



219866 - Ruling on the precedents set by the Rightly Guided Caliphs, and did any of them mutilate the (enemy) dead?

the question

I read in *At-Turuq al-Hukmiyyah fis-Siyasat ash-Shar`iyyah* by Ibn al-Qayyim a line that I did not understand at all. In the section entitled "It is permissible for the people in authority to rule on the basis of as-siyasat ash-shar`iyyah," on p. 22 of some editions – and what appears to be the case is that it is a quotation from Ibn `Aqil in his book *al-Funun* – it says:

The Rightly Guided Caliphs were involved in some killings and mutilation that no one who knows history can deny.

My question is: Did the Rightly Guided Caliphs really mutilate the (enemy) dead? Or am I misunderstanding the text?

Further to this question:

Is every action that the Rightly Guided caliphs did a precedent that is to be followed, even if it was unprecedented?

Detailed answer

Praise be to Allah.

Firstly:

Mutilation is a kind of punishment which involves cutting off the extremities or disfiguring the body and distorting its image, and so on.

Ibn al-Athir (may Allah have mercy on him) said:



The phrase mutilation of the slain refers to cutting off his nose, ears, testicles or any of his extremities.

End quote from *An-Nihayah fi Gharib al-Hadith*, 4/294.

The basic principle regarding mutilation is that it is not permissible, because the prohibition on it is proven in a number of authentic hadiths, including the following:

It was narrated that `Adiy ibn Thabit said: I heard `Abdullah ibn Yazid narrating from the Prophet (blessings and peace of Allah be upon him) that he forbade plundering and mutilation. Narrated by al-Bukhari 5516.

It was narrated that Buraydah (may Allah be pleased with him) said: The Messenger of Allah (blessings and peace of Allah be upon him) said: "Fight in the name of Allah, for the sake of Allah. Fight those who disbelieve in Allah. Fight but do not steal from the war booty, do not act treacherously, do not mutilate (the enemy dead) and do not kill children ..."

But an exception is made to this prohibition in cases where mutilation is done by way of qisas (retaliatory punishment), in which the wrongdoer is subjected to the same as what he did to his victim.

Allah, may He be Exalted, says:

{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 16:126].

Shaykh al-Islam Ibn Taymiyah (may Allah have mercy on him) said: As for mutilation when killing, it is not permissible except by way of qisas (retaliatory punishment). `Imran ibn Husayn (may Allah be pleased with him) said: The Messenger of Allah (blessings and peace of Allah be upon him) never delivered a khutbah but he instructed us to give charity and forbade us to mutilate (the dead), even the disbelievers; we were not to mutilate them after killing them, and we were not to cut off their ears or noses or cut open their bellies, unless they had done that to our slain, in which case we could do the same as they had done, but not doing it is better, as Allah, may He be



Exalted, says: {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 16:126].

End quote from *Majmu` al-Fatawa*, 28/314.

Ibn al-Qayyim (may Allah have mercy on him) said:

Allah, may He be Exalted, permitted the Muslims to mutilate the disbelievers if they had mutilated the Muslims, even though in principle mutilation is prohibited. Allah, may He be Exalted, says: {And if you punish [an enemy, O believers], punish with an equivalent of that with which you were harmed}. This indicates that punishing by cutting off the nose, cutting off the ears, cutting open the belly and so on is a punishment to match the crime, and it is not an act of aggression. Punishment by doing what was done to the victim is justice.

End quote from *`Awn al-Ma`bud ma`a Hashiyat Ibn al-Qayyim `ala Sunan Abi Dawud*, 12/278.

The Rightly Guided Caliphs, when striving in jihad and carrying out hadd punishments, followed the Sunnah, and they did not mutilate the dead. Rather it was narrated from them that they did that in some rare incidents for a legitimate purpose that they thought was appropriate, or on the basis of a view that they thought was most likely to be correct, but the reports of some of these incidents are not proven to be soundly narrated from them. However, it is soundly narrated that `Ali (may Allah be pleased with him) burned the heretics with fire.

It was narrated from `Ikrimah that `Ali (may Allah be pleased with him) burned some people [as a punishment]. News of that reached Ibn `Abbas and he said: If it had been me, I would not have burned them, because the Prophet (blessings and peace of Allah be upon him) said: "Do not punish with the punishment of Allah." Rather I would have executed them, because the Prophet (blessings and peace of Allah be upon him) said: "Whoever changes his religion, execute him." Narrated by al-Bukhari, 3017.

It was also narrated that Abu Bakr (may Allah be pleased with him) burned homosexuals and some



of the rebels.

Al-Bayhaqi narrated with his isnad in *As-Sunan al-Kubra* (8/405) from Safwan ibn Sulaym that Khalid ibn al-Walid wrote to Abu Bakr as-Siddiq (may Allah be pleased with him) during his caliphate, telling him that he had heard about a man in some part of Arabia with whom men had intercourse as with a woman. Abu Bakr (may Allah be pleased with him) called together some of the companions of the Messenger of Allah (blessings and peace of Allah be upon him) and asked them about that, and one of those who held the strictest view on that day was `Ali ibn Abi Talib (may Allah be pleased with him). He said: This is a sin which no nation ever committed except one nation, and Allah did to them what you know. We think that we should burn him with fire. And the companions of the Messenger of Allah (blessings and peace of Allah be upon him) all agreed that they should burn him with fire. So Abu Bakr (may Allah be pleased with him) wrote to Khalid ibn al-Walid, instructing him to burn that man with fire.

Al-Bayhaqi said: This is a mursal report.

Ibn Kathir (may Allah have mercy on him) said:

The story of al-Fuja'ah

His real name was Iyas ibn `Abdillah ibn `Abd Yalayl ibn `Umayrah ibn Khufaf, one of the tribe of Banu Sulaym. This was stated by Ibn Is-haq. Abu Bakr burned al-Fuja'ah in al-Baqi` in Madinah, and the reason for that was that he had come to him claiming to be a Muslim, and he asked him to send an army with him to fight the apostates. So he sent an army with him, but when he set out, he did not pass by any Muslim or apostate but he killed him and took his wealth. When Abu Bakr heard about that, he sent an army after him to bring him back. When he was brought to him, he sent him to al-Baqi`, where his hands were tied together behind his neck and he was thrown into the fire, thus he was burned with his hands tied together with rope.

End quote from *Al-Bidayah wan-Nihayah*, 9/456-457.

Secondly:



The Prophet (blessings and peace of Allah be upon him) enjoined us to follow the way of the Rightly Guided Caliphs.

It was narrated from `Irbad ibn Sariyah (may Allah be pleased with him), from the Messenger of Allah (blessings and peace of Allah be upon him) that he said: “Whoever among you lives after I am gone will see great disputes; you must adhere to my Sunnah and the way of the Rightly Guided Caliphs. Hold on to it and cling fast to it. And beware of newly-invented matters, for every newly-invented matter is an innovation and every innovation is a going astray.” Narrated by Abu Dawud, 3991; classed as authentic (sahih) by al-Albani in *Mishkat al-Masabih*, no. 165

“The way of the Rightly Guided Caliphs” has two meanings:

The first meaning is following their example in the way in which they adhered to the Sunnah of the Prophet (blessings and peace of Allah be upon him) and followed in his footsteps.

`Ali al-Qari (may Allah have mercy on him) said: “you must adhere to my Sunnah” means: my way that is soundly narrated from me, whether in matters that are obligatory or recommended. “and the way of the Rightly Guided Caliphs” – for whatever they do will be on the basis of my Sunnah. It is attributed to them either because they acted in accordance with it or because they worked it out and chose it.

End quote from *Mirqat al-Mafatih*, 1/373.

Ash-Shawkani (may Allah have mercy on him) said:

The Messenger of Allah (blessings and peace of Allah be upon him) addressed his companions and told them to follow what they saw him doing of his Sunnah, and what they saw of the actions of the Rightly Guided Caliphs, for they were the ones who conveyed his Sunnah and had knowledge of it, and followed his example. So whatever they did is based on what he did.

End quote from *Al-Fat-h ar-Rabbani min Fatawa al-Imam ash-Shawkani*, 5/2181-82.

The second meaning is what they worked out of fatwas and their views on specific minor issues.



Ibn al-Qayyim (may Allah have mercy on him) said:

The Prophet (blessings and peace of Allah be upon him) mentioned together his own Sunnah and practice and those of his successors (the Rightly Guided Caliphs); he enjoined following their way as he enjoined following his Sunnah, and he emphasized that to the extent that he enjoined holding fast to his Sunnah and their way. This includes the fatwas that they issued and the precedents that they set for the ummah, even if there was no precedent from the Prophet (blessings and peace of Allah be upon him) in some of it at all, otherwise it would be his Sunnah. That includes the fatwas that were approved by all of them, or most of them, or some of them, because he stated that they should follow the way of the Rightly Guided Caliphs, and it is well known that they did not set any precedent all together at the same time, because they were not caliphs at the same time. Thus we may conclude that whatever precedent each of them set during his caliphate, it is part of the way of the Rightly Guided Caliphs that we should adhere.

End quote from *I`lam al-Muwaqqi`in*, 5/581.

So following the fatwas and rulings they issued, if it does not contradict any text from the Quran or Sunnah, is subject to the following discussion:

1)

The precedent of the Rightly Guided Caliphs, concerning which it is not known that any of the Sahabah disagreed with them, is regarded by the scholars as evidence [for working out rulings].

Ibn Taymiyah (may Allah have mercy on him) said: There is no doubt that whatever precedent the Rightly Guided Caliphs set for the Muslims, when there is no report to suggest that any of the Sahabah disagreed with them, it undoubtedly constitutes proof and even consensus. This is indicated by the words of the Prophet (blessings and peace of Allah be upon him): "You must adhere to my Sunnah and the way of the Rightly Guided Caliphs who come after me."

End quote from *Majmu` al-Fatawa*, 20/573-574.

2)



If one of the Rightly Guided Caliphs issued a fatwa or judgement, and one of the other Rightly Guided Caliphs differed from him in this case, the view of one cannot automatically be regarded as superior to the view of the other, so their views should be examined to see which is more likely to be correct.

3)

If one of the Rightly Guided Caliphs issued a fatwa and none of the other Rightly Guided Caliphs differed from him; rather someone else among the Sahabah differed from him,

the scholars differed concerning this matter. Some of the stated that the view of the Rightly Guided Caliph takes precedence over the view of another Sahabi.

Ibn Rajab (may Allah have mercy on him) said:

If one of the four caliphs stated his view on an issue, and none of the others disagreed with him, but someone else among the Sahabah disagreed with him, does the caliph's view take precedence over the view of others? There are two views among the scholars, and what is narrated from Ahmad is that the caliph's view takes precedence over the view of anyone else among the Sahabah. Al-Khattabi and others also said something similar, and this is the view of most of the early generations.

End quote from *Jami` al-`Uloom wal-Hikam*, 2/776.

Ibn Taymiyah (may Allah have mercy on him) said:

What the caliphs narrated or said is proof against those who disagreed with them, especially Abu Bakr as-Siddiq, because the Prophet (blessings and peace of Allah be upon him) said: "You must adhere to my Sunnah and the way of the Rightly Guided Caliphs who come after me"; and he said: "If the people obey Abu Bakr and `Umar, they will be guided."

End quote from *Majmu` al-Fatawa*, 25/9.

And Allah knows best.