

6. Hadith Al-Qadha, An Age Of Jungle Justice III

The *khalifah* of Muslims is their supreme judge on every aspect of their religion, like the Messenger of Allah. As such, Muslims are required to refer all their religious problems and disputes to him for judgment, and his verdicts are binding over them. This function necessitates that the *khalifah* be the most knowledgeable of the *Ummah* throughout his administration. Otherwise, he would be unfit for the grand office. Issuing correct religious verdicts on all types of religious questions and disputes, from all persons of all calibres, certainly requires unparalleled knowledge.

During his rule, a man came to 'Umar b. al-Khaṭṭāb with his personal religious problem. Imam Muslim (d. 261 H) records about how the *khalifah* handled it:

حدثني عبدالله بن هاشم العبدى حدثنا يحيى (يعني ابن سعيد القطان) عن شعبة قال حدثني الحكم عن زر عن سعيد بن عبدالرحمن بن أبزي عن أبيه أن رجلا أتى عمر فقال: إني أجنب فلم أجد ماء فقال لا تصل فقال عمار أما تذكر يا أمير المؤمنين إذ أنا وأنت في سرية فأجنبنا فلم نجد ماء فأما أنت فلم تصل وأما أنا فتمعكت في التراب وصليت فقال النبي صلى الله عليه و سلم إنما كان يكفيك أن تضرب بيدك الأرض ثم تنفخ ثم تمسح بهما وجهك وكفيك فقال عمر اتق الله يا عمار قال إن شئت لم أحدث به

'Abd Allah b. Hisham al-'Abdi – Yahya b. Sa'id al-Qaṭṭān – Shu'bah – al-Hakam – Dharr – Sa'id b. 'Abd al-Rahman b. Abza – his father:

A man came to 'Umar and said: "I have seminal discharges and I cannot find water (to do the *ghusl*)". He ('Umar) said, "Do not perform *Salat*." So, 'Ammar said, "Do you remember, O *Amir al-Muminin*, when I and you were in a military detachment and we had seminal discharges and could not find water and you ('Umar) did not perform the *Salat*. As for me, I rolled myself in dust and

performed the *Salat*. So, the Prophet, peace be upon him, said, “It was enough for you to strike the soil with your hands and then blow and then wipe your face and palms”. **Umar said: “Fear Allah, O Ammar!”** Therefore, he (‘Ammar) replied, **“If you so like, I would not narrate it”**.¹

There are some really interesting facts in this narration:

‘Umar and Ammar, *radhiyallahu ‘anhu*, were both together in a military detachment, and they had seminal discharges.

Ammar rolled himself in the soil in order to cleanse himself for *Salat*, due to a lack of water. He had no divine guidance for the act. It was only his intuition.

‘Umar, on his part, completely refrained from offering any *Salat* as long as he could not find water.

Both recounted their experiences to the Messenger of Allah, *sallallahu ‘alaihi wa alihi*, who taught them *tayammum* as the correct step should they encounter a similar situation.

During ‘Umar’s rule, a man came to him with the same problem that he personally had gone through. But, rather than offer to him the solution of *tayammum* as taught by the Prophet, ‘Umar instructed the man with his own initial wrong step!

‘Ammar attempted to remind ‘Umar of the Sunnah in such situations. But, the latter simply did not want to hear about it!

There are a number of questions here. First and foremost, did ‘Umar deliberately reject the Sunnah or not? This depends upon whether he actually remembered the incident involving him and ‘Ammar. If he did, and still gave the ruling that he gave, then he would have been contemptuous of the Sunnah. Moreover, even if he had completely forgotten it, why did he not act on ‘Ammar’s reminder? From the look of it, he was not convinced by ‘Ammar’s narration. He most probably had very serious doubts about the accuracy of ‘Ammar’s *hadith*. Therefore, he saw no real reason to alter his decision on the matter.

So, the best-case scenario is that ‘Umar had absolutely forgotten the incident of *tayammum*, which involved him personally and directly. In addition, when ‘Ammar attempted to revive his memory of the event, he had grave trust issues with the latter’s report. Therefore, he did not remember, and there was no other reliable source to bring back his memories of the incident. The worst-case scenario is that ‘Umar actually remembered the *hadith*, or was at least successfully reminded of it by ‘Ammar. Yet, he thought that his personal solution to the issue before him outweighed the Sunnah of the Messenger of Allah. As such, he was in contempt of Muhammad and his teachings.

We will go with the best-case scenario. ‘Umar had completely forgotten, and was not successfully reminded. This fact casts a mammoth shadow of doubt over ‘Umar’s memory power. Since he forgot the incident of *tayammum* so completely and absolutely, it is extremely uncertain that he was able to remember many – if not most – other teachings of the Prophet that were necessary in his discharge of

his day-to-day judicial functions. The end result is that he lacked the requisite scholarly prowess for the office. The natural product of absolutely forgetting anything is complete ignorance of it.

Something that baffles the mind is how ‘Umar came to the conclusion that he could issue rulings in the *Shari’ah* with his *personal* opinions simply because he had forgotten, or did not know, the correct positions. Is ignorance an excuse for the adoption of personal opinions in the Law of Allah? The Qur’an answers:

ومن لم يحكم بما أنزل الله فأولئك هم الكافرون

Whosoever does NOT give rulings, verdicts, judgments, or commands based upon what Allah has revealed, **such people are the infidels.**²

Therefore, giving a ruling by personal opinion amounts to disbelief (*kufr*), according to Allah. Why did ‘Umar take such an extreme risk? He should have simply remained silent, or sought the advice of superior jurists like Amir al-Muminin, *‘alaihi al-salam*, Ibn ‘Abbas, *radhiyallahu ‘anhu*, and others. His reliance upon personal opinion in issuing a ruling in the *Shari’ah* of Allah was a *very* wrong step. It saved neither him, nor the man who came to him for judgment.

Perhaps, the most disturbing part is that the ruling of *tayammum* is explicitly stated at two different places in the Book of Allah:

وإن كنتم مرضى أو على سفر أو جاء أحد منكم من الغائط أو لامستم النساء
فلم تجدوا ماء فتيمموا صعيدا طيبا فامسحوا بوجوهكم وأيديكم

And if you are ill, or on a journey, or one of you comes after answering the call of nature, or you have had sexual intercourse with women **and you cannot find water, perform *tayammum* with clean soil** and rub therewith your faces and hands.³

It is apparent. Despite the double presence of the ruling of *tayammum* in the Qur’an, ‘Umar did NOT know it. This raises a blood-red flag on ‘Umar’s knowledge of the Book of Allah. Obviously, he was not a *hafiz* (memorizer) of the Qur’an. Secondly, his knowledge of its verses, and of *al-Fiqh*, must have been extremely deficient, as *tayammum* is only one of the beginner’s courses in Islamic jurisprudence!

‘Umar’s controversial judgment expectedly split the *Ummah*. There were his loyalists who thought that his clearly invalid ruling was more correct than the Qur’an and Sunnah! There were also his opponents who sided with Allah and His Messenger. One of the staunchest loyalists of ‘Umar was ‘Abd Allah b.

Mas'ud, a very senior Sahabi. Imam Muslim records:

حدثنا يحيى بن يحيى وأبو بكر بن أبي شيبة وابن نمير جميعا عن أبي معاوية قال أبو بكر حدثنا أبو معاوية عن الأعمش عن شقيق قال كنت جالسا مع عبد الله وأبي موسى فقال أبو موسى ثم يا أبا عبد الرحمن أرأيت لو أن رجلا أُجنب فلم يجد الماء شهرا كيف يصنع بالصلاة فقال عبد الله لا يتيمم وإن لم يجد الماء شهرا قال أبو موسى فكيف بهذه الآية في سورة المائدة فلم تجدوا ماء فتيمموا صعيدا طيبا فقال عبد الله لو رخص لهم في هذه الآية لأوشك إذا برد عليهم الماء أن يتيمموا بالصعيد فقال أبو موسى لعبد الله ألم تسمع قول عمار بعثني رسول الله صلى الله عليه وسلم في حاجة فأجنت فلم أجد الماء فتمرغت في الصعيد كما تمرغ الدابة ثم أتيت النبي صلى الله عليه وسلم فذكرت ذلك له فقال إنما كان يكفيك أن تقول بيدك هكذا ثم ضرب بيديه الأرض حصول واحدة ثم مسح الشمال على اليمين وظاهر كفيه ووجهه فقال عبد الله أو لم تر عمر لم يقنع بقول عمار

Yahya b. Yahya, Abu Bakr b. Abi Shaybah and Ibn Numayr – Abu Mu'awiyah – al-A'mash – Shaqiq:

I was sitting with 'Abd Allah (b. Mas'ud) and Abu Musa (al-Ash'ari). So, Abu Musa asked: "O Abu 'Abd al-Rahman, what is your opinion: if a man had a seminal discharge and could not find water for one month, how should he do about the *Salat*?" 'Abd Allah replied, "**He should NOT perform *tayammum* even if he cannot find water for a month**".

Abu Musa then said, "**What about this verse in Surat al-Maidah said, 'And you cannot find water, then perform *tayammum* with clean soil**?" 'Abd Allah replied, "If they were allowed on the basis of this verse, there is a possibility that they would perform *tayammum* with soil even if water were available but cold." So, Abu Musa said to 'Abd Allah, "Have you not heard the statement of 'Ammar: 'The Messenger of Allah, peace be upon him, sent me on an errand and I had a seminal discharge, but could not find water. So I rolled myself in the soil just as a beast rolls itself. Then, I came to the Prophet, peace be upon him then and mentioned that to him and he (the Messenger) said: "It would have been enough for you to do thus". Then he struck the earth with his hands once and wiped his right hand with the help of his left hand and the exterior of his palms and his face'." 'Abd Allah replied: "**Didn't you see that 'Umar was NOT satisfied with the statement of 'Ammar?**"⁴

Abu Musa was on the side of the Qur'an and Sunnah, and sought to correct Ibn Mas'ud on his diehard 'Umarist stance on *tayammum*. The former quoted the Book of Allah and the explicit teaching of His

Messenger. Ibn Mas'ud however rejected both, citing excuses. He could not allow the people to follow the Qur'an, because there was a "possibility" that they would abuse its ruling. Well, this same logic could be employed to turn down *everything* that Islam teaches! Moreover, Ibn Mas'ud equally refused the Sunnah of the Prophet only because 'Umar was not satisfied with 'Ammar's *hadith*!

1. Abu al-Husayn Muslim b. al-Hajjaj al-Qushayri al-Naysaburi, *Ṣahih Muslim* (Beirut: Dar Ihya al-Turath al-'Arabi) [annotator: Muhammad Fuad 'Abd al-Baqi], vol. 1, p. 280, #112

2. Qur'an 5:44

3. Qur'an 4:43 and 5:6

4. Abu al-Husayn Muslim b. al-Hajjaj al-Qushayri al-Naysaburi, *Ṣahih Muslim* (Beirut: Dar Ihya al-Turath al-'Arabi) [annotator: Muhammad Fuad 'Abd al-Baqi], vol. 1, p. 280, #110

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