” It has been transmitted on the authority of Sa`id ibn al-Musayyib and al-Hassan al-Basri: “The *zakaat'l-fitr* is not obligatory except upon those who are able to fast.” They take as evidence for this the prophetic tradition of Ibn Abass related by Abu Dawud which is *marfu`a*: “The alms of *al-fitr* is purification from heedless talking and obscenities with one’s wife for the one fasting.” However, the purification of the *zakaat'l-fitr* cited in the prophetic tradition applies in most cases, in the same way that it is obligatory upon those who have not committed sins, like the one established in uprightness or the one who accepts Islam a moment before the setting of the sun on the night of the

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`Eid. It has been transmitted by Ibn al-Mundhir that the consensus upholds that it is not obligatory to pay the *zakaat'l-fitr* on the fetus in the womb. He said, further, that Ahmad made it highly recommended but he did not make it obligatory. However, some of the followers of Ahmad bin Hanbal transmit a narration that the *zakaat'l-fitr* upon the fetus in the womb is obligatory. This view was also held by Ibn Hazm, however he qualified this with the fetus being at least one hundred and twenty days, from the day its mother initially became pregnant with the child. The final legal conclusion, however, is that the condition of pregnancy is not decisive, and that the fetus is not referred to as 'young' either linguistically or customarily. The meaning of his words, may Allah be pleased with both of them: "...among the Muslims; and he ordered it to be given before the people went to the prayer"; is evidence of the reprehensibility of postponing giving the *zakaat'l-fitr* beyond that time. Ibn Hazm interpolates this phrase to mean that it is actually prohibited to postpone it beyond that time. Ibn't-Teen said: "This means before the people go out to the *salaat'l-`eid* and after the *salaat'l-fajr*." Ibn `Uyayna said in his *Qur'anic* exegesis on the authority of `Amr ibn Dinar on the authority of `Akrama who said: "A man should present his *zakat* on the day of the *`Eid* before its prayer, because Allah ta`ala says: '*He has prospered who gives alms, and then recites the Name of his Lord, and then prays*'." It has been related by Ibn Khuzayma by way of Kathir ibn Abdallah on the authority of his father on the authority of his grandfathers that the Messenger of Allah, may Allah bless him and grant him peace was once asked about this verse and he said: "It was revealed regarding the *zakaat'l-fitr*." As-Shafi` upholds that it is highly recommended to limit the *zakaat'l-fitr* being given before the *salaat'l-`Eid*, due to the fact that the name 'day' can apply to the entire day. Abu Mash`ar narrated on the authority of Naafi` on the authority of Ibn Umar saying: "We were ordered to dispense the *zakaat'l-fitr* before we prayed, so that when the people dispersed it could be divided among them. This would free them from begging." This transmission was related by Sa`id ibn Mansuur, however, Abu Mash`ar is considered weak. Ibn al-Arabi resolved that this additional wording was narrated from Muslim. In another narration: "Ibn Umar used to give the *zakaat'l-fitr* before that time by a day or two." In this is evidence that it is permissible to precipitate the giving of the *zakaat'l-fitr* before the actual day of *`eid'l-fitr*. As-Shafi` even permitted it to be given on the first of *Ramadan*, and this was the same with Abu Hanifa. Ahmad said: "The giving of the *zakaat'l-fitr* should not be precipitated before the time of its obligation, except by one day or two." Malik said: "It is absolutely not permissible to precipitate the giving of the *zakaat'l-fitr* before the time of obligation." Here it is ended and with its ending, I end the commentary upon the Book of Obligatory Alms, and success if with Allah. O Allah I ask You for every good which Your knowledge encompasses in this world and the Next, and I seek refuge with You from every evil which Your knowledge encompasses in the this world and the Next. O Allah give us success in following the *Sunna* of Your prophet, Muhammad, may Allah bless him and grant him peace, outwardly and inwardly, by his rank that he has with You.