

With the Noble Hadith

«لَا يَدْخُلُ الْجَنَّةَ صَاحِبُ مَكْسٍ»

“The wrongful tax collector will not enter paradise.” (Abu Dawood)

(Translated)

Abu Dawud reported in his Sunan, Abdullah bin Muhammed bin Nufaiyli narrated, on the authority of Muhammed bin Salama, on the authority of Muhammed bin Ishaq, on the authority of Yazid bin Abi Habib on the authority of Abdur Rahman bin Shimasa on the authority of Uqba bin Aamir (ra) said, I heard the Messenger of Allah (saw) saying, «لَا يَدْخُلُ الْجَنَّةَ صَاحِبُ مَكْسٍ» **“The wrongful tax collector (Sahib Maks) will not enter paradise.”** [Abu Dawood]

The author of ‘*Awn Al-Ma’bud*,’ the commentary upon Sunan Abi Dawud, said, “Abdur Rahman bin Shimasa’ says regarding the word “*Sahib Maks*,” in “The Encompassing Dictionary,” (al-Qamoos al-Muhit) the word ‘*Maks*’ means reduction (نقص) and oppression (ظلم). It refers to the dirhams wrongfully seized from the sellers of goods in the market during the days of Jahiliyyah or it refers to a dirham taken for himself, by the one who collects Zakah after he has collected Zakah.”

It is said in ‘*Bidaya wa Nihaya*,’ “it (*Maks*) is a wrongful tax taken by the collector who collects one-tenth of the goods as tax.”

In the book, “*Commentary of Sunnah*,” it says, “the intended meaning of the word “wrongful tax collector,” refers to the one who takes tax (*maks*) from the traders when they pass through, in the name of tithe. As for the one who seeks to collect Zakah or the one who collects from the People of Dhimmah the Jizayah for which they made agreement, he is a treasurer (مُخْتَسِب), who is not sinful as long as he does not transgress. If he transgresses, he is a sinner and oppressor.”

Similar has been mentioned in *Ma’lim Sunan* authored by Khattabi and in the hadith over which Al-Mundiri remained silent.

It was a tradition of kings to take customs duties (*maks*) from traders during the days of Jahiliyyah. When Islam came, it invalidated and prohibited the customs duties. The Messenger of Allah (saw) wrote to the people of regions such Thaqif, Bahrain and Douma Jandal, «أَنَّهُمْ لَا يُحْشَرُونَ وَلَا يُعْشَرُونَ» **“That they will not be gathered, nor they will be levied tithe tax.”**

Wrongful tax (*Maks*) will neither be taken from the Muslims, nor from People of Dhimmah also, as the hadith comes in the general (‘aam) form to include all the traders, from amongst the citizens of the state. It is haram to take Tax (*Maks*) from them. Regarding the traders who are not citizens of the state:

- As for a trader who is under treaty (معاهد), i.e. there is a treaty between us and his nation, he will be treated according to the texts of the treaty. If the treaty stipulates that he is exempted from collecting anything from him, then he will be exempted from

custom duty. If the treaty stipulates to take a particular amount, that particular amount will be collected from him.

- As for warring (حربي) traders, i.e. traders from warring states, they will be treated as their state treats our traders. If a trader from a warring state enters our land safely, an amount will be collected from him, just as his nation collects for our traders. This applies to both *kafir* and Muslims from warring nations. As long as he is a citizen of warring nation, he will be judged as a warring trader who will be treated the same as our Muslim and *Dhimmi* traders are treated in his land. It is narrated from Ibn Mujliz Lahiq bin Hameed who said, "They said to Umar (ra): how do we take from the people of war when they come to our land? Umar (ra) asked: how do they take from you, when you enter their land? They replied: one-tenth. Umar (ra) replied: Take from them same as they take from you." Ibn Qudama mentioned this in *Mughni* and that Umar (ra) did this in front of the Companions (ra) and thus it is a Unanimous Consensus (إجماع) of the Companions (ra). Taking the same as our enemy is permissible (mubah) and not an obligation (waajib). Thus, state can either take the same amount from their traders as they take from our traders, or a lesser amount or they can even be exempted if the state wishes, based on the benefits of Ummah. However, it is not allowed for the state to take more than what they take from us. This is because the permissibility of taking *maks* (tax) from them is due to the policy of reciprocity (سياسة المعاملة بالمثل) and not for amassing wealth.

Similarly, amongst the Wrongful Taxes (*Maks*) is the imposition of taxes by the state upon the applications submitted to it over land and residences transactions such as sales and registration, or in the form of court fees.

After the destruction of the Khilafah state and the implementation of Western capitalistic system upon the necks of Muslims, the conditions of Muslims declined. They lost what they had gained in terms of rights and care granted by the upright Shariah. Thus, taxes overburden them in the name of customs. When they cross the borders from one state to another, these taxes are no longer levied just upon the merchants for their goods to cross the border, as during the days of Jahiliyyah (ignorance). Instead, they are levied upon ordinary travellers for their luggage which they carry along with themselves to fulfil their needs.

Today's days of ignorance are more oppressive and burdensome to the people than the original days of ignorance. Wealth and property are no longer considered to be inviolable sanctities rather they are no longer considered to be sanctities for their human nature. Which is more deserving of following? The Deen of Allah (swt) or the Law of Man? The Law of Allah or the Law of corrupt Capitalism? Consider, O people of vision.

13 Safar al-Khair 1434 AH

Corresponding to Thursday, 27 December 2012 CE