

Answer to Fiqhi Questions

1. The Hadith: "... I will Mutilate Seventy in Return"

2. The 'Awra of the Female Slave (Amma)

To: **Om Ahmad**

Question:

Assalam Alaikum Wa Rahmatullah

Our Honourable Sheikh, may Allah protect you and grant you guided steps,

In the book the *Islamic Personality* Volume Two, on the chapter of the Military Policy page 192 (Arabic version), I stopped at the Hadith (أما والذي أحلف به إن أظفرتني الله بهم لأمتن بسبعين مكانك) "O by whom I swear by, if Allah grant me victory over them, I will mutilate seventy of them in return."

When I researched it, I found that it was weak (Dha'eef), and it was not classified as Sahih by anyone, nor was it used by anyone, What I know is that we do not take weak Hadiths, so what is the reason for using this Hadith as an evidence? Or is it the case that there is another reason for using it here? Did I understand that the rule is not taken from the Hadith but from the noble verse (وإن عاقبتم فعاقبوا....) "And if you punish [an enemy, O believers], punish..." [An-Nahl: 126]

To the end of the verse, why was it used as evidence? Please explain this, and May Allah reward you with the good.

I have another question on the same book regarding slavery and its ruling, but my question is regarding the A'wra of the female slave (Amma), can you explain this matter further since it is not mentioned in the book and it raised many controversy, and when researching it, I found that there is difference of opinion among the scholars on this issue, can you please inform us of the strongest opinion? May Allah reward you with the good.

Answer:

Wa Alaikum Assalam Wa Rahmatullah Wa Barakatuh

First: your first question: you said:

In the book *The Islamic Personality* Volume Two, on the chapter of the Military Policy page 192 (Arabic version), I stopped at the Hadith by Tabarani: «أما والذي أحلف به إن أظفرتني الله بهم لأمتن بسبعين مكانك» "O by whom I swear by, if Allah grant me victory over them, I will mutilate seventy of them in return."

Answer: The subject of the question was mentioned in *The Islamic Personality* Volume Two, p 192 as follows:

"It was narrated that the reason for the revelation of this verse that the polytheists mutilated the bodies of Muslims on the day of Uhud: they cut open their stomachs, and cut off their private parts, and cracked their noses, they left no one without mutilation except for Hanazh bin Al-Rahib. The Messenger of Allah (saw) stood in front of Hamza (ra) who was mutilated, the Prophet saw the bad sight of the cut open stomach and nose was removed, and said: «أما والذي أحلف به إن أظفرتني الله بهم لأمتن بسبعين مكانك» "O by whom I swear by, if Allah grant me victory over them, I will mutilate seventy of them in return)." Narrated by At-Tabarani in Al-Kabeer so this verse was revealed..." **End quote**

Yes, there are those who classified the Hadith weak, because in the chain of narration (*sanad*) we find Salih Al-Marri who Al-Haafiz Ibn Katheer said about him (2/592): (This narration has weakness to because Salih is Ibn Al-Basheer Al-Marri who is weak according to the scholars”

On the other hand, the following issues can be considered:

1- Salih Al-Marri’s narration is extracted by Al-Hakim in Al-Mustadrak on Al-Sahihayn in addition to At-Tabarani in Al-Kabeer, and this is the text of Al-Hakim’s narration (11/225, by the digital number order of Ash-Shamila)

4882 - Abu Bakr bin Ishaq narrated, Muhammad bin Ahmad bin An-Nadhr narrated, Khalid bin Khaddash narrated, Salih al-Marri narrated, on the authority of Sulaiman At-Taimi, on the authority of Abi Uthman An-Nahdi, on the authority of Abu Hurayrah may Allah be pleased with him, that the Prophet (saw) looked at Hamza on the Day of Uhud, who was killed and disfigured, he (saw) never seen a more painful and moving view to his heart, he said: «رحمة الله عليك، قد كنت وصولاً للرحم، فعولاً للخيرات، ولولا حزن من بعدك عليك لسرني أن أدعك حتى تجيء من أفواه شتى»، «**May Allah have mercy on you. You were, as far as I knew, always uniting kith and kin and doing all good. If it was not for the sadness of those after you, I would have left you (unburied), so that you will be resurrected from different mouth.**”

Then standing in his place he swore by Allah: «والله لأمتلن بسبعين منهم مكانك» “**O by Allah, I will mutilate seventy of them in return**”

The Qur’an was revealed on the spot where he was standing: ﴿وَإِنْ عَاقَبْتُمْ فَعَاقِبُوا بِمِثْلِ مَا عُوقِبْتُمْ بِهِ وَلَئِنْ صَبَرْتُمْ لَهُوَ خَيْرٌ لِلصَّابِرِينَ﴾ “And if you punish [an enemy, O believers], punish with an equivalent of that with which you were harmed. But if you are patient - it is better for those who are patient” [An-Nahl: 126]

Till the end of the Surah, the Prophet (saw) expiated for the swearing and did not carry out what he said he will do.

Al-Hakim was silent over this and did not classify it as weak and did not confirm it... however he extracted it in Al- Mustadrak on As-Sahihayn

2- The Hadith is adopted by some Fuqaha’ in their books:

A- Abu Bakr Ash-Shafi’i mentioned it in "Al-Fawa'id Ash-Shaheer Bil-Ghilaniyat" because he dictated it to his student Abi Talib Muhammad Bin Ghailan

Adh-Dhahabi said regarding it in (Al-'Ibar) "27" (and Bin Ghailan, the last of those narrated from him those parts, which is in high in the heavens) Al-Kattani said in “ Ar-Risala Al-Mustatirifa” page: 93: **(It is the best and highest of Hadith)**

This is stated in the book “Al-Fawa'id”:

(232- Abu Bakr Ash-Shafi’i told us on the Friday 3rd of Muharram 354 AH, he said: Hamid bin Muhammad told us, Bishr bin Al-Walid told us, Salih Al-Marri told us, from Sulaiman At-Taimi, from Abu Othman An-Nahdi, from Abu Hurayrah that the Messenger of Allah (saw) stood in front of Hamza bin Abdul Muttalib when he was martyred, he did not see anything more painful to his heart, as Hamza was disfigured, and he (saw) said: «رحمة الله عليك فانك كنت ما علمتك فعولاً للخيرات وصولاً للرحم، ولولا حزن من بعدي عليك لسرني أن أدعك حتى تحشر من أفواه شتى، أما والله مع ذلك لأمتلن بسبعين منهم» «**May Allah have mercy on you. You were, as far as I knew, always uniting kith and kin and doing all good. If it was not for the sadness of those after you, I would have left you (unburied), so that you will be resurrected from different mouth, O by Allah, I will mutilate seventy of them.**”

He said: Jibreel came down with the final verse of Surat An-Nahl while the Prophet was standing there: ﴿وَإِنْ عَاقَبْتُمْ فَعَاقِبُوا بِمِثْلِ مَا عُوقِبْتُمْ بِهِ وَلَئِنْ صَبَرْتُمْ لَهُوَ خَيْرٌ لِلصَّابِرِينَ﴾ “**And if you punish [an enemy, O believers], punish with an equivalent of that with which you were harmed. But if you are patient - it is better for those who are patient**” [An-Nahl: 126]

To the end of the Surah, so the Prophet (saw) became patient, and expiated for swearing by Allah and stopped himself from carrying out what he wanted to do)

B- It was mentioned in another narration from Abu Hurayrah, **by the author of the book "Sharh Al-Hidaya", Abu Muhammad Al-Hanafi** Badr Ad-Din Al-Aini, deceased 855 AH:"

(I said: As for Allah's (swt) saying: "فعاقبوا" "and Punish", the verse, At-Tahawi-May Allah have mercy on him- narrated from Muqsim, from IbnAbbas, from Abu Hurayrah (ra): "that the Prophet (saw) said when Hamza (ra) was killed and disfigured: «لئن ظفرت بهم لأمتن بسبعين رجلا» "If Allah grant me victory over them, I will mutilate seventy men" And in a narration: «والله لأمتن بسبعين رجلا منهم» "O by Allah I will mutilate seventy of their men" Allah (swt) revealed: ﴿وَإِنْ عَاقَبْتُمْ﴾ "And if you punish [an enemy,O believers]," [an-Nahl: 126] The verse, so the Prophet (saw) was patient and expiated for the oath" so he knew the verse came with this meaning...)

We conclude from all the above that:

It is permitted to take the Hadith as the reason for the revelation of the verse, in the chapter of the Military Policy from The Islamic Personality Volume Two (Shakhsyah):

Second: the second question-on the A'wra of the female slave:

First I would like to say, I do not understand why are you asking this question? There are no female slaves today! Anyway, the fuqaha' have differed concerning the 'Awrah of the female slave in front of the foreign man. Some of them made it as the 'Awrah of the free woman (*hurra*), and some of them made it like the 'Awra of the man, some of them made it as the woman's 'Awra in front of her Maharam, which is the opinion of the Hanafi's. Each have their Ijtihad. But I am more inclined towards is the opinion of the Hanafi's, i.e. the 'Awra of the female slave in front of the foreign man is like the 'Awra of the woman in front of her Mahrams, which we explained in *The Social System*. I.e. "the places that are not usually adorned: they are from the front side: from the knee to the end of the necklace from the neck, and from the back: from the knee to the top of the woman's back."

All of this is 'Awra for the female slave ... she may show the leg, neck, hair and arms. It is not right to see above the knee all the way up to the bottom of the neck, from the front, and above the knee up to the bottom of the neck from the back, therefore all her body is 'Awra except her hair, neck, leg and arms. There is no need to go into the details of the evidence since the Khalifah adopts the shar'i ruling that is most correct for him. If he adopts that her 'Awrah is like that of the free woman, then he will implement that, and if it is adopted that her 'Awra is like that of a woman in front of her mahram which is what I am more inclined towards, then he will implement that.

Allah is Most Knowledgeable Most Wise

Your brother,

Ata Bin Khalil Abu Al-Rashtah

24 Shawwal 1439 AH

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The link to the answer from the Ameer's Facebook page:

<https://web.facebook.com/AmeerhtAtabinKhalil/photos/a.12285544578192.1073741828.122848424578904/856209534576119/?type=3&theater>

The link to the answer from the Ameer's page on Google Plus:

<https://plus.google.com/u/0/b/100431756357007517653/100431756357007517653/posts/KiiipVSifCe>