

YAQEEEN INSTITUTE FOR ISLAMIC RESEARCH

# 40 HADITHS ON SOCIAL JUSTICE

## LECTURE NOTES

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## Chapter Fourteen Elitist Privilege

Those most likely to get away with various forms of injustice (e.g., shortchanging others, deceiving others) are the elite or privileged in society. Privilege is natural and comes in many forms (race, tribe, gender, wealth, geography) and sometimes there's nothing you can do about it. But when you yourself are in a place of privilege you need to first recognize your privilege and then use it to help those who are disadvantaged. That is the spirit of the *sunnah* of The Prophet (ﷺ).

عَنْ عَائِشَةَ، قَالَتْ سَرَقَتِ امْرَأَةٌ مِنْ قُرَيْشٍ مِنْ بَنِي مَخْزُومٍ فَأَتَيْتُ بِهَا النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ فَقَالُوا مَنْ يُكَلِّمُهُ فِيهَا قَالُوا أُسَامَةُ بْنُ زَيْدٍ . فَأَتَاهُ فَكَلَّمَهُ فَرَبَّرَهُ وَقَالَ " إِنَّ بَنِي إِسْرَائِيلَ كَانُوا إِذَا سَرَقَ فِيهِمُ الشَّرِيفُ تَرَكَوهُ وَإِذَا سَرَقَ الْوَضِيعُ قَطَعُوهُ وَالَّذِي نَفْسِي بِيَدِهِ لَوْ أَنَّ فَاطِمَةَ بِنْتُ مُحَمَّدٍ سَرَقَتْ لَقَطَعْتُهَا "

Narrated by Aisha (ra): A woman of Quraish, from Banu Makhzum, was caught stealing, and she was brought to the Prophet. They said: 'Who will speak to him concerning her?' They said: 'Usamah bin Zaid.' So Usamah went to the Prophet and spoke to him. But he rebuked Usamah, and said, 'Nations who came before you were destroyed because if a rich person stole, they would let him go. But if a poor person stole, they would cut off his hand. By the One in whose hand is the soul of Muhammad, if Fatima bint Muhammad were to steal, I would cut off her hand.'

Aisha (ra) mentions the woman's tribe because this woman belonged to the same tribe as Abu Jahl. Members of this tribe were wealthy, rich and privileged and would get away with many things because of the power they had. So they were not used to being held accountable. It is also important to know that this woman was a habitual thief, and that this took place after the conquest of Mecca at a time when the Prophet (ﷺ) was the sole political authority. Because Usamah (ra) was like a grandson to the Prophet (ﷺ) they thought he would be best to intercede on behalf of this woman.

Allah (swt) says in the Qur'an "We punished them when they became oppressors," so this was the reason why they were destroyed. They used to oppress the weak by punishing them but excusing the "nobles" who committed crimes.

Many people in Mecca thought that the Prophet (ﷺ) would be lenient with them because of his overall kindness and compassionate nature. They assumed he would pardon the woman from his tribe and uphold the status quo. However, the status quo was the problem.

The woman mentioned in the hadith was named Fatima bint al-Aswad al-Makhzumiya. So the Prophet (ﷺ) was also making a point by saying that if *my* Fatima were to do this, I would punish her the same way I would punish your Fatima; that is, privilege does not matter in cases of justice. He (ﷺ) was making the point that his decision was not

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based on vengeance or on now having the upper hand over the Banu Makhzum; it was based on justice and having privilege would no longer be a way to avoid justice. He himself was victim of her thefts but he does not mention this.

Fatima bint Aswad used to steal from the caravans that were coming from Madinah including some items that belonged to the Prophet (ﷺ). Aisha (ra) mentions that she later repented and did well.

“Those who came before you” refers to the Bani Israel. They used to be guilty of treating the rich criminals differently than the poor; that is, they would punish the weak very harshly, and excuse the elite. In fact, this was one of the complaints of Isa (as) to the Pharisees.

In Matthew 23:23 Jesus is reported to have said, “Woe to you, scribes and Pharisees, hypocrites! You practice your religion very well, but you have neglected the weightier matters of the law: justice, and mercy and faith.” He was sent to bring back the spirit of the law and rectify this misuse of it.

One of the wisdoms of this hadith is that the Prophet (ﷺ) mentions someone even more beloved to him than Usamah, Fatimah (ra), his own daughter, and says that she would not be exempt. They thought Usamah was beloved to him and would cause him to soften his position, but he (ﷺ) is saying there is someone even more dear to me and I would not hesitate to punish her if she was guilty. He loved Fatima (ra) so much and he said this in her presence! To really make the point that no one would be exempt from punishment if they were guilty of a crime. Even members of the ruling class would be subject to the law and new standards.

When Umar (ra) was *khalifah*, the Muslims suffered from famine and there was an increase in stealing not out of greed but because they were hungry and desperate. He suspended the penalty for this crime because he recognized that the circumstances had changed. Umar (ra) was of the elite himself but he did this for the sake of the poor. The Prophet (ﷺ) would not lift this penalty for one of the most powerful women in society.

Many scholars recognized this when framing the objectives of Islamic law (*maqasid al-sharia*) that if you are not providing people the means by which they can be happy and survive and succeed, then you cannot punish them when they resort to impermissible means in order to attain that success and happiness. Opening the ways of good is considered to be far more important than preventing the ways of bad.

For example: you shouldn't punish adultery if you are making it too difficult for people to get married. You have to consider whether you are opening the ways to marriage or making it too difficult, rather than just focusing on condemning zina.

Following the Battle of Badr, the Muslims found Suhayl ibn Amr – a chief of Quraysh and a vocal adversary of Islam – among the prisoners of war. Umar was delighted at the chance to exact revenge, and requested permission to pull out his front teeth “so that he could never preach against the Messenger (ﷺ).” However, the Prophet (ﷺ) said, “I will not mutilate him, lest Allah mutilate me – even though I am a prophet.” Collected by al-Hâkim (3/318) and Ibn Hishâm (3/200)

AbdurRahman, one of the sons of Umar (ra), was once caught drunk in Egypt and the governor at the time was Amr ibn Al-As (ra) who wanted to spare him the humiliation of punishing him publicly. He didn't want to embarrass the khalifah by penalizing his son, so he symbolically punished him in the privacy of his own home. When news of this got back to Umar, he asked that his son be sent to Madinah to be publicly punished. Amr thought he was doing a favor for Umar, however Umar was intent on carrying out justice even though it was against his own son.

Similarly, Umar (ra) also punished both Amr and his son when the son hit a Christian man. He gave the Christian man a whip to hit Amr's son and told him to also place the whip on Amr's head (as a symbolic punishment) because it was due to his father's privileged position that the son thought he could get away with injustice.

Time and time again the Prophet (ﷺ) would show that there was no privilege for the elites in society when it came to enacting justice - even for himself and his own family. There was an incident before the battle of Badr when a youth was poked by the Prophet (ﷺ) when he was trying to straighten the lines. When the youth complained, he (ﷺ) asked him to poke him back as revenge.

Abu Bakr As-Siddiq (ra) said in his very first sermon as khalifah:

الضعيف فيكم قوي عندي حتى أريح عليه حقه إن شاء الله

The weak one amongst you will be considered amongst the strong (elite) in my eyes until I get his right back insha'Allah. And the strong ones (i.e., the elite) are weak in my eyes until I am able to take rights back from them insha'Allah.

He was basically making a declaration in his inaugural speech that the elite would not get preferential treatment. But these days in Muslim countries, the elite do not get punished the way the less privileged are. This was the reason Dr. Tariq Ramadan called for a suspension of the hudud punishments - because they being unfairly applied only to the less fortunate in society. The goal of the law is to promote equity so if it is being applied unfairly and is in fact furthering inequity, then it is not serving its purpose.

Chomsky: “For the powerful, crimes are those that others commit.”

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Hadith narrated by Abu Masud (ra):

“The example of the one who supports his people when they are wrong (oppressors), is like a dead camel that falls into a well and is pulled out it by its tail.”

Lessons from this hadith:

1. The one who supported the elite in their wrongdoing is the dead camel. The one who will pull them out is Allah, showing that they will be returned to Him and will be held accountable.
2. The corpse of the dead camel poisons the whole well. Similarly, this person's support for oppression poisons the community and everyone suffers as a result.

Taking advantage of connections you have so that you will not be punished for something involves being complicit in a system of oppression; basically, your connections involve others being hurt while you get off.

We should always fight for equity so that the law applies to everyone equally and that it doesn't target any group disproportionately.